

Nuclear Fuel Cycle Royal Commission

# Consultation and Response Advisory Board - Second Report

February 2017

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Government  
of South Australia

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## **Acknowledgement to Country**

The Government of South Australia acknowledges Aboriginal people as the state's first peoples and nations of South Australia. We recognise and respect their cultural connections as the traditional owners and occupants of the land and waters of South Australia and that they have and continue to maintain a unique and irreplaceable contribution to the state.

Published February 2017.

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24 February 2017

The Hon Jay Weatherill MP  
Premier  
GPO Box 2343  
ADELAIDE SA 5001

Dear Premier,

Thank you for requesting this Second Report of the Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board.

The Report reflects our collective views, and we are happy to discuss any matters arising with you. We are also prepared to take any appropriate further steps as may be requested in accordance with our Terms of Reference.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Mansfield', with a long horizontal flourish extending to the right.

**The Hon John Mansfield AM QC**  
Chair  
Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board

**Attachment(s):**

- Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board Second Report

# CARA Advisory Board members

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Hon John Mansfield  
AM QC



Parry Agius



Professor Daniela Stehlik



Professor Deb White

**“By presenting a pathway for community deliberation with the goal of achieving a more thorough appreciation of social consent, the re-building of trust essential to enable future decision making by South Australians can occur.”**

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## Abbreviations relevant to this Report

Citizens' Jury (CJ)

Citizens' Jury 2 Report (CJ2R)

Nuclear Fuel Cycle Royal Commission Consultation and Response Agency (the Agency)

Government of South Australia Response to the NFCRC November 2016 (the Response)

Nuclear Fuel Cycle (NFC)

Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board (the Board)

Nuclear Fuel Cycle Royal Commission (RC)

Nuclear Fuel Cycle Royal Commission Report (RCR)

*Nuclear Waste Storage Facility (Prohibition) Act 2000 (the Act)*

This Report is provided to the Premier by the Nuclear Fuel Cycle Royal Commission Consultation and Response Agency Advisory Board (the Board).

It follows the completion of the present phase of community consultation by the Consultation and Response Agency (the Agency) concerning Recommendation 11 of the Nuclear Fuel Cycle Royal Commission Report (RCR), and the Government of South Australia's *Response to the Nuclear Fuel Cycle Royal Commission* (the Response) of November 2016.

The nature and extent of the state-wide consultation conducted, directly by the Agency, by surveys conducted by Colmar Brunton of a statistically significant number of South Australians, and by the conduct of Citizens' Juries 1 and 2 are referred to in detail in the Agency's *Community Views Report*, November 2016.

## i. Executive summary

The Nuclear Fuel Cycle Royal Commission (RC) made 12 recommendations to the South Australian Government: Recommendations 1–5, 7 and 9 are supported by the Government, Recommendations 6, 8 and 12 are not supported by the Government.

Recommendation 11 states:

Pursue the opportunity to establish used nuclear fuel and intermediate level waste storage and disposal facilities in South Australia consistent with the process and principles outlined in Chapter 10 of the [Royal Commission] Report.

The Response of the Government was to support continued investigation of that Recommendation. This Report addresses that response to that Recommendation.

The Board **notes** that:

1. On the basis of the statistically significant state wide surveys, there is a preponderance of South Australians (over 40% positively supporting and about 20% undecided without further information) that the proposal should be further investigated;
2. It is clear that the major consideration for continuing the investigation is the opportunity for **wealth creation** for future generations of South Australians, including the economic, social and other benefits such proposed wealth creation may provide. (The potential extent is discussed in Appendix J of the RCR);
3. There appears to be significant acceptance, if not largely **common ground**, that:
  - a. South Australia has substantial areas that are geologically suitable for the development of the proposal;
  - b. the safety of the underground storage of nuclear waste in geologically suitable areas is not a significant concern;

- c. the means and procedures for the storage of used nuclear fuel rods to a location for underground storage can be safely undertaken;

- d. it would not be inappropriate to amend s.13 of the *Nuclear Waste Storage Facility (Prohibition) Act 2000*, confined to making it clear that it is lawful to further investigate whether the assumptions and modelling of the wealth as projected by the RC will or will not be achievable; and

4. The issue of 'Aboriginal engagement' became a critical 'threshold' issue and that the broader South Australian community is keen to ensure that Aboriginal South Australians have a voice in any future discussions.

The Board therefore **concludes** that, given the level of public discussion with respect to the proposal, the Citizens' Jury 2 report and the Government Response to the RCR, it would be appropriate to maintain the momentum of public debate and discussion.

The Board's **suggestions** as to how such further investigations might be carried out are embodied in the following text.

# I. Introduction

There are two main areas of the Nuclear Fuel Cycle discussion, as prompted by the Royal Commission Report, that need to be emphasized up-front (further detail can be found at Appendix 2). This is particularly in the context of further deliberation/engagement of this State in any Nuclear Fuel Cycle discussion.

*First*, it has been apparent through both the Citizens' Juries and the Community Engagement strategies that there remains a paucity of knowledge in the community around this State's current engagement in the Nuclear Fuel Cycle. To set the scene it is important to note that:

- South Australia has approximately 25% of the world's known uranium sources;
- Olympic Dam (Roxby Downs) is the single largest uranium deposit in the world;
- Four other uranium mines are approved in SA at Beverley, Beverley North, Four Mile and Honeymoon.
- in 2014/15 South Australia produced ~\$346.5million of uranium ore (3144t from Roxby and 922t from Four Mile).

In addition, the following regarding the state's current involvement in the NFC should be noted. That:

- Radioisotopes are used for medical imaging (nuclear medicine: Positron Emission Tomography (PET) and Computed Technology (CT));
- These imaging modalities form an essential part of best practice in diagnostic medicine in the current era;
- PET and CT use what are considered short half-life (rapid decay) isotopes;
- These isotopes are produced in either a nuclear reactor (ANSTO Opal Reactor in Sydney) or a cyclotron (ANSTO, Sydney, others in other states and relevant to this document in SAHMRI in Adelaide);
- The waste from these medical tracers is considered low energy medical waste, and the consolidated disposal of this is currently being discussed at the Federal level;

- Disposal of low-level medical waste does not form part of the Royal Commission's recommendations currently under consideration.

*Second*, there has been significant publicity around the Citizens' Jury (CJ) process, both CJ1 and CJ2. It is important to acknowledge that while the CJ's formed part of the State Government's engagement process in the context of the state wide discussions about the nuclear fuel cycle, this method was by no means the only process (a brief chronology can be found at Appendix 1).

The state wide engagement process was undertaken by the Agency which included: shopping centre displays, forums, state wide industry forums, questionnaires, telephone surveys (conducted by Colmar Brunton) and Aboriginal engagement via site visits.

In preparing this Report, the Board takes such engagement, particularly the statistically relevant data generated by Colmar Brunton, (a high level summary of which can be found at Appendix 3) into account, putting these findings into perspective with the CJ process and other strategies.

## Purpose of this Report

In writing this Report the Board remains consistent with the Government's Response to the Royal Commission Report and it is intended to 'value add' to ongoing discussion.

By presenting a pathway for community deliberation with the goal of achieving a more thorough appreciation of social consent, the re-building of trust essential to enable future decision making by South Australians can occur.

This pathway approach is structured to make suggestions at both the current/immediate term, and the longer-term.

(A copy of the Board's Terms of Reference can be found as an Appendix in its November 2016 Report).

## II. The Royal Commission Report and Response by Government: Board reflections and suggestions

The Board notes that the Government Response supports eight (8) of the recommendations of the RCR and that it did not support those recommendations that involved the establishment, or further development, of nuclear processing facilities in Australia (recommendations 6 and 8). The Board also notes that the Government did not support recommendation 12 to remove the legislative constraint in s.13 of the *Nuclear Waste Storage Facility (Prohibition) Act 2000* (the Act) which would preclude an orderly, detailed and thorough analysis and discussion of the opportunity to establish used nuclear fuel waste storage and disposal facilities in South Australia.

The Government Response stopped well short of that position, but supported continued discussion on a nuclear waste facility for the reasons given (see p 22 Government Response). The Board notes the Government Response to recommendation 12 concerning the possible amendment to s.13 of the Act. There is, as noted below, some uncertainty about the extent of the permitted discussion, including information gathering, that may be undertaken prior to any decision to take any steps to implement the proposal. As noted, part of the picture emerging from the CJ2 Report and the surveys is that adequate information needs to be provided to the community.

It is the Board's considered view that the wealth creation offered by the RCR recommendation 11 was not stressed/down played throughout the consultation program, largely to avoid the perception of 'bias'. The Board therefore **suggests** that this aspect of the future for South Australia, as envisaged in the RCR, should form the basis of any future conversation supported by the Government.

In this Report, the Board provides a pathway for continued and informed discussion on a proposed nuclear waste facility. The Board believes that there is a need for the conversation, already begun, to continue.

This is because, while for most current South Australians this issue is not salient, it will be for future generations.

It is the Board's considered view that it is appropriate to undertake such future consultation in an orderly sequence, having regard to the issues identified through the community consultation process and also, more immediately, through the issues raised in the processes associated with CJ1 and CJ2.

It would be naïve not to be aware, from CJ2, that there was considerable doubt that any such proposal could be developed economically, or that South Australia would have the administrative and technological expertise and skill to establish such a facility.

While the principal benefit to the State of any such facility would be an economic one, the opportunity to develop significant and specialised geological and related expertise in South Australia is significant.

It is also appropriate to note that the degree of support/opposition demonstrated by the community was very dependent on the particular topic being addressed. For example, while there were some views expressed that South Australia is not, for reasons largely to do with underground water storage, a suitable geological environment for such a facility, the debate on that topic was less vehement than on other topics. The Board recognises that, for example, topics of safety (or its sub-topics) and of the economic benefits or detriments might require a different procedural process of engagement to topics such as the geology of South Australia.

As the community consultation confirmed, the RCR stressed, and the Government accepts, the two related concepts that should guide any future steps to be taken are: trust and transparency. It is appreciated that these are interrelated concepts, as trust requires transparency and transparency serves and contributes to the essence of trust.

A key aspect of this perception of trust was the need to better understand the current and possible future, regulatory framework for any expansion of the NFC.

The Board stresses here that it has concluded that most South Australians are not yet fully aware of the current regulatory framework which underpins the existing NFC activities in this state. The need to make this clearer to ensure that the building of trust in such a regulatory regime is one of the 'lessons learned' from the state-wide consultation program, and also is reflected in international experience. The Board therefore **suggests** that future discussion include detailed examples of the current facilities, current regulatory framework, and offers clear examples, of strategies that can be adopted for future governance.

In a future consideration of trust, the Board concludes that any future activity must continue to be overseen by an entity independent of Government. Having regard to the quality of the work undertaken by CARA to date, the Board **suggests** that supervisory body might be CARA or an appropriate independent supervisory body.

CARA (with the necessary skilled and experienced personnel) and possibly with revised remit, would be an appropriate entity to be responsible for this future activity. The Board **suggests** that it remains desirable for CARA to have an external supervisory Board to oversee and guide its activities, so as to ensure that its work remains independent and balanced.

It follows that the Board would therefore not support the allocation of responsibility for ongoing actions directly to a Government department or departments, although there will no doubt be occasions when the resources of a government department or departments could be utilised by CARA. It also follows that the Board would not support any immediate future activities to be left to private enterprise, as it is unlikely that the South Australian community would accept that the business sector would itself be independent.

Whether the present Board is the appropriate structure and composition to fulfil any such ongoing role is, of course, a matter for the Government. It could be useful, to enliven the prospect of bipartisan political support, for the composition of the Board to be expanded to include a nominated member of each of the Government and the Opposition, or to have each of those parties nominate an observer to the Board. Such matters are for the Government.

The Board **suggests** that the element of transparency would be best served by the publication of all the material generated by CARA (we refer to CARA, although this may now be taken as a reference to another independent entity) or material provided to it on its request. It is also served by CARA conducting any inquiry into the more factually contentious aspects of the RCR in public.

The element of trust is also served by CARA addressing individual topics in a declared and neutral way. That is, consistent with the Government Response, it would proceed on one or two aspects at a time, reporting its summary of the data available, or of the competing views on that data where the matter is contentious. This approach would continue to provide South Australians the opportunity to understand the particular issue, the background or starting position of the informants, and the ability to judge the validity/strength of the information provided.

It is fundamental that the Government should also have the ongoing entitlement to stop any such process at any time. To be informed about whether it should do so, the Board **suggests** that periodic statistically valid surveys continue to be undertaken (perhaps refined in the light of CARA's work) to identify any significant trends in public thinking. That sort of study was, the Board understands, implicit in the Government's Response.

### III. Deliberative democracy and the views of South Australians

The Board summarised its views of the specific Citizens' Juries (CJ) as undertaken in its first Report. Here we make comments regarding the method adopted and consider its value to the overall process.

All Board members witnessed the complex process of CJ2 that involved up to 350 participants. Subsequently, there have been many and varied comments that have been made in relation to this. Jury numbers internationally are generally between 25-30 people with the optimum being much smaller.

The Board recognises that CJ2 was, in a sense, an experiment. A CJ of this size had not been undertaken previously, particularly on a topic as complex as this one. It therefore follows that the lack of perceived success of CJ2 by some commentators was probably not due to the nature of the 'CJ' process, but rather to the unfamiliarity of those conducting the process with this element of 'scaling up' the model.

The group size of 350 is challenging, and has no particular statistical validity, at least on published data. It enables a significant section of the group to be less engaged (as we observed at the time). It also provided the opportunity for interest groups to form within CJ2. The Board observed forceful lobbying for a particular outcome by these interest groups, a fact that was commented on by some members of CJ2 during the concluding sessions. The group size may have also allowed for the selection of witnesses for the jury during the process to be distorted.

The CJ process is based on the principle that it is not an aggregation of preference but rather a deliberative process, based on evidence, which leads to greater understanding. It assumes that people can be 'persuaded' by the evidence. It was therefore disappointing to the Board to note that a 'poll' was held at the end of CJ2, when such 'polls' in the Board's view appear to be inconsistent with deliberative democracy principles.

In addition, and relevant here, the expertise of the mediating team in such circumstances is critical to ensure that those with opposite views to the lobbying group (loudest voices and forceful characters) within a cohort of this size are able to express their views unconstrained. To that end, a secret ballot was, in our view, essential if indeed such polling was to take place. Our direct observation was that the electronic voting procedure adopted by the providers was not adequate for that purpose. This process proved challenging for some less technically minded jurors who sought the assistance of others to cast their vote, as well as seeking the opinions of other jury members. Some members of the jury left in frustration during this process. As such, this was far from an independent ballot, and this needs to be kept in mind when the results of this are considered.

The Board also notes here that the selection of jurors as a process is prone to possible bias. It was our experience that people 'signed up' to be jurors, not only for civic altruistic reasons, but also because they had time, needed the money, had social contact needs, or had a pre-conceived view of the topic. We would argue that the process of juror selection is not random, as people self-select to be part of the process.

The final issues associated with CJ2 relates to the complexity/contentious nature of the topic. The need to secure an independently minded, industrious and informed group of citizens to 'represent' a considered view for the community is recognised, and indeed may have occurred (aside from the afore-mentioned non-random nature of the process). However, the ability of all jurors to make independent decisions is much harder to control as participant numbers increase, and when combined with an emotive topic, can result in confronting behaviour negatively impacting other jurors. This is also alluded to above. The lone or minority voice becomes overshadowed, and a dissenting stand is therefore certainly not for the faint at heart.

The smaller group of 50 in Citizens' Jury 1, in our observation, worked much better.

Given this experience, the Board also notes that because fewer than 5% of all those South Australians involved in the engagement process were members of the CJ2, weighting as to the outcome should be accorded appropriately. (A more detailed analysis can be found at Appendix 5).

The statistically representative surveys as conducted, confirmed that South Australians became and remained very interested in the State's future as outlined in the RCR, and expressed concern as to the State's apparent current diminishing economic base.

There was considerable interest in the opportunities afforded to the State as outlined in the RCR, and people contacted during all three surveys confirmed that they had voluntarily explored the issues further and had also discussed them with friends and family.

All three surveys conducted during the engagement process confirmed that people remained open to changing their point of view based on receiving additional, on time and relevant information.

From survey 2 (August) to survey 3 (October), there was a slight decrease in those positive towards South Australia storing high-level waste from overseas countries; as well as a slight decrease in those who were negative to this possibility. There was an increase in those that were neutral, and a very slight increase in those that were both positive and negative. This highlights the confirmed understanding internationally, that issues of this complexity and longevity, require both time and useful opportunities to consider in more detail.

This shift can also be considered alongside the issue of personal knowledge about nuclear waste management. Most South Australians reported that their knowledge was either moderate or very low. This also had a gender profile in that women cohorts were more likely to report not having personal knowledge, while in contrast, the male cohort of 60-69 years rated their knowledge as high or very high.

From survey 2 (August) to survey 3 (October) there was a shift in relation to the question regarding further exploring the establishment

of a facility for international nuclear waste in the State. As this period was directly related to the community engagement/media interest/social media interest and CJ processes, the changes identified can be attributed to a heightened awareness and publicity.

As a component of the overall study, the same 94 participants were surveyed in each of the three waves. Their responses indicate the direct impact of the community information program, and the heightened media interest in the topic over the intervening months. There remains a strong interest among those who were contacted on a regular basis about the issues, to consider the questions and to express their views as changing over time, in response to the increasing discussion and information available. From this group it can be seen that the issue of storage of Australia's nuclear waste appears to be one with which these respondents had become relatively comfortable.

As the Board indicated in its first Report in late 2016, the timeframe associated with the gathering of evidence was short. Given this limitation however, a great deal of useful and unique data was collected. The Board **suggests** that this now requires urgent, more detailed, analysis.

The representative data associated with surveys and demographics must be analysed professionally, utilising as many different variables as possible. This will provide a unique 'snapshot' in time of the South Australian community, and of its attitudes and perceptions associated with the NFC broadly, and the waste disposal facility specifically.

While the issues of 'trust', 'Aboriginal engagement' and economic deliberations will naturally be primary foci, there is much other useful (and as yet, under-realised) evidence within this data that can be drawn on for future State strategic thinking and planning. Much of this can be analysed by gender, by age, by location and by level of education. This will also offer valuable evidence to assist in the development of the *Unfinished Business* strategy as discussed in detail in Appendix 4.

Findings can also be positioned alongside other representative surveys conducted in the period, such as Galaxy polls taken in February 2016 and September 2016.



## IV. Outstanding issues

The above comments indicate that the issue of safety, including transport and underground storage of used nuclear fuel rods, does not impede the further investigation of the proposal.

Similarly, the geological suitability of certain areas of South Australia for the storage underground of used nuclear fuel rods does not impede the further investigation of the proposal.

The issues of trust, of respect for, and relationships with, the Aboriginal communities of South Australia, and whether the economic benefits suggested by the RCR would in fact be available (that is: the economic risks) if the proposal were to proceed, appear as the major reasons why a significant body of South Australians want to know more about, are cautious about, or are opposed to, the proposal.

The next section of this Report, 'A Pathway to Researching *Unfinished Business: Future Steps*', addresses these issues, and includes some comments about further addressing the economic issues; that is the validity of

the assumptions and associated modelling undertaken by the Royal Commission. More detail on that topic can be found in Appendix 5. The Board notes in this context the activities of the Parliamentary Joint Committee on Findings of the Nuclear Fuel Cycle Royal Commission including the report of the Nuclear Economics Consulting Group.

It is important to draw attention to the fact that the next section of the Report proposes, as a way forward, the engagement of the South Australian community (both Aboriginal and non-Aboriginal), in relation to general public state-wide or local issues. It is not specific to addressing Recommendation 11 of the RCR, or indeed any of the Recommendations of the RCR that the Government supports. There are other wider issues, as to the relationship of Aboriginals and non-Aboriginals in any community, which might be addressed in this way. This section is therefore directed to the adoption of an engagement process which is designed to avoid the risk of direct confrontation of Aboriginal and non-Aboriginal positions on issues.

## V. A pathway to resolving 'Unfinished Business': Future steps

The Board is of the view, consistent with the Government Response, that while the adoption of the RCR material provides an obvious starting point for future discussions, it should not be the only source. The Board suggests that future discussion should begin with the basic analysed data gathered during the community consultation process, and work progressively on the matters raised, which can inform community views and understanding.

To that end, the Board provisionally suggests a sequence of topics and subtopics, set out below. It is provisional, for three reasons. First, that further consideration may suggest different or more refined topics or subtopics. Second, that it may be appropriate to invite external comment on the proposed sequence, topics or subtopics, as a step to achieve transparency and to ensure that no relevant topic or subtopic is overlooked. Third, that it may prove appropriate to proceed to address one or more of the topics or subtopics contemporaneously, so as not to be too confined in the sequence topics addressed.

The Board also is of the view that CARA (in its realigned form) should not assume any particular level of knowledge of any particular topic within the community, as such the topics should include information (provided it is accurate, or where contentious recorded as competing information) which is primary and which is touched on in the RCR.

The Board considers that, provided transparency is maintained, any material derived from the steps progressively taken should be recorded and maintained by CARA on a publicly accessible website, and should ideally be the subject of media exposure and thereby further discussion.

### **Public forum**

As noted, where there is a topic of particular debate, such as the nature and extent of the economic benefits (or detriments) of the proposal, or whether the economic benefits are actually achievable, CARA would provide

a means for competing views to be aired, and may also recommend appropriate steps which could be taken to resolve any uncertainties. For example, this might take the form of a public hearing on a topic or topics, where such competing views are aired and where the critical assumptions are identified. It may be appropriate for such a public hearing to be chaired by an independent person with the skills necessary to ensure the hearing is conducted courteously and respectfully, and to question the presenters to understand and identify the assumptions made by each presenter.

There may be a range of refined procedures adopted by CARA, as the discussion evolves. The relevant Board oversight would be to ensure the processes adopted were fair and objective. It should be noted that this process is not at all similar to that of the 'witnesses' called to the Citizen Jury processes, where there was no subject matter expert facilitation, or indeed, time enabled for such detailed discussion.

### **Pathway for engagement**

The focus of the Board up to this point has been the ongoing discussion with the broader South Australian community that the Government Response indicates. Having regard to s.13 of the Act, it is not currently appropriate that the selection of any particular potential site or sites for any such depository will proceed further.

However, the Board recognises that the Government will not impose on a particular Aboriginal community any implementation of the proposal without its approval. The Board is also aware that the issue of 'Aboriginal engagement' became a critical 'threshold' issue for both CJs, and more broadly, for the whole South Australian community. In fact, the Board notes that this was one of the major outcomes from the engagement process, that the broader South Australian community is keen to ensure that Aboriginal South Australians have a voice in any future discussions.

The Board has therefore developed a proposal for further Aboriginal engagement that it believes, should commence during this important discussion phase. Such engagement should be consultative and informative and offer an opportunity for South Australia to have leading edge dialogue processes.

The Board is aware that the issue of 'Aboriginal consent' was raised in the context of the focus groups across the State, the second CJ2 report and also in the Quality of Life document prepared by the Aboriginal Human Services Forum.

In its response to the RCR, relevant to Recommendation 11, the Government stated, that:

Importantly, the consultation has highlighted the need for a bigger conversation about how Aboriginal people want to be seen, valued and recognized, and on '*unfinished business* from the past' (p22 Government Response)

In noting this response, and from the evidence gathered from the community engagement process to date, the Board concludes:

- That, for the first time, on this complex question, Government has significant informed evidence from South Australians on their concerns; on the 'how' and the 'why' of these and on suggestions for moving forward;
- That, as people had more access to evidence and information, outside of the Jury process, and were given time to consider the evidence showed that they tended to increase their interest in further consideration of the issues (rather than remaining with a definite 'no'); and
- That the 'Quality of Life' document and the Aboriginal Human Services Forum demonstrated that given the same evidence, and given time to consider and to weigh up the possibilities, Aboriginal people were also interested to hear more.

The Board has concluded that this interest therefore offers a unique opportunity to enable both the 'Trust' and the '*Unfinished Business*' issues to be addressed in any future strategic method. The Board **suggests** that:

- ongoing engagement with the South Australian Aboriginal communities provides a pathway, or 'door' to future discussions;
- such engagement should not rely on 'past' methods, but rather adopt a new approach, a shared engagement, rather than information sessions; with such future engagement processes leading to the settlement of *Unfinished Business*; and importantly that:
- such '*Unfinished Business*' must be a 'whole of South Australia' conversation, where Aboriginal and non-Aboriginal South Australians work together to develop a future pathway.

In presenting these suggestions, the Board draws on the extensive joint experience of its members, and builds on its previous Report (November 2016), specifically on the findings from the extensive surveys and community consultation program conducted by CARA as well as on the findings of CJ2 .

The outcomes of this Pathway approach will be:

1. A more sophisticated appreciation of current and future South Australian community understanding, through both a detailed analysis of the data collected to date, and
2. the development of an historic, unique, non-conflictual approach to Aboriginal community engagement.

The Board has developed a model framework provided at Appendix 4.

### ***Pathway for economic assumptions and modelling***

This is a matter of significant concern, and as the processes of CJ2 exposed, of significant professional dispute.

It appears to the Board that, while such uncertainty about the reliability of the assumptions made and modelling undertaken by the RC remains, it will be difficult to advance an informed community discussion.

The Board considers that the shorter pathway to resolving this issue satisfactorily is to test the assumptions and to revisit the modelling (to the extent necessary). It would, we perceive, be common ground that the

proposal in recommendation 11 in the RCR should not be adopted or further investigated IF the anticipated economic benefits (or very substantial economic benefits) are not, or are unlikely to be, available. Conversely, the community would be much better placed to form views on whether or not to investigate (and perhaps to progress) the proposal, if it were confident that very substantial and long term economic benefits could be available to the State and to South Australians.

For that purpose, one option may be to amend s.13 of the Act to permit such investigations. As noted in Appendix 5, there is a disputed understanding whether such investigations might be undertaken without the amendment of s.13, so it is our view that a carefully confined amendment to s.13 to enable these investigations may be desirable.

These investigations could, or may, resolve one critical element from the process of community debate. The community discussions may then focus on other topics, referred to above, which require community involvement and consent. The very nature of the debate to this point indicates that on these complex issues, unless involving professional expertise, it is difficult for a properly informed community view to be formed.

As an additional, or complementary, step, the Board has noted that CJ2R considered the suggestion that 'alternative avenues for wealth creation for current and future generations of South Australians should be explored'. This is of relevance to Recommendation 11 of the RCR. The Board notes this concern and **suggests** that, it may be appropriate to convene a forum to explore the existence and potential of other such opportunities. Such a forum might be convened by the Economic Development Board of South Australia, by Business SA, by the Employers Federation of SA, or by Unions SA, or by the department responsible for trade. It may also seek input from others. The Board does not consider that the task of convening such a forum would be a large one.

The Board anticipates that the Government's decision to establish the RC and to investigate its Recommendations is to ensure the resources of South Australia are fully utilized, consistent with the values of the community. Nevertheless, if there are meaningful investment choices to be made with approximately equal potential for wealth creation, and with similar or lesser investment requirements, it may be appropriate to identify and assess them.

## VI. Conclusion

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In this Report, the Board suggests to the Government certain considerations and a series of possible future steps, not all interdependent, to give effect to its response to Recommendation 11 of the RCR and more generally to address the community decision making of Aboriginal and non-Aboriginal citizens.

The Board reiterates its view that the CARA team, under the leadership of Ms Madeline Richardson, have worked with great enthusiasm and integrity in delivering the outcome of the community information and consultation processes to date, including the oversight and conduct of CJ1 and CJ2.

It considers that this Report offers a clear way forward in the conduct of the ongoing discussions proposed.

The Board is grateful for the opportunity to have participated thus far in this process. It remains prepared to play a role in the future discussion process adopted by the Government.

## VII. Appendices

### Appendix 1. Brief chronology

The NRCFC Report (RCR) was presented to the Government in May 2016.

The Government of South Australia then established the CARA (the Agency) to provide planning, whole-of-government coordination and implementation of community consultation on the recommendations made in the RCR. It commenced operating on 1 July 2016.

The Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board (the Board) was established as a non-statutory advisory Board to the Agency in relation to the consultation process. The composition of the Board, and its Terms of Reference, were provided in its First Report (November 2016).

The Agency undertook an extensive consultation process, that process is fully set out in the Agency's Community Views Report (November 2016) which was delivered at the same time as the Board's First Report.

In its oversight of that process, the Board sought to ensure that the process of, and under the direction of, the Agency was fair and impartial and that the Report of CJ2 reflected the considered views of the Jury.

For the purposes of that process, the Agency engaged NewDemocracy Foundation to conduct two Citizens' Juries. This involved the selection first of a Jury of 50 citizens who identified the main issues of concern to them (CJ1) and then a further Jury of around 330 citizens (CJ2) who addressed those issues and such other matters as they chose. The Report of CJ2 was delivered to the Premier on 6 November 2016 following the completion of its consideration.

The Agency also conducted an extensive process of information provision, providing an opportunity to members of the South Australian community to provide such input into the information made available to Jury 2 as they wished. It also conducted an extensive process of market research, through the engagement of Colmar Brunton, for the purposes of informing Jury 2 and the Government as to the views of South Australians.

The Agency sought to engage with the Aboriginal communities in South Australia to provide information to them about the RCR, to respond to any questions, and to obtain the views of those communities and to ensure they were also made available to CJ2 for its consideration.

## Appendix 2.

# Current status of Nuclear Fuel Cycle in Australia and South Australia

The RCR addresses, in Chapter 2, the mining and present Australian uranium export arrangements, including the uranium usage by the importers; the medical and other uses of uranium in Australia; the nature and extent of those uses, and the medical or other benefits from those uses; the waste generated by those uses, including its current storage; the Lucas Heights reactor, its history and usage, and the storage of its waste; the extent to which citizens of South Australia and Australia are currently exposed to radioactivity (including for medical purposes).

### Maralinga:

The Board acknowledges the impacts and experiences of British nuclear weapons testing at Maralinga for many South Australians. Maralinga, and the short and long term effects of the British nuclear weapons testing at that site, was a matter of particular concern to CJ2. However, no evidence was presented to suggest the Maralinga experience is informative in the setting of a nuclear waste repository. In certain presentations to CJ2 however, the relevant distinctions were not made clear, and indeed by some Maralinga was used as a relevant example.

### Global situation:

The RCR also addresses in Chapters 2 and 5 the history of nuclear generation, including in particular nuclear power generation, and the extent to which it is increasing or decreasing; the nature of the nuclear waste so generated; the storage of that waste at present and as projected to the future; the present proposal for underground storage and the methodology to be adopted; the future storage plans for those who presently do not have other than above ground storage: see generally RCR Appendix E. The present proposals and processes for underground storage sites, and the assessment of economic and other benefits to those communities, are addressed in RCR Appendix H. It may be noted, as recently publicly reported, that the French Champagne Region is not concerned with any threat (either real or reputational) to the proposed Deep Geological Repository (referred to in the RCR on p. 231-234) in France proximate to its region.

## Appendix 3.

### High level summary of representative data

The following provides a high level summary of the data gathered from statistically representative instruments undertaken throughout the community consultation period.

In survey 2, 45% of respondents supported or strongly supported, further exploration of the establishment of a facility for high-level international waste, down to 41% in survey 3. Those undecided remained the same, with the increase being in those who reported as being opposed or strongly opposed: from 36% to 38%.

Examining this in more detail shows that gender played a significant role in this shift, with male respondents at 55% supportive, while female respondents were at 28%. Women were much more likely to strongly oppose (at 27%) than men (at 18%). Women were also more undecided (at 12%) than men (at 10%).

This gender perspective can be seen across the two surveys. While those men opposed remained relatively stable over the two waves; women increased in opposition from 45% in survey 2 to 47% in survey 3. The subtleties of the reasons for this gender difference were explored in more detail in the focus groups held during October 2016, and are discussed in the Colmar Brunton #3 report of November 2016.

An analysis of this question by age also reveals a shift between survey 2 and survey 3. For the youngest cohort (18-24 years) there was a significant increase in support between the two surveys (42% to 51%). In all the other cohorts, there was a reduction in support, with most of this moving into the oppose or strongly oppose position. However, it should be noted that there was a significant cohort in all age groups in the 'don't know enough' response. The most significant drop in support overall was in the 70 years and older cohort.

Regionally, the metropolitan areas offered the most support to the question, however, apart from Eastern Adelaide which registered an increase from 43% to 48% in support over the two surveys, most other metropolitan and regional centres showed a reduction in support over the two waves. In the case of the regional centres, these reductions were quite significant, for example the Murray Mallee recorded a 9% drop in support; and the Yorke/Mid North a 17% drop. However, most of this cohort moved into the 'don't know enough' group, with the Yorke/Mid North registering 20% in this group.

When comparing the metropolitan responses to those from regional centres between the two surveys, support diminished across both sectors, although much more so in regional South Australia (by 13%) than metropolitan (3%). Regional South Australia also reported 'do not know enough' as an increase from 8% in August to 12% in October. The major increase for regional centres was in the oppose category (11% to 17%) while the strongly oppose remained the same at 27%.

This analysis does not contradict the previous statement regarding peoples' need to have time to consider the issues, as the major 'shift' observed was to the neutral/undecided/don't know enough to have an opinion. This caution on the part of those South Australians surveyed can be viewed as a component of their learning process.

Trust in government emerged as a critical issue throughout the whole engagement period, as well as during the Citizen Jury process. It should be noted that in survey 1, the questions on trust were not focussed specifically on the issue of high-level nuclear waste storage but rather on the NFC itself. In surveys 2 and 3 waste disposal became the main focus and people responding to the survey understood this. This meta-analysis therefore focuses specifically on surveys 2 and 3 on the critical questions that offer more insight into trust in government.

Trust also emerged as one of the reasons for opposition to further exploration of the opportunities, with an increase between survey 2 and survey 3 of some 3% to this issue (from 8% to 11%). Conversely those who remained undecided on the issue reduced as the reason being trust in government by 3%, from 11% in survey 2 to 8% in survey 3. Trust in government was not a major reason given for those who supported exploring the opportunities further (from 1% in survey 2 to 2% in survey 3).

The question: 'that I am confident the SA Government will make a decision on this issue that is in the best interests of the State' showed a reduction of only 1% between August and October (from 36% to 35%) on those who agreed or strongly agreed. Those who responded as 'neutral' decreased from 23% in August to 18% in October, a significant reduction and this group then moved towards the disagree/strongly disagree position that increased from 21% in August to 26% in October.

The gender divide here was significant as highlighted in survey 3. Only 28% of women agreed or strongly agreed, while 42% of men did so. In addition, responses to this question were also significantly different by age. Chronologically, South Australians were less confident as they proceeded through the age cohorts, with the 18 – 24 years most confident (at 50%) and the 70 years and older least confident (at 29%).

In addition, this question also highlighted the differences regionally to the issue of trust in government. Apart from northern Adelaide, the rest of the metropolitan centres were more inclined to trust (from 36%-41%) while the regional centres were less inclined to do so. The regional centres had a significant percentage of the population who neither agreed nor disagreed with the statement of confidence in decision making.

A second critical trust question related to the future regulation of any increase in nuclear industry activities. The answers through the three surveys showed a significant change from survey 1 and survey 3 to survey 2 in the 'neither agree nor disagree' group. In survey 1 this group was at 14%, it then rose to 19% in survey 2 and dropped again to 15% in survey 3. At the same time those who agreed or strongly agreed dropped over the three waves (41%, 38% and 37%) while those who disagreed or strongly disagreed also changed: from 43% in survey 1, down to 40% in survey 2 and then up again to 46% in survey 3.

There was a gender difference in the responses to this question, with fewer women agreeing or strongly agreeing as to the issue of regulation (29%) than men (45%). The gender differences on regulation can also be seen across survey 1 to survey 3. In survey 1, 48% of male respondents supported or strongly supported the statement, by survey 3 this had dropped to 45% with all the difference moving to the disagree/strongly disagree response. Those men who were neither opposed nor supportive remained the same at 13% and there was a slight increase in men who replied 'didn't know' (1% to 2%). For women, those who supported or strongly supported dropped from 34% to 29% over the period, with this difference moving to the neutral or oppose position. There was also a slight increase in women who 'didn't know' (from 3% to 4%).

This was also a significant difference in age groups, with the younger cohorts (18 – 29) having more confidence (59%/51%) than the over 70 cohort (28%). Once again, metropolitan Adelaide had more general confidence (except Northern Adelaide) than the regional centres. This regional difference could be explained in a number of ways, but does offer a real opportunity for a more detailed discussion with regional populations.

The Board suggests that these significant changes over a relatively short period of time offer an opportunity for the future discussions proposed. The issues of regulatory practices and government decision making can be directly addressed in future community engagement forums/events. This was a feature of the community engagement program, however there is an opportunity for a dedicated focus.

### *Tracking over time*

As a component of the overall study, the same 94 participants were surveyed in each of the three waves. The following summarises this group's responses to critical questions to understand any trends in more detail.

Support for the question of whether SA should manage, store and dispose of nuclear waste from overseas countries identified a significant trend to the positive over the three surveys (from 32% to 43%). Interestingly the difference on the question between survey 2 and survey 3 showed a similar trend to that identified in the larger surveys: that people moved from supportive (46% to 43%) towards a more neutral position (4% to 11%). The transition over time for those who opposed or strongly opposed the question resulted in a significant drop from 56% in March to 44% in October. Within the negative group, there were more in the opposed (17%, down from 21% in March) than in the strongly opposed (27% down from 35% in March). In summary, there was a 39% increase in support over time, with a 13% decrease in support.

On the question of support for South Australia's management, storage and disposal of Australia's nuclear waste there was a similar transition. The trend to the positive can be seen in the 55% support in March to 71% support in October. This was an increase of 45% in support, with a decrease in opposition of 10%. This is a very significant trend towards the more positive position.

On the issues of trust and confidence in government, in response to the question about confidence the government would make a decision in the best interests of the state: this cohort trended down from 47% supportive in March to 44% supportive in October. The October survey result of 44% was slightly up from the August position of 43%. There was a significant shift in response to this question in the strongly disagree category – up from 11% in March to 18% in October. Those who neither agreed nor disagreed moved from 16% in March to 18% in October. Overall, there was a decrease in agreement on this question of 32%.

On the question of confidence in the ability to regulate such activities, this group showed a trend that matched that of the larger survey cohort. In March the strongly agree/agree group was at 47%, by August it had risen to 52% and then in October it moved back to 48%. There was a similar trend within the disagree/strongly disagree, with 42% in March, 34% in August and 44% in October. There was a significant group of 4% that 'didn't know' in August that had disappeared by October. The decrease in agreement (24%) on this question was very similar to the increase in agreement (23%).

## Appendix 4.

# Towards a Just and Sustainable Place for Aboriginal People in South Australia *Unfinished Business*

South Australia has a proud history of developing innovative responses to complex social, economic and legal challenges.

*Unfinished Business* is aimed at providing just, sustainable and realistic foundations for Aboriginal self-determination and increased Aboriginal participation in the life of the State, to the benefit of all South Australians.

This will enable South Australian Aboriginal peoples' transition from poverty to prosperity; from decades of hurt, shame guilt, from dispossession and a welfare-based economy to participation in the economic, political, cultural and social activities of the State based on self-determination, recognition and justice.

The approach includes:

- invited contributions from all South Australians to determine what is *Unfinished Business* and how the government should conduct itself when engaging with the Aboriginal and non-Aboriginal community in the future; and
- a process in which rather than telling people what, or how to do, we instead ask them how they think it should be done, and facilitating their doing it.

The *Unfinished Business* Strategy has the potential to consider outstanding issues between Aboriginal and Non-Aboriginal South Australians and their institutions. By working together to find agreed solutions we will then set a course for a strong healthy community in South Australia towards a common, prosperous future.

A program similar to the proposed *Unfinished Business* Strategy has not previously been undertaken in South Australian history and will be the catalyst to build on and improve relationships, create friendships as well as support future lifestyle choices.

The approach would take as its framework Collective Impact (CI) which is already being utilized in South Australia. A CI approach is co-designed with key stakeholders to address a real life, central and pressing (and often wicked) problem that is critical to the life of the community. It draws its energy from dealing with such a real life problem. CI also ensures that all data collection/evaluation commence at the beginning of the process (ie as formative) and work alongside the program throughout its life.

## 1. Guiding values and beliefs

### *Unfinished Business*

1. is about people and relationships supported by systems and processes;
2. is about two histories – two stories taking two different pathways onward from 2016;
3. is a process about identifying the outstanding issues arising from these two stories and bringing about a unification between Aboriginal and non-Aboriginal South Australians;
4. combines two stories with two distinct perspectives: the Aboriginal Community and the non-Aboriginal community perspectives that have been with us all since 1832 and 1778;
5. is a non-conflictual process with the necessary time and resources for the South Australian community to work through the issues which enables solutions;
6. is a process in which all South Australians can have an active role in the collection of and the sharing of information, in understanding South Australian history, in understanding the cause and effect of that shared history, and understanding the collective impact arising from these two stories;
7. is the process used for South Australians to find shared solutions to build a future based on the shared values and beliefs we have for each other and for our State.

The following offers some principles to underpin these guiding values and beliefs.

## **2. Principles for human emotions and wellbeing**

- a. heal the hurt and damage done to Aboriginal peoples, their country and communities by past practices and policies;
- b. heal the shame and guilt held by the current generation of South Australians;
- c. support and encourage growth in SA community wellbeing;
- d. shift the relationship between Aboriginal and non-Aboriginal people and effectively rebuild the State;
- e. accept that agreement-building must be about relationships between people and cannot be reduced to a legal definition;
- f. accept that agreement building should be fair – all participating groups should be better off, and none should be worse off because of an agreement, which should include other Aboriginal groups and non-Aboriginal interests;
- g. all agreements should recognise the principle of inter-generational equity, because they are likely to set important aspects of the conditions facing Aboriginal people for several generations – they should not be short term deals;
- h. outcomes should be sustainable for the Aboriginal principals, including the transfer of skills and knowledge that makes the capacities developed within the Aboriginal domains sustainable into future generations; and
- i. outcomes should be meaningful to the Aboriginal principals - agreement-building is only worthwhile if the Aboriginal principals judge that it will produce the desired outcomes.

## **3. Principles of future community engagement**

- a. Individuals, communities and organisations are to be safe and respected; their values and opinions and their views be allowed expression without fear.
- b. Process should ensure that format of engagement sessions includes recognition of;
  - i. group rules/norms – e.g. - get to know each other, listen to and hear from each other; and
  - ii. opportunities to get information, explore evidence, facts, understanding myths, learning, knowledge – assist with deliberation.
- c. commitment to inclusive, transparent and accountable engagement processes;
- d. engage South Australians to contribute to their wellbeing and relationships with Aboriginal South Australians;
- e. high levels of community and stakeholder participation in relationship-building and cross-cultural recognition;
- f. outcomes should not only be better than exist now, but should also be better than can be achieved through other means (e.g. litigation or legislation) and reasonable against appropriate benchmarks (e.g. in comparable international settings);
- g. appropriate benchmarks should be reviewed over time and opportunities to improve benchmarks should be taken from time to time;
- h. Aboriginal peoples' participation in and contributions to State building - should be the urgent priority of both public and Aboriginal policy;
- i. an act of choice, not the only choice: agreement-building should not lock Aboriginal people into an 'all-or-nothing' situation, where they rely on complete settlement to achieve any gains at all - Aboriginal people should continue to negotiate only if they judge it to be producing worthwhile outcomes;
- j. attention should be given to what principles, if any, divide the parties and how might the Government best respond;

#### 4. Principles for processes

- a. jointly led engagement process with Aboriginal and non-Aboriginal peoples state-wide;
- b. engagement processes should be at high level of certainty, transparency and accountability;
- c. Measuring tools for success
  - a. Import Social Return on investment principles
  - b. Results Based Accountability
  - c. Collective Impact
- d. appropriate resourcing for developing the joint capacity of the Aboriginal and non-Aboriginal peoples to participate fully in future discussions and negotiations;
- e. Avoid the rush to secure minor gains in deal-making at the cost of attention to good process and the principles of social justice and self-determination, which can put the prospects for grass-roots nation-building at considerable risk;
- f. Aboriginal people themselves are the principals in agreement making – not their lawyers and other ‘representatives’;
- g. Aboriginal people exercise self-governance.

#### 5. Principles of Just Terms

- a. commitment to just, sustainable and equitable outcomes;
- b. restructure inequitable, unsustainable and unjust relationships between Aboriginal people and non-Aboriginal interests in South Australia;
- c. invest in the development of institutions, and the renewal of human, cultural and environmental resources to underpin Aboriginal economic empowerment;
- d. facilitate Aboriginal participation in commercial opportunities locally, regionally and across the whole State; and that
- e. consideration of a wide range of reforms will be necessary as part of settling *Unfinished Business* in the State.

## Appendix 5.

# An analysis of Citizens' Jury 2: Final Report. November 2016 (CJ2R)

The Board has carefully considered the process undertaken for CJ2, and concludes that it remains difficult to draw a consistent message from the CJ2 Report.

The starting point for consideration is the Citizens' Jury One Report (CJ1R) which identified 4 themes of concern:

1. **Safety**
2. **Trust, accountability and transparency**
3. **Social and community consent**
4. **Economics and benefits/risks to our State**

The CJ2R Summary document states that there are strong convictions one way or another, but that two thirds of CJ2 did not wish to pursue the opportunity to store and dispose of nuclear waste from other countries in any circumstances, and one third did support a commitment to do so. That conclusion must be read with the following recommendations that:

"Based on information provided to the Jury there is insufficient evidence to support 'yes'.

There is a lack of Aboriginal consent. We believe that the government should accept that the Elders have said NO and stop ignoring their opinions. The Aboriginal people of South Australia (and Australia) continue to be neglected and ignored by all levels of government instead of respected and treated as equals.

It is impossible to provide an informed response to the issue of Economics because the findings in the RCR are based on unsubstantiated assumptions. This has caused the forecast estimates to provide inaccurate, optimistic, unrealistic economic projections. We remain unconvinced that estimates relating to the cost of infrastructure (sic).

South Australia has a reputation as a green State and has a commitment to pursue clean energy and participation any further in the nuclear cycle (specifically foreign High Level Nuclear Waste Storage Facility) [would] be detrimental to our image."

The important point is that these recommendations conclude that there is insufficient information to support "yes", and identifies three markers: the attitude of the Aboriginal communities of South Australia, the uncertainty about its economic benefits, and the potential detriment to the State's "green" image.

The Board, of course, does not comment upon the more general assertions about the nature or quality of present or past governmental policy.

Following the recommendations, there are sections in CJ2R apparently setting out in detail, and with some evidence references, the reasons for views on particular topics. They are not all consistent. That may be explained by the fact of the differing views held within the members of CJ2.

For instance, there are sections which express different views about whether s.13 of the *Nuclear Waste Storage Facility (Prohibition) Act 2000* needs to be amended, or should be amended, to permit further consideration of the question. There are sections that express differing views about whether further investigation of the economic benefits and/or detriments of the proposal should be conducted. There are sections about whether the consultation carried out, and in particular the views of CJ2, are sufficient to reflect the community of South Australia for the purposes of any further Government decision in relation to the proposal. Those topics are referred to below.

### ***s.13 of the Act***

In one section headed "Should Section 13(2) [of the Act] be amended to allow economic modelling?", there appears to be support (or at least no objection) for amendment to approve the economic modelling, to analyse the economic viability of the proposal, and only then to seek incremental change to s.13 as then appropriate.

In a further section headed "Conditions for further spending of public money", there is a strong recommendation not to amend s.13 as there is "currently no impediment to the Government funding further analysis that will better inform the public consultation process", although it also records that many in CJ2 thought that no further public expenditure should be made in any event.

A later section headed "Limited legislative change to allow only for further economic and financial modeling" specifically records that s.13 presently prevents obtaining a clearer economic model, so some jurors support some amendment to s.13 (1).

The "Minority Reports" section specifically supports an amendment to allow for further economic modelling.

The overall picture is that, putting aside the "Minority Reports" section, the CJ2R does not exclude an appropriate, but limited, amendment to s.13 for the purpose of carrying out further economic modelling and investigation. Although clearly some jurors would not support that and some jurors do not think amendment of s.13 is necessary to conduct such inquiries.

### ***Further economic and financial modeling***

It is clear that many, if not most, of CJ2 did not have confidence in the economic and financial modelling made by the RCR.

In the "No..." section of the reasons or evidence, one of the reasons for that position being taken, is the absence of market testing or "... understanding the appetite with potential customers". In a later section "The economic risk is too great to proceed", it is said that there is a view which 82% of CJ2 "can live with, like or love".

In that section of the CJ2R, there is noted the absence of a current market, the absence of independent cost benefit analyses, key untested assumptions, and the fact that there has been no formal talk to prospective client nations, and other matters. It is also said that the risks associated with upfront payments and long term contracts are too high.

There is a separate section headed "Potential Financial Benefit to the State's Economy". It has an introductory text:

"Under the following circumstances we could pursue the opportunity to store and dispose of high level nuclear waste from other countries but some jurors believe it should be approached with caution."

It records the very significant potential benefits and a brief reference to certain evidence.

That section is followed by another, headed "The economic and financial modelling is unreliable and requires further analysis". It states that the project should not proceed unless further independent economic and financial modelling proves the project viable. It then sets out the nature of, and the steps for, the further economic analysis, and that after further economic analysis there should be further public consultation.

That section also led into the discussion in the CJ2R concerning s.13, and the section headed "The Importance of Timing", discussing the lack of sufficient time to address fundamental issues, and that further time should be allowed before the project could proceed, and without the further time allowed that the project should not proceed.

That view is not inconsistent with the "Minority Reports" section of the CJ2R.

## **Community consultation and CJ2**

Various through the CJ2R, the nature and adequacy of the community consultation to date is referred to. The section "Thorough diverse community engagement" addresses that, including the desirability (in the view of some jurors) for detailed economic analysis to be completed before such consultation, as does the section headed "Social and community consent is a fundamental requirement".

A separate section headed "Trust: Lack of trust in process and ensuring fair process in the future" refers also to steps which, in the CJ2R, are said not to have occurred. In that section, there is a subheading about the Citizens' Jury process. It records that:

"We have done what we think we could have done in the time but many of us think we need more time to understand, consider and to build trust. We have been provided examples by witnesses that procedural fairness, transparency and social benefit have not been adequate. Many in our community have not participated in the Citizens' Jury process, many in the community think it is irrelevant and this concern has been raised in the media."

In the first section after the recommendations, headed "No..." where there are four topics discussed, including consent, the comments include that:

"Many jurors believe we don't have the right to make a decision that will have such long term and irreversible consequences for future generations."

That would appear to refer, at least primarily, to the potential economic consequences of the proposal, as there is little specifically referring in that section to safety issues. There is reference to the need for independent and strong regulatory bodies, and to the asserted inevitability of accidents, with the comment that some jurors are less concerned with safety as a predominant issue for consideration.

The Board refers to the CJ2R regarding Safety issues below.

Reference has already been made to the comments under the heading "The Importance of Timing", the CJ2R refers to the need for adequate time to address all relevant issues, and that, if insufficient time was allowed to address important issues, the project should not proceed.

Those comments do not suggest that under no circumstances should further time be allowed for the consideration of the important issues. The comments referred to support the recommendation that there is insufficient evidence to support yes.

A significant discussion in the CJ2R on this topic concerns the lack of Aboriginal consent. The primary proposition has been set out above. The Premier is on record, as the CJ2R recognises, that Aboriginal consent to any proposal is essential. It is clear from the material referred to in the CJ2R that there is a strong view among Indigenous communities in South Australia adverse to the proposal, and that, in the view of many in CJ2, the level of consultation with the Aboriginal communities in South Australia had not to that time been adequate.

The Minority Report, under the subheading "Indigenous consultation", makes the comment that:

"The suggestion that this Jury can speak for the Indigenous community only perpetuates the disempowerment of that community. We have been told that the consultation process was either non-existent or insufficient. To suggest that the Indigenous community then has a unanimous position without adequate consultation is incorrect."

The Board recognises the view of CJ2 that the consent of the Aboriginal communities of South Australia has not been adequately canvassed. On that basis, it provides presently one of the reasons given by the CJ2R why there is insufficient evidence to support "yes" to the proposal.

## **Reputation of South Australia**

This topic is the third of the three matters specifically mentioned in the section headed "Recommendations", together with the lack of Aboriginal consent and the inability to provide an informed response on the economic issues.

The CJ2R contains two elements concerning the reputation of the State. One concerns the potential detriment to the “green State” reputation (as it is there described) with a commitment to pursue clean energy if the proposal is pursued. The other concern is the consequence of failure if the proposal proceeds, either economic failure (discussed above) or because the State has a “track record of poor performance in the area of nuclear issue management”. The latter element is said to be supported by a lack of trust in the State Government to manage large economic issues in the past, or in the delivering long-term economic benefits.

As to the latter topics, the Board notes that such views are at least in part political value-judgments, and it is not appropriate for the Board to do other than note them.

The CJ2R has the “remedy for such concerns” in the section headed “Lack of trust....” where it concludes:

“It is critical to any future proposal that it include a strong independent and legislated regulatory and monitoring framework that is fully funded and resourced, with adequate policing powers, with oversight by State Parliament.”

Elsewhere, as the Board has noted, there is an emphasis on there being an effective and strong regulatory structure before the proposal could proceed.

The Board understands that the establishment of the appropriate regulatory structure is itself not an impediment to the proposal proceeding, although it is broadly a pre-condition to any specific progress towards the proposal. The RC Report also refers to this as a requirement: see p.128-134 and p.157-159.

As to the ‘green State’ reputation, the concerns are expressed in detail in the section headed “The Impact of Nuclear Waste Disposal on the brand of the State of South Australia”. The discussion notes the competing views that the development of the proposal could be managed, maintaining the brand image, or that more research into an economic cost/benefit analysis is required, or (as is said to be the majority view) that the risks to brand damage are not worth the cost and possible long-term negative outcomes.

### ***Safety and other issues***

These are detailed as follows:

1. The CJ2R refers to several other matters which are said to point firmly in the direction of the proposal either being further considered, or (on the other view) to point firmly to the proposal not (in one view) being further considered under any circumstances. These matters are briefly noted in this section of the description of the CJ2R. That is because, to some degree they are inconsistent responses as noted earlier. The science of deep geological storage of high level nuclear waste is said to be reasonable, and the geology of South Australia suitable for the storage of such waste, so that subject to a proper regulatory framework the proposal might proceed. South Australia could thereby, as found in the RCR, could play a role as a global citizen is solving a recognised global problem, including because Australia has a long-standing culture of safety. There are, however, separate sections which say that South Australia should not be a ‘first mover’ when the technology is new and evolving, and where the market for the storage of high level nuclear waste is dependent on the extent to which ‘the world decides to decarbonise energy supply.
2. Safety in the transport and storage underground of nuclear waste, and the temporary storage above ground, appears to have been accepted by most of the jurors. The CJ2R notes that some jurors had concern about the length of time there would be above ground storage of canisters, and that some jurors had strong dissenting opinions about the safety of deep geological storage.

In the context of safety, the establishment of an appropriate regulatory framework is regarded as essential.

3. The CJ2R also raises the question whether there are alternative investment opportunities with a better cost/benefit for South Australians. It asks how the proposal would compare with those alternatives. That question was not debated before CJ2.

The Board notes that the text clearly contemplates such a comparative analysis, consideration of related opportunities of the identified alternatives (if any) and of the proposal, and consideration of whether the proposal (if it proceeds) would preclude the adoption of additional or alternative investment opportunities. The outcome of such an analysis, by implication, also would (it seems to be accepted) be relevant to whether the proposal should be supported. There is a separate section referring to new industries and opportunities related to the development of the proposal.

4. The CJ2R also notes that the establishment of a high level nuclear waste repository would have environmental impacts. That is adverted to in the RCR, but (it is asserted in CJ2R) insufficiently. Clearly, the establishment of a high level nuclear waste storage facility, and the supporting infrastructure, would involve environmental impacts.

The Board notes that point. It is clearly correct. It is, a matter to be addressed at a later stage. The present question, having regard to s 13 of the Act, even if it led to further investigation including further economic analysis, would not enable much to be done unless and until proposed possible sites for a repository were identified, at least tentatively.

5. The CJ2R further made some observations about the objectivity, or lack of objectivity, of the RCR.

The Board does not need to comment upon that matter. If there is to be further investigation of the proposal, it will be transparent.

6. The CJ2R also has a section referring to significant social costs in the event of the proposal proceeding, principally because of the divisiveness of the issue, because of the impact of such a facility upon the regional community, and other matters (most of which are drawn from matters already referred to in the CJ2R). They are said, collectively, to support the conclusion that there should be no such facility established. If investigations into the proposal are pursued, having regard to the Recommendations, it is also said that the social costs and impacts should themselves be included in the further economic modelling.

### **Minority reports**

The review to this point of the CJ2R is based almost entirely on its contents before the section headed "Minority Reports".

The differing views within CJ2 are in part reflected in the "Minority Reports" section at the conclusion of the CJ2R. There reference is made to asserted selection bias in the selection of CJ2 by announcing the questions before requesting volunteers, and to selection bias in the selection of witnesses by CJ2. It also contrasts the representative survey outcomes and the self-selected outcomes (as noted in Community Views Report), and the subject of separate comment by the Board.

## Board comments

Appendix 5 has sought to identify the Recommendations in the CJ2R and the competing reasons for proceeding, or not proceeding with further investigation. As the Board has noted, the template used addressed particular subtopics with options: Under no circumstances, under the following circumstance or under the following conditions, or yes.

The CJ2R, in that light, has some topics with apparently different emphases, and in part addresses matters on which information or further information or investigation might or could be undertaken and which otherwise might point to the "Under no circumstances..." option.

Clearly, one such matter is the analysis of comparative investment opportunities for South Australia, as suggested by the CJ2R, and as noted in the preceding section of this Appendix. Given that the CJ2R regards the economic and financial analysis presently available and relating to the proposal as unsatisfactory, any such comparative analysis to be meaningful and informative might require a more stringent economic and financial analysis of the proposal.

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