



**National Radioactive Waste
Management Amendment (Site Selection,
Community Fund and Other Measures)
Act 2021**

No. 59, 2021

***An Act to amend the *National Radioactive Waste
Management Act 2012*, and for related purposes***

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Site selection		3
Schedule 2—Establishment of community fund		6
	<i>National Radioactive Waste Management Act 2012</i>	6
Schedule 3—Other amendments		10
	<i>National Radioactive Waste Management Act 2012</i>	10



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No. 59, 2021

***An Act to amend the *National Radioactive Waste
Management Act 2012*, and for related purposes***

[Assented to 29 June 2021]

The Parliament of Australia enacts:

*No. 59, 2021 National Radioactive Waste Management Amendment (Site Selection,
Community Fund and Other Measures) Act 2021 1*

1 Short title

This Act is the *National Radioactive Waste Management Amendment (Site Selection, Community Fund and Other Measures) Act 2021*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	30 June 2021

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Site selection

1 Certain land taken to have been nominated and approved

- (1) For the purposes of the *National Radioactive Waste Management Act 2012* (the *Act*), the following table has effect:

Land taken to have been nominated and approved				
Item	Column 1	Column 2	Column 3	Column 4
	The land specified in...	is taken to have been nominated as a site under section 7 of the Act on...	and is taken to have been nominated as a site under section 7 of the Act by...	and is taken to have been approved by the Minister as a site under section 9 of the Act on...
1	subitem (2)	27 January 2017	each person who, on the date mentioned in column 2 of this item, held an estate in fee simple in the land	27 June 2017.
2	subitem (3)	27 January 2017	each person who, on the date mentioned in column 2 of this item, held an estate in fee simple in the land	27 June 2017.
3	subitem (4)	4 May 2015	each person who, on the date mentioned in column 2 of this item, held an interest in the land that was 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 (within the meaning of section 7 of the Act), under a law of the Commonwealth, a State or a Territory	6 May 2016.

Schedule 1 Site selection

- (2) The land specified in this subitem is the area of land that is bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Land specified in subitem (2)

Item	Description
1	The point that is at a bearing 270°52'40" along the Tola Road boundary, and 25 metres west from the south-east corner, of the land described in South Australian Certificate of Title Volume 5937 Folio 542, being Section 94, Hundred of Pinkawillinie, in the area named Pinkawillinie
2	Bearing 270°52'40" for 581.80 metres
3	Bearing 270°53'10" for 727.75 metres
4	Bearing 309°36'10" for 122.73 metres
5	Bearing 0°35'40" for 1440.36 metres
6	Bearing 91°53'40" for 1408.72 metres
7	Bearing 180°44'40" for 1492.18 metres to the starting point

- (3) The land specified in this subitem is Section 38, Hundred of Moseley, in the area named Moseley, being part of the land described in South Australian Certificate of Title Volume 5925 Folio 858.
- (4) The land specified in this subitem is the whole of the land described in South Australian Crown Lease Volume 6200 Folio 237 (formerly South Australian Crown Lease Volume 1215 Folio 28), being:
- (a) the allotment comprising pieces 30, 31, 32 and 33 Deposited Plan 46041 in the area named Flinders Ranges Hundred of Cotabena; and
 - (b) the allotment comprising pieces 40, 41, 42 and 43 Deposited Plan 46041 in the area named Flinders Ranges Hundred of Cotabena.

2 Compensation for acquisition of property

- (1) If the operation of this Schedule would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that

4 *National Radioactive Waste Management Amendment (Site Selection, Community Fund and Other Measures) Act 2021* No. 59, 2021

paragraph), 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.

Schedule 2—Establishment of community fund

National Radioactive Waste Management Act 2012

1 Section 4

Insert:

host community, for a facility, means the community located in the local government area in which the facility is situated.

local government area means an area that, at the time the Minister makes a declaration under subsection 14(2) in relation to a site, is an area for which a local government body is constituted by or under a law of the State or Territory in which the site is situated.

NRWMF Community Fund entity: see subsection 34AA(1).

Note: NRWMF is short for National Radioactive Waste Management Facility.

1A Subsection 22(1)

Omit “Immediately after a declaration under subsection 14(2) takes effect, the”, substitute “The”.

2 Part 6A (heading)

Repeal the heading, substitute:

Part 6A—Community fund

2A Section 34A

Repeal the section, substitute:

34A Application of Part

This Part applies if:

- (a) the Minister has made a declaration under subsection 14(2) that a site is selected as the site for a facility; and

- (b) a facility has been constructed at the site; and
- (c) a facility licence that authorises a person to operate the facility has been issued under the *Australian Radiation Protection and Nuclear Safety Act 1998*.

3 After section 34A

Insert:

34AA NRWMF Community Fund entity

- (1) The *NRWMF Community Fund entity* is the entity prescribed by the regulations for the purposes of this subsection.
- (2) Before the Governor-General makes regulations for the purposes of subsection (1), the Minister must be satisfied that, before the entity was established, the following bodies were consulted on the type of entity to be established and associated governance arrangements:
 - (a) the regional consultative committee mentioned in section 22;
 - (b) the local government body that serves the local government area in which the facility is situated;
 - (c) the government of the State or Territory in which the facility is situated.

34AB Payment to NRWMF Community Fund entity

- (1) The Minister must, on behalf of the Commonwealth, make a payment to the NRWMF Community Fund entity for purposes associated with the economic and social sustainability of the host community for the facility, so as to support:
 - (a) the establishment of the facility; and
 - (b) the operation of the facility in safely and securely managing controlled material.
- (2) The payment must not be made to the NRWMF Community Fund entity unless the entity is party to an agreement with the Commonwealth under section 34AC.
- (3) The amount of the payment must be \$20 million. The amount is to be paid as a single lump sum.

- (4) A payment under this section is to be made out of money appropriated by the Parliament by another Act.

Note: The other Act will usually be an Annual Appropriation Act.

34AC Terms and conditions of payment

Scope

- (1) This section applies to a payment made to the NRWMF Community Fund entity under section 34AB.

Terms and conditions

- (2) The terms and conditions on which that payment is made are to be set out in a written agreement between the Commonwealth and the entity.
- (3) An agreement under subsection (2) may be entered into by the Minister on behalf of the Commonwealth.
- (4) The entity must comply with the terms and conditions set out in the agreement.

Core condition

- (5) The agreement must include a condition to the effect that the entity will use the payment for purposes associated with the economic and social sustainability of the host community for the facility, so as to support:
- (a) the establishment of the facility; and
 - (b) the operation of the facility in safely and securely managing controlled material.

Other terms and conditions

- (6) The terms and conditions set out in the agreement must provide for the circumstances in which the entity must repay amounts to the Commonwealth.

Note: An amount repayable to the Commonwealth would be a debt due to the Commonwealth.

(7) The regulations may prescribe other terms and conditions that are to be set out in the agreement.

(8) Subsections (5), (6) and (7) do not limit subsection (2).

4 Before section 34B

Insert:

Part 6B—Fee for use of facility

5 Section 34B (heading)

Omit “National Repository”.

6 Subsection 34B(1)

After “use the facility”, insert “mentioned in section 34A”.

6A Paragraphs 34B(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) the State or Territory in which the facility is situated;

(c) a Commonwealth entity or an authority of the State or Territory in which the facility is situated;

7 After subsection 34B(2)

Insert:

(2A) The fee is payable to the Commonwealth.

7A Subsection 34B(3)

Repeal the subsection.

8 Sections 34C to 34E

Repeal the sections.

Schedule 3—Other amendments

National Radioactive Waste Management Act 2012

1A Section 3

Repeal the section, substitute:

3 Object of Act

- (1) The object of this Act is to ensure that controlled material is safely and securely managed by providing for:
 - (a) the selection of a site for a radioactive waste management facility on land in Australia; and
 - (b) the establishment and operation of such a facility on the selected site.
- (2) By ensuring that controlled material is safely and securely managed, this Act, among other things, gives effect to certain obligations that Australia has as a party to the Joint Convention, in particular, Australia's obligations under Chapters 3 and 4 of the Joint Convention.

1 Section 4

Insert:

authority means:

- (a) in relation to a State:
 - (i) a body corporate established for a public purpose by or under a law of the State; or
 - (ii) an incorporated company in which the State, or a body corporate mentioned in subparagraph (a)(i), has a controlling interest; or
- (b) in relation to a Territory:
 - (i) a body corporate established for a public purpose by or under a law of the Territory; or
 - (ii) an incorporated company in which the Territory, or a body corporate mentioned in subparagraph (b)(i), has a controlling interest.

2 Section 4 (definition of *controlled material*)

Repeal the definition, substitute:

controlled material: see section 4A.

3 Section 4 (definition of *facility*)

Omit all the words after “controlled material”.

3A Section 4

Insert:

Joint Convention means the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, done at Vienna on 5 September 1997, as amended and in force for Australia from time to time.

Note: The Joint Convention is in Australian Treaty Series 2003 No. 21 ([2003] ATS 21)] and could in 2021 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

4 At the end of Part 1

Add:

4A Meaning of *controlled material*

- (1) ***Controlled material*** means controlled material within the meaning of the *Australian Radiation Protection and Nuclear Safety Act 1998* that is controlled material to which subsections (2) and (3) apply.
- (2) This subsection applies to controlled material if:
 - (a) it has been used in Australia, generated by activities in Australia, or sent to Australia under contractual arrangements relating to the conditioning or reprocessing of ANSTO spent nuclear fuel (within the meaning of the *Australian Nuclear Science and Technology Organisation Act 1987*); and
 - (b) it is not high level radioactive material or spent nuclear fuel.
- (3) This subsection applies to controlled material if it is one or more of the following:

- (a) controlled material that is radioactive waste (within the meaning of the Joint Convention);
- (b) controlled material that is generated as a result of activities that relate to the defence of Australia;
- (c) controlled material that needs to be securely managed to prevent its use in the commission of a terrorist act (within the meaning of section 100.1 of the *Criminal Code*);
- (d) controlled material that is generated, possessed or controlled by the Commonwealth or by a Commonwealth entity in the performance of its functions;
- (e) controlled material that is generated by a State or an authority of a State;
- (f) controlled material that is generated by a Territory or an authority of a Territory, or within a Territory.

5 Subsection 34B(1)

Omit “radioactive waste”, substitute “controlled material”.

6 Section 34F (heading)

Omit “waste”, substitute “controlled material”.

7 Section 34F

Omit “radioactive waste”, substitute “controlled material”.

8 Section 38

Repeal the section.

*[Minister's second reading speech made in—
House of Representatives on 13 February 2020
Senate on 15 June 2020]*

(15/20)

*No. 59, 2021 National Radioactive Waste Management Amendment (Site Selection,
Community Fund and Other Measures) Act 2021 13*