

Nuclear Fuel Cycle Royal Commission

# Consultation and Response Advisory Board Report

November 2016



## **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.

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## **Abbreviations relevant to this Report**

Citizens Jury (CJ)

Consultation and Response Agency (CARA: the Agency)

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

Nuclear Fuel Cycle Royal Commission (RC)

Terms of Reference (ToR)

# Foreword

Front to back and left to right:  
Professor Deb White; John Mansfield AM, Chair;  
Dr Rebecca Huntley; Parry Agius;  
Professor Daniela Stehlik



The Nuclear Fuel Cycle Royal Commission Report (the RC Report) was presented the South Australian Government in May 2016.

The Government then established the Consultation and Response Agency (CARA: the Agency) to provide planning, coordination and implementation of community consultation on the recommendations made in the Royal Commission (RC) Report. CARA (the Agency) commenced operating on 1 July 2016.

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 (ToR), are appended to this Report.

The Agency planned and undertook an extensive process of information provision to members of the South Australian Community.

The Agency also conducted an extensive process of market consultation and research, through the engagement of Colmar Brunton. The Board notes that Colmar Brunton's work included a telephone survey of 2000 randomly chosen South Australian citizens (iterated three times with a total of 6000), which found that 42% of people supported or strongly supported continuing to explore establishment of

a storage and disposal facility for international nuclear waste, while 36% opposed or strongly opposed the idea. The remainder were neutral or undecided.

For further details on stratified random sampling and statistical validity see [www.nss.gov.au](http://www.nss.gov.au).

The Agency sought to engage with the Aboriginal communities in South Australia to provide information to them about the RC Report, to respond to any questions raised, to obtain the views of those communities, and to ensure these views were then made widely available for consideration.

That process is fully elaborated in the Community Views Report which accompanies this Board Report.

This extensive consultation process included two Citizens' Juries (CJ) that then culminated in the report of Citizens' Jury 2 (CJ2).

In its oversight of these Juries, the Board sought to ensure that both the Jury processes, and the responsibilities of the Agency, were undertaken in a fair and impartial manner.

It sought to ensure advice that the report of Citizens' Jury 2 reflected the considered views of that Jury.

For the purposes of that process, NewDemocracy Foundation was contracted to provide the deliberative framework and democracyCo was contracted to conduct the process/mechanism in the form of a Citizens' Jury.

NewDemocracy Foundation undertook a process of selection of jurors, which included an invitation to a random number of South Australians, from which juries were formed that were attempting to offer a reflection of the South Australian demographic.

CJ1 of 50 citizens identified the main issues of concern to them from the RC Report, and then released a report of these presented to the Premier on 10 July 2016.

A second Jury of some 330 citizens, similarly selected by NewDemocracy Foundation (CJ2), then addressed the four themes raised by CJ1, which are:

- safety
- community consent
- trust, accountability and transparency
- economics and benefits/risks to the state

as well as other such matters as chosen to assist in the CJ2 deliberations on their agreed remit (see further below).

The Board is confident that all the material and research evidence gathered as part of the state-wide consultation process, including the views of Aboriginal South Australians, was provided to CJ2. The Board comments in more detail on those processes throughout this report.



John Mansfield AM, Chair



Parry Agius



Dr Rebecca Huntley



Professor Daniela Stehlik



Professor Deb White

**The Consultation and Response Agency planned and undertook an extensive process of information provision to members of the South Australian Community.**

# Executive summary

The Board is satisfied that the State-wide consultation process was undertaken in a respectful, unbiased and comprehensive manner.

The Board is strongly of the view that, if the Government decides to further consider the possibility proposed by the Report of the Nuclear Fuel Cycle Royal Commission, then continuous and transparent communication

and consultation with the communities of South Australia, including the Aboriginal community, is critical to ensure the on-going building of trust in any ultimate decision by the Government which can then be supported by all South Australians.

## State-wide consultation program

Board members were asked for advice by the Agency on matters associated with the development of the state-wide consultation process and on the research instruments as utilised by Colmar Brunton, including the questionnaires for telephone surveys and the focus group questions.

Board members attended some focus group discussions to observe the process in more detail and participated in activities undertaken as part of the state-wide consultation process. These included attending:

- Shopping centre venues
- Town hall events and other public fora
- Schools Forum
- Aboriginal Human Service Forum; and
- Industry Workshop.
- Remote community consultation event in Oak Valley.

In this way the Board had several experiences from which to make its assessment and to conclude, under its Terms of References (ToR), as to whether the overall state-wide consultation program was conducted in an open, transparent and unbiased manner.

The Board notes that there was an essential (and important) limitation to the conduct of the state-wide consultation program in the time made available to it. This timeframe (essentially 12 weeks) was pre-determined by

the overall timeframe: post-handing down of RC (May 2016) and prior to the response by Government to it (December 2016). Time constraints and budget considerations were beyond the control of the Board in this current process.

However, given this limitation, the Board is satisfied that the statewide consultation program was:

- Undertaken in a respectful, unbiased and thorough manner that enabled a large number of South Australians to gather information, discuss issues and further educate themselves as to the material within the RC Report; and
- Met the criteria of 'state-wide' as it visited many different communities and settlements throughout the state. Such visits were planned ahead, made public through various forms of media and followed up with summaries provided to the communities visited.

The Board's professional observations confirmed that its advice as to the inclusion of subject experts as well as good science communicators in the outreach teams, meant that any concerns South Australians raised about the material in the RC Report were able to be addressed immediately during the consultation process.

# Aboriginal communications

The Agency sought to engage with the Aboriginal community both formally and informally.

The formal communications were conducted in part by a Forum with Aboriginal non-government human service organisations, whose views were recorded in a document then made available to CJ2. The Board believes that Aboriginal non-government organisations remain an untapped collective consultative resource and able to provide wide breadth of information.

A formal invitation was extended to each of the Aboriginal communities in South Australia (as identified to the Agency by South Australian Native Title Services (SANTS)), for the consultation process to be made available to that community. The Agency took with it such information as was requested (including science and subject experts), and interpreters.

The Oak Valley community on the Maralinga Tjarutja lands in the far western part of South Australia responded to that invitation and a Board member attended as part of that visit.

In addition, a number of Aboriginal persons attended the State-wide community consultations, especially in those communities where there is a significant Aboriginal population, and provided their comments to the Agency.

The process of recording such Aboriginal persons' views was done as described in the report provided to the Board for annexure to meeting six minutes of 30 September 2016.

The views of those Aboriginal citizens and communities who provided feedback through the state-wide consultation processes, were all made available to CJ2.

Aboriginal witnesses presented to CJ2 in open session with an Aboriginal moderator. Coordination of this session was the responsibility of democracyCo.

## Forums

Three forums were held during the 12 week consultation program. Two were planned as part of the initial state-wide program, the third, the Aboriginal Human Services Forum (25/26 October), was suggested by the Board in response to feedback received by the Agency as outlined above.

The two forums established by the Agency and undertaken during the consultation phase, were the Schools Forum and the Industry Workshop, both of which were attended by Board members.

The **Schools Forum** (30 September) was held at Adelaide Oval, and details of the demographics and program of this Forum can be found in the

Community Views Report. A Board member acted as observer in the design phase of this Forum, with the Agency and the Department of Education and Child Development, and later attended the full day Forum with another Board member as observer.

The **Industry Workshop** (26 October) was held at the Adelaide Convention Centre, supported by the Department of State Development, and details of the program can be found in the Community Views Report. A Board member acted as observer and attended the Workshop.

# Social media

Colmar Brunton has undertaken analysis of the wide range of information channels utilised during the consultation program. These are elaborated on in detail the Community Views Report. Some Board reflections of these are provided here.

The Board is of the opinion that:

- every attempt was made to reach a wide audience through social media within the time constraints; and
- the management of these channels was the responsibility of the Agency, except for the 'Base Camp' medium utilised during the Citizens' Jury processes which remained the responsibility of democracyCo.

On the activity on Facebook

([www.facebook.com/nuclear.sa.gov.au](http://www.facebook.com/nuclear.sa.gov.au)) the Board considers the material up-loaded by the Agency to be highly informative and of good quality. All interviews up-loaded were tastefully conducted and provided a balanced view.

On the activity on Twitter ([@YourSayNuclear](https://twitter.com/YourSayNuclear)), the Board considers the 'traffic' to be relevant and balanced.

The events held through the state-wide consultation were promoted and highlighted using these channels, giving the program immediacy and contributing to the sharing of information more widely. The use of short video material also provided additional transparency.

# Citizens' Juries

Two Citizens' Juries (CJ) were convened, the first with 50 jurists, and the second with 300+.

The Board considers that

- the conduct of CJ1 was undertaken in a manner designed to obtain a considered answer; and
- as this process enabled CJ1 to produce a strong document the Board would therefore describe it as a success.

The Question developed from CJ1 deliberations for CJ2 consideration was as follows:

'Under what circumstances, if any, could South Australia pursue the opportunity to store and dispose of nuclear waste from other countries?'

The Board observed that CJ2, with a larger number of jurors (300+), presented significantly more challenges to its management.

CJ2 was provided with a list of potential witnesses drawn from those who appeared before to the Royal Commission; or nominated by the Stakeholder Reference Group, the Agency or suggested by the Advisory Board.

Jury members were able to add to this list. Witnesses who attended were drawn from this list.

The Board is of the view that:

- the Agency has provided the results of its information gathering processes to all Juries in an open and balanced way; and that
- CJ2 had access to all material directly gathered by the Agency which was then assembled and made available fairly and without bias.

Importantly, the scale of CJ2 in terms of participants was, in the Board's view, unprecedented and proved problematic as well as highlighting issues concerning witness selection and management.

The Board notes and observed:

- some public criticism of the selection of witnesses on economic issues at CJ2.

At the conclusion of CJ2, a report was presented to the Premier. The Board notes that:

- a minority report was also presented; and
- that there was some concern expressed as to the experience of some jurors attempting to influence others by putting pressure on them during the writing of this report.

Final Comment:

It should be noted that the Board was not involved in either the selection of the CJ as a method, or the two service providers appointed (NewDemocracy Foundation and democracyCo).

It is appropriate to comment here that this deliberative process, which incorporates the use of a CJ, has not previously been used in this State to consider such a complex or emotive issue.

## Board processes

The Board met regularly throughout the period from 1 July 2016 to the present time, both formally with the Agency and, from time to time, without Agency presence.

It observed the processes undertaken by the Agency as reported on above.

It sought information from the Agency and from NewDemocracy Foundation and from democracyCo periodically about the particular steps and processes that were to be undertaken.

Members of the Board attended each of the CJ consultation days.

The Board observed that, in particular, those representing the Agency in their community engagement processes did so in an entirely appropriate and proper way.

## Conclusion

In conclusion, and in accordance with its ToR, the Board remains available to give to the Government such further advice as it may seek if the decision is to further consider the proposal of the RC Report.

## Terms of Reference

### 1 Establishment of the Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board

- 1.1 The Nuclear Fuel Cycle Royal Commission Consultation and Response Advisory Board (“Board”) is established as a non-statutory advisory board.

### 2 Purpose

- 2.1 The Nuclear Fuel Cycle Royal Commission Consultation and Response Agency (“Agency”) was created to provide planning, whole-of-government coordination and implementation of community consultation on the recommendations made in the report of the Nuclear Fuel Cycle Royal Commission (“Royal Commission”). The Agency commenced operation as a business unit within the Department of the Premier and Cabinet and will be established as an attached office to that Department from 1 July 2016.
- 2.2 To assist the Agency during its activities, the Board will provide high-level strategic advice and assistance to the Premier and the Agency with respect to the consultation process, and with a view to building trust, understanding and confidence in the community in relation to the consultation process and its independence.

### 3 Role and Functions

- 3.1 The Board will be constituted to:
  - a) provide independent and strategic advice to the Premier and Chief Executive of the Agency with respect to the Agency’s activities in facilitating the consultation with the South Australian community
  - b) provide guidance to the Premier and the Chief Executive of the Agency as to the strategic direction of the consultation process
  - c) review materials prepared by the Agency for use in the consultation process and provide comment and guidance on their form and content
  - d) on request of the Premier or the Chief Executive of the Agency, attend and participate in community consultation events, and prepare presentations and other materials in accordance with such requests
  - e) provide independent advice and recommendations to the Premier and the Chief Executive of the Agency on strategic opportunities and risks related to the consultation process
  - f) provide such other advice during the consultation process as requested by the Premier and/or the Chief Executive of the Agency.

## 4 Membership

- 4.1 Members will be appointed by the Premier for the term specified in the member's Terms of Appointment.
- 4.2 The Premier will appoint an independent Chair to the Board. For the avoidance of doubt, the Chair will also be a member of the Board for the purpose of these Terms of Reference.
- 4.3 The Premier may terminate an appointment for any or no reason with immediate effect.
- 4.4 The Board's membership is to comprise 50 per cent women, consistent with South Australia's Strategic Plan.

## 5 Remuneration and Expenses

- 5.1 Members will be remunerated in accordance with their Terms of Appointment and *DPC Circular 16 – Remuneration for Government Appointed Part-Time Boards and Committees*.
- 5.2 Members will be entitled to reimbursement for expenses in accordance with their Terms of Appointment and *DPC Circular 16 – Remuneration for Government Appointed Part-Time Boards and Committees*.

## 6 Authority to Act

- 6.1 The Board is not established by or under legislation and is not a legal entity in its own right.
- 6.2 The Board's authority to act is limited to the provision of advice and recommendations to the Premier and the Agency in accordance with these Terms of Reference.
- 6.3 The Board does not have any delegated powers to act on behalf of, or to commit, the Premier or the Government of South Australia to any actions.

## 7 Honesty and Accountability

- 7.1 By virtue of this appointment, it is intended that members are:
  - a) 'public officials' for the purposes of section 74 of the *Public Sector Act 2009*; and
  - b) 'advisory body members' for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*and are therefore subject to the duties and obligations arising under that legislation.

## 8 Conflict of Interest

- 8.1 Members have particular duties with respect to conflict of interest under the *Public Sector (Honesty and Accountability) Act 1995*.
- 8.2 Where a member has a direct or indirect personal or pecuniary interest in a matter decided or under consideration, these duties require that the member:
  - a) must, as soon as reasonably practicable, disclose in writing to the Premier full and accurate details of the interest;
  - b) must not take part in any discussions relating to the matter;
  - c) must not vote in relation to that matter; and
  - d) must be absent from the meeting when any such discussion or voting is taking place.

- 8.3 Members will be required to provide a register of interest to the Agency at the commencement of their appointment and will be required to update the register should any interests change or if new interests arise during the course of their appointment.
- 8.4 The register of interest will be a standing agenda item at each Board meeting.

## 9 Records Management

- 9.1 Records of the Board must be maintained in accordance with the *State Records Act 1997*. Records should be made available for inspection by members at any convenient time.
- 9.2 For the purposes of the *Freedom of Information Act 1991* ("FOI Act"), the Board is considered to be established for the purposes of the Agency. As such, it is not regarded as constituting a separate agency under the FOI Act.

## 10 Confidentiality

- 10.1 Members will acknowledge in their Terms of Appointment that they will receive or create information which is confidential during the terms of their appointments.
- 10.2 Members will agree not to use or disclose confidential information for purposes other than in accordance with their Terms of Appointment.
- 10.3 Members will agree that their obligations relating to confidential information will extend beyond the expiry or termination of their appointment.

## 11 Meetings

- 11.1 The Board will convene one (1) meeting per month or as determined by the Chair and Chief Executive of the Agency.
- 11.2 The Chair will preside at each meeting. If the Chair is absent, a member chosen by the members present will preside at the meeting.
- 11.3 Members will personally attend meetings, although they may attend using teleconferencing or videoconferencing facilities if they are unable to be physically present. Members will advise the Chair of attendance and/or apologies in advance of meetings.
- 11.4 The Chief Executive of the Agency (or his or her delegate) will attend each meeting.
- 11.5 The Chair may invite other persons and/or observers to attend Board meetings. Other persons and/or observers may attend Board meetings with approval from the Chair.
- 11.6 The Board may determine its own meeting procedures subject to these Terms of Reference.

## 12 Reporting

- 12.1 The Board will report to the Chief Executive of the Agency after each meeting and/or as requested.
- 12.2 The Chair will report to the Premier as requested.
- 12.3 Minutes of each meeting will be circulated to members for consideration/comments and approved by the Chair.
- 12.4 Minutes of each meeting will be published by the Agency once Board members have had an opportunity to consider their content and the Chair has approved their content.

- 12.5 Minutes of the previous meeting will be a standing agenda item at each meeting.
- 12.6 Reporting will be undertaken in accordance with *DPC Circular 22 – Establishment and governance requirements of government boards and committees*.

## **13 Intellectual Property**

- 13.1 'Intellectual property' means any patent, copyright, trade mark, trade name, design, trade secret, know how, or other forms of intellectual property rights whether arising before or after the execution of these Terms of Reference, and the right to registration of these rights.
- 13.2 As a general rule, intellectual property developed by the Board will be owned by the Crown in right of the State of South Australia.
- 13.3 Should any member of the Board consider that for a specific matter, other owners of intellectual property should be recognised, this should be raised as soon as possible with the Chief Executive of the Agency.

## **14 Executive Support**

- 14.1 The Agency will provide executive support to the Board and will be responsible for:
  - a) managing appointments (letters/terms of appointments and remuneration);
  - b) scheduling meeting time and dates;
  - c) preparing agendas; minutes; and reports for meetings;
  - d) monitoring actions arising from meetings;
  - e) organising travel (including flights) and accommodation; and
  - f) providing general secretariat support.
- 14.2 The Agency will circulate agenda papers to Members by a minimum of five (5) working days prior to each Board meeting.
- 14.3 The Agency will circulate minutes of meetings to Members for consideration and/or comments which and approved by the Chair by a minimum of ten (10) working days after each Board meeting.

## **15 Sunset/Review Date**

- 15.1 Six monthly reviews will take place as required by the Premier.
- 15.2 The Premier may review these Terms of Reference and make amendments as required.
- 15.3 The Premier may dissolve the Board by notice in writing to members.

## **16 Definitions**

- 16.1 In these Terms of Reference:
  - a) 'Agency' means, prior to 1 July 2016, the business unit within the Department of the Premier and Cabinet with that name; and, from 1 July 2016, the attached office to the Department of the Premier and Cabinet with that name;
  - b) 'Chief Executive of the Agency' means, prior to 1 July 2016, the Chief Executive of the Department of the Premier and Cabinet; and from 1 July 2016, the Chief Executive of the attached office to the Department of the Premier and Cabinet.

# Contact

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