

UPDATE: NUCLEAR ENERGY AND AUSTRALIA - NSW GOVERNMENT RESPONSE TO INQUIRY



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On 4 March 2020, the Standing Committee on State Development released a report (the “Report”) on its inquiry into the *Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019* (the “Bill”). The Bill seeks to remove prohibitions on uranium mining and the construction and operation of nuclear facilities in the Australian State of New South Wales. The NSW Government has now provided its response to the recommendations set out in the Report.

Findings contained in the Report

The Standing Committee made several key findings in the Report, including that:

- Securing affordable, sustainable and reliable baseload power now and into the future is essential to powering the State's manufacturing and other energy-intensive industries.
- Wind and solar firming with gas, batteries and pumped hydro would not be an adequate solution to meet State's future needs for affordable and reliable electricity following the decommissioning of ageing coal fired generation assets.
- Nuclear power is a compelling technology, which would be useful in energy policy which seeks to address the three dimensions of the energy trilemma (listed as environmental sustainability, energy security and affordability and equity).
- Emerging nuclear technologies, in particular Generation III/III+ and Generation IV benefit from significant advancements in safety and design and are considerably safer than other forms of electricity generation in the level of risk that they pose to human health and the environment.

Recommendations contained in the Report

In its Report, the Standing Committee had recommended, based on its findings, that the NSW Government support the Bill which would repeal the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986 (NSW)* (the “Act”) in its entirety. The Act contains the state prohibition on nuclear facilities. The Report recommended that the Legislative Council proceed with debate on the Bill.

In addition, the Standing Committee recommended that the NSW Government pursues the repeal of the Commonwealth prohibitions on nuclear facilities, currently set out in the Australian Radiation Protection and Nuclear Safety Act 1999 (Cth) and the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (the “**Commonwealth Prohibitions**”).

The Standing Committee also recommended that the NSW Government commissions further research into the economic viability of nuclear energy and workforce capabilities and skills gap analysis. According to the Standing Committee, broader community education initiatives about nuclear energy should be undertaken by the Department of Planning, Industry and Environment (the “**Department**”) and the Australian Nuclear Science and Technology Organisation (“**ANSTO**”) and both entities should monitor the status of commercialisation of small modular reactors in the United States and elsewhere



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NSW Government response to the recommendations

With respect to some of the key recommendations contained in the Report, the NSW Government has responded as follows:

- **Repeal of the Act:** The NSW Government has noted the recommendation that the Act be repealed, however it has stopped short of supporting it. Instead, the NSW Government has indicated that it will continue to monitor the Commonwealth Government's position with respect to the Commonwealth Prohibitions on nuclear facilities.
- **Repeal of the Commonwealth Prohibitions:** The NSW Government has given its support in principle to the recommendation that the NSW Government pursues the repeal of the Commonwealth Prohibitions, stating that it supports "taking a coordinated, national approach" with respect to the potential future role of nuclear energy in Australia. The NSW Government notes that it will, in particular, monitor the outcomes of the Commonwealth Government's Technology Investment Roadmap Discussion Paper and also its annual Low Emissions Technology Statements.
- **Practical recommendations:** The NSW Government has noted its support in principle with respect to some of the more practical recommendations contained in the Report, in particular the recommendations that:
 - The Department liaise with ANSTO to monitor regulatory approval and commercialisation of SMRs in the United States and elsewhere.
 - The NSW Government commission independent analysis and modelling to properly evaluate the viability of nuclear energy from an economic perspective.
 - The NSW Government commission a workforce gap analysis to identify the required expertise needed to support a future nuclear power industry.
 - The Department liaise with ANSTO to implement broader community education initiatives about nuclear energy.

Whilst acknowledging the benefit of all of the above recommendations, the NSW Government has made its preference clear that such work is best led and coordinated at the Commonwealth level, with appropriate interjurisdictional dialogue and support.

Upshot

Although the NSW Government's response is very encouraging, it is clear that leadership will need to come from the Commonwealth Government before we see any fundamental changes in NSW.

Further information

A copy of the Report is available [here](#), and a copy of the NSW Government's response is available [here](#).