

DEPARTMENT OF INDUSTRY, SCIENCE AND RESOURCES

MS23-001339

To: Minister for Resources (For Information)

IDENTIFICATION OF POLICY AND LEGAL CONSIDERATIONS REGARDING NRWMF STATEMENT

Recommendation:			
1. That you note potential policy and legal considerations regarding your potential statement on the National Radioactive Waste Management Facility.			
			Noted / Please Discuss
Minister:		Date:	
Comments:			
Clearing Officer:	Jane Urquhart	Deputy Secretary, Resources and Strategy	Mob: s22
Contact Officers:	Jodie Lindsay	Chief Operating Officer Australian Radioactive Waste Agency	Mob: s22
	s22	Manager, Radioactive Waste Policy	Mob: s22
For Parliamentary Services' use only.			09/08/2023
Date Submitted to the Minister's office in PDMS:			

Key Points:

1. Your office has provided the department with a draft statement about radioactive waste and sought high-level advice on potential legal and policy considerations ahead of potentially making such a statement to Parliament.
2. s42
3. We have prepared this advice on the basis that s42
s42
4. s42

5. The department has reviewed the statement and made relevant comments for your consideration at Attachment A.

Policy Considerations

6. The department has reviewed the draft to identify statements that s42
s42

s47(e)(d)

a.

- i. This matter was explored in the Senate Standing Committee on Economics' report on the *National Radioactive Waste Management Amendment (Site Specification, Community Fund and Other Measures) Bill 2020*.
- ii. While Senator McAllister's dissenting report notes that that "Some members of the community are concerned about the impact of the Facility on the region's agricultural production" (paragraph 1.5 of report in the NRWM Amendment legislation committee report), this does not reflect that all agricultural land is inappropriate for siting radioactive waste storage and disposal facilities.
- iii. Paragraph 2.77 of the committee's report states that "The advice from the experts in the Australian Department of Agriculture, based on both international and domestic experience, is that there is no reason why there would be any issues for Australia obtaining export licences or accreditation with regard to agricultural produce."
- iv. Paragraph 2.78 of the committee's report states that "The Department noted that radioactive waste facilities in the Champagne region of France have not affected the production or export of wheat, canola, grape or dairy. Strict regulatory and safety measures here in Australia are designed to ensure that radioactive materials do not enter the environment or pose a risk to the community or surrounding agricultural land."

s47C s47E(d)

7.

a. s34

b. s34

c. s47C s47E(d)

Legal Considerations

s42

Data referenced:

11. Nil

Consultation with the Cities and Northern Australia Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts: NIL

Other Consultation: Legal Branch; King & Wood Mallesons, Australian Government Solicitor, Office of Constitutional Law, Office of Legal Services Coordination

Attachments

- A:** Draft Ministerial Statement with Departmental Comments
- B:** Advice from King & Wood Mallesons, 9 August 2023