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**Australian Information Commissioner****'PM' and Department of Industry, Innovation and Science (Freedom of information) [2018] AICmr 70 (30 November 2018)**

Last Updated: 6 December 2018

*'PM' and Department of Industry, Innovation and Science (Freedom of information) [2018] AICmr 70 (30 November 2018)***Decision and reasons for decision of****Australian Information Commissioner, Angelene Falk**

Applicant	'PM'
Respondent	Department of Industry, Innovation and Science
Decision date	30 November 2018
Application number	MR17/00652
Catchwords	Freedom of Information — Whether documents contain deliberative matter prepared for a deliberative purpose — Whether disclosure would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency — Whether contrary to public interest to release conditionally exempt documents — (CTH) <i>Freedom of Information Act 1982</i> , ss 11A(5), 47C and 47E(d)

**Decision**

- Under s 55K of the Freedom of Information Act 1982 (the FOI Act), I set aside the decision of the Department of Industry, Innovation and Science (the Department) of 24 October 2017, as varied on 14 September 2018. I substitute my decision that the material the Department found to be exempt under ss 47C and 47E(d) of the FOI Act is not exempt.
- The Department must now provide the applicant with a copy of the document, edited only to the extent necessary to delete the irrelevant material under s 22 of the FOI Act, within 28 days of this decision.

**Background**

- On 30 June 2017, the applicant applied to the Department and the Minister for Resources and Northern Australia (the Minister) for access to:

... any emails, notes, memorandums, documents, advice, reports, submissions etc. within the Minister's Office and the Department of Industry, Innovation & Science which:

- go to the definition of 'broad community support' in the context of community consultation associated with a potential National Radioactive Waste Management Facility at Kimba.
- discusses the level of community support in relation to the most recent community consultation and vote relating to a National Radioactive Waste Management Facility at Kimba.

- On 13 July 2017, the Department and the Minister sent the applicant a request consultation notice under s 24AB of the FOI Act citing that processing the request would substantially and unreasonably divert the resources of the Department and the Minister's Office from its other operations.

- On 3 August 2017, the applicant revised the scope of their request to the following:

I seek access to any emails, notes, memorandums, documents, advice, reports etc since March 2017 within the Minister's Office and the Department of Industry, Innovation & Science which:

discuss directly the definition of 'broad community support' in the context of community consultation and vote associated with a potential National Radioactive Waste Management Facility at Kimba.

6. On 18 August 2017 and pursuant to s 16 of the FOI Act,<sup>[1]</sup> the Minister transferred the request to the Department, as the request related to a document in the possession of the Department, and the subject matter of the document is more closely connected with the functions of the Department.

7. On 1 September 2017, the Department advised the applicant that it had identified one document consisting of 64 folios (identified in the Department's decision as 'Brief to the Minister for Resources and Northern Australia') as falling within the scope of the request. The Department decided that only parts of three folios<sup>[2]</sup> were relevant to the request, and refused access to the three folios in full. In making its decision, the Department relied on the deliberative processes exemption (s 47C) of the FOI Act. The Department also deleted some material it considered to be irrelevant to the request under s 22(1)(a)(ii).

8. On 25 September 2017, the applicant sought internal review of the Department's decision in relation to its application of s 47C to the document.

9. On 24 October 2017, the Department affirmed its original decision. In making its decision, the Department relied on s 47C and the certain operations of agencies exemption (s 47E(d)) of the FOI Act.

10. On 14 November 2017, the applicant sought IC review of the Department's internal review decision under s 54L of the FOI Act.

11. On 8 August 2018, the applicant clarified they were specifically seeking IC review of the exemptions the Department applied to three folios<sup>[3]</sup> and that they did not seek review of the material the Department found to be irrelevant to the request and deleted under s 22 of the FOI Act.

12. On 14 September 2018, the Department varied its decision under s 55G of the FOI Act,<sup>[4]</sup> to give the applicant access in full to the material in one folio,<sup>[5]</sup> and access to further material in another folio.<sup>[6]</sup> The Department maintained its decision to refuse access to material in two folios.<sup>[7]</sup> In making its decision, the Department again relied on ss 47C and 47E(d) of the FOI Act.

13. On 21 September 2018, the applicant confirmed that they wished to continue with the IC review.

### Scope of IC review

14. The decision under review is the Department's internal review decision of 24 October 2017, as varied on 14 September 2018. Accordingly, the issue to be decided in this IC review is whether the material in the two remaining folios<sup>[8]</sup> the Department found to be exempt under ss 47C and 47E(d) of the FOI Act is conditionally exempt, and if so, whether giving the applicant access to conditionally exempt material at this time would, on balance, be contrary to the public interest (s 11A(5)).

15. In making my decision, I have had regard to the following:

- . the Department's original decision and reasons for decision of 1 September 2017
- . the Department's internal review decision and reasons for decision of 24 October 2017
- . the Department's varied decision under s 55G and reasons for decision of 14 September 2018 (decision under review)
- . the FOI Act, in particular ss 11A(5), 47C and 47E(d)
- . the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act to which agencies must have regard in performing a function or exercising a power under the FOI Act (FOI Guidelines), in particular paragraphs [5.20] – [5.21], [6.27], [6.52] – [6.88], [6.101] – [6.103], [6.124] – [6.151] and [6.161] – [6.172]
- . the material at issue
- . relevant case law, in particular *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information) [2015] AATA 945*, *Rovere and Secretary, Department of Education and Training [2015] AATA 462* and *'GI' and Department of the Prime Minister and Cabinet [2015] AICmr 51*, and
- . the parties' submissions.

### Deliberative processes exemption (s 47C)

16. The Department found material in two folios exempt under s 47C.<sup>[9]</sup>

17. As discussed in the FOI Guidelines and previous IC review decisions,<sup>[10]</sup> the main requirements of this public interest conditional exemption are that a document:

- . contains or relates to 'deliberative matter' (s 47C(1))
- . was prepared for a 'deliberative purpose' (s 47C(1))
- . the material is not 'purely factual' or non-deliberative (s 47C(2)), and
- . it would be 'contrary to the public interest' to give access at this time (s 11A(5)).

18. The term 'deliberative matter' is a shorthand term for opinion, advice, recommendation, consultation and deliberation that is recorded or reflected in a document.<sup>[11]</sup>

19. In the Administrative Appeals Tribunal (AAT) decision of *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information) [2015] AATA 945 ('Wood')*, Deputy President Forgie explains that the meanings of the words 'opinion', 'advice' and 'recommendation' all involve consideration, followed by the formation of a view either about a certain subject or about a course of action and the subsequent transmission of that view.  
[12]

20. The FOI Guidelines explain:

The action of deliberating, in common understanding, involves the weighing up or evaluation of the competing arguments or considerations that may have a bearing upon one's course of action. In short, the deliberative processes involved in the functions of an agency are its thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.<sup>[13]</sup>

21. The applicant said in their internal review request:

After reading 6.52 to 6.88 of the online FOI Guidelines it is difficult to comprehend a brief to a Minister prepared for the purpose of making a determination in any way as deliberative. Whilst it might be possible to suggest that discussion which took place in the preparation of the brief could be deliberative, the same cannot be said for information in the brief itself.

On 27 June 2017 then Minister Canavan announced that, after community consultation, two Kimba sites would proceed for consideration for a National Radioactive Waste Management facility. In embarking on consultation that Government advised communities that it was seeking 'broad community consent' for participating in the process of site selection. It also went on to say, 'The Federal Government has said it won't impose the facility on an unwilling community. "Broad community consent" must therefore have been a pre-condition for the then Minister to have made his decision to proceed. If the definition for 'broad community support' had not been settled in the brief prepared for the Minister then the decision itself would be open to administrative or judicial appeal.

Respectfully, the information in the brief cannot be deliberative.

22. In its decision and reasons for its internal review decision, the Department said:

I am satisfied that the information within scope of your FOI request is deliberative in nature as it was provided by the department to Senator the Hon Matt Canavan, the Minister for Resources and Northern Australia (the Minister), to inform his decision making process regarding land nominations under *National Radioactive Waste Management Act 2012*.

23. In its reasons for its varied decision, the Department said:

**Folio 19:**

Dot point (e) of Folio 19 contains information that is specifically to aid the minister in understanding both the benefits and detriments of their decision as to the location of the possible radioactive waste management facility. The information contained in the dot point was given to the minister for that minister to fully understand both the practical and political implications of the department's advice and recommendation. It sets out the consideration for 'broad community support' within the context of the overall decision making process in a manner that is

advisory to the minister's deliberations on the overall decision. As such, the information contained is deliberative in nature.

**Folio 24:**

The information contained in folio 24 was specifically prepared by the department in its capacity as an advisor to the minister. The information contained is an assessment of factual information, and the possible policy implications that would be associated with a decision of the minister in the current matter. This is specifically prepared for the minister's deliberation on the matter, and, as such, is deliberative in nature.

24. I have examined an unedited copy of the relevant material in the document. I agree with the Department that the relevant material contains deliberations in the form of advice and recommendations on implications associated with a decision regarding land nominations under the *National Radioactive Waste Management Act 2012* (the NRWM Act). It is apparent that the advice and recommendations were provided to the Minister to inform his decision making with respect to the NRWM Act. In this case I am satisfied that the recommendations and advice are deliberative matter for the purposes of s 47C. I am satisfied that this material is not purely factual in nature nor operational information.<sup>[14]</sup>

25. Accordingly, the material the Department found to be exempt under s 47C of the FOI Act is conditionally exempt under this provision.

**Public interest**

26. As I have found that the relevant material is conditionally exempt, I am therefore required to consider whether it would be contrary to the public interest to give the applicant access to conditionally exempt material at this time. Section 11A(5) of the FOI Act provides that, if a document is conditionally exempt, it must be disclosed 'unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest'.

27. Section 11B(3) of the FOI Act provides a list of public interest factors favouring disclosure. The FOI Guidelines also provide a non-exhaustive list of public interest factors favouring disclosure.<sup>[15]</sup>

28. The FOI Guidelines explain:

To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The decision maker must analyse, in each case, where on balance the public interest lies based on the particular facts of the matter at the time the decision is made.<sup>[16]</sup>

29. In their application for internal review, the applicant said:

The fact that a public consultation (indeed a third public consultation) has occurred in relation to the potential selection of Kimba as a National Radioactive Waste Management facility site demonstrate a strong public interest in the entire matter.

To suggest that making public a departmental determination of the meaning of 'broad community consent' would prejudice the ability of the department to provide the Minister with comprehensive, frank and fearless advice would suggest that the department is indeed fragile and fearful. To suggest it would compromise the quality and value of written briefing material would only raise questions as to its quality and value. To suggest that revealing a definition provided by the Department would impede an effective working relationship with the Ministers would suggest that the Department has little confidence in itself. The Department should be confident in any brief provided to the Minister, and indeed, if they are not, no decision should flow from such a brief.

30. In its reasons for internal review decision, the Department said that disclosure would:

- . promote the objects of the FOI Act
- . provide the community with access to government information, and
- . inform debate on a matter of public importance and assist in the scrutiny of government decisions.

31. I agree with the Department that these are public interest factors favouring disclosure in this case.

32. In relation to the public interest factors against disclosure, the Department said:

Specifically, I have considered the likelihood that release of this material could reasonably be expected to prejudice the ability of the department to perform its functions in the future in relation to providing briefing material to the Minister to inform the Minister's relevant decision-making process. I am satisfied it is reasonably likely to prejudice the ability of the department to provide the relevant Minister with a full and candid assessment of the issues if there is a likelihood of the briefs being made public. Further, there is a risk that future briefs may be tailored to audiences other than the relevant Minister, thereby compromising the quality and value of the briefing material and making it less relevant to the specific purpose of the briefing which is to inform the Minister's decision-making process.

33. In its varied decision, the Department considered the public interest factors against disclosure and said:

The department contends that release of both pieces of information is against the public interest. The department does not believe there is any further information what constitutes 'broad community support' outside of the information that is already in the public domain contained in folios 19 and 24, and, as such, it does not appear that the disclosure of such information would inform public debate on expenditure. Instead, the department contends that releasing the information would be harmful to the public interest, in that it would substantially affect the department's ability to brief the minister on matters of public importance. This could lead to the minister making decisions without the full number of instructive materials. As the information will not contribute to the public debate on expenditure, but may lead to the minister receiving less than preferable levels of details in making determination, and, as a result, may lead to undesirable decisions of public importance being made. [sic]

34. The Department essentially relies on contentions that disclosure would not be in the public interest, as the relevant material does not contain any further information than what is already in the public domain and so would not inform public debate.

35. However, the public interest test in s 11A(5) does not require a decision maker to consider whether disclosure of conditionally exempt material would be in the public interest. Rather, access to a conditionally exempt document must be given, unless giving access to the document, at the time of the decision, would, on balance be contrary to the public interest. The FOI Guidelines relevantly explain that the pro-disclosure principle declared in the objects of the FOI Act is given specific effect in the public interest test in s 11A(5), which is weighted towards disclosure.<sup>[17]</sup>

36. The remainder of the Department's contention with respect to the public interest relates to considerations of frankness and candour. The Department contends that disclosure of the relevant material would prejudice its future ability to brief the Minister and would likely affect the Minister's decision making processes.

37. The issue of frankness and candour, and how it relates to s 47C and the public interest has been considered in previous IC review matters.<sup>[18]</sup> In *'GI' and Department of the Prime Minister and Cabinet* [2015] AICmr 51, the former Australian Information Commissioner, Professor John McMillan, said:

... a more recent decision of the Administrative Appeals Tribunal, *Rovere and Secretary, Department of Education and Training* [2015] AATA 462 has held that 'A frankness and candour claim, made in circumstances where there is no (other) factor against access... cannot be a factor against access when applying the public interest test' (at 52). I read that as a comment only that a confidentiality or candour claim carries no weight by itself but must be related to some particular practice, process, policy or program in government.<sup>[19]</sup>

38. In *Wood*, Forgie DP examined the former Australian Information Commissioner's interpretation of *Rovere and Secretary, Department of Education and Training* [2015] AATA 462 and said:

As I understand this passage, the Information Commissioner is directing attention back to the essential balance that must be struck between making information held by government available to the public so that there can be increased public participation leading to better-informed decision making and increased scrutiny and review of the government's activities and ensuring that government may function effectively and efficiently. If I am correct in my

understanding, I would agree with his doing so. The way in which s 11B is drafted indicates that such a balance must be struck.<sup>[20]</sup>

39. It is accepted that there may be occasions where a public servant needs to be able to frame their advice to a minister freely and on the understanding that their advice will be confidential.<sup>[21]</sup> However, this does not mean there is always a need to keep advice provided to a minister confidential, as to do so would run counter to the FOI Act itself.<sup>[22]</sup>

40. I note the FOI Guidelines relevantly explain:

Agencies should start with the assumption that public servants are obliged by their position to provide robust and frank advice at all times and that obligation will not be diminished by transparency of government activities.

Public servants are expected to operate within a framework that encourages open access to information and recognises Government information as a national resource to be managed for public purposes (ss 3(3) and (4)). In particular, the FOI Act recognises that Australia's democracy is strengthened when the public is empowered to participate in Government processes and scrutinise Government activities (s 3(2)). In this setting, transparency of the work of public servants should be the accepted operating environment and fears about a lessening of frank and candid advice correspondingly diminished.<sup>[23]</sup>

41. While frankness and candour claims may still be contemplated when considering deliberative material and weighing public interest, they should be approached cautiously and in accordance with ss 3 and 11B. Generally, the circumstances will be special and specific.<sup>[24]</sup>

42. I also note that s 11B(4) of the FOI Act lists irrelevant factors that must not be taken into account in deciding whether access would, on balance, be contrary to the public interest:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- (b) access to the document could result in any person misinterpreting or misunderstanding the document;
- (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- (d) access to the document could result in confusion or unnecessary debate.

43. In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that I should give a decision adverse to the applicant (s 55D(1)).

44. Having regard to the material at issue and the submissions of the Department, I do not consider that the disclosure of the material in this case would 'restrict the ability of the department to make effective policy determinations and recommendations, and may instead be forced to supply purely objective information to ministers, rather than subjective elaborations based on policy' as the Department states. As the FOI Guidelines explain, the decision maker must analyse, in each case, where on balance the public interest lies based on the particular facts of the matter at the time the decision is made.<sup>[25]</sup> Based on the information before me at this time, I am not persuaded that special and specific circumstances have been made out, such that a frankness and candour claim should weigh heavily against disclosure in this case.

45. Accordingly, I am not satisfied that the Department has discharged its onus under s 55D of the FOI Act of establishing that its decision refusing access to the relevant material is justified or that I should give a decision adverse to the applicant.

46. Giving the applicant access to the relevant material at this time would not, on balance, be contrary to the public interest.

47. The relevant material is not exempt under s 47C of the FOI Act.

#### **Certain operations of agencies exemption (s 47E(d))**

48. As I discussed above at [9], the Department also contends that the material it found exempt under s 47C is alternatively exempt under s 47E(d).

26. As discussed in the FOI Guidelines and in IC review cases,<sup>[26]</sup> for a document to be conditionally exempt under s 47E(d) of the FOI Act, it would need to be shown that disclosure would, or could reasonably be expected, to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

50. The FOI Guidelines explain:

... the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released. ...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...<sup>[27]</sup>

51. The FOI Guidelines explains the term 'substantial adverse effect' as follows:

The term 'substantial adverse effect' broadly means 'an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person'. The word 'substantial', taken in the context of substantial loss or damage, has been interpreted as 'loss or damage that is, in the circumstances, real or of substance and not insubstantial or nominal'.

A decision maker should clearly describe the expected effect and its impact on the usual operations or activity of the agency in the statement of reasons in order to show their deliberations in determining the extent of the expected effect. Of course, it may sometimes be necessary to use general terms to avoid making the Statement of Reasons itself an 'exempt document' (s 26(2)).<sup>[28]</sup>

52. In its internal review decision, the Department said in relation to the relevant material:

... the disclosure of such material could reasonably be expected to hinder the nature of the department's future communications with the relevant minister regarding his decision making around the NRWMF.

... Further, there is a risk that future briefs may be tailored to audiences other than the relevant Minister, thereby compromising the quality and value of the briefing material and making it less relevant to the specific purpose of the briefing which is to inform the Minister's decision-making process.

53. During the course of the IC review, the applicant submitted:

There is a concern from the decision maker that the disclosure of the documentation would hinder the nature of the department's future communications with the Minister. In effect, the Department argues that disclosure would threaten the fearless and frank character of a public servants advice were it to be published. I respond with the words of Brett Walker SC (current Murray Darling Royal Commissioner) "*How very odd! The fearlessness of a person confident that his or her position will be known to very few. The frankness of a person who can be confident of the limited audience he or she has*".

54. In its reasons for its varied decision, the Department said:

**Folio 19:**

The information contained in dot point (e) is information that is provided to a minister for the purposes of making an informed decision, with access to a frank summary of all of the relevant facts before making a decision. This information is also analysed in a specific way in order for it to be particularly relevant to the minister's decision. As such, disclosing this information would be detrimental to the manner in which the department is able to properly inform the minister of relevant information, as the department would be restricted to providing purely numeric and

factual advice, rather than being able to policy nuance, for the purposes of ministerial decision making. This would substantially adversely affect the capacity of the agency to provide effective advice and facilitate thorough decision making. [sic]

**Folio 24:**

Similarly to the above, the information contained in folio 24 is internal departmental analysis of information that is already in the public domain. The issue with disclosing this information as it restricts the ability of the department to make effective policy determinations and recommendations, and may instead be forced to supply purely objective information to ministers, rather than subjective elaborations based on policy. This hinders the ability of the department to offer frank advice to ministers for the purpose of decision making. [sic]

55. I accept that if the recommendations and advice contained in briefs to the Minister from the Department were ordinarily or routinely disclosed to members of the public, this may, depending on the circumstances and the nature of the information contained in the brief, substantially and adversely affect the capacity of the Department to provide effective advice and facilitate thorough decision making. However, the question I am required to consider is whether the disclosure of the relevant material in this particular case, would have a substantial adverse effect on the operations of the Department.

56. I have examined an unedited copy of the relevant material in this case. It is apparent that the relevant material was created for the purposes of assisting the Minister in making a decision under the NRWM Act. While I have considered the Department's functions in briefing the Minister regarding decisions under the NRWM Act, I have also considered the nature of the information and the extent to which the relevant information is in the public domain.

57. As discussed above at [43], the Department bears the onus of establishing that its decision is justified or that I should give a decision adverse to the applicant (s 55D(1)).

58. Based on the information before me at this time, I am not satisfied that the Department has discharged its onus of establishing that its decision with respect to s 47E(d) is justified and that the disclosure of the relevant material in the document at issue at this time would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the Department's operations.

59. The relevant material that the Department found exempt is not conditionally exempt under s 47E(d) of the FOI Act.

60. As I have found that the relevant material is not conditionally exempt, I am not required to consider whether giving the applicant access to the relevant material would also be contrary to the public interest for the purposes of s 11A(5).

**Angelene Falk**

Australian Information Commissioner

30 November 2018

**Review rights**

**Review by the Administrative Appeals Tribunal**

If a party to an IC review is unsatisfied with an IC review decision, they may apply under s 57A of the FOI Act to have the decision reviewed by the Administrative Appeals Tribunal (AAT). The AAT provides independent merits review of administrative decisions and has power to set aside, vary, or affirm an IC review decision.

An application to the AAT must be made within 28 days of the day on which the applicant is given the IC review decision (s 29(2) of the *Administrative Appeals Tribunal Act 1975*). An application fee may be payable when lodging an application for review to the AAT. Further information is available on the AAT's website ([www.aat.gov.au](http://www.aat.gov.au)) or by telephoning 1300 366 700.



## Making a complaint to the Commonwealth Ombudsman

If you believe you have been treated unfairly by the OAIC, you can make a complaint to the Commonwealth Ombudsman (the Ombudsman). The Ombudsman's services are free. The Ombudsman can investigate complaints about the administrative actions of Australian Government agencies to see if you have been treated unfairly.

If the Ombudsman finds your complaint is justified, the Ombudsman can recommend that the OAIC reconsider or change its action or decision or take any other action that the Ombudsman considers is appropriate. You can contact the Ombudsman's office for more information on 1300 362 072 or visit the Commonwealth Ombudsman's website at <http://www.ombudsman.gov.au>.

## Accessing your information

If you would like access to the information that we hold about you, please contact [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au). More information is available on the Access our information page on our website.

[1] Section 16(1) of the FOI Act provides that where a request for access to a document is made to an agency, and the document is not in the possession of that agency but is, to the knowledge of that agency, in the possession of another agency; or, the subject matter of the document is more closely connected with the functions of another agency than with those of the agency to which the request is made; the agency to which the request is made may, with the agreement of the other agency, transfer the request to the other agency.

[2] Identified in the Department's schedule of documents as folios 2, 19 and 24.

[3] Folios 2, 19 and 24.

[4] Under s 55G(1) of the FOI Act, after an application is made for IC review, an agency or minister may decide to vary or substitute its own access refusal decision in relation to a request under s 15(1) of the FOI Act, if the variation or substitution would have an effect of 'giving access to a document.' It is my view that a valid decision can be made under s 55G which results in the release of additional material within the scope of the request — see Office of the Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 (FOI Guidelines)* at [10.71].

[5] Folio 2.

[6] Folio 19.

[7] Folios 19 and 24.

[8] Folios 19 and 24.

[9] Folios 19 and 24.

[10] Generally, see Office of the Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* at [6.52]-[6.88]; *'PK' and Department of Prime Minister and Cabinet (Freedom of information)* [2018] AICmr 65; *William Summers and Department of the Prime Minister and Cabinet (Freedom of information)* [2018] AICmr 9; *Dan Conifer and Department of the Prime Minister and Cabinet (No. 2) (Freedom of information)* [2017] AICmr 117; *'KV' and Indigenous Land Corporation (Freedom of Information)* [2017] AICmr 17; *The Herald and Weekly Times and Department of Agriculture* [2016] AICmr 16; *'HB' and Australian Federal Police* [2015] AICmr 60; and *Parnell and Attorney-General's Department* [2014] AICmr 71.

[11] *Parnell and Attorney-General's Department* [2014] AICmr 71 [38].

[12] *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information)* [2015] AATA 945 [39].

[13] *FOI Guidelines* [6.58] (footnotes omitted).

[14] Subsection 47C(2)(b) of the FOI Act.

[15] *FOI Guidelines* [6.19].

[16] *FOI Guidelines* [6.27].

[17] *FOI Guidelines* [6.8].

[18] See *'PK' and Department of Prime Minister and Cabinet (Freedom of information)* [2018] AICmr 65; *Victims of Financial Fraud and Department of the Treasury (Freedom of information)* [2018] AICmr 61; *William Summers and Department of the Prime Minister and Cabinet (Freedom of information)* [2018] AICmr 9; *Dan Conifer and Department of the Treasury (Freedom of information)* [2017] AICmr 133; and *Dan Conifer and Department of the Prime Minister and Cabinet (No. 2) (Freedom of information)* [2017] AICmr 117.

[19] *'GI' and Department of the Prime Minister and Cabinet* [2015] AICmr 51 [20].

[20] *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information)* [2015] AATA 945 [69].

[21] *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information)* [2015] AATA 945 [77]-[78].

[22] *Ibid.*

[23] *FOI Guidelines* [6.83] – [6.84] (footnotes omitted).

[24] *FOI Guidelines* [6.82] – [6.85].

[25] *FOI Guidelines* [6.27].

26. [26] Generally, see *FOI Guidelines* at [6.95] – [6.103] and [6.120] – [6.123]; *'PG' and Department of Infrastructure, Regional Development and Cities (Freedom of Information)* [2018] AICmr 60; *Paul Farrell and Department of Home Affairs (No 3) (Freedom of information)* [2018] AICmr 39; *'NW' and Screen Australia (Freedom of information)* [2018] AICmr 15; and *'NV' and Department of Human Services (Freedom of information)* [2018] AICmr14.

[27] *FOI Guidelines* [6.101] and [6.103].

[28] *FOI Guidelines* [5.20] and [5.21] (footnotes omitted).



**Australian Government**  
**Department of Industry,**  
**Innovation and Science**

**FOR OFFICIAL USE ONLY**

**Minister for Resources and Northern Australia**  
**For Action**

Min ID: MS17-001730

**Subject: NATIONAL RADIOACTIVE WASTE MANAGEMENT FACILITY (NRWMF) - KIMBA - DECISION TO PROCEED TO PHASE 2**

**Timing:** You have advised you wish to make a decision as soon as practicable.

**Recommendation/s:**

- 1. That you **note** the results of the community ballot at Kimba (Attachment A). Noted / Please discuss
- 2. That you **approve both** the Lyndhurst and Napandee land nominations under Section 9 of the *National Radioactive Waste Management Act 2012* (the Act). Approved / Not approved  
**s 47C**
- 3. That, if you agree to approve the nominations you **sign** the notifiable instrument (Attachment G) for publication on the Federal Register of Legislation to satisfy the requirement in s9(5) of the Act for a copy of the approval to be published in the Gazette. Signed / Not signed
- 4. That, if you agree to approve the nominations, you **agree** to the proposed next steps and handling strategy in Attachment C. Approved / Not approved
- 5. That, if you agree to approve the nominations, you **agree** to the public release of the Phase 1 Summary Report at Attachment D. Approved / Not approved
- 6. That you call key stakeholders at Attachment E to discuss your decision prior to a public announcement. Noted / Please discuss

**Matthew Canavan** ..... **Date:** 27 / 1 / 2017

**Comments:** *Some edits to be made to the report. Will make on later today.*

**Key Points:**

- 1. In accordance with the National Radioactive Waste Management Act 2012 (the Act), the NRWMF team undertook community consultation from 20 March – 21 June 2017 in Kimba on the Lyndhurst and Napandee nominations made under Section 7 of the Act.

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2. A community ballot conducted by the Australian Electoral Commission seeking community views on progressing these nominations to Phase 2 of the site selection process found:
  - a. **57.4 per cent support and 42.6 per cent opposition** (on the basis of valid votes counted).
  - b. An 88 per cent voter participation rate (690 formal ballots were cast).
3. Additional results from the Department's consultation found:
  - The 300 direct interactions conducted were generally positive, with 50 per cent expressing support, 42 per cent opposed, and 8 per cent 'not opposed'.
  - 396 written submissions were received, with 6 per cent supportive, and 94 per cent opposed. Of these, 68% were in the form of a form letter and 71% were from outside the local community. It is highly likely most individuals from Kimba who provided a submission also participated in the ballot.
  - Key issues raised through these processes were: community division, agricultural reputation, the process being flawed, and the potential for economic benefits.
4. The supportive ballot result of 57.4% is clearly in the majority, but is not as high as the earlier results at Wallerberdina Station (65%). We have consciously not defined 'broad community support' to a specific percentage because there are a range of factors that need to be considered.
5. The Department recommends to move both of the nominated sites at Kimba into Phase 2 of the Project. This recommendation is an on balance recommendation based on the following rationale.
  - a. The high participation rate lends credibility to the ballot results, and a clear majority is supportive of progressing the nominations. A decision not to proceed would not respect the views of the majority.
  - b. The support has increased since the department first began engagement in Kimba in 2015.

s 47E(d)

s 47C

6. We note however that support has increased 5 per cent compared to previous assessments, and the opposed level has remained at the previously strongly opposed level:
  - a. ORIMA Research Survey (3/2016): 51 per cent 'not opposed', 7 per cent 'opposed', and 42 per cent 'strongly opposed'.
  - b. Preliminary consultation (11/2016): 56 per cent 'support', 41 per cent 'opposed'.
  - c. Given the similar results despite ongoing consultation, it is unlikely community views will change significantly in the short to medium term, with a block of around 40 per cent persistently strongly opposed.
  - d. As you experienced during your visit to Kimba, there is strong division in the town and this is expected to continue and may become more vocal in the short term.
7. Additional Supporting Information is at Attachment B. Analysis of the consultation period is at Attachment C, which outlines in detail the rationale for the recommendation to progress the nominations.
8. A summary report of the process, key activities and findings (Attachment D) has been developed, and will be published on the project's website.
9. We recommend you call the key stakeholders in Attachment E to either discuss or advise of your decision.

**Consultation:** Internal legal.

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**MLO Version: / /2017**

**ATTACHMENTS**

- A: Declaration of Results (Australian Electoral Commission)**
- B: Additional Supporting Information Site Selection Analysis (Proposed Next Steps & Handling Strategy)**
- C: Site Selection Analysis (Kimba 2017) – (Not Public)**
- D: Phase 1 Summary Report: Kimba 2017 (Public)**
- E: Stakeholder contact list**
- F: Legal aspects of an approval**
- G: Notifiable Instrument**

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# DECLARATION OF RESULTS

## District Council of Kimba National Radioactive Waste Management Project Ballot

I have conducted the ballot by post and I declare that the following particulars of the ballot are true and correct:

Total number of eligible voters	793
Number of Ballot Papers issued	793
Number of replacement Ballot Papers issued	0
Total Ballot Papers issued	793
Number of envelopes returned for Scrutiny	698
Envelopes rejected at Preliminary Scrutiny	7
Total Ballot Papers admitted to Scrutiny	691
Ballot Papers returned undelivered	0
Ballot Papers not returned	95

### RESULT OF COUNT:

<b>YES vote</b>	<b>396</b>
<b>NO vote</b>	<b>294</b>
<b>Informal vote</b>	<b>1</b>
<b>TOTAL:</b>	<b>691</b>

<b>Participation in ballot</b>	<b>On roll - 793</b>	<b>Returned - 698</b>	<b>88.02%</b>
<b>Votes counted in ballot</b>	<b>Returned - 698</b>	<b>Admitted - 691</b>	<b>98.99%</b>
<b>YES votes</b>	<b>Returned - 698</b>	<b>Yes votes - 396</b>	<b>56.734%</b>
<b>NO votes</b>	<b>Returned - 698</b>	<b>No votes - 294</b>	<b>42.120%</b>
<b>Informal votes</b>	<b>Returned - 698</b>	<b>Informal - 1</b>	<b>00.143%</b>
<b>Rejected at preliminary scrutiny</b>	<b>Returned - 698</b>	<b>Rejected - 7</b>	<b>1.003%</b>
<b>Formal YES votes</b>	<b>Total Formal votes - 690</b>	<b>Formal YES votes - 396</b>	<b>57.391%</b>
<b>Formal NO votes</b>	<b>Total Formal Votes - 690</b>	<b>Formal NO votes - 294</b>	<b>42.609%</b>



Jeanette Hill  
Returning Officer  
Australian Electoral Commission

22 June 2017

**ADDITIONAL SUPPORTING INFORMATION****ATTACHMENT B*****Site Preference (Recommendation to proceed with both sites)***

It is not clear from community consultation outcomes which site (Napandee or Lyndhurst) is the preferred site for community members. There is a view by many in the community the Lyndhurst site is preferred as it is 'further out of town' and on less productive land. s 47E(d)

s 47E(d)

s 47E(d)

The cost of undertaking technical site assessments on both sites will be higher than if only one site is assessed. However, the cost for doing two sites in the same general location will be less than conducting assessments on two geographically different locations.

**Site technical assessment**

Both sites were ranked as 'highly suitable' by the initial desktop assessment. This assessment involved a multi-criteria site assessment (developed during the previous nomination process by the Department, GHD consultancy, Geoscience Australia and an Independent Advisory Panel) where the sites were evaluated against criteria of Health, Safety and Security, Environmental Protection, Equity, Economic Viability and Stable Environment. Detailed information on hydrology and seismicity was also sought from Geoscience Australia.

***Summary of Site Technical Assessment Findings***

	Napandee	Lyndhurst
<b>Technical Rating</b>	90	82
<b>Distance from Kimba</b>	21km northeast of Kimba	17km northeast of Kimba
<b>Elevation change</b>	20m	20m
<b>Land area</b>	496 hectares	700 hectares
<b>Land use</b>	Wheat cropping	Wheat farming
<b>Potential constraints</b>	<ul style="list-style-type: none"> <li>None identified</li> </ul>	<ul style="list-style-type: none"> <li>The northeast boundary of the site is adjacent to the southwest basin of Lake Gilles (ephemeral salt lake). There are standing water observations on a small part of the site but these would be unlikely to materially impair the ability to select a 100 hectare site from the overall block.</li> </ul>

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		<ul style="list-style-type: none"><li>• The site is adjacent to several unnamed heritage agreements, it is unclear whether this would impact development.</li></ul>
--	--	---

On balance, it is recommended that if there is a decision to proceed, both sites should be taken forward. If only one site is taken forward it is recommended to be Napandee s 47E(d) v 82). and the higher Technical assessment rating (90 v 82).

s 47E(d)

***Community cohesion***

- An early roll out of the \$2 million support fund will assist in building community support and could fund a variety of projects that are targeted at the concerns of the farmers as well as those held by the broader community.
  - A business development officer and strategy could be one early outcome.
  - A multiuser agricultural storage facility and/or pelletising plant would be a longer term outcome.
- The establishment of a local office and the appointment of a locally based community liaison officer will assist to provide clear, factual information on the facility and benefits to the community as well as the results arising from site characterisation studies.
- Ensure that the Kimba Consultative Committee comprises a diverse range of views in the community. The Committee will assist in shaping the design and safety aspects of the

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facility. Committee member involvement will provide confidence to their peers that the process is transparent and rigorous, and will result in the construction of a facility that is safe and will benefit the local community.

s 47C

***Anticipated Phase 2 Schedule***

22 June	Results of the community ballot are released by Kimba Council
Week beginning 26 June 2017	<p>Minister announces progress of the two sites to Phase 2 (technical assessment phase) of the site selection process.</p> <ul style="list-style-type: none"> <li>• Media release?</li> <li>• Other media?</li> </ul>
28 – 29 June 2017	Project team returns to Kimba for targeted stakeholder meetings
Week beginning 31 July 2017	<p>The local office is established and recruitment for a Locally Engaged Officer commences.</p> <ul style="list-style-type: none"> <li>• The role of this officer is to act as a link between the Kimba community and the Department.</li> <li>• The Officer will be another point of contact for community members wanting to know more about the Project.</li> </ul>

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Week beginning 31 July 2017	<p>A \$2 million Community Benefit Package will be made available to the Kimba community in the 2017-18 year.</p> <ul style="list-style-type: none"> <li>• The programme aims to fund local Projects that lead to strengthening social and economic outcomes in the community.</li> <li>• Guidelines developed in conjunction with AusIndustry and application period open for three months.</li> </ul>
Week beginning 2 October 2017	<p>A Kimba Consultative Committee will be stood-up within 3 months of the sites progressing to Phase 2.</p> <ul style="list-style-type: none"> <li>• The committee will be made up of community members and stakeholders from the regional community and will be independently chaired.</li> <li>• The KCC will advise on community matters including the allocation of the Community Benefits Package.</li> </ul>
TBD	<p>Technical site assessment will commence on each site. This will involve</p> <ul style="list-style-type: none"> <li>• Site characterisation work; and</li> <li>• Technical assessment</li> </ul>
Early 2018 (anticipated)	<ul style="list-style-type: none"> <li>• Phase 2 finalised – will be coordinated with the Barndioota site</li> </ul>
	<p>Community sentiment will be assessed and the Minister will decide whether to progress either nominations to Phase 3</p>

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## Attachment C

# Site Selection Analysis – Napandee & Lyndhurst

### Introduction

The Department conducted a consultation process in the Kimba Council District of South Australia from 20 March to 21 June 2017, engaging directly with approximately 300 stakeholders during this time. This represents approximately 38 per cent of the total adult population for the District Council of Kimba.

The Department has received results of a community ballot undertaken by the Australian Electoral Commission at the request of the Kimba District Council showing 57 per cent support for moving forward in the process and a participation rate of 88 per cent when only valid votes are considered. Neighbour support around the proposed sites is strongly supportive. Of the 300 direct engagements, approximately half were supportive of moving to the next phase of the project. In addition, the Department received 112 submissions from Kimba residents, with 86 per cent opposed to the Project.

This report provides an analysis of consultation findings and handling options going forward.

1. History of Engagement with Kimba
2. Findings (ballot results, key stakeholder views, submissions and direct consultations)
3. Rationale for Recommending to Proceed
4. Site technical assessments
5. Handling Strategy (Proceed)
6. Key Concerns in Proceeding
7. Handling Strategy (Not Proceed)

s 47E(d), s 47F(1)

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## 1. History of engagement with Kimba

In November and December 2016, initial site assessments were undertaken on three potential new nominations, Lyndhurst, Napandee and Tola Park;

The Department has consulted with the Kimba community in three instances to date:

- during the 120-day consultation period ending in March 2016. Two site nominations were made from the Kimba area, Cortlanye and Pinkawillinie;
- in November and December 2016 while undertaking initial site assessments on three potential new nominations, Lyndhurst, Napandee and Tola Park; and
- during the most recent consultation period regarding the Lyndhurst and Napandee site nominations, which commenced on 20 March and ended on 21 June 2017.

Findings of these three consultation periods in Kimba are detailed below.

*Table 1. History of Community Sentiment Measured in Kimba*

	2015	2016	2017
<b>SITES</b>	Cortlanye and Pinkawillinie	Lyndhurst, Napandee and Tola Park	Lyndhurst and Napandee
<b>LEVEL OF COMMUNITY SUPPORT</b>	51 per cent ('not opposed')	56 per cent	57.4 per cent
<b>LEVEL OF COMMUNITY OPPOSITION</b>	49 per cent ('opposed and strongly opposed')	41 per cent	42.6 per cent
<b>LEVEL OF UNDECIDED OR UNKNOWN VIEWS</b>	N/A	3 per cent	N/A
<b>KEY CONCERNS RAISED</b>	<ul style="list-style-type: none"> <li>• Community spirit</li> <li>• Produce quality/reputation</li> <li>• Process is flawed</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural reputation</li> <li>• Community division</li> </ul>	<ul style="list-style-type: none"> <li>• Community division</li> <li>• Agricultural reputation</li> <li>• Process is flawed</li> </ul>

Overall, during this period support has increased by 5 per cent, likely due to extensive community engagement.

## 2. Findings

All findings directly relate to the consultation period between 20 March and 21 June 2017 unless otherwise stated.

### 2.1 Ballot

As a result of the Kimba Council's commitment to make arrangements to measure community sentiment, the Australian Electoral Commission has conducted a community ballot on Kimba progressing to the next phase of the site selection process. The electoral roll for the District closed on Monday 15 May. The voting period opened on Thursday 1 June and closed on Wednesday 21 June. On the afternoon of Wednesday 21 June, the ballots were counted by the AEC. Scrutineers from the Kimba District Council and supportive and opposed groups attended and observed this process.

Out of the 793 eligible ballots, 698 individuals (88 per cent) participated in the community ballot. The ballot results showed 396 in support (57.4 per cent), and 294 opposed (42.6 per cent). Eight received returns were ineligible for counting.

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***2.2 Key Stakeholder Views***

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s 47E(d)

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### *2.2.2 Local Members*

- **Rowan Ramsey**: Mr Ramsey is a Kimba local, and is supportive of the Project. Mr Ramsey has on occasion attended public events in Kimba, but has not engaged directly with the team since the announcement on 20 March 2017. He has been criticized for his involvement in the project by some people in the community.
- **Eddie Hughes**: Mr Hughes has advised publically that he does not support the Project, based on his view that the process is flawed. The Project Team has provided Mr Hughes with information on the Project, and he directly engaged with the team during the previous process.

s 47E(d), s 47F(1)

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### 2.2.4 Farming Community

There has been a consistent message from the farming community about the perceived risk to grain prices if the project was located on agricultural land. Therefore there has been a significant push to not have the facility located on farming land (cropping). This accords with the ORIMA Survey conducted at the end of the first consultation period in 2015 that indicates the top five concerns raised by the general population focused on negative effects to agricultural reputation, quality, price and value. Consultations during this period found that many well respected farmers in the greater Eyre Peninsula region were opposed to the Project.

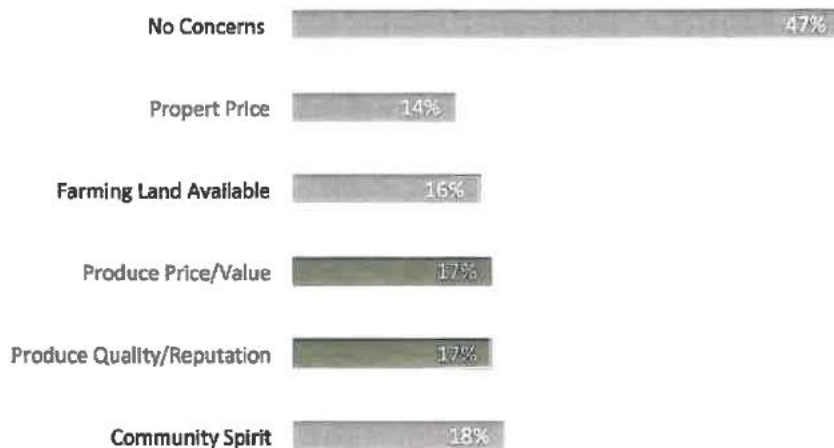


Figure 4 Top 5 Personal Concerns - General Population, ORIMA 2015

To address this concern, during this consultation period, the Department has sought to engage with a number of agricultural companies and organisations influential in the area.

s 47E(d)

### 2.2.5 Local Businesses

The majority of local business owners in Kimba have shown overwhelming support for the Project. They are of the view that the current economic state of Kimba does not have the strength to continue supporting the town, and that the Project will help to create and maintain sustainable economic functions. This is potentially through the Community Benefits Package and the infrastructure improvements. They think jobs can be leveraged from the construction and operation of the facility.



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*2.2.6 Organised Groups*  
s 47E(d)

*2.4 Direct Consultation*

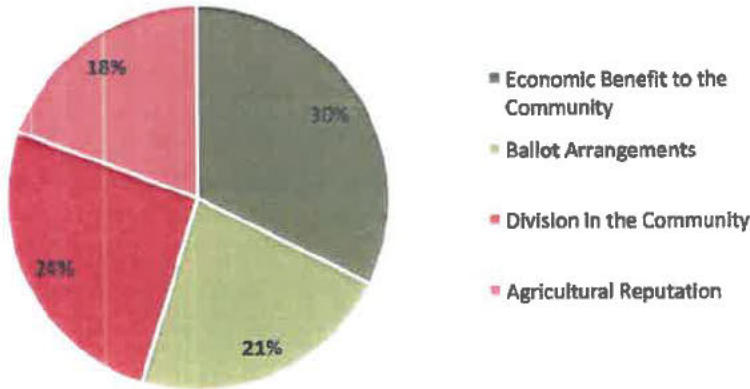
The Department directly engaged through the local office with approximately 300 Kimba community members through the local office. Of these, approximately half were supportive of progressing to the next phase of the site selection process, 35 per cent were opposed and the remainder were neutral or unknown.

It is important to note that these figures do not account for:

- an estimated 250 attendees at large community events organised by the Department during this consultation period. Names and views regarding the Project were unable to be recorded. We acknowledge there would be significant duplication.
- the Department engaged with 313 individuals during the initial consultation process conducted in November-December 2016. We acknowledge there would be significant duplication.

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### Key Topics Raised in Direct Consultations



Key issues raised by opposing individuals include (in order): division in the community, agricultural reputation, community ballot, health and safety and the belief that the process was over from the previous process.

Key topics raised by supportive individuals are: potential economic benefits for the community, the community ballot and the future of the town.

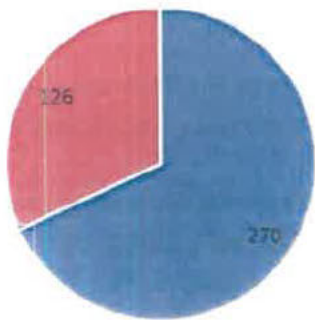
### 2.3 Submissions

Overall a total of 396 submissions were received during the consultation period. Of these, 6 per cent were supportive, and 94 per cent were opposed. Proformas made up 68 per cent of submissions with all of these coming from people who opposed the facility. The department is of the understanding that approximately 8,000 proforma letters were sent out to residents across the Eyre Peninsula, providing some explanation for the high percentage of opposed and non-Kimba residents responding.

Of the total number of submissions received, 29 per cent were from residents in the local community.

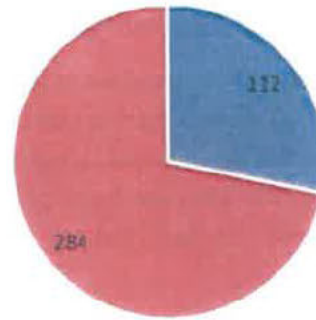
From the 112 submissions received from the local community 14 per cent were supportive with the remaining 86 per cent opposed. All submissions are listed at Attachment C.

Type of submission



■ Proforma ■ Free form

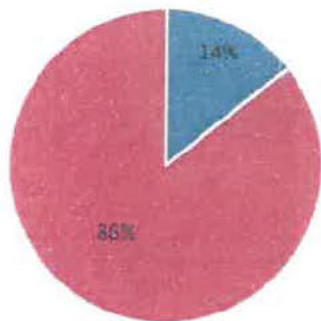
Local / non local



■ Local ■ Non local

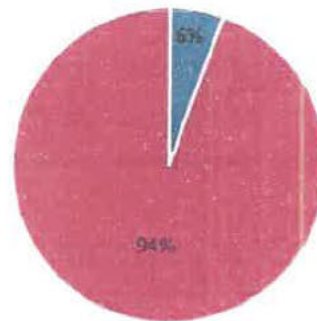
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## Location and position



■ Local + Support ■ Local + Oppose

## Total support/ opposed



■ Support ■ Opposed

## National

One submission from an organisation was received, from Friends of the Earth (Jim Green). This submission outlined strong opposition to the Project generally, with a focus on a flawed process.

## 2.1.1 Response to the Ballot Results in the Media

## Social media

As of 22 June 2017, social media feedback has been reasonably active.

There were 49 “likes” and 20 “angry faces” on the Eyre Peninsula Tribune article posted to Facebook with the headline “Majority support for Kimba nuclear waste next step”. The same post prompted a variety of comments for and against, with some focussed on the choice of headline.

On the Adelaide Advertiser Facebook page, the article headlined “Kimba votes yes to radioactive waste dump” received 100 “likes”, 38 “angry faces” and 19 “wow faces” with an even split between positive and negative comments (over 200 comments posted). Positive comments focused on the benefit to the South Australian economy and the initiative taken by Kimba in holding a ballot.

## Traditional Media

On 21-23 June 2017, 29 media items have reported on the results of the ballot, with an audience circulation of some 2,705,303.

There are 20 stories that are balanced-positive; five stories that are balanced (i.e. include both sides); and four stories that are negative.

The **balanced-positive** stories are considered as such because they include a ‘Kimba voted yes’ headline or lead. Perspective within the articles however tends to be balanced, with quotes – usually from Dean Johnson, sometimes including previously provided quotes from the department – express that the process is continuing, and that the decision is ultimately for the Minister.

Those stories that are **balanced** have included multiple perspectives, including quotes from Dean Johnson, the No Radioactive Waste on Agricultural Land in Kimba or SA group and a quotes from a 20 June joint ACF / Friends of the Earth / Conservation SA media release have also been used.

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The negative stories that have emerged come from those aforementioned NGO groups, and their perspective is that the support is not broad enough.

### 2.5 Summary of Community Sentiment

Both the results of the independent community ballot and the community consultation undertaken by the Department demonstrate an increase in support for the Project.

#### s 47E(d)

- There has been a small increase in support, demonstrated in direct consultations, which is consistent with the general community gaining a better understanding of the Project. This is likely due to a weekly presence by the Project team and clear and consistent messaging regarding the facility.
- Supporters are better organised and more vocal in their support of the Project, actively assisting in informing and influencing previously unengaged individuals regarding the Project.
  - With further discussions of the potential economic benefits, such as the \$2 million Community Benefits Package, the Kimba District Council has been committed to organising the ballot and ensuring a high ballot turn out.
  - The Working for Kimba's Future group have also actively advocated the Project in Kimba, distributing flyers and organizing community events such as the 'bring-a-friend' information night.
  - Further, a number of individuals from drop-in consultations have mentioned an interest in either arranging group consultations for their community group or indicated they will convey messages received during their individual consultation back to a broader group.
- Despite these efforts, 42.6 per cent of the population remain opposed which aligns with the number of strongly opposed in April 2016. It appears unlikely that further support for the Project will be gained in the short to medium term.

While opposition has persisted, opposition appears to be slightly subdued from previously. While the opposition group 'No Radioactive Waste on Agricultural Land in Kimba or South Australia' has previously indicated that they would mount a more aggressive campaign if Kimba were to re-enter the site selection process, this has not been apparent since the two new nominations were formally submitted in March 2017.

- This could also reflect the opposition's reluctance to be perceived as 'bullies' or 'aggressive', as described in the summary report of the previous nomination process.
- Alternatively, this could be as a result of consistent messaging in response to the opposition's main concerns; agricultural reputation and mistrust in government. The Project team have conveyed information on the Facility's purpose, radioactive waste, and the site selection process as objectively (through the support of technical experts) and transparently as possible through all platforms of engagement (direct, written correspondence, social media, etc.).

Community division remains a concern and was reflected in the previous consultation process. While the ballot result is in the majority, there remains a question if the deep opposition that has been maintained since discussions on the Project began in 2015 can be overcome. It is likely that proceeding to Phase 2 in Kimba will continue to create division amongst the community, resulting in the perception that the Department is not listening to, nor working to address, the community's concerns.

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### 3. Rationale for Recommending to Proceed

While the ballot result is in the majority at 57 per cent support, it is arguable whether 'broad community support' is evident, measured against earlier results at Wallerberdina Station (65 per cent). During the previous consultation period, Kimba demonstrated 51 per cent support and was not progressed to the next phase. The rationale for proceeding is:

- a. The high participation rate lends credibility to the ballot results, and a clear majority is supportive of progressing the nominations. A decision not to proceed would not respect the views of the majority.
- b. The support has increased since the Department first began engagement in Kimba in 2015.
- c. There is strong neighbour support around the sites, and the Council is supportive of proceeding in the process.
- d. Having alternative sites, from a broader Project perspective, is strategically advantageous given the heritage challenges at Wallerberdina Station.
- e. Not progressing this site would set a precedent of at least 58 per cent support to meet the definition of 'broad community support' even with strong neighbour support and an engaged and cooperative Council.

#### *Site Preference (Recommendation to proceed with both sites)*

It is not entirely clear from community consultation outcomes which site (Napandee or Lyndhurst) is the preferred site for community members. There was a view in preliminary consultation in November 2016 that the Lyndhurst site was preferred by the community, given the perception it is 'further out of town' and on less productive land, but there is no strong basis for this assessment. <sup>s 47F(d)</sup>

s 47E(d)

The cost of undertaking technical site assessments on both sites will be higher than if only one site is assessed. However, the cost for doing two sites in the same general location will be less than conducting assessments on two geographically different locations.

### 4. Site technical assessment

Both sites were ranked as 'highly suitable' by the initial desktop assessment. This assessment involved a multi-criteria site assessment (developed during the previous nomination process by the Department, GHD consultancy, Geoscience Australia and an Independent Advisory Panel) where the sites were evaluated against criteria of Health, Safety and Security, Environmental Protection, Equity, Economic Viability and Stable Environment. Detailed information on hydrology and seismicity was also sought from Geoscience Australia.

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**Table 2 Summary of Site Technical Assessment Findings**

	<b>Napandee</b>	<b>Lyndhurst</b>
<b>Technical Rating</b>	90	82
<b>Distance from Kimba</b>	21km northeast of Kimba	17km northeast of Kimba
<b>Elevation change</b>	20m	20m
<b>Land area</b>	496 hectares	700 hectares
<b>Land use</b>	Wheat cropping	Wheat farming
<b>Potential constraints</b>	<ul style="list-style-type: none"> <li>None identified</li> </ul>	<ul style="list-style-type: none"> <li>The northeast boundary of the site is adjacent to the southwest basin of Lake Gilles (ephemeral salt lake). There are standing water observations on a small part of the site but these would be unlikely to materially impair the ability to select a 100 hectare site from the overall block.</li> <li>The site is adjacent to several unnamed heritage agreements, it is unclear whether this would impact development.</li> </ul>

**Site Preference (Recommendation to proceed with one site)**

s 47E(d)

s 47E(d)

**5. Handling Strategy**

s 47C

s 47C

### 5.2 Community cohesion

- An early roll out of the \$2 million support fund will assist in building community support and could fund a variety of Projects that are targeted at the concerns of the farmers as well as those held by the broader community.
  - A business development officer and strategy could be one early outcome.
  - A multiuser agricultural storage facility and/or pelletising plant would be a longer term outcome.
- The establishment of a local office and the appointment of a locally based community liaison officer will assist to provide clear, factual information on the facility and benefits to the community as well as the results arising from site characterisation studies.
- Ensure that the Kimba Consultative Committee comprises a diverse range of views in the community. The Committee will assist in shaping the design and safety aspects of the facility. Committee member involvement will provide confidence to their peers that the process is transparent and rigorous, and will result in the construction of a facility that is safe and will benefit the local community.

s 47C

### 5.5 Anticipated Schedule

**Table 3: Anticipated Phase 2 Schedule**

22 June	Results of the community ballot are released by Kimba Council
Week beginning 26 June 2017	<p>Minister announces progress of the two sites to Phase 2 (technical assessment phase) of the site selection process.</p> <ul style="list-style-type: none"> <li>• Media release?</li> <li>• Other media?</li> </ul>
28 – 29 June 2017	Project team returns to Kimba for targeted stakeholder meetings
Week beginning 31 July 2017	<p>The local office is established and recruitment for a Locally Engaged Officer commences.</p> <ul style="list-style-type: none"> <li>• The role of this officer is to act as a link between the Kimba community and the Department.</li> <li>• The Officer will be another point of contact for community members wanting to know more about the Project.</li> </ul>



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Week beginning 31 July 2017	<p>A \$2 million Community Benefit Package will be made available to the Kimba community in the 2017-18 year.</p> <ul style="list-style-type: none"> <li>• The programme aims to fund local Projects that lead to strengthening social and economic outcomes in the community.</li> <li>• Guidelines developed in conjunction with AusIndustry and application period open for three months.</li> </ul>
Week beginning 2 October 2017	<p>A Kimba Consultative Committee will be stood-up within 3 months of the sites progressing to Phase 2.</p> <ul style="list-style-type: none"> <li>• The committee will be made up of community members and stakeholders from the regional community and will be independently chaired.</li> <li>• The KCC will advise on community matters including the allocation of the Community Benefits Package.</li> </ul>
TBD	<p>Technical site assessment will commence on each site. This will involve</p> <ul style="list-style-type: none"> <li>• Site characterisation work; and</li> <li>• Technical assessment</li> </ul>
Early 2018 (anticipated)	<ul style="list-style-type: none"> <li>• Phase 2 finalised</li> </ul>
	<p>Community sentiment will be assessed and the Minister will decide whether to progress either nominations to Phase 3. This will be coordinated with the Barndioota Site</p>

## 6. Key Concerns in Proceeding

### 6.1 Community division caused by the consultation process.

Views vary widely on this concern, with a number of individuals noting continued community cooperation demonstrated on other local issues and events.

s 47E(d)

Business owners have noted that boycotting of businesses by the opposed group is occurring, and while these claims may be exaggerated, this would appear valid and detrimental to the town.

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Many of the opposed group have raised the issue in of mental health in submissions and direct discussions. They believe mental health issues are arising in Kimba due to the stress of being in this process. These issues have been raised with the Kimba doctor and counsellor.

### *6.2 Potential negative influence of the Project on the reputation of the local agricultural industry.*

s 47E(d)

### *6.3 Criticism of the Consultation Process*

It is likely that proceeding to Phase 2 in Kimba will continue to create division within the community, resulting in the perception that the Department is not listening to, nor working to address, the community's concerns. In particular, the high rate of opposition demonstrated in the submissions (94 per cent) may prove problematic. While the Department's messaging around the decision to progress to Phase 2 – that it would take into consideration findings from all consultation activities undertaken during the process – as a standalone figure the submissions demonstrate clear opposition in the community.

Further, as you have previously responded to questions regarding the definition of 'broad community support' by referring to the previous nomination process, where 65 per cent support ratio was sufficient to progress the Wallerberdina Station nomination. By deciding to progress a ballot result of 57 per cent support, it may seem out of line with previous messaging, as the support is not as high as Wallerberdina Station's. However, Wallerberdina did not have strong neighbour support and had a publically opposed Traditional Aboriginal Owners group.

### *6.4 Lack of trust in government and high level waste*

While residents understand the difference between the federal and state government processes, there is a strong distrust in government prevalent in the community. Many people consider acceptance of this Project will ultimately lead to the establishment of a high-level waste facility, and government cannot provide guarantees over many decades. In week 6 a flyer from an unknown sender was dropped into Kimba letterboxes titled 'High Level Waste Trojan Horse', conveying this sentiment.

s 47E(d)

## **7. Handling Strategy (Not Proceed)**

If you choose not to proceed, there will be a number of strongly supportive advocates of the Project who will be disappointed. We recommend that after you make the announcement, you contact key stakeholders personally to advise them of this decision to not proceed with either nomination.

The Project team will then offer to revisit Kimba to conduct follow-up consultations, to ensure everybody understands how the decision was made.

### ***7.1 Schedule***

***Table 4: Proposed Schedule if Not Proceeding***

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<b>22 June 2017</b>	<b>Results of the community ballot are released.</b>
<b>Week beginning 26 June 2017</b>	<p>Minister announces the close of Project activities in Kimba, and the decision to not proceed either of the nominations to Stage 2.</p> <ul style="list-style-type: none"> <li>• <b>Media release</b></li> <li>• <b>Minister to contact key stakeholder to advise of decision</b></li> <li>• <b>Other media (Facebook)</b></li> </ul>
<b>Week of 26 June 2017</b>	<p>The Project team contacts relevant stakeholders, to discuss the results of the community consultation process, the ballot, and the decision to not progress the Kimba nominations. In addition, the Project team will return to Kimba to conduct a debrief with key representatives.</p>

































s 47E(d), s 47F(1)





- s 47E(d), s 47F(1)



Australian Government  
Department of Industry,  
Innovation and Science

# National Radioactive Waste Management Facility

## National Radioactive Waste Management Facility (NRWMF)

### Phase 1 Summary Report

Kimba 2017



## Foreword from Senator the Hon Matthew Canavan

Australia has approximately 5,000m<sup>3</sup> of radioactive waste, of which around 85 per cent is low level waste (LLW) and the remainder intermediate level waste (ILW). The vast majority of this radioactive waste is associated with the production of nuclear medicine that is used for diagnosis and treatment of heart, liver and skeletal conditions and a variety of cancers. It is needed, on average, by one in two Australians in their lifetime.

The waste is currently held on a temporary basis in more than 100 locations across the country including universities, hospital basements, research facilities and suburban areas. There are no national facilities to permanently dispose of this waste. This is not in line with international best practice. It is the policy of the Australian Government and both sides of politics, that this waste be consolidated into a single, safe and purpose-built National Radioactive Waste Management Facility.

Australia has had a nuclear medicine and research program for more than 60 years, and the question of where our radioactive waste should be consolidated, has been asked for almost as long. While the objective over the last 40 or so years was right, the processes – which did not seek acceptance from the local community – were not.

In 2015, the Australian Government announced a new process that places landowners and their local community at its centre. Under this process, a potential site must meet technical criteria, be volunteered by a landowner, and be supported by the surrounding community, and if it does not meet those criteria, the facility would not be placed there.

In March 2017, two applications were received from landowners near Kimba and noting that there was evidence of support from neighbours and the local council, they were accepted to proceed to an initial Phase 1 consultation.

Between 20 March and 21 June 2017, a project team from the Department of Industry, Innovation and Science, third party experts in nuclear science, nuclear medicine and seismology, and myself have been to Kimba to answer questions, and meet with many people with various views of the discussion.

I've always said that you can get more from a few hours of meeting with people than you can from a day of reading briefs and that was certainly my experience. On behalf of the Australian Government, I would like to take this opportunity to thank the Kimba community for engaging in this process, for their hospitality and for their passionate engagement on this national challenge and what the best future for their town and region looks like.

Taking into account the feedback that has been received from community members, the submissions received, and the ballot held by Council, the decision has been made to progress Napandee and Lyndhurst to a Phase 2, detailed consultation. Based on the feedback in these processes, including the fact that the ballot indicated 57.4 per cent support for moving forward in the process, we have concluded that the necessary community support is present for progressing this conversation further.

This next phase will last for around 12 months, will include site-specific investigations to determine the technical suitability of specific sections of the properties, and more detailed engagement with the Kimba community, to understand the opportunities they see for the project. A Kimba Consultative Committee to gather views about the project will be established. A local Community Liaison Officer will be hired to act as a conduit between the government and community and the local project office will be extended with staff continuing to be onsite regularly to answer questions as the site process progresses. In recognition of the disruption the process may cause, a \$2 million a year Community Benefit Package will be progressed for projects put forward by the community that can enhance the local social and economic prospects for the community.

There will be another decision at the end of Phase 2, after further technical work and community consultations have been completed, for the community to determine if they want to progress this proposal further.

Thank you again to everyone who took the time to engage with us in Kimba, and those who have contributed so strongly on a local level to this nationally significant discussion. We look forward to continuing to work with you, and to being back in Kimba soon.

**Senator Matt Canavan**  
Minister for Resources and Northern Australia

## Glossary

### Definitions and abbreviations

<b>ANSTO</b>	Australian Nuclear Science and Technology Organisation
<b>Department</b>	Department of Industry, Innovation and Science
<b>CSIRO</b>	Commonwealth Scientific and Industrial Research Organisation
<b>GA</b>	Geoscience Australia
<b>IAEA</b>	International Atomic Energy Agency
<b>ILW</b>	Intermediate Level Waste
<b>LLW</b>	Low Level Waste
<b>MCSA</b>	Multi-Criteria Site Assessment
<b>NRWM Act</b>	National Radioactive Waste Management Act 2012
<b>NRWMF</b>	National Radioactive Waste Management Facility
<b>WFKF group</b>	Working for Kimba's Future group



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## Executive Summary

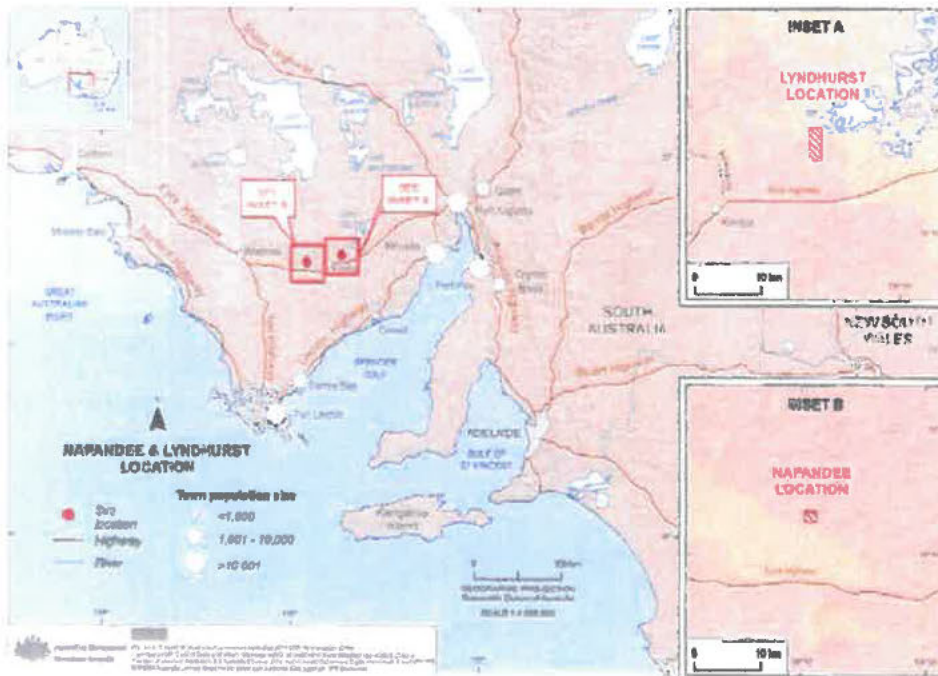
The Australian Government is committed to identifying a voluntary community to host Australia's National Radioactive Waste Management Facility (facility) to dispose of Australia's low level radioactive waste and provide an interim store for Australia's intermediate level radioactive waste.

The Minister for Resources and Northern Australia, Senator the Hon Matthew Canavan is seeking broad community support, noting no individual or group has a right of veto.

### The site selection process

In accordance with the *National Radioactive Waste Management Act 2012* (NRWM Act) and the nomination guidelines, the Department of Industry, Innovation and Science (Department) was invited by the Working for Kimba's Future (WKF) group to speak to the Kimba community about three potential new nominations of land for a facility in November 2016.

After the Department conducted an initial technical assessment on the three potential new nominations, and consultations to assess initial community support, two new land nominations were formally submitted in early 2017. The locations of the two nominations, Lyndhurst and Napandee, are illustrated below.



The Minister announced the commencement of a community consultation period on 20 March 2017 to assess the level of community support for continuing to Phase 2 (the technical assessment phase). This consultation period ended on 21 June 2017.

During this Phase 1 consultation period, the Department undertook the following engagement activities in Kimba including:

- approximately 300 direct consultations with key stakeholders representing 38 per cent of the total adult population for the District Council of Kimba.
- Meeting with a range of other groups including financial and agricultural organisations.
- receiving and recording approximately 396 letters and emails (submissions) regarding the project in Kimba, and consolidating the key issues raised;

- arranging a number of community information events on technical aspects of the project; and,
- delivering three general project newsletters and a Kimba-specific information pack to all Kimba residences.

At the end of the consultation period, at the request of the Kimba District Council, the Australian Electoral Commission conducted a community ballot to measure community support for the Kimba nominations progressing to Phase 2 of the site selection process.

### Key findings

- The ballot result showed 57.4 per cent support for moving forward in the process and 42.6 per cent opposed to the project. The ballot had a participation rate of 88 per cent. Neighbour support around the proposed sites is strongly supportive. The Department received 112 submissions from Kimba residents, with 86 per cent opposed to the Project.
- An estimated 250 attendees at large community events organised by the Department during this consultation period.
- From a desktop perspective using available data, both nominated sites were assessed as technically suitable to site the facility. The Lyndhurst site scored 82 per cent and the Napandee site scored 90 per cent using a Multi-Criteria Site Assessment tool.
- There has been an increase in support, demonstrated in the ballot, which is consistent with the general community gaining a better understanding of the Project. This is likely due to a weekly presence by the Project team and experts who have provided factual information regarding the facility.
- A strongly motivated opposition group is active in the community and has indicated that it will continue if the sites are progressed.
- Key topics raised by supportive individuals include potential economic benefits for the community, and the future economic prosperity of the town.
- Key topics raised by opposing individuals include division in the community, agricultural reputation, and the belief that the process is flawed.
- Most individuals engaged expressed clear views either in support or opposition to the project in Kimba.
- The Department recognises that there is a significant portion of the Kimba community who chose not to engage directly during the consultation period, however they did participate in the ballot.

### Qualification on findings

In taking forward any of these nominations, it is clear that further work and engagement is required to address the concerns raised in the Kimba community, such as improving community cohesion. Some of these concerns relate to perceptions (such as possible damage to the area's 'clean and green' reputation) rather than health, safety or environmental risks.

Further work is also required to demonstrate conclusively a risk and safety case for the proposed facility, and to explore opportunities to mitigate perceived risks around land values or other issues.

Finally, it should be noted that any decision to take a nomination forward into Phase 2 does not constitute a decision by the Government to proceed with the nomination beyond that phase. Further community consultation and broad support across the community is a fundamental ongoing requirement consistent with the Government's commitments.

## Introduction

### 1.1 The need for a national facility

Australia has been using nuclear technology for over 60 years for a range of crucial applications in research, medicine and industry. As a result of these activities, Australia has approximately 5,000m<sup>3</sup> of radioactive waste, of which around 85 per cent is low level waste (LLW) and the remainder intermediate level waste (ILW). Around 65m<sup>3</sup> of waste residues from the reprocessing of spent fuel from Australia's nuclear research reactors returned to Australia at the end of 2015, with another shipment from the UK expected by the end of the decade.

In the future, Australia is projected to generate relatively small amounts of low level waste (40m<sup>3</sup> per year) and intermediate level waste (5m<sup>3</sup> per year). The majority of our future waste (in volume terms) will come from the operation of the OPAL reactor at Lucas Heights although there are other industrial and medical sources. The majority of current and future low level and intermediate waste streams are associated with the production of nuclear medicines and scientific research which directly or indirectly benefits all Australians.

A national facility will provide a long-term, centrally managed and secure management solution for 60 years of waste currently stored in over 100 facilities around Australia such as Lucas Heights, the Commonwealth Science and Industrial Research Organisation (CSIRO) legacy waste at Woomera as well as at a large number of civilian/research sites or medical facilities. Few of these facilities have been constructed for long-term storage of waste and only Mt Walton in Western Australia is equipped to deal with permanent disposal (of low level waste only).

International best practice, as established by the International Atomic Energy Agency (IAEA), is that the on-site storage period at facilities that are not purpose built for such activities should be kept as short as practicable to ensure the long-term safety of the waste.

A purpose built ILW storage and permanent LLW disposal facility will enable Australia to meet its obligations under the joint convention agreement with the IAEA and ensure the ongoing viability of Australia's critically important nuclear science and medicine sectors.

It is important to note that Australia has no high-level radioactive waste and as a result, the facility will not be designed to manage high-level waste. This is also prohibited by law.

### 2.2 The project

The facility will be an above-ground facility for the disposal of LLW and the possible interim storage of ILW, based on similar facilities around the world. The facility will have a footprint of approximately 40 hectares, a buffer of around 60 hectares, and will operate for 100 years with a further 200-300 years of monitoring. All waste accepted into the facility must meet strict waste acceptance criteria.

Australia has adopted a voluntary nomination process under the NRW Act with the Government seeking broad community consent for participating in the process of site selection. The Government has stated it will not impose the facility on an unwilling community, noting no individual or group has a right of veto.

Following a public call for nominations in March 2015, 28 applications were received from interested landowners. These were evaluated using a framework to assess initial technical potential against a range of economic, environmental and other criteria. From this, the top six nominations, of which two were located close to the township of Kimba (South Australia), were chosen to undergo a 120 day consultation process to assess the level of community support for continuing in the site selection process. This consultation process commenced in November 2015 and ended in March 2016. The two original Kimba nominations, 'Pinkawillinie' and 'Cortlinye' were not progressed at the conclusion of the consultation period.

In April 2016, the Wallerberdina Station site nomination (Barndioota, South Australia) commenced Phase 2 of the site selection process. This involves detailed site characterisation studies and formal measurement of community support for hosting the facility.

The NRWM Act provides for landowners to nominate sites at any point up until the Minister has made a formal decision on a single final site for the facility. At the request of the Working for Kimba's Future group, the Department conducted initial assessments on three potential new land nominations. In March 2017, the 'Lyndhurst' and 'Napandee' site nominations were formally submitted to the Minister. The Department then commenced Phase 1, a community consultation period. The table below provides further information on the phases of the project.

Phase	Key Activities	Description of Activities
Phase 1	Nominations, site assessment and shortlist identification	<ul style="list-style-type: none"> <li>Seek voluntary nominations.</li> <li>Provide communities project information.</li> <li>Community consultation to seek willingness to continue in process.</li> </ul>
	Site characterisation studies and preferred site identification	<ul style="list-style-type: none"> <li>Heritage and technical assessment.</li> <li>Establish a Consultative Committee with broad based local participation.</li> <li>Engage a Community Liaison Officer.</li> </ul>
Phase 2	Site selection, facility design and licensing	<ul style="list-style-type: none"> <li>The community to provide input into design including infrastructure requirements, risk and safety cases local business and employment opportunities and community benefits measures.</li> <li>The Government to then seek broad community support for hosting the facility.</li> </ul>
	Site selection, facility design and licensing	<ul style="list-style-type: none"> <li>Development of Detailed Business Case with final engineering and technical design and costings.</li> <li>The Government to submit proposals for environmental and radiation regulatory approvals.</li> <li>Establishment of a Facility Management Committee with community representation.</li> <li>Ongoing community engagement on benefits measures and capacity building for businesses and employees.</li> </ul>
Phase 3	Construction	<ul style="list-style-type: none"> <li>Construction undertaken consistent with community requirements.</li> <li>Local business and employment goals to be achieved.</li> </ul>
Phase 4	Operation for 100 years and monitoring for 200–300 years	<ul style="list-style-type: none"> <li>Facility Management Committee with community representation to oversee facility.</li> <li>Monitoring of facility published and provided publicly.</li> <li>Facility and employees to be active members of the community.</li> </ul>
Phase 5	Operation for 100 years and monitoring for 200–300 years	

## 1.2 Purpose of this report

This report presents an aggregated summary of the outcomes of Phase 1 site assessment and community consultation on the two new Kimba land nominations, Lyndhurst and Napandee. While there was a considerable amount of valuable information gathered during the process, in particular during visits to each community, the Government is bound to maintain the confidentiality of inputs. Accordingly the specific views of individuals or organisations have been omitted. However, these views were provided to the Minister and taken into account in his decision-making.

The key issues identified in this report are a reflection of stakeholder views throughout the consultation period. The report does not examine the merit of each concern or respond to the validity of the concerns.

## The Site Assessment Process

Key Phase 1 activities completed for the Lyndhurst and Napandee site nominations include:

- In November and December 2016, the Department conducted initial technical and social assessments on the suitability of three sites proposed by the Working for Kimba's Future group.
- In early 2017 the Napandee and Lyndhurst sites were formally submitted as voluntary nominations to the Minister.
- The Department then undertook a community consultation period, which commenced on 20 March 2017 and ended on 21 June 2017.



### 1.3 Site selection framework

The process of identifying and selecting potentially suitable sites in Phase 1 of the project is set out in the *Site Selection Framework* (Framework) which was developed in conjunction with the consultancy firm GHD.

This Framework sets out the process that the Department used in the previous and recent Phase 1 processes to assess nominations against technical, economic, social and environmental criteria at a desktop level.

Further detail on the site selection framework is available on the project website [www.radioactivewaste.gov.au](http://www.radioactivewaste.gov.au)

### 1.4 Initial site assessment

Taking into account feedback from the previous process ending in March 2016, the nomination guidelines were updated in November 2016 to encourage interested land nominators to work with the Department in gauging the initial technical suitability of potential sites, and to better understand the community's views prior to making a formal nomination. This informal assistance is available to any landholder in Australia who may be interested in nominating land. The revised guidelines are available from [www.radioactivewaste.gov.au](http://www.radioactivewaste.gov.au).

In late 2016 the Working for Kimba's Future group approached the Department with three potential new site nominations; Lyndhurst, Napandee and Tola Park. In accordance with the nomination guidelines, the Department conducted initial site assessments on these three potential sites and found all three Kimba sites had highly suitable technical scores. While both the Lyndhurst and Napandee sites had good support from neighbours, neighbours' views around Tola Park were mixed.

In March 2017, the Minister announced the receipt of two new land nominations from the Kimba region, and the commencement of a consultation period. The Lyndhurst and Napandee sites were progressed to the next phase of Phase 1 activities; community consultation.

An overview of the technical and social components of the initial site assessment is provided below. Further detail on the initial assessment process is available in the Department's publicly available report *Summary of Engagement in the Kimba Community*.

### 1.4.1 Technical assessment

A multi-criteria site assessment (MCSA) was developed during the previous nomination process by the Department, GHD, Geoscience Australia and an Independent Advisory Panel to evaluate voluntary nominations against pre-determined objectives, criteria and weightings. These criteria included Health, Safety and Security; Environmental Protection; Equity; Economic Viability; and, Stable Environment.

Detailed information on hydrology and seismicity was also sought from Geoscience Australia. All three potential site nominations from Kimba had a technical assessment score within the range of the six sites previously nominated and considered in 2015.

The MCSA was used to produce an initial ranking of the three sites.

Rank	Initial Potential Site Nominations	State / Territory	Total Score
1	Napandee – Larwood Road	SA	90%
2	Tola Park – Tola Road & Balumbah Road	SA	86%
3	Lyndhurst – Bindawalla Gate Road	SA	82%

### 1.4.2 Social assessment

The Department visited Kimba twice, in November and December 2016, and spoke with over 300 members of the community including the majority of neighbouring landowners in a 5km radius around each site, Kimba District Council, businesses and members of key community groups. The Department was particularly interested to understand the views of landowners surrounding the three sites and assess whether there has been a shift in the broader community view since the previous consultation process.

Throughout the visit, the Department noted the views of 313 members of the Kimba community. Of those community members the department spoke to, the following views were recorded:

- 56 per cent were supportive of a new nomination for a facility in Kimba
- 41 per cent were opposed
- 2 per cent had mixed views or were undecided
- Less than 1 per cent did not make their views known

Sentiment appeared relatively balanced, although there did seem to be broad acknowledgement that overall support had grown since the previous process. A small proportion of those we spoke to had changed their views since the end of the previous process in March 2016. Supporters were better organised and more vocal in their support of the facility believing it could offer the town a lasting economic benefit. Strong opposition was maintained, with many of those opposed of the view the facility should not be located on productive agricultural land anywhere in the region.

## 1.5 Community consultation period

After the two nominations at Lyndhurst and Napandee were formally submitted to the Minister, the Department undertook a community consultation process to assess community willingness to proceed into Phase 2 of the project. This consultation period commenced on 20 March 2017 and closed on 21 June 2017.

The purpose of the consultation process in Kimba was to explain the need for a radioactive waste management facility in Australia and provide information about the proposed facility and the process of site selection. It allowed the Department to capture community concerns and respond with additional information where relevant.

Ultimately the consultation period provided communities the opportunity to express their

willingness to further participate in the site selection process.

The Department implemented a multifaceted approach to collect information on community sentiment, which is measured through feedback from the community in a variety of ways.

### 1.5.1 Key consultation activities

A public notice was published in national and relevant regional newspapers, and online, inviting comments from nominators, persons with a right or interest in the nominated land and other interested persons' to provide input to the process.

The Department established a temporary office in Kimba and maintained a weekly presence in the community throughout the consultation period. The Department also provided stakeholders access to independent experts, and were supported by subject matter experts from the Australian Nuclear Science and Technology Organisation, Geoscience Australia and Charles Sturt University (Nuclear Medicine). Representatives of the Department were also available for consultation outside of normal hours, opening the office on a weekend and accommodating requests for meetings after business hours.

The consultation period encompassed a broad effort by the Department to engage with the Kimba community in a variety of ways including:

- approximately 300 face to face meetings with key stakeholders including the local community, surrounding landowners, council members and others;
- meeting with a range of other groups including financial and agricultural organisations to discuss key community concerns;
- receiving and recording to approximately 396 letters and emails (submissions) regarding the project in Kimba, and registering the key issues raised;
- arranging a number of community events, at the request of community groups, where subject-matter experts engaged with community members on technical aspects of the project; and
- delivery of three project newsletters and a Kimba specific information pack to all Kimba residences, providing general information on the project, radioactive waste in Australia, and the consultation process in Kimba.

At the end of the consultation period, the Australian Electoral Commission conducted a community ballot to measure community support for the Kimba nominations progressing to Phase 2 of the site selection process. Further detail on these arrangements and results are provided below.

## 1.6 Defining 'community'

Fundamental to the consultation process, and determining community sentiment, is defining the community around potential sites. The Department acknowledges that the size of surrounding populations, the geographic spread and socio-economic interactions between townships will contribute to different definitions of 'community'.

Engagement to date with communities undergoing the site selection process demonstrate a consistent view that the community should be limited to those in close proximity to the nominated site, and those that are likely to be directly affected by the proposal. This includes nearby townships which would provide an economic or social base for the facility and its workers.

During the previous consultation process in 2015, feedback from stakeholders around the nominated sites near Kimba resulted in a definition of local community as 'within a 50km radius' of both sites.

When the Department returned to Kimba in November and December 2016 to conduct initial



assessments on the two new land nominations, stakeholders were asked again how they would like to define the extent of their community. The outcome of these discussions was a strong view that the community boundary be defined as 'the Local Government Area of the District Council of Kimba'. This enabled the Department to determine a community boundary used to differentiate between 'local community', whose view should be given a higher level of consideration and the 'broader community' (including the national and international community).

The close proximity of the Lyndhurst and Napandee sites resulted in one community being defined for both sites.

## 1.7 Community Ballot

The final aspect of community consultations for the Lyndhurst and Napandee nominations was an independent community ballot conducted by the Australian Electoral Commission (AEC), at the request of the Kimba District Council. The voting period was open during the last weeks of the consultation period, from 1 June 2017 to 21 June 2017. Individuals within the district were encouraged to enroll to participate in the AEC ballot or to contact the Kimba District Council for alternate arrangements. The ballot asked for community members' willingness to proceed to Phase 2 of the project.

Total number of eligible voters	793
Number of Ballot Papers issued	793
Number of replacement Ballot Papers issued	0
Total Ballot Papers issued	793
Number of envelopes returned for Scrutiny	698
Envelopes rejected at Preliminary Scrutiny	7
Total Ballot Papers admitted to Scrutiny	691
Ballot Papers returned undelivered	0
Ballot Papers not returned	95

### RESULT OF COUNT:

<b>YES vote</b>	<b>396</b>
<b>NO vote</b>	<b>294</b>
<b>Informal vote</b>	<b>1</b>
<b>TOTAL:</b>	<b>691</b>

<b>Participation in ballot</b>	<b>On roll - 793</b>	<b>Returned - 698</b>	<b>88.02%</b>
<b>Votes counted in ballot</b>	<b>Returned - 698</b>	<b>Admitted - 691</b>	<b>98.99%</b>
<b>YES votes</b>	<b>Returned - 698</b>	<b>Yes votes - 396</b>	<b>56.734%</b>
<b>NO votes</b>	<b>Returned - 698</b>	<b>No votes - 294</b>	<b>42.120%</b>
<b>Informal votes</b>	<b>Returned - 698</b>	<b>Informal - 1</b>	<b>00.143%</b>
<b>Rejected at preliminary scrutiny</b>	<b>Returned - 698</b>	<b>Rejected - 7</b>	<b>1.003%</b>
<b>Formal YES votes</b>	<b>Total Formal votes - 690</b>	<b>Formal YES votes - 396</b>	<b>57.391%</b>
<b>Formal NO votes</b>	<b>Total Formal Votes - 690</b>	<b>Formal NO votes - 294</b>	<b>42.609%</b>

## Site Analysis

### 1.8 Summary

The Lyndhurst and Napandee sites are both located close to the township of Kimba on the Eyre Peninsula in South Australia, and therefore have been assessed together with the exception of the technical site assessment process and the survey of surrounding landowners.

Both sites have a number of key strengths: flat, dry land with no third party interests with good road and other infrastructure. There are few technical challenges on either site other than the potential need for upgrades to the communications network. The township of Kimba would provide a strong social and economic support base for a facility.

Sentiment of landowners neighbouring the two nominations was assessed as largely supportive.

### 1.9 Technical Assessment

The township of Kimba is approximately 140km by road from Whyalla on the Eyre Peninsula with a population of around 650 people. The primary industry for residents in the Kimba area is agriculture and many residents live out of town on farms (an additional 550 people within the Kimba District Council area). Many of the local businesses in the town would be capable of providing services for the construction and operation of the facility, including engineering and concreting.

Kimba has been impacted by demographic and economic change in recent years which is partially due to a decrease in population and the consolidation of farms around the town. The Eyre Peninsula remains relatively under-serviced in terms of infrastructure (e.g. poor mobile coverage).

Both sites are located in a low rainfall and geologically stable area with little evidence of intersecting water tables. Neither site is prone to flooding.

#### 1.9.1 Lyndhurst, South Australia

The Lyndhurst site is located approximately 17km northeast of Kimba and borders the Lake Gilles reserve. There is an elevation change of around 20m on the site. The size of the parcel of land is 700 hectares and is used for wheat farming.

The site scored 82 per cent (highly suitable) in the MCSA assessment with some constraints identified. The site is adjacent to several unnamed heritage agreements. Due to a lack of information about the agreements, it is unclear whether this would be something to impact development. Visual inspection of the property suggested this was unlikely but it would still need to be confirmed.

The southwest basin of Lake Gillies (ephemeral salt lake) is adjacent to the northeast boundary of the site. There are standing water observations on a small part of the site but these would be unlikely to materially impair the ability to select a 100 hectare site from the overall block.

Further detailed technical assessment undertaken as part of Phase 2 of the project would be required to confirm the site's suitability.

#### 1.9.2 Napandee, South Australia

The Napandee site is located 21km west of Kimba and has a total area of 496 hectares. The site has subdued overall topography with approximately 20m elevation change across the block. The site is used for cropping (wheat) and is vegetated by mallee scrub/trees in uncleared areas.

The site scored a highly suitable rating (90 per cent) in the desktop analysis. There were no clear constraints that became evident in the assessment.

Further detailed technical assessment undertaken as part of Phase 2 of the project would be required to confirm the site's suitability.

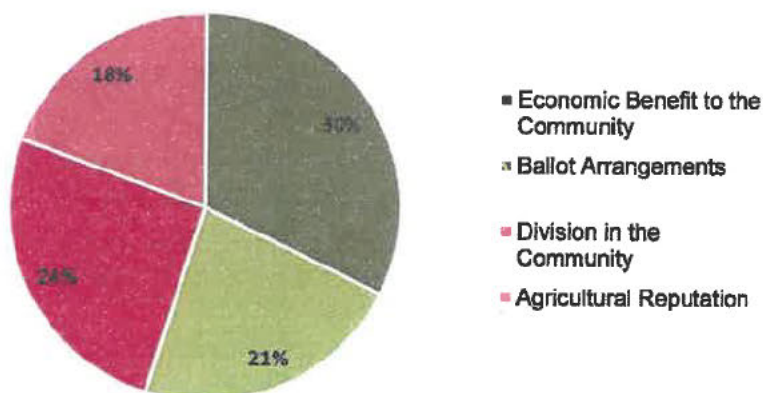
### 1.10 Community Sentiment

There has been an increase in support, demonstrated in the ballot, which is consistent with the general community gaining a better understanding of the Project. This is likely due to a weekly presence by the Project team and experts who have provided factual information regarding the facility. A strongly motivated opposition group continues to be active in the community.

Through direct engagement and submissions, the key topics raised by supportive individuals include potential economic benefits for the community and the future economic prosperity of the town. Those opposed raised division in the community, agricultural reputation, and the belief that the process is flawed. A common topic across all stakeholders was interest in the community ballot.

Most individuals engaged expressed either support or opposition to the project in Kimba.

### Key Topics Raised in Direct Consultations



#### 1.10.1 Lyndhurst neighbour views

There are six neighbours that directly border the proposed Lyndhurst site. One direct neighbour is opposed, one is neutral and the remainder are supportive. Those that are supportive believe the facility will be safe and are motivated by potential benefits that could accrue to Kimba if the facility was to be established. Of those opposed, initial concerns raised in late 2016 regarding the health and safety of the facility have since shifted to focus on community division and agricultural reputation issues.

Neighbours around Lyndhurst are generally supportive. Of the non-adjacent neighbours within a 5km radius of Lyndhurst, one is opposed, one is uncontactable, and the remainder are in support. The views of the opposed, non-adjacent neighbour appear to be very firm, and there has been little engagement or discussion of the Project with these individuals.

Most neighbours believe there will be benefits for the Kimba community if a facility was to be sited in the district and are of the view there has been a shift in support of a facility in the community.

#### 1.10.2 Napandee neighbour views

All five of the direct neighbours to the Napandee land nomination are supportive of the project in Kimba and are comfortable with Napandee proceeding in the process. All believe there has been a shift in views since the previous consultation period and are motivated by the potential benefits that could accrue to the Kimba community.

There are mixed views from neighbours further away from the site. Some of these neighbours belong to the group strongly opposed to any sites in Kimba. Of the total 13 neighbouring parcels of land in a 5km radius around Napandee, nine are supportive; three are opposed; and one is unknown.

The potential benefits for the district were a key motivation for those that were supportive, with all comfortable with the information on low level and intermediate level waste and the general need for the facility.

Concerns were raised by some of the non-adjacent neighbouring landowners, particularly relate to the perceived potential impact on the agricultural reputation of Kimba and the broader Eyre Peninsula.

### 1.10.3 General community views

The Department has consulted with the Kimba community in three instances to date:

- during the 120-day consultation period ending in March 2016. Two site nominations were made from the Kimba area, Cortlinye and Pinkawillinie;
- in November and December 2016 while undertaking initial site assessments on three potential new nominations, Lyndhurst, Napandee and Tola Park; and
- during the most recent consultation period regarding the Lyndhurst and Napandee site nominations, which commenced on 20 March and ended on 21 June 2017.

An increase in support for and interest in the project was demonstrated during the consultation process. This support is based on recognition of the lasting economic benefits the facility will bring to the town, and the benefits of nuclear medicine.

Some potential benefits for the community identified through the consultation process include:

- opportunities to improve community services (including medical services and telecommunications);
- development of new business opportunities such as a multiuser agricultural storage facility and/or pelletising plant, and the employment of a business development officer; and
- development of conservation parks with a focus on tourism.

Feedback also suggested that initial concerns over health, environment and safety had been largely addressed although concerns relating to potential impacts on land value and marketing of agricultural products remained for those opposed to project.

Overall, a clear split in views was observed, with most individuals engaged in the project expressing either support or opposition to the project in Kimba.

The Department recognises that there is a significant portion of the Kimba community who chose not to engage directly during the consultation period, however they did participate in the ballot.

### 1.10.4 Key Stakeholder Groups

#### Kimba District Council

Prior to the project's re-engagement with Kimba in late 2016, the Council passed a motion in support of further site nominations being lodged for a facility, subject to negotiations to maximize benefits for the community.

The Council has been consistently committed to ensuring the community is fully informed of what the project can bring to Kimba from an economic and jobs perspective.

During the recent community consultation period, the Council undertook to engage the Australian Electoral Commission in arranging a community ballot. The Council was committed to ensuring the Kimba community were able to present their views on the project as clearly as possible.

### **Working for Kimba's Future**

The 'Working for Kimba's Future' group was established after the previous consultation process ending in March 2016 and actively advocated for new nominations for the facility in Kimba.

During the recent community consultation period, the group has continued to advocate for the project by distributing information on the project to the community and by organising community events where community members were able to engage with subject-matter experts on technical aspects of the project.

The group believes there is a need for an additional industry in Kimba to ensure the longevity of the town and are motivated by the additional benefits that could accrue to Kimba if a facility were to be sited there.

### **No Radioactive Waste on Agricultural Land in Kimba or SA**

The 'No Radioactive Waste on Agricultural Land in Kimba or SA' has maintained their strong opposition to a facility in Kimba or on agricultural land elsewhere on the Eyre Peninsula or in South Australia.

The group continues to be particularly concerned about the perception that this could potentially impact on the region's agricultural reputation and/or grain prices. The group also cites concerns relating to division in the community and the consultation process.

While they previously indicated that they would mount a more aggressive campaign if Kimba were to re-enter the site selection process, this has not been apparent since the two new nominations were formally submitted in March 2017.

## 1.10.5 Results of the Community Ballot

**DECLARATION OF RESULTS****District Council of Kimba  
National Radioactive Waste Management Project Ballot**

I have conducted the ballot by post and I declare that the following particulars of the ballot are true and correct:

Total number of eligible voters	793
Number of Ballot Papers issued	793
Number of replacement Ballot Papers issued	0
Total Ballot Papers issued	793
Number of envelopes returned for Scrutiny	698
Envelopes rejected at Preliminary Scrutiny	7
Total Ballot Papers admitted to Scrutiny	691
Ballot Papers returned undelivered	0
Ballot Papers not returned	95

**RESULT OF COUNT:**

YES vote	396
NO vote	294
Informal vote	1
<b>TOTAL:</b>	<b>691</b>

Participation in ballot	On roll - 793	Returned - 698	88.02%
Votes counted in ballot	Returned - 698	Admitted - 691	98.99%
YES votes	Returned - 698	Yes votes - 396	56.734%
NO votes	Returned - 698	No votes - 294	42.120%
Informal votes	Returned - 698	Informal - 1	0.143%
Rejected at preliminary scrutiny	Returned - 698	Rejected - 7	1.003%
Formal YES votes	Total Formal votes - 690	Formal YES votes - 396	57.391%
Formal NO votes	Total Formal Votes - 690	Formal NO votes - 294	42.609%

  
Jeanette Hill  
Returning Officer  
Australian Electoral Commission

22 June 2017

s 47E(d), s 47F(1)

s 47C





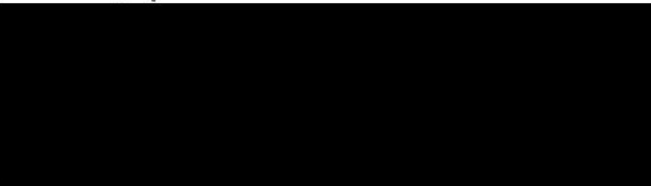
## National Radioactive Waste Management (Approval of Nominated Sites) Notice 2017

*National Radioactive Waste Management Act 2012*

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I, Matt Canavan, Minister for Resources and Northern Australia, make this notice under section 9(5) of the *National Radioactive Waste Management Act 2012*.

Dated: 27 JUNE 2017



Matt Canavan  
Minister for Resources and Northern Australia

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**1 Name of Notice**

This is the *National Radioactive Waste Management (Approval of Nominated Sites) Notice 2017*.

**2 Authority**

This notice is made under section 9(5) of the *National Radioactive Waste Management Act 2012 (the Act)*.

**3 Notice**

I give notice that I:

- (a) have received voluntary nominations for a potential site for a national radioactive waste management facility under section 7 of the Act; and
- (b) approve under section 9 of the Act the two land nominations made.

**4 Approval**

This approval takes effect from the date this instrument is signed.

## 5 Land Nominations

(1) The land nominations are:

(a) *Lyndhurst—South Australia 143 Bindawalla Gate Rd, Hundred of Moseley, County of Buxton, DC of Kimba*

*Coordinates 136.553018, -33.046678, Hundred Plan 500700, Parcel number 38.*

(b) *Napandee—South Australia Larwood Road, Hundred of Pinkawillinie, County of Buxton, DC of Kimba*

*Coordinates 136.17759, -33.117021, Part of Certificate of Title Volume 5937 Folio 542.*

(2) Prior to declaration of a site as the site for a facility, approved sites will be subject to detailed assessments to determine their suitability. A site will be selected in accordance with the process set out in the Act.

## 6 Further Information

For information on the project please:

(a) visit [www.radioactivewaste.gov.au](http://www.radioactivewaste.gov.au);

(b) contact: AusIndustry hotline 13 28 46; or

(c) email [radioactivewaste@industry.gov.au](mailto:radioactivewaste@industry.gov.au).