

The Senate

Economics
References Committee

Selection process for a national radioactive
waste management facility in South Australia

August 2018

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Abbreviations and acronyms

AEC	Australian Electoral Commission
AECOM	Architecture, Engineering, Construction, Operations and Management
ANFA	Australian Nuclear Free Alliance
ANSTO	Australian Nuclear Science and Technology Organisation
ARPANSA	Australian Radiation Protection and Nuclear Safety Agency
ATLA	Adnyamathanha Traditional Lands Association RNTBC
BDAC	Barnjarla Determination Aboriginal Corporation
CBP	Community Benefits Programme
CDP	Community Development Package
DIIS	Department of Industry, Innovation and Science
EPBC	Environmental Protection and Biodiversity Conservation
FLAG	Flinders Local Action Group
FTE	Full Time Equivalent
KCC	Kimba Consultative Committee
NRWMF	National Radioactive Waste Management Facility
RPS	RPS Group Plc
the Act	National Radioactive Waste Management Act 2012
VYAC	Viliwarinha Yura Aboriginal Corporation

Recommendations

Recommendation 1

2.67 If a National Radioactive Waste Management Facility were to be sited in an agricultural region, the committee recommends that the Department of Industry, Innovation and Science work with local stakeholders, so that part of the remaining 60 hectare buffer zone can be used to grow and test agricultural produce, in order to reassure the community and agricultural markets that the produce from the surrounding region does not contain excessive amounts of radiation and is safe for consumption.

Recommendation 2

3.40 The committee recommends that the Minister intensify and expedite efforts to fully engage with the Indigenous stakeholders near Kimba and Hawker so that comprehensive heritage assessments for all nominated sites can be completed.

Recommendation 3

4.25 The committee recommends that the government undertake an independent valuation of the land to be acquired to ensure that the financial compensation is consistent with the original proposal to compensate the landholder at four times the land value.

Recommendation 4

5.35 The committee recommends that the Department of Industry, Innovation and Science make submissions received during the consultation process publicly available in the circumstances where the authors originally intended for their submission to be made public.

Recommendation 5

5.37 The committee recommends that the Office of the Chief Economist within the Department of Industry, Innovation and Science undertake a policy evaluation of the first two phases of the site selection process for a National Radioactive Waste Management Facility.

Chapter 1

Introduction

1.1 On 6 February 2018, the Senate referred an inquiry into the selection process for a national radioactive waste management facility in South Australia to the Senate Economics References Committee for inquiry and report by 14 August 2018.¹

1.2 The terms of reference for the inquiry were:

The appropriateness and thoroughness of the site selection process for a national radioactive waste management facility at Kimba and Hawker in South Australia, noting the Government has stated that it will not impose such a facility on an unwilling community, with particular reference to:

- a) the financial compensation offered to applicants for the acquisition of land under the Nominations of Land Guidelines;
- b) how the need for 'broad community support' has played and will continue to play a part in the process, including:
 - i) the definition of 'broad community support', and
 - ii) how 'broad community support' has been or will be determined for each process advancement stage;
- c) how any need for Indigenous support has played and will continue to play a part in the process, including how Indigenous support has been or will be determined for each process advancement stage;
- d) whether and/or how the Government's 'community benefit program' payments affect broad community and Indigenous community sentiment;
- e) whether wider (Eyre Peninsular or state-wide) community views should be taken into consideration and, if so, how this is occurring or should be occurring; and
- f) any other related matters.

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties to draw attention to the inquiry and invite them to make written submissions.

1.4 The committee received 112 submissions as well as additional information and answers to questions on notice. Details of the material received are listed at Appendix 1.

1.5 The committee held three public hearings:

- 5 July in Kimba;

1 *Journals of the Senate*, No. 81, 6 February 2018, pp. 2593–2594.

- 6 July in Hawker; and
- 2 August in Canberra.

1.6 The names of witnesses who appeared at the hearings are listed at Appendix 2.

1.7 References to Committee Hansard are to the Proof Hansard and page numbers may vary between the Proof and Official Hansard transcripts.

1.8 The committee thanks all of the individuals and organisations that assisted with the inquiry, especially those who made written submissions and/or gave evidence at the public hearings.

Background to the inquiry

1.9 As a result of more than 70 years of research, health, environmental and industrial applications, Australia has a widely dispersed inventory of low-level and intermediate-level radioactive waste. The majority of Australia's current and anticipated future low-level and intermediate-level radioactive waste arises from:

- the production of nuclear medicine that is used to diagnose and treat serious illnesses; and
- a range of nuclear based scientific and industrial purposes.²

1.10 While the Australian community benefits from the production of nuclear medicine and nuclear research activities, there is also a responsibility to safely and securely manage the associated radioactive waste products from its generation, through interim storage solutions and ultimately to permanent disposal.³ The process for finding a permanent solution for storing and disposing of Australia's radioactive waste began in the 1970s and is ongoing.

1.11 The main holders of radioactive waste in Australia are Commonwealth agencies, accounting for about 96 per cent of estimated intermediate-level waste and nearly all low-level waste (Table 1). It is anticipated that as much low-level and intermediate-level waste will be produced until 2070 as is currently being stored in legacy inventories.

1.12 Presently, there is no disposal pathway for stored Australian radioactive waste, including the waste stored at Lucas Heights. The approach favoured by the Australian Government is to establish a dedicated National Radioactive Waste Management Facility (NRWMF):

Successive Australian Governments have recognised the efficiency, safety and security benefits that are derived from the centralised management of our radioactive waste holdings in a state-of-the-art special purpose facility.⁴

2 Department of Industry, Innovation and Science, *Submission 40*, p. 7.

3 Department of Industry, Innovation and Science, *Submission 40*, pp. 3 and 7.

4 Department of Industry, Innovation and Science, *Submission 40*, p. 7.

1.13 A central NRWMF would permanently house the government's legacy and future streams of low-level radioactive waste along with holdings of other entities where these meet strict acceptance criteria. The NRWMF would also store, on an interim basis, Australia's relatively modest holdings of intermediate-level waste. Australia does not produce or store any high-level radioactive waste, and any such waste would not be accepted at the NRWMF.⁵ Further, no foreign waste will be accepted at the NRWMF.⁶

Table 1: Radioactive waste inventory volumes (cubic metres) as at 10 January 2018⁷

	Low Level Waste		Intermediate Level Waste	
	Legacy	Future ^b	Legacy	Future ^b
Commonwealth				
ANSTO	2,771	4,685	1,211	1,849
ARPANSA	6	36	1	43
CSIRO	1,967	40	419	62
Defence	224	83	60	9
Subtotal C'wth	4,967	4,843	1,691	1,963
States and Territories	8	Not reported	66	Not reported
Industry, hospitals, universities ^c	Not reported	Not reported	13	Not reported
Total	4,975	4,843	1,771	1,963

Source: Department of Industry, Innovation and Science, *Australian Radioactive Waste Management Framework*, April 2018, p. 4.

1.14 Regarding the need for a facility, Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) Chief Regulatory Officer, Mr Jim Scott, succinctly stated the reasons why current arrangements at Lucas Heights were not suitable:

The Lucas Heights site is not actually able to be a disposal site; that is part of the ANSTO [Australian Nuclear Science and Technology Organisation] Act. The site that is currently being looked at for the national radioactive waste management facility will be a disposal site for low-level waste. That cannot be Lucas Heights under the current legislation. World's best practice establishes that long-term storage is not an option; you must have a disposal pathway. So the establishment of a national radioactive waste management facility is to attempt to locate a site for a disposal facility. The waste that is currently stored at ANSTO cannot remain there indefinitely.⁸

5 Department of Industry, Innovation and Science, *Submission 40*, p. 3.

6 Department of Industry, Innovation and Science, *Submission 40*, p. 7.

7 Expected waste from current and future activities until 1 January 2070.

8 Jim Scott, Australian Radiation Protection and Nuclear Safety Agency, *Committee Hansard*, 2 August 2018, pp. 9–10.

1.15 The enabling legislation to establish a NRWMF was introduced into Parliament in October 2010 and passed in March 2012.⁹ The *National Radioactive Waste Management Act 2012* (the Act) ensures the Commonwealth's power to make arrangements for the safe and secure management of radioactive waste generated, possessed or controlled by the Commonwealth. The legislative framework is based on volunteerism, as no site can be considered as a potential location for a radioactive waste management facility without the voluntary nomination of that site and agreement of persons with relevant rights and interests.¹⁰

The site selection process

1.16 The process of finding a suitable site for a NRWMF is complex and needs to take into account a suite of technical, environmental, social, and indigenous cultural and heritage considerations.¹¹

1.17 The authority and broad process for finding land to establish a NRWMF is defined under the Act. The Act prescribes the minimum set of steps that must be followed by the responsible Minister in selecting a preferred site.¹² The Minister may then consider accepting a nomination and instruct the department to undertake relevant technical assessments before selecting a single preferred site. At each stage, the Minister is only required to consult with, and take into account comments from, the nominator and persons with a right or interest in the nominated land.¹³

1.18 The key activities in the site selection process are:

- **Pre-nomination information**—nomination guidelines were developed and published online to inform nominees of the process.
- **Minister calls for nominations**—potential nominees are encouraged to speak with the department about their nomination.
- **Initial site assessment (desktop)**
- **Nomination**—the nominator submits a nomination of land to the Minister.
- **60 day comments period**—allows all community members and members of the public opportunity to comment on whether they would like to continue with the site selection process.
- **Nomination decision**—Minister decides whether to accept the nomination and uses the Site Selection Framework to inform his decision under the Act (see below).

9 Parliament of Australia, *National Radioactive Waste Management Bill 2010*, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r4472 (accessed 27 July 2018).

10 National Radioactive Waste Management Bill 2010, *Explanatory Memorandum*, p. 2.

11 Department of Industry, Innovation and Science, *Submission 40*, p. 3.

12 Department of Industry, Innovation and Science, *Submission 40*, p. 3.

13 Department of Industry, Innovation and Science, *Submission 40*, p. 3.

- **Continuous public consultation**—the consultation process continues after the nomination has been accepted and is designed in partnership with the community. At a minimum, consultation includes numerous information sessions, the establishment of a local consultative committee, information booklets and newsletters, the engagement of a community liaison officer and the establishment of a local office to act as link between the community and the government.
- **Detailed onsite technical assessment**—site characterisation assessments are undertaken to further assess the site technical capacity to host the NRWMF, including geotechnical characteristics, security, safety and radiation characteristics, potential environmental and cultural heritage values of the land that may be affected by the NRWMF, transport routes and infrastructure availability and constraints.
- **Community sentiment assessment**—community sentiment will be assessed including through submissions made to the Minister and the department, and the community led vote.
- **Site assessment**—the Minister will make an assessment of the site taking into consideration various factors including community sentiment, site characterisation, heritage assessment, infrastructure and cost.
- **Site elimination or site declared**—the Minister may eliminate or select a site using powers under the Act.
- **Detailed Business Case**—submission to the Public Works Committee for approval to construct.
- **Regulatory approvals preparation**
- **Regulatory approvals**—submission and assessment under the Environmental Protection and Biodiversity Conservation (EPBC) and Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) approval processes, culminating in decisions as to whether to grant permission to begin construction.
- **Construction**—if decisions under the previous step are positive, site clearance and construction to commence, including associated infrastructure. Further ARPANSA approvals sought to provide an operating license.
- **Operation**—if an operating license is granted, NRWMF to commence operation.¹⁴

1.19 Put simply, the project phases of the site selection process are:

- Phase 1: Nominations, site assessment and shortlist identification.
- Phase 2: Technical assessment, site characterisation studies and preferred site identification.

14 Department of Industry, Innovation and Science, *Submission 40*, pp. 18–19.

- Phase 3: Site selection, facility design and licensing.
- Phase 4: Construction.
- Phase 5: Operation.¹⁵

1.20 The government has also published a *National Radioactive Waste Management Facility Site Selection Framework*. This document outlines the multi-criteria site analysis (MCSA) framework that the Department of Industry, Innovation and Science (DIIS) has applied to the nominated land to initially assess nominations for their suitability. The MSCA framework can also be used in subsequent phases of the project and the outcomes will be part of the information provided to the Minister for consideration when making a decision under the Act.¹⁶

*The selection process to date*¹⁷

1.21 Following the Act receiving royal assent in April 2012, the government released a notice of intention to consider opening a nationwide volunteer process of land owners to nominate land for a NRWMF in September 2014.

1.22 The official call for nominations was conducted between 2 March and 5 May 2015. A total of 28 applications were received, including the Hawker site and two sites from the township of Kimba—'Pinkawillinie' and 'Cortlinye'.

1.23 In November 2015, former Minister for Resources, the Hon Josh Frydenberg MP, announced the six nominated areas that had been assessed as suitable for a further assessment and public consultation to assess the level of community support to continuing the site selection process. Between November 2015 and March 2016, the consultation process for the six nominated sites was undertaken.

1.24 In April 2016, the former Minister announced that the Hawker site, 'Wallerberdina Station', was the only site of the six shortlisted to be chosen to progress to the next stage of consideration. In January 2017, the subsequent Minister for Resources, Senator the Hon Matt Canavan, announced the 11 successful grant recipients for Round 1 of the Community Benefits Programme in the Hawker region.

1.25 In November 2016, Minister Canavan approved a revision to the *Radioactive Waste Management: Nominations of Land Guidelines*, that set out a process by which land holders may nominate their land for consideration as a potential site for the facility. Following this change to the nomination process, the Working for Kimba's Future group approached the government with three potential new sites for nomination—'Lyndhurst', 'Napandee' and 'Tola Park'.

15 Department of Industry, Innovation and Science, *Answers to questions on notice*, 2 August 2018, p. 7 (received 8 August 2018).

16 GHD, *National Radioactive Waste Management Facility, Site Selection Framework*, 23-15328, May 2018, p. ii.

17 The information in this section is derived from 'Appendix 6—Chronology of site selection process', Department of Industry, Innovation and Science, *Submission 40*, pp. 31–33.

1.26 In March 2017, Minister Canavan announced the formal receipt of two new land nominations near Kimba which were both accepted to proceed to an initial Phase 1 consultation—'Napandee' and 'Lyndhurst'. Community consultation to assess the level of community support for two Kimba sites continuing in the site selection process was undertaken between 20 March and 21 June 2017. The Australian Electoral Commission (AEC) conducted a ballot at the request of the Kimba District Council in the last three weeks of this consultation process. On 27 June 2017, the Minister accepted the nominations of the Kimba sites and announced that the sites were to proceed to the next phase of assessment.

1.27 On 1 November 2017, Minister Canavan announced the successful grant recipients for Round 1 of the Community Benefits Programme in Kimba and Round 2 of the Community Benefits Programme in Hawker.

1.28 Public consultation, detailed onsite technical assessment, and community sentiment assessment has been conducted for all the three nominated sites that have been accepted—'Wallerberdina Station' (near Hawker), 'Napandee' and 'Lyndhurst' (both near Kimba). As of April 2018, DIIS indicated that an Aboriginal Cultural Heritage Assessment has been conducted with the traditional owners at the 'Wallerberdina Station' site and work is underway for similar assessments for the two sites in Kimba.¹⁸

1.29 Further, DIIS submitted that:

The department anticipates that an assessment of community sentiment will occur in the second half of 2018. The department expects that the Minister will have sufficient information on site suitability (environment, heritage, infrastructure, and community services) to inform his decision to select a preferred site by the end of 2018.¹⁹

1.30 A final community sentiment vote is scheduled to be undertaken by the AEC on behalf of the District Council of Kimba and the Flinders Ranges Council between 20 August and 28 September 2018. This vote seeks to determine community support for hosting a radioactive waste management facility in both Kimba and Hawker.

1.31 Following the completion of the community sentiment assessment (including the vote) and the detailed onsite technical assessment, the Minister will decide if any of the nominated sites are selected to progress to a detailed business case. It is anticipated that this decision will take place before the end of 2018.

Structure of the report

1.32 This report consists of five chapters, including this introductory chapter:

- Chapter 2 discusses the concept of broad community support and wider community views;
- Chapter 3 focuses on issues related to Indigenous consultation;

18 Department of Industry, Innovation and Science, *Submission 40*, p. 8.

19 Department of Industry, Innovation and Science, *Submission 40*, p. 8.

- Chapter 4 considers the financial incentives provided to land nominators and affected communities; and
- Chapter 5 explores general issues related to the site selection process.

Chapter 2

Community sentiment

2.1 This chapter explores stakeholder views regarding how broad community support is being assessed and the mechanisms available for wider community views to be incorporated into the selection process.

2.2 Nuclear science is contentious and while it has the potential to bring many benefits to society, it is not without cost and associated risk. Individuals make an assessment of whether the benefits outweigh the potential costs, or the potential downsides are too great to take the risk. While there are a few people who seem to have an open mind, most people are polarised at either end of the ideological spectrum. It appears that the same ideological polarisation exists within the communities being asked to consider hosting a NRWFM. It is therefore unsurprising that the views expressed by stakeholders on the terms of reference almost universally reflect these polarised positions.

2.3 There is no doubt that the selection process has significantly impacted the communities of Hawker and Kimba. As is often the case with particularly polarising issues, strong views on both sides have the potential to fracture and irreparably damage the social fabric of previously tight and cohesive communities.

2.4 The Flinders Local Action Group outlined what had happened in Hawker:

Our community fell into two camps—those who were for and those who were against—and there were people in between who were not talking or engaging, and we've never got together since. Some of those divisions are very deep and we don't know how they'll ever be repaired. It's a terrible thing to do to small communities like ours and Kimba, to have this sort of division in normally close-knit communities that need to rally together in times of fire and all sorts of stuff.¹

2.5 Some stakeholders may not be willing to express a view publicly as they rely on the whole community. For example, the committee heard in Hawker of the experiences of Mr John Hennessy:

I am probably the only business owner in Hawker that's made a public stand on this—for it, that is. I believe the reason is that they don't want to receive the vitriol that I've received on Facebook. There's strong approval for this project amongst business owners. I'm not saying they're all in favour of it, but there is strong approval. But not one other has made a public statement that I'm aware of.²

2.6 Mr Ian Carpenter noted relationships with other community members with different views had to be managed sensitively:

1 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 27.

2 John Hennessy, *Committee Hansard*, 6 July 2018, p. 10.

I've got very good friends that are against it, and my answer to them is: 'Let's not talk about it. Let's stay friends. You've got your views; I've got mine. Let's leave it at that.' I'm not saying that that's happened all the way along. I have lost a good friendship over it.³

2.7 Community division was also apparent within the Adnyamathanha community, the traditional owners of the site near Hawker:

This proposed waste facility threatens our cultural heritage and the process undertaken for its selection and assessment has fractured the social fabric of our community.⁴

Broad community support

2.8 The *National Radioactive Waste Management Act 2012* (the Act) does not require, define or specify a minimum level of 'broad community support' in selecting a site. Rather, it provides the Minister with broad discretion to make decisions in relation to nominations and site selection, taking into account comments received from the nominator and those with a right or interest in the land.⁵

2.9 According to DIIS:

The Minister has committed that the Facility will not be placed in an unwilling host community or, in other words, a community in which it does not enjoy broad support (noting that no individual or group has a right of veto). Community support is an important but by no means the only factor that the Minister will consider in taking forward a nomination and selecting a site.⁶

2.10 More information was given at the hearing by Mr Bruce Wilson from DIIS:

[The Minister] will take into account the community support, he will take into account the technical factors associated with each site and the cost of establishing it at each site and he will form a view based on all those factors, taking into account how community support is determined.⁷

2.11 DIIS has released community sentiment reports following earlier community votes, including the *Community Sentiment Survey* for Hawker (2016) and the *Summary of Engagement in Kimba* (2016). DIIS anticipates that more community sentiment reports will be released following the conclusion of further community consultation.⁸

3 Ian Carpenter, *Committee Hansard*, 6 July 2018, pp. 10–11.

4 Adnyamathanha Traditional Lands Association, *Supplementary Submission 42.2*, p. 39.

5 Department of Industry, Innovation and Science, *Submission 40*, p. 10.

6 Department of Industry, Innovation and Science, *Submission 40*, p. 10.

7 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 29.

8 Department of Industry, Innovation and Science, *Submission 40*, p. 10.

2.12 Professor Peta Ashworth, Co-Chair of the Independent Assessment Panel (IAP), submitted that:

The need for 'broad community support' has always been a high priority of the site selection process...However, it was agreed that this criterion could not be assessed through the usual MCSA [Multi Criteria Site Analysis] process. Instead, it needed to be done in conjunction with potential host communities and affected stakeholders once they had time to consider all of the information about the NRWFMF process.

Additionally, it was agreed that a combination of qualitative (observations, written submissions, face to face meetings and other engagement activities) and quantitative (surveys, polls) data would be required to inform the final decision making of the site selection process. The IAP cautioned that any insights in relation to community sentiment emerging from surveys, should be treated with care and only used in conjunction with all of the other information gathered through the consultation process.⁹

2.13 The *Community Sentiment Survey* was conducted by ORIMA Research as part of the initial evaluation for those sites accepted as part of the initial nomination process, including Kimba and Hawker.

2.14 Following the nomination of additional sites in Kimba, the Australian Electoral Commission (AEC) was engaged by the District Council of Kimba to undertake a ballot of community sentiment for moving to Stage 2 of the selection process.

2.15 With respect to the community sentiment vote at the end of Phase 2, DIIS has indicated that:

The Kimba Council and Flinders Ranges Council will hold a community vote in each community from 20 August 2018 in a manner consistent with the provisions of the *Local Government (Elections) Act 1999*. The votes will be run by the Australian Electoral Commission on behalf of the two councils.¹⁰

Stakeholder comments

2.16 A number of stakeholders highlighted the vagueness of the 'broad community support' concept being used in the selection process.¹¹ For example, No Radioactive Waste in Kimba or SA argued that:

The definition of broad community support has been inconsistent throughout the entire process, with differences occurring both over time and between sites. Despite a strong focus on its need, no definitive definition of

9 Professor Peta Ashworth, *Submission 52*, p. 3.

10 Department of Industry, Innovation and Science, *Supplementary Submission 40.1*, [p. 1].

11 See, for example, Toni Scott, *Submission 44*; Darren and Kellie Hunt, *Submission 80*; Australian Nuclear Free Alliance, *Submission 7*; Chloe Hanan, *Submission 61*; Ellenor Day, *Submission 67*; Justine Major, *Submission 16*; Jodie Joyce, *Submission 33*; and Brian Cant, *Submission 49*.

'broad community support' has been given, allowing the Minister to effectively 'move the goal posts' at whim.¹²

2.17 At the public hearing in Kimba, Mr Peter Woolford from No Radioactive Waste in Kimba or SA noted that:

...with no definitive measurement of what constitutes broad community support this has caused much contention and a lack of trust in the process. It effectively allows the minister to manipulate a definition to suit his results.¹³

2.18 The Conservation Council SA stated that:

...confidence in the decision-making process has been eroded by the flawed and divisive consultation, lack of definition and geographic definition of the community and stakeholders which, in the case of the Flinders community, almost 3 years into the process, has not been finalised.¹⁴

2.19 Ms Sue Woolford noted that the clarity surrounding the measurement of community sentiment was not provided upfront:

All the information is just being strung out and given out in a little dribs and drabs. Be clear right from the start of the process, and define how it's being measured. That would have stopped a lot of angst in this community.¹⁵

2.20 Mr Greg Bannon noted that a clear understanding of how community support is to be determined was needed to provide trust within the community:

...it will be a running sore if the logic—and the algorithm, as you say—is not known to us and it just comes out as a decision...¹⁶

2.21 A number of submitters highlighted that both DIIS and Minister Canavan had indicated that around 65 per cent community support would be considered reflective of 'broad community' consent.¹⁷ For example, No Radioactive Waste in Kimba or SA stated in their submission that DIIS's Principle Advisor, Mr Bruce Wilson was reported to have said in May 2016 to a community gathering that:

There is no magic number.

...

12 No Radioactive Waste in Kimba or SA, *Submission 46*, [p. 2].

13 Peter Woolford, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 34.

14 Conservation Council SA, *Submission 55*, p. 3.

15 Sue Woolford, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 45.

16 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 33.

17 See also Darren and Kellie Hunt, *Submission 80*; and Heather Baldock, *Submission 64*.

The community survey indicated 65 per cent. Now I would think the Minister needed at least that, if not more, for a final siting decision.¹⁸

2.22 No Radioactive Waste in Kimba or SA also submitted that:

In March 2017, then Senator Nick Xenophon put a question on notice to Minister Canavan asking him 'what does 'broad community consent' mean to the government?' and 'what percentage does the government say constitutes 'broad community consent?'" Minister Canavan replied that the support would need to be in the vicinity of 65%, and that submissions and 'neighbouring views' would also be taken into consideration. This figure of 65% was also given to us by Minister Canavan during several subsequent meetings.¹⁹

2.23 Despite this declaration, the Minister chose to move to Phase 2 in Kimba with a level of support significantly less than 65 per cent. According to Mr Darren and Mrs Kellie Hunt:

Having stated in the Senate that he would require a number in the vicinity of 65% of the community voting to progress with the proposal, Minister Canavan chose to push Kimba into phase two of the process with a supporting vote of 57%. This result is subjective to the number of people who chose to participate in the vote, in actual fact those in support represented 49.94% of those within the community eligible to vote.²⁰

2.24 No Radioactive Waste in Kimba or SA provided their perspective on what should be considered broad community support:

We strongly believe that a percentage of 67% (two-thirds) of the community should be a minimum required level of support for this facility to proceed, and that this figure should be of ALL eligible voters, not only those who choose to vote...²¹

2.25 In Hawker, Mr Greg Bannon clarified that, in his view, 'broad community support' has a different meaning to 'majority support':

More than just a majority; it's broad. That must imply—I mean, the citizens jury had a two-thirds majority. That to me is a fairly convincing broad majority. You can nitpick at a few per cent either way, but a majority is not enough. I think broad must have a certain margin in it.²²

18 Natalie Whiting, 'Hawker locals reject nuclear dump proposed for Wallerberdina station at packed public hearing', *ABC News*, 7 May 2016, <http://www.abc.net.au/news/2016-05-07/locals-reject-wallerberdina-nuclear-dump-at-hawker-meeting/7393082> (accessed 30 July 2018).

19 No Radioactive Waste in Kimba or SA, *Submission 46*, [p. 3].

20 Darren and Kellie Hunt, *Submission 80*, [p. 2].

21 No Radioactive Waste in Kimba or SA, *Submission 46*, [p. 3].

22 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 33.

2.26 While there were many criticisms of the 'broad community support' concept, some stakeholders argued in its defence.²³ For example, Dr Ben Heard, a member of the IAP and Executive Director of Bright New World, explained that the IAP placed a heavy weighting on the criteria of an adequate level of support within a potential host community to progress to detailed assessment. In Dr Heard's assessment, the AEC vote in Kimba which returned a 57.4 per cent majority (from an 80 per cent response rate) represented 'an *adequate* level of support for progressing to further consultation'.²⁴

2.27 Mrs Kerri Cliff commented on the relatively high response rate for the voluntary vote:

...the fact that 88 per cent of the population participated in a vote is huge. In a voluntary vote anywhere in the world, that is a very high number of participation.²⁵

2.28 Dr Heard also noted that the notion of 'community support' is dynamic and influenced by the actions of stakeholders. Further, the measurement of community support will depend on whether stakeholder views are treated equally or given relative importance due to proximity or responsibilities for regional oversight and representation. Dr Heard concluded that:

Reducing 'broad community support' to a single number is an oversimplification of a complex process. This should be avoided.²⁶

2.29 DIIS outlined several reasons why it did not consider setting a mandated definition or threshold to be appropriate:

- The Act provides the Minister with absolute discretion over site nomination and selection decisions. Defining a minimum required threshold could undermine and interfere with the Minister exercising his future discretion in selecting a site.
- It is consistent with the Minister's absolute discretion under the Act that he or she be at liberty to make a decision based on his or her judgment as to what constitutes broad community support in the circumstances. The Minister is ideally placed to make that assessment.
- Defining a minimum threshold could also be inconsistent with approval processes that allow input from the community (such as EPBC and ARPANSA processes) and could interfere with the relevant decision makers' discretion under those processes.
- There is no precedent, nationally or internationally, that could authoritatively be used to set such a threshold in these or similar circumstances. Any threshold, by definition, would be arbitrary in nature.

23 See also Frank Harris, *Submission 24*.

24 Bright New World, *Submission 15*, [p. 4].

25 Kerri Cliff, Working for Kimba's Future Group, *Committee Hansard*, 5 July 2018, p. 32.

26 Bright New World, *Submission 15*, [p. 4].

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- Furthermore, what constitutes 'broad community support' will necessarily vary depending on the different interest groups involved in a particular site. Setting a mandated threshold would (depending on where it is set) potentially disenfranchise minority elements of the community or result in a minority group having an automatic veto or dictating power over the majority.²⁷

2.30 Various stakeholders agreed that a number of factors, not just community support, were important in the site selection process. For example, Mrs Kerri and Mr Trevor Cliff believed that:

It is simply not a black and white issue and we elect our government representatives to make informed decisions based on all of the presented information.²⁸

2.31 Similarly, Mr Matthew and Mrs Megan Lienert submitted that:

We understand broad community support to be about assessing all the information gathered from a wide range of sources on the views and opinions of the facility moving forward to the next stage of the process. This information as a collective of evidence will then be used to determine if a majority of the community are in support of the facility...Broad community support must take into account those that will be mostly impacted in any way and should be based on evidence.²⁹

2.32 Indeed, some submitters from the Kimba region considered that there was broad community support to move further through the selection process.³⁰

Voting process

2.33 Various stakeholders were critical of the ORIMA Research survey process that was used to assess community sentiment for the original site nominations. For example, the No Dump Alliance submitted that:

This telephone survey was incomplete and inadequate because it did not survey the entire population of the area and was biased because it only surveyed residents with landline telephones. The flawed survey only asked residents if they wanted to proceed to the evaluation of the site and not actually build a facility. Flinders Ranges council residents have not had an opportunity for a complete postal vote conducted by the AEC.³¹

27 Department of Industry, Innovation and Science, *Submission 40*, p. 11.

28 Kerri and Trevor Cliff, *Submission 65*, [p. 3].

29 Matthew and Megan Lienert, *Submission 53*, [p. 2].

30 See, for example, Daryl Koch, *Submission 75*; Melanie Orman, *Submission 77*; Katrina Koch, *Submission 28*; and Andrew Baldock, *Submission 38*.

31 No Dump Alliance, *Submission 45*, p. 2.

2.34 The AEC was seen by stakeholders to be the preferred service provider for conducting ballots of the community.³² A number of stakeholders from the Hawker region supported the use of the AEC to undertake any future ballot:

The best way to truly ascertain the community support is to hold the vote with the electoral commission, this would allow residents in the area to vote without fear of recourse while ensuring it is the actual community voting and not outsiders.³³

2.35 Stakeholders from Kimba shared their experiences of the AEC run community sentiment vote to move to Phase 2. According to Mrs Heather Baldock:

The vote to move to Phase 2 was arranged by the Kimba District Council at the request of Kimba people. The District Council extensively advertised the opportunity for locals who had vested interests and not enrolled to vote in Kimba council elections to apply to be included on the 'CEO's roll'.³⁴

2.36 Councillor Dean Johnson explained the reasoning behind engaging the AEC under the *Local Government (Elections) Act 1999*:

What council has endeavoured to do by using an act and those guidelines is to make that not subjective, so it's not our call and it's not the department's call. People can't influence where that is. It may not be perfect, but it's a very good start, and no-one can influence who's in and who's out.³⁵

2.37 Mrs Donna Johnson commented that in the case of Kimba:

...the Australian Electoral Commission poll provided surety, independence and an indisputable final result. I support the AEC vote and that process as a whole; it was beyond reproach. It should now be the gold standard for a strong robust and independent process used for future votes.³⁶

2.38 As noted above, the local councils in both communities with nominated sites have requested that the AEC conduct a community sentiment vote.

2.39 Mr Bruce Wilson from DIIS explained why the boundary for the vote differs between the two communities:

...there is a difference in the boundary definition between the two communities. The Kimba community is being balloted on the basis of the Kimba District Council local electoral boundary and that was developed after early discussions with both the Kimba District Council and the community there. There are clearly people in those communities with a different view but it was considered that to be a relatively good reflection of the Kimba community and what holds it together.

32 See, for example, Regional Development Far North, *Submission 41*.

33 Hawker Community Development Board, *Submission 47*, [p. 1].

34 Heather Baldock, *Submission 64*, [p. 1].

35 Councillor Dean Johnson, District Council of Kimba, *Committee Hansard*, 5 July 2018, p. 3.

36 Donna Johnson, *Submission 27*, [p. 1].

For Wallabadina, because the boundary between the Flinders Ranges Council and the Outback Community Authority effectively runs through the property, we've adopted the Flinders Ranges Council electoral boundary plus a 50-kilometre radius north of that into the Outback Community Authority. The Outback Community Authority does pose a different challenge in that it isn't a local government; it's an authority under the state government. It doesn't have an electoral roll and an electoral boundary so we had to draw an arc, as it were, of 50 kilometres. We've had that discussion with the Outback Community Authority and we've had that discussion with community members. Again, not everyone's happy but the majority of people see this as a reasonable reflection of their communities.³⁷

2.40 The Adnyamathanha Traditional Lands Association, both in a supplementary submission and at the hearing in Hawker, demanded that all of the traditional owners of the site near Hawker be included in the final community sentiment vote, not just those traditional owners that live within the council area or within 50 km of the proposed site.

We mightn't have native title in all parts of our land, but this is our land. There are over 2,000 of us. There are some that don't live in the 50-kilometre radius or whatever you see. However, it's still Adnyamathanha land that they're talking about, and Adnyamathanha people live in all parts of our land. You just can't limit Adnyamathanha people to just the few Adnyamathanha people who live in this area. It's got to incorporate and capture all Adnyamathanha people.³⁸

2.41 While the Wallerberdina site is not an Aboriginal site nominated by an Indigenous Land Council, it is worth noting Section 5 of Part 2 of the Act, states that there should be consultation with the relevant Indigenous communities:

(iv) any Aboriginal community or group that may be affected by the proposed nomination has been consulted and has had adequate opportunity to express its view to the Land Council [nominator].

2.42 Indigenous consultation around the site selection process is considered in detail in the next chapter.

Committee view

2.43 The committee appreciates that it is difficult for some residents and affected stakeholders to understand how the Minister can make a decision without having a definitive threshold or objective method by which community sentiment is assessed. That said, the community sentiment vote is only one contributing factor to assessing community support with additional information being sought from neighbours, community groups, council, businesses and traditional owners.

37 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 28.

38 Tony Clark, Adnyamathanha Traditional Lands Association, *Committee Hansard*, 6 July 2018, p. 43.

2.44 The committee also appreciates that in some instances it is important for a Minister to have some discretion. Given the variety of factors involved in making a decision to select a preferred site (including, but not limited to, technical factors, cost of establishment and community support), it would appear appropriate to not impose a threshold level of support for the community vote to meet in order for a site to be selected as a preferred site.

2.45 That said, the committee recognises that the Minister has publicly stated that he will not impose a NRWFM on an unwilling community. Given this statement and that the question put will directly ask if the voter supports the siting of a NRWFM in their local area, a case can be made for ruling out any community where a majority of support is not achieved.

2.46 The committee welcomes the engagement of the AEC to conduct the community sentiment vote from 20 August 2018 and encourages all eligible voters to participate.

Wider community views

2.47 DIIS stated that it has consulted members of the public beyond the nominating communities. For example, DIIS representatives have presented to audiences outside the nominating communities, including in Port Augusta and the Eyre Peninsula. In addition, DIIS has engaged through regional and state-based radio and print media communication to promote information and feedback on the project. Information is also available on the dedicated website and further engagement opportunities are available through social media.³⁹

2.48 Interested stakeholders from all over Australia were afforded an opportunity to make a submission to DIIS through the consultation process. DIIS highlighted that:

...the consultation process is open to all members of the public. The department does not exclude submissions from consideration by the Minister, based on where the person lives. For example, as part of the Kimba consultation process, 396 written submissions were received. Of these, 68 per cent were in the form of a form letter, and 71 per cent were from outside the local community.⁴⁰

Stakeholder views

2.49 Those stakeholders supportive of the NRWFM generally considered that the views of those most affected—direct neighbours and the local community—should be given relative importance in the selection process.⁴¹

2.50 For example, the Hawker Community Development Board submitted that:

At the end of the day the only people that will be truly affected by the repository going ahead or not is those local to the areas in question...

39 Department of Industry, Innovation and Science, *Submission 40*, pp. 15–16.

40 Department of Industry, Innovation and Science, *Submission 40*, p. 16.

41 See, for example, Donna Johnson, *Submission 27*; and Melanie Orman, *Submission 77*.

People in other areas will also not see their employment levels change, new residents moving into bringing families, more school teachers employed, and more hospital staff and so on. We are the ones that have looked at the potential benefits and negativity that the proposal brings and have chosen to support the proposal.⁴²

2.51 Some stakeholders were concerned that the wider community may not be as fully informed compared to residents in close proximity to the nominated sites. Mrs Robyn Stewart contended that:

Taking it to the wider community, who have not had the same level of education and opportunity to garner information as we have, by way of community meetings, visiting experts onsite at the department office, etc. I feel that it would result in an emotive vote rather than an informed choice.⁴³

2.52 This was supported by Councillor Dean Johnson:

We have had many, many experts from both sides of the debate in our community. I don't see that same knowledge and recognition from those outside of our district...I don't think it's fair now to cast the net wider without having all of that information available to everyone.⁴⁴

2.53 Indeed, Mr Brett Rayner, one of the nominating landholders in Kimba, indicated that he had changed his position through the process:

To start with I was probably, I guess like a lot of people, scared of the work nuclear. Then through different things, and my own research, I've realised that maybe this is something we can have a better look at and I've learnt a lot more along the way.⁴⁵

2.54 In contrast, those stakeholders opposed to the NRWMF generally considered that the views of the wider community should be taken into account.

2.55 Concerns were raised by stakeholders on the Eyre Peninsula that the 'green' reputation of the region's agricultural production could be questioned by the proximity of the NRWMF.⁴⁶ For example, Mr Cameron Scott highlighted that:

The Eyre Peninsula is a very unique farming area that is separated from the rest of the state. All grain from Eyre Peninsula [EP] is delivered, blended and exported out of Lower Eyre Peninsula. Therefor Kimba's grain is mixed with every other town's grain on EP, the affect that this could have on our exports hasn't been taken into consideration at all.⁴⁷

2.56 Ms Michele Madigan outlined how this might play out:

42 Hawker Community Development Board, *Submission 47*, [p. 2].

43 Robyn Stewart, *Submission 10*, [p. 1].

44 Councillor Dean Johnson, District Council of Kimba, *Committee Hansard*, 5 July 2018, p. 2.

45 Brett Rayner, *Committee Hansard*, 5 July 2018, p. 9.

46 See, for example, Janet Tiller, *Submission 9*.

47 Cameron Scott, *Submission 18*, [p. 2].

...competition between grain farmers for international markets is so intense that the warning from the relevant professional marketing company is clear: proximity to a nuclear waste dump will have predictably disastrous negative effects.⁴⁸

2.57 However, Mr Andrew Baldock contended that the buffer zone around the facility could be used to provide transparency to the market that agricultural production next to the NRWMF did not contain elevated levels of radiation:

I guess one of the main opportunities we see is a 100-hectare parcel of land. They've indicated there'll be 40 hectares required inside of that, so it'll leave a remaining 60-hectare buffer zone around that. We've approached them to see whether it would be possible if the [agricultural] community could utilise that 60-hectare buffer zone to grow crops or undertake trials within that area and to have that produce independently tested...So we can say, 'This produce has been grown within that area and has no elevated levels of radiation,' just to alleviate any concerns within the market and also to help generate income for research and development locally and the partnerships that may be able to be formed with ANSTO and their team of scientists and researchers.⁴⁹

2.58 Mr Jeff Baldock provided examples of agricultural production co-existing with activities involving radioactive and other hazardous material:

...in our state the likes of Thevenard, where the wheat from that area goes off the same belt as what their radioactive sands do; Port Adelaide, where the uranium gets shipped out of, is the same place as where our wheat gets shipped out of; and Pirie—it's a bit of a different issue in a way, I guess—which has an actual issue with the lead over there, but they tend to blend their grain from there, and that's never been an issue for anyone selling for export.⁵⁰

2.59 Indeed, Mr Bruce Wilson noted that DIIS did not have concerns about the potential impact on agricultural produce:

Food Standards Australia assure us that, with the regulatory frameworks, in their view there won't be any risk to market access for Australia and nor has there ever been any recorded history of market access issues due to radiation concerns. The Department of Agriculture has given similar assurances around licensing and export controls.⁵¹

2.60 Concerns about the potential effect on the tourism industry, particularly in Hawker, were forthcoming. Mr Greg Bannon highlighted the uncertain impact on tourism:

48 Michele Madigan, *Submission 26*, p. 2.

49 Andrew Baldock, *Committee Hansard*, 5 July 2018, p. 10.

50 Jeff Baldock, *Committee Hansard*, 5 July 2018, p. 32.

51 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 28.

The Flinders Ranges are noted as being one of the 10 best tourist destinations in the world. It might be a matter of perception, but nobody can say how it's going to affect our tourism.⁵²

2.61 That said, Dr Susan Andersson quantified the effect of a hypothetical drop in tourist numbers:

And if there is a two per cent drop in tourism in the Flinders Ranges, with an annual expenditure of \$425 million and 1900 direct jobs in tourism, a two per cent decrease from the reputational risk in tourism would lose 38 jobs. A five per cent decrease would lose 95 jobs. I'm not saying it would be a 50 per cent decrease, but just two per cent decrease would lose \$8.5 million in tourism income in just one year. That makes the \$10 million and possibly 45 jobs [from a NRWMF] much less attractive.⁵³

2.62 The contrary view was also posed. Mr Malcolm McKenzie noted that uranium mining had not impacted tourism around the Beverley Mine in the northern Flinders Ranges:

Arkaroola is up there, right next to the Beverley Mine. Has that tourism thing been shut down? I don't think so. There are thousands of tourists who go to Arkaroola.⁵⁴

2.63 Mr Bruce Wilson discussed international examples where agriculture and tourism have not been affected by close proximity to a NRWMF:

We also brought out some French farmers who live around the French facility in Aube and they talked about their experience in growing champagne and raising cows, and the dairy products, including cheese-making...They've never had any market issues and never had any price issues and never had any tourism issues. That's been replicated in the UK with the facility in the Lake District. There's farming up to that facility. The El Cabril facility is in a national park. The Lake District is in a World Heritage area. We have looked everywhere and we cannot find any evidence at all to support the concerns.⁵⁵

Committee view

2.64 The committee respects that all Australians may have an interest in where and how Australia's nuclear waste is disposed. Further, these stakeholders should have an opportunity to have their views recorded and considered. That said, the committee appreciates that DIIS has concentrated its efforts to inform stakeholders in the affected communities while still allowing submissions to be received from the wider community for consideration by the Minister.

52 Greg Bannon, *Committee Hansard*, 6 July 2018, p. 29.

53 Dr Susan Andersson, *Committee Hansard*, 6 July 2018, p. 29.

54 Malcolm McKenzie, *Committee Hansard*, 6 July 2018, p. 14.

55 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 29.

2.65 The committee acknowledges the concerns from various stakeholders regarding potential perception issues for agricultural produce and the tourism industry. However, the committee considers that these concerns are unfounded given the relatively low-level of radioactivity of the material to be disposed of at a NRWMF and the robust regulatory safeguards to ensure the safe handling and transportation of this material.

2.66 If a NRWMF were to be sited in an agricultural region, the committee sees value in the DIIS working with local stakeholders so that part of the remaining 60 hectare buffer zone can be used to grow and test agricultural produce in order to reassure the community and agricultural markets that the produce from the surrounding region does not contain excessive amounts of radiation and is safe for consumption.

Recommendation 1

2.67 If a National Radioactive Waste Management Facility were to be sited in an agricultural region, the committee recommends that the Department of Industry, Innovation and Science work with local stakeholders, so that part of the remaining 60 hectare buffer zone can be used to grow and test agricultural produce, in order to reassure the community and agricultural markets that the produce from the surrounding region does not contain excessive amounts of radiation and is safe for consumption.

Chapter 3

Indigenous support

3.1 According to the Department of Industry, Innovation and Science (DIIS), it is committed to providing every member of the community, including indigenous members, with the opportunity to speak with the department and be consulted about the site selection process. The same information and opportunities are provided to all members of the relevant communities, whether the community is Indigenous or not.¹

3.2 DIIS maintains that it continues to work closely with the local traditional owners on the NRWMF project and the government has committed that it will preserve, protect and minimise the impact on indigenous heritage and cultural aspects of the land.²

3.3 In relation to the Wallerberdina Station site (Hawker), DIIS indicated that a Heritage Working Group has been established which includes representatives of the Adnyamathanha Traditional Lands Association RNTBC (ATLA) and the Viliwarinha Yura Aboriginal Corporation (VYAC):

The department is engaging with representatives from both corporations as both have members who can speak to the cultural heritage value of the land and the potential impact of the Facility on cultural, environmental and social values. Traditional owners, who have been authorised by the boards of ATLA and VYAC, are working with the department to conduct an Aboriginal Cultural Heritage Assessment of the Wallerberdina Station.³

3.4 A number of Aboriginal people have also been selected to participate in the Barndioota Consultative Committee and the Economic Working Group.⁴

3.5 In relation to Kimba, there has been less Indigenous engagement by DIIS:

The department has also sought to consult with representatives of the Barngarla People, who hold native title in an area near the Kimba sites. These discussions are ongoing but will provide for the views of the Barngarla to be made into the process as well as identifying, protecting and minimising impact on any significant culture and heritage at the nominated sites. The department is looking to create a 'Barngarla Heritage Consultative Committee' with a role similar to that of the Heritage Working Group at Wallerberdina Station.⁵

1 Department of Industry, Innovation and Science, *Submission 40*, p. 11.

2 Department of Industry, Innovation and Science, *Submission 40*, p. 5.

3 Department of Industry, Innovation and Science, *Submission 40*, p. 11.

4 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

5 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

Stakeholder comments

3.6 Indigenous stakeholders expressed cultural and heritage links to the different geographical areas associated with the proposed sites. As with most aspects of the selection process, there were mixed views regarding whether Indigenous engagement had been appropriate depending on whether stakeholders were for or against a NRWMF in their community.

Hawker

3.7 ATLA is the peak body for all matters relating to land, culture, heritage, language and native title for Adnyamathanha people.⁶ The proposed NRWMF near Hawker is located on Adnyamathanha land and is opposed by ATLA:

Indigenous support does not exist we have made that very clear from day one and we continue to oppose this waste dump at this site...As with any situation, there are one or two Adnyamathanha who are supporting this dump but the vast majority remain totally opposed to the dump and ATLA as the representative body has always been totally opposed.⁷

3.8 While ATLA is the native title body for the proposed site, the VYAC is another Adnyamathanha body with cultural and heritage links to the site at Wallerberdina. The VYAC consists of decedents of the late Mr Malcolm [Snr] and Mrs Ruth McKenzie, and many of its members are also members of ATLA.

3.9 Within the VYAC, members hold diametrically opposed views in relation to the siting of a NRWMF near Hawker. This has been reflected in how support for a NRWMF has changed over time. In 2016, the YVAC ran a public campaign opposing the siting of a facility near Hawker. By May 2017, however, the then Chair of the VYAC, Ms Dawn Likouresis, stated:

The majority of our community would like the facility to go ahead. The VYAC members have room for their own opinions and at a recent special meeting VYAC held a ballot for the project and 85% of members who voted were in favour.⁸

3.10 Representatives from the YVAC have put forward arguments both for and against a NRWMF to the inquiry. Proponents for a NRWMF emphasised the economic and employment opportunities for Indigenous people. For example, Mr Malcolm McKenzie stated that:

What's going to happen here this year is a great opportunity for Aboriginal people, for Adnyamathanha people—having a job and input into things. We know the status of Aboriginal people around Australia now, a lot of them haven't got jobs, a lot of them haven't got training but through this process

6 Adnyamathanha Traditional Lands Association, *Submission 42*, [p. 1].

7 Adnyamathanha Traditional Lands Association, *Submission 42*, [p. 4].

8 National Radioactive Waste Management Facility, 'VYAC leader outlines position', 26 May 2017, <http://www.radioactivewaste.gov.au/news/vyac-leader-outlines-position> (accessed 28 June 2018).

we're going to be working with the government to build that capacity of Aboriginal people to contribute to work. This is not going to destroy culture; it'll enhance it.⁹

3.11 Similarly, Ms Angelina Stuart commented that:

Thinking about my grandkids and great grandkids, I want to see development on the land, so that they can return to the land and surrounding areas, and so they can come back and get opportunities of employment. They need to be able to come back to the land.¹⁰

3.12 Mr Bruce Wilson from DIIS drew the committee's attention to a comment from Ms Deidre McKenzie, current Chair of the VYAC:

...who describes what a positive experience it was for over 30 members of her community to work with AECOM and the department to support the assessment work being undertaken on the site. In her words, it has been a life-changing experience for several of the younger Adnyamathanha.¹¹

3.13 Opponents to a NRWFMF cited concerns about such a facility affecting sites of cultural heritage. Indeed, ATLA asserts that this has already happened during the initial heritage assessment process.¹²

3.14 ATLA's concerns about the storage of radioactive waste currently held at Woomera have not been allayed by the government's reluctance to allow anyone to visit that storage facility:

We've been invited to go and look at the Lucas Heights site, but why go all the way to Lucas Heights? Have you got waste over there at Woomera that we can go and visit? Why don't they take us there? Why wouldn't they be happy to take us to Woomera and show us how well they look after this waste?¹³

3.15 In relation to the consultation process, ATLA contended that:

ATLA was not contacted until phase 2 of the Wallerberdina proposal. We were ignored by the government for quite some time. So we were not even a part of the process for the first two "advancement stages". ATLA is the RNTBC and the ARA and we were ignored so clearly the government does not respect us as Traditional Owners! ATLA was disgusted and frustrated by the arrogance of the government to completely ignore us as the Traditional Owners...¹⁴

9 Malcolm McKenzie, *Committee Hansard*, 6 July 2018, p. 13.

10 Angelina Stuart, *Submission 112*, [p. 1].

11 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 25.

12 Adnyamathanha Traditional Lands Association, *Supplementary Submission 42.2*, p. 2.

13 Vince Coulthard, Adnyamathanha Traditional Lands Association, *Committee Hansard*, 6 July 2018, p. 38.

14 Adnyamathanha Traditional Lands Association, *Submission 42*, [p. 4].

3.16 ATLA also noted that, once DIIS determined native title was extinguished, the department considered that it have to consult with the traditional owners about heritage matters:

They keep on making the point that the native title process has been extinguished—or native title has been extinguished.¹⁵

3.17 While an Indigenous Land Council is not the nominator for either of the sites, Section 5 of Part 2 of the *National Radioactive Waste Management Act 2012* provides the intent to examine claims and impacts of indigenous heritage in that it states:

(2) A nomination must:

...

- (e) if there is a sacred site within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* on or near the land—contain evidence that the persons for whom the site is sacred or is otherwise of significance are satisfied that there is no substantial risk of damage to or interference with the sacred site as a result of the nomination or subsequent action under this Act;

3.18 ATLA claims that the external heritage consultants, RPS, engaged by DIIS to undertake the heritage assessment process were not independent and did not appropriately consult with those indigenous people with the relevant knowledge about cultural heritage:

In the first meeting of the heritage assessment process when they went there, it went through a process of appointing the heritage survey and the assessment crowd, the specialists. They've ignored our representatives. Our people had some real issues about who they were appointing, because this person or this company—well, initially the process was that it would be totally independent. Someone would be selected who hadn't worked with any one of the people in our group, either Viliwarinha or the ATLA representatives or even ANSTO. It would be someone totally independent. But that wasn't the case, because RPS has been involved with and worked for the government previously and also worked with some members who were sitting on the panel, so it wasn't totally independent. That's why ATLA pulled out. It was flawed from day dot. ATLA didn't want to be part of a flawed process.¹⁶

3.19 Ms Regina McKenzie highlighted that ATLA thought that they would be able to choose who did the heritage assessment, given they were already working with a group of professionals to undertake a cultural assessment of the area for storylines and other significant heritage reports.¹⁷

15 Vince Coulthard, Adnyamathanha Traditional Lands Association, *Committee Hansard*, 6 July 2018, p. 38.

16 Vince Coulthard, Adnyamathanha Traditional Lands Association, *Committee Hansard*, 6 July 2018, p. 37.

17 Regina McKenzie, *Committee Hansard*, 6 July 2018, p. 15.

3.20 However, Mr Malcolm McKenzie gave a different opinion regarding the opportunities afforded to ATLA through the heritage assessment:

We did that heritage assessment site test out there. Viliwarinha Yura was invited to attend that process and so was ATLA. Viliwarinha Yura went through that process—went through the monitoring process. ATLA decided not to participate in that heritage assessment...When they say they weren't invited, from my understanding, Minister Canavan asked them to meet him so they could discuss this opportunity. They declined to take those opportunities.¹⁸

3.21 Ms Angelina Stuart described her experience with the DIIS cultural heritage assessment process:

On this land, this site at Wallerberdina, I've been out there with the heritage assessment with RPS. I know where they walked, and where the site is, and there are no visuals sites on the ground, I didn't see anything. Any little cuttings would be from people passing through. It's a lie to say the stories and lore of the land would disappear if a facility was built on Wallerberdina.¹⁹

3.22 Ms Regina McKenzie submitted that the Aboriginal cultural heritage investigations at Barndioota were not undertaken in accordance with the government's best practice requirements:

...this failure to adhere, recognise or use the Commonwealth best practice guidelines has led the DIIS to:

- Consult with inappropriate Aboriginal people who do not hold cultural information for Barndioota, and
- Completely ignore the significant cultural/gender restrictions associated with the NRWMFP area, and
- Alienate relevant culturally appropriate people from participating in the NRWMFP assessment, and
- Not have access to vitally important cultural information associated with the NRWMFP area.²⁰

3.23 Further, it was argued that the government had not followed *The Burra Charter*, a document that sets the standard of practice for conservation and management of places of cultural significance.²¹

3.24 In a supplementary submission, ATLA noted that other Indigenous groups should also have their views heard:

ATLA has over 800 members. Viliwarinha has 81 Adnyamathanha members and is a core group of ATLA. All Viliwarinha members are

18 Malcom McKenzie, *Committee Hansard*, 6 July 2018, p. 13.

19 Angelina Stuart, *Submission 112*, [p. 1].

20 Regina McKenzie, *Submission 107*, [p. 2].

21 Regina McKenzie, *Committee Hansard*, 6 July 2018, p. 16.

eligible to be ATLA members. Viliwarinha is a neighbouring group to the proposed site and their views should be taken into account in this process; however, other neighbouring groups, all of whom are core groups of ATLA, such as Untied Yuras in Hawker, the Milyarakana and Wonika Yuras have not been properly consulted and their views must also be taken into account.²²

3.25 Ms Regina McKenzie went on to outline the impact of the consultation process more broadly:

...it has caused significant mental health issues within our broader Aboriginal community and continuing lateral violence within our immediate family. The NRWFP Aboriginal consultation process has left me feeling ostracised within my own family and I find myself constantly witnessing aggressive, misogynistic and culturally inappropriate behaviour from a select few who have been validated through the DIIS Aboriginal cultural heritage assessment process.²³

3.26 Ms Regina McKenzie summarised the views of many of her peers in relation to the selection process:

We've always had the rough end of the pineapple. It's not fair that Aboriginal people today live on this land and we have no voice and no say. Our culture is disrespected and it's twisted.²⁴

3.27 Claims regarding the assessment of cultural heritage at the nominated site near Hawker were contested by Mr Bruce Wilson from DIIS noting that the Department had finally developed and released its long awaited heritage and cultural assessment of the Wallerberdina site:

In relation to the proposed hundred-hectare site Wallerberdina Station, there continues to be claims that it is on or near or would harm the registered cultural sites of Hookina Spring and Hookina waterhole. These claims continue to cause considerable distress in the Adnyamathanha community, and they are simply not true. As shown on the footage in a video on the proposed site, available on our website, the hundred-hectare area under consideration is some 12 kilometres from Hookina Spring and around eight kilometres from Hookina waterhole. There can be no way this facility would impact either of those sites, nor would we allow it to do so. Moreover, we have now released a heritage and cultural assessment of the proposed site, which indicates, based on the information supplied by the community members who were consulted, that there are no significant heritage or cultural sites that may be impacted by the facility. This report was undertaken by independent heritage consultants, RPS, who had many

22 Adnyamathanha Traditional Lands Association, *Supplementary Submission 42.2*, p. 4.

23 Regina McKenzie, *Submission 107*, [p. 2].

24 Regina McKenzie, *Committee Hansard*, 6 July 2018, p. 13.

conversations with a range of men and women elders and other members of the Adnyamathanha community.²⁵

Kimba

3.28 The Barngarla Determination Aboriginal Corporation (BDAC) is the prescribed body corporate for the Barngarla native title holders which encompass the two nominated sites near Kimba. The BDAC noted that:

Although native title over the actual sites is extinguished, the Barngarla people still have heritage rights under the South Australian Aboriginal Heritage Act.²⁶

3.29 However, the BDAC also commented that:

There is a peculiarity of the South Australian Aboriginal Heritage Act which you may not be aware of. There is a process where sites can be registered, but that's quite an expensive process. It can cost up to \$10,000 to \$20,000 for native title holders to register a site, and for that reason most sites are not registered. So in fact the overwhelming majority of sites which have heritage and cultural significance to Indigenous people are not registered in South Australia, but that doesn't mean that they're not recognised, that they're not identified or that they're not well known.²⁷

3.30 The BDAC does not consider that engagement by DIIS has been adequate:

BDAC believes that community consultation in relation to the site selection process for a National Radioactive Waste Management Facility (NRWMF) has been patently inadequate, bordering on non-existent. We hold this view given the lack of contact by the Federal Government and the Department of Industry, Innovation and Science (the Department) from the outset.²⁸

3.31 The BDAC submitted that it made initial contact with DIIS in April 2017; three months after the Lyndhurst and Napandee sites were nominated. Since this time, the BDAC notes that it has constructively and professionally engaged with over ten companies and government agencies. The BDAC considers that the core difference between these interactions and its interactions with DIIS is 'that the Department has not meaningfully engaged with Barngarla'.²⁹

3.32 Further, the BDAC contested the assertion by DIIS that there were no Aboriginal heritage issues in the area. Despite repeated correspondence to the Minister and DIIS, the BDAC asserts that it has not received a satisfactory response to issues that it has raised regarding heritage concerns as traditional owners:

25 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 25.

26 Johanna Churchill, Norman Waterhouse Lawyers, *Committee Hansard*, 5 July 2018, p. 16.

27 Johanna Churchill, Norman Waterhouse Lawyers, *Committee Hansard*, 5 July 2018, p. 16.

28 Barngarla Determination Aboriginal Corporation, *Submission 56*, [p. 1].

29 Barngarla Determination Aboriginal Corporation, *Answers to questions on notice*, 5 July 2018, (received 27 July 2018), p. 2.

Most concerning, apart from the Department not having made contact with the Aboriginal traditional owners or native title holders for the area, was the Department's assertion that there were no Aboriginal heritage issues in the area surrounding Lyndhurst and Napandee. This assertion was made without any consultation with these traditional owners. Further, Barnjarla have repeatedly asked, on three separate occasions, for the Department to provide the basis of this assertion, which the Department has failed to do.³⁰

3.33 Since then, DIIS has published a clarifying public statement in an update to the March 2017 Newsletter:

In relation to the two nominated sites at Kimba, there are no heritage sites registered, and we are committed to establishing whether there are any unregistered sites.³¹

3.34 Overall, the BDAC concludes that:

...there has been no appropriate consultation process. The approaches made by BDAC have been rebuffed by a combination of meaningless pro forma correspondence, bureaucratic tangents, and obfuscation, which has resulted in a contrived consultation process completely lacking in transparency.³²

3.35 At the Canberra hearing on 2 August 2018, Mr Bruce Wilson from DIIS commented that:

In relation to the Aboriginal heritage sites in Kimba, I would like to clarify that the department is committed to working and engaging with the Barnjarla people. While the numerous community forums and information sessions the department has run have been open to the Barnjarla people, it is fair to say that direct engagement has been very limited, particularly given that few of the Barnjarla now live in the immediate vicinity of Kimba. In saying that, we acknowledge this does not in any way diminish their connection to the country as the traditional owners. Given this, and at the direction of the Barnjarla Determination Aboriginal Corporation, we have engaged with their community through their legal representatives, and that has undoubtedly slowed the engagement process. However, the department has undertaken and released a desktop heritage assessment which confirmed there is no registered heritage on either site. We obviously need to do deeper on-site assessment, and we are committed to working with the Barnjarla community in this process...While we have not made as much progress as we would like to have at this point, it will not stop us ensuring that any heritage which is identified at the site is appropriately managed and protected.³³

30 Barnjarla Determination Aboriginal Corporation, *Submission 56*, [pp. 2–3].

31 Barnjarla Determination Aboriginal Corporation, *Answers to questions on notice*, 5 July 2018, (received 27 July 2018), [p. 26].

32 Barnjarla Determination Aboriginal Corporation, *Submission 56*, [p. 3].

33 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 25.

Committee view

3.36 It would appear that identifying and assessing indigenous cultural and heritage at the nominated sites has been a complex and difficult task for DIIS. Recognising this, there would seem to be areas within the DIIS Indigenous engagement strategy and execution which may not have conformed to best practice.

3.37 In regards to Hawker, the conflicting stance of members of the Viliwarinha Yura Aboriginal Corporation (and by extension ATLA) would have complicated DIIS's efforts to undertake the Indigenous cultural and heritage assessment for the site near Hawker. Nonetheless, the committee considers that without the full involvement of those Indigenous stakeholders with relevant cultural and heritage knowledge, it is unlikely that the Indigenous cultural and heritage survey is comprehensive.

3.38 In regards to Kimba, the adversarial nature of the correspondence between the BDAC and DIIS has not assisted in the timely resolution of an Aboriginal heritage assessment for the nominated sites. While communication between DIIS and representatives of the BDAC has improved since April 2018, the Aboriginal heritage assessment issue remains unresolved. This is unfortunate as there appears to have been adequate time from the acceptance of additional site nominations until now for the BDAC and DIIS to work constructively towards completing the Aboriginal heritage assessment.

3.39 The committee believes that the Minister should intensify and expedite efforts to fully engage with the Indigenous stakeholders near Kimba and Hawker so that comprehensive heritage assessments for all nominated sites can be completed.

Recommendation 2

3.40 The committee recommends that the Minister intensify and expedite efforts to fully engage with the Indigenous stakeholders near Kimba and Hawker so that comprehensive heritage assessments for all nominated sites can be completed.

Chapter 4

Financial compensation and incentives to communities

4.1 This chapter explores the proposed financial compensation to be offered to the landowners of potential sites and money available to communities through the Community Benefits Programme and the Community Development Package.

Financial compensation to land owners

4.2 If a Minister declares land nominated under the *National Radioactive Waste Management Act 2012* (the Act) as the site selected for the NRWMF, the Commonwealth may acquire the land or extinguish or affect existing rights and interests. As a result, the Commonwealth is required to pay a reasonable amount of compensation.¹

4.3 The *Nominations of Land Guidelines* propose offering compensation to landholders determined by reference to the process for establishing 'land value' in the *Lands Acquisition Act 1989* plus a premium of three times that value to a landholder. This approach only applies to those holding freehold, a Crown lease or native title in the site selected for the NRWMF.²

4.4 DIIS indicated that one of the purposes of the offer of compensation is to generate a range of nominations from landholders. It also provides a landholder who is considering nomination with a clear and upfront understanding of the amount of compensation they will be offered if their land is selected.³

4.5 Further, DIIS submitted that:

...the approach taken in the Nomination Guidelines of offering to landholders a premium over and above land value is reasonable and appropriate because it recognises that land value by itself unlikely to satisfy the requirement to offer "a reasonable amount of compensation" as required under the Act, and accordingly seeks to wrap up other relevant compensation factors into a single figure.⁴

4.6 At the Canberra hearing, DIIS noted that the land value plus three times the land value was just an estimate and that, ultimately, it would be the landowner who would nominate the value of a compensation claim which would then be assessed by DIIS.⁵

1 Department of Industry, Innovation and Science, *Submission 40*, p. 9.

2 Department of Industry, Innovation and Science, *Submission 40*, p. 9.

3 Department of Industry, Innovation and Science, *Submission 40*, p. 9.

4 Department of Industry, Innovation and Science, *Submission 40*, p. 9.

5 Sam Chard, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 30.

Stakeholder comments

4.7 A number of stakeholders considered that the financial compensation offered to individual landowners to host the NRWFMF was fair and appropriate.⁶ Some stakeholders even observed that the loss of land to host a facility has the potential to reduce productivity to a level in excess of the financial compensation.⁷ Indeed, the nomination of land could be considered to be altruistic given the relatively small amount of land required for the NRWFMF and the disruption to existing farming operations.

4.8 Mr Andrew Baldock, one of the nominators of the site at 'Napandee', described the financial compensation offered by the Commonwealth:

...as being fair and equitable and very much in line with any agricultural land sales for alternative use such as residential or industrial developments.

As nominated landholders we understand the site will be positioned on the most suitable 100ha portion of the nominated land holding. This is likely to have a considerable impact on the efficiencies of our farming operations and as a result quickly eroding any economic gain from the land sale.⁸

4.9 Mr Andrew Baldock went on to conclude that:

This level of financial compensation is unlikely to be a driving factor for any nominating landholder especially in low value landholdings such as Kimba and Hawker. The 100ha site nominated equates to less than 1.4% of our farm operation, the sale of this land makes very little difference to our financial position.⁹

4.10 Similarly, Mr Brett Rayner, a nominator of the site at 'Lyndhurst', commented that 'It's never been about the money'.¹⁰

4.11 Mr Jeff Baldock indicated that:

It's about the future of our community...our driving motivation is that there will be a well-serviced town in this community for our grandkids and their kids and their grandkids to grow up in.¹¹

4.12 Mrs Heather Baldock outlined the potential employment prospects for young people:

6 See, for example, Jodie Joyce, *Submission 33*; Delores Wells, *Submission 48*; Melanie Orman, *Submission 77*; Jeffery Baldock, *Submission 39*; Janice McInnis, *Submission 4*; Donna Johnson, *Submission 27*; Denise Carpenter, *Submission 1*; Lyn and Claire Kemp, *Submission 88*; Annie Clements, *Submission 35*; and Robyn Stewart, *Submission 10*.

7 Jessica Morgan, *Submission 37*, [p. 1].

8 Andrew Baldock, *Submission 38*, [p. 1].

9 Andrew Baldock, *Submission 38*, [p. 1].

10 Brett Rayner, *Committee Hansard*, 5 July 2018, p. 12.

11 Jeffery Baldock, *Committee Hansard*, 5 July 2018, p. 12.

So many of our young people leave our community. It is well known that 30 per cent of [Eyre Peninsula's] young people leave to seek jobs and to seek other employment. To have additional opportunities for our youth, but also for other people who may wish to return to Kimba, is just a great thing. And these jobs will continue for many years. It's not a seasonal thing. In our community, we are heavily reliant on agriculture, in a low-rainfall area. Those of us who support this project see this as an opportunity to create some sustainability for us in the long term. It drought-proofs us to a certain extent, I guess. It is one of those opportunities that rarely come along that ensures our community continues to thrive and maybe even grow.¹²

4.13 Mr Ian Carpenter highlighted that the value of land around Hawker was relatively inexpensive, so the sale of land for the NRWMF was not seen as a financial motivation, even where compensation equated to four times the land value.¹³

4.14 Mr Bruce Wilson from DIIS supported this view:

I don't think it would be fair to characterise the compensation package likely to be paid out as a tremendous amount of money. The land values are probably, for 100 hectares, not that significant. Certainly one landowner has told me that the amount of money he expects to be paid—which he's happy to donate to agricultural research in the area—wouldn't cover his fertiliser bill for a year on his properties. This isn't a big money-spinner for these landowners.¹⁴

4.15 Other stakeholders objected to the proposal to pay landowners a multiple of the land value.¹⁵ The No Radioactive Waste on Agricultural Land in Kimba or SA group argued that:

When a landholder is receiving a financial incentive of 4 times the value of the land as well as compensation for land access through the site assessment stage it isn't a community volunteering.¹⁶

4.16 A number of submissions also outlined broader effects that could result in negative economic consequences:

- the loss of value to the spectacular tourist lands of the Flinders ranges;
- the damage to farming country near Kimba;
- the harm to below surface water tables;

12 Heather Baldock, Working for Kimba's Future Group, *Committee Hansard*, 5 July 2018, p. 27.

13 Ian Carpenter, Hawker Community Development Board, *Committee Hansard*, 6 July 2018, pp. 4–5.

14 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 30.

15 See, for example, No Dump Alliance, *Submission 45*; No Radioactive Waste on Agricultural Land in Kimba or SA, *Submission 46*; and Australian Nuclear Free Alliance, *Submission 7*.

16 No Radioactive Waste on Agricultural Land in Kimba or SA, *Submission 46*, [p. 2].

- the adverse effect on the prices of livestock and crops, caused by proximity to radioactive waste; and
- the adverse effect on prices of land adjoining the site.¹⁷

4.17 Concerns were raised by various stakeholders that land could be nominated, with associated financial gain, by an absentee landlord:

ANFA [Australian Nuclear Free Alliance] is deeply concerned that, as in the case of the proposed site at Wallerberdina Station in the Flinders Ranges, a site may be nominated by an absentee landlord with no ties to the local community and apparently no concern for the division and stress that the decision creates.¹⁸

4.18 Similarly, the Conservation Council SA submitted that:

It is of deep concern that this person can receive financial gain for the siting of a radioactive waste facility which will impact the local community that he is not part of.¹⁹

4.19 Concerns were also raised that a former politician might financially benefit from the siting of a NRWMF on their land.²⁰

4.20 Some submissions argued for greater transparency around the financial incentives paid to land nominators.²¹ In relation to payments made to land nominators during the assessment phase of the site selection process, DIIS submitted that:

The only payment that is currently being paid to landholders is an ex gratia payment of around \$2500 as compensation for disruption at the site throughout the site selection process, resulting from activities such as: entering land—driving on, and flying aircraft over the site; constructing and rehabilitating bores; operating drills and collecting samples.²²

Committee view

4.21 The committee recognises that the Act requires the government to pay a reasonable amount of compensation to the person whose right or interest has been acquired, extinguished or otherwise affected.

4.22 The committee notes that it is unfortunate for a former politician, particularly one with significant exposure to the nuclear waste issues, to place the government in

17 See, for example, Josephite Justice Office, *Submission 68*; and Michele Madigan, *Submission 26*.

18 Australian Nuclear Free Alliance, *Submission 71*, [p. 3].

19 Conservation Council SA, *Submission 55*, p. 2.

20 See, for example, Ellenor Day, *Submission 67*; Leszek Gaweda, *Submission 54*; Katrina Bohr, *Submission 59*; Dave Ferguson, *Submission 106*; and Everybody for a Nuclear Free Future, *Submission 109*.

21 See, for example, No Radioactive Waste on Agricultural Land in Kimba or SA, *Submission 46*; Darren and Kellie Hunt, *Submission 80*; and Cameron Scott, *Submission 18*.

22 Department of Industry, Innovation and Science, *Submission 40*, p. 10.

the invidious position of deciding whether he should receive financial compensation for hosting a NRWFMF on his property, thereby further politicising an already contentious process.

4.23 The committee considers that the proposal to compensate the landholder at four times the value of the land is appropriate given that the location of a NRWFMF has the potential to reduce the efficiency and effectiveness of any farm operations on the remaining landholding. The committee does not consider that the proposed financial compensation, even at four times land value, has been a strong motivational factor in landholders seeking to nominate sites to host a NRWFMF.

4.24 That said, it will be landowner that ultimately negotiates a price with the government for any land to be acquired for a NRWFMF. As such, the committee considers that an independent valuation of the land be undertaken to ensure that the financial compensation is consistent with the original proposal to compensate the landholder at four times the value of the land.

Recommendation 3

4.25 The committee recommends that the government undertake an independent valuation of the land to be acquired to ensure that the financial compensation is consistent with the original proposal to compensate the landholder at four times the land value.

Financial incentives to communities

4.26 The Community Benefits Programme (CBP) was established in response to community feedback that indicated the site selection process causes short-term disruption.²³ According to DIIS:

The CBP was established for the second phase of the project after communities have indicated they wish to proceed in the site selection process, the Minister has accepted the nomination, and where technical assessments and community engagement activities are being conducted. The CBP provides grants to potential host communities which have progressed to being shortlisted as part of the site selection process. The projects funded under the CBP must demonstrate that they will have a social and economic benefit to the local communities with any programme evaluation that is undertaken to be assessed in accordance with established guidelines on this basis. The assessment process includes input from the local consultative committees.²⁴

4.27 DIIS indicated that there has never been any intention to measure whether the CBP affects community sentiment. That said, DIIS commented that:

...people consistently take a long term perspective in assessing the merits of the Facility for their community and that...people do not see the fund as

23 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

24 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

a material consideration influencing overall community support for the Facility.²⁵

4.28 The CBP is delivered by AusIndustry, thereby maintaining arms-length independence from the NRWFMF project team to avoid any perception of conflict of interest in administering grant payments and to avoid any perception that the project team is using the CBP to influence community relationships.²⁶

4.29 To date, \$4 million has been provided to projects in the Hawker community, while \$2 million has been provided to projects in Kimba.

4.30 DIIS considers that the CBP has been developed with regard to international experience which recognised the importance of supporting regional needs in a way that is seen at a local level to be fair and reasonable.²⁷

4.31 In addition to the CBP, the government announced on 23 July 2018 that a Community Development Package (CDP) of \$31 million will be available to the community successfully chosen to host the NRWFMF. The CDP will consist of:

- an \$8 million Community Skills and Development Program, delivering grants over the four year licencing and construction period to maximise the community benefits from the construction and operation of the Facility;
- an increased \$20 million NRWFMF Community Fund, to deliver long term infrastructure and development benefits to the community; and
- up to \$3 million over three years from the government's Indigenous Advancement Strategy to strengthen Indigenous skills training and cultural heritage protection in the successful community.²⁸

Stakeholder comments

Community Benefits Programme

4.32 Submitters involved in the Independent Assessment Panel provided some justification for the CBP. Dr Ben Heard was supportive of the concept in building trust within the community:

Delivering the community benefit fund and facilitating prompt assessment and funding of projects is a tangible demonstration of trustworthiness. Trust is essential for building community confidence.²⁹

25 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

26 Department of Industry, Innovation and Science, *Submission 40*, p. 13.

27 Department of Industry, Innovation and Science, *Submission 40*, p. 12.

28 Department of Industry, Innovation and Science, '\$30 Million+ Community Development Package for successful National Radioactive Waste Management Facility Location', *Media Release*, 23 July 2018, <http://www.radioactivewaste.gov.au/news/30-million-community-development-package-successful-national-radioactive-waste-management> (accessed 30 July 2018).

29 Bright New World, *Submission 15*, p. 5.

4.33 Professor Peta Ashworth noted that the competitive process of the CBP and the input of the Consultative Committee in each respective community helped to facilitate the fair distribution of the benefits package in an open and transparent manner.³⁰

4.34 Some stakeholders did not consider the CBP to have influenced opinion.³¹ For example, Mr Matthew and Mrs Megan Lienert submitted:

...we believe although the community benefit program is a welcome addition to the process we do not believe that people have based their support or non-support on this program.³²

4.35 Similarly, Mr Daryl Koch considered that:

The community benefit program is an added bonus for being in the process and will benefit many community projects...We are all smart enough not to vote yes to have the facility built in our district for the promise of money.³³

4.36 Mrs Heather Baldock outlined the benefits of the CBP to the Kimba community:

...whether or not we go ahead with the facility, being able to access the community benefit program through AusIndustry, the \$2 million that came to our community—we are a small community and we do often have trouble attracting funds—in itself was a huge boon to our community. Thirty-three different projects actually got funding through that, ranging from health through to social to sporting to economic benefits.³⁴

4.37 Similarly, Mrs Chelsea Haywood considered that the CBP in Hawker had been ideal for community groups:

We're a small community; it's always the same people digging into their pockets to help these groups. It gave them another outlet to get some funds to do things that might take this community 10 to 20 years to get.³⁵

4.38 However, other stakeholders believed that the CBP had influenced community opinions.³⁶ For example, Mrs Barbara Walker noted the division within the community associated with the CBP:

30 Professor Peta Ashworth, *Submission 52*, p. 4.

31 See, for example, Melanie Orman, *Submission 77*; Andrew Baldock, *Submission 38*; Delores Wells, *Submission 48*; and Katrina Koch, *Submission 28*.

32 Matthew and Megan Lienert, *Submission 53*, [p. 3].

33 Daryl Koch, *Submission 75*, [p. 2].

34 Heather Baldock, Working for Kimba's Future Group, *Committee Hansard*, 5 July 2018, p. 27.

35 Chelsea Haywood, *Committee Hansard*, 6 July 2018, p. 11.

36 See, for example, Anna Taylor, *Submission 82*; No Radioactive Waste on Agricultural Land in Kimba or SA, *Submission 46*; Cameron Scott, *Submission 18*; Toni Scott, *Submission 44*; and Michele Madigan, *Submission 26*.

Many think the Community Benefits Program is divisive and creates an impression of bribery. Some businesses needing monetary assistance, regardless of their 'for' or 'against' opinions, are happy the money has been offered and therefore feel it is up for the taking. Others refuse to apply as they regard it as bribe money.³⁷

4.39 Mr Bob Tulloch raised concerns about the distribution of CBP grants in the Hawker region:

Everyone living in this area is aware of the social disruption this process has caused. The community's contribution has come at a high cost. Therefore, if there were to be any benefits arising from this process, such as the Community Benefits Grants, you would like to believe that the DIIS would want to act true to their words in the above statement, and make sure all community benefits grants, would be distributed evenly across the whole community.

Sadly, this is not the case, with 72% of all funding from both grants (over \$4m) being directed into the Hawker Community.³⁸

4.40 The Australian Nuclear Free Alliance noted that:

In areas struggling for funding for basic access to and upgrades of facilities, it is highly likely some community members will be swayed by income they would not otherwise receive.³⁹

4.41 ATLA discussed the impact of the CBP on their community:

The "community benefit program" has been a disaster for our region. It has caused a great deal of stress and arguments. ATLA was harassed for support letters from non-Aboriginal groups and individuals who wanted to access these funds and they thought having our support would assist them.⁴⁰

Community Development Package

4.42 Some stakeholders were sceptical regarding the government's announcement of the \$31 million CDP just one month before the final community sentiment vote.

4.43 The Flinders Local Action Group asserted that:

On the 23rd July, the Minister announced an increased benefit package, totalling \$31 million, for the community that is selected to accept the waste facility. This came on the morning of the deadline set by both the Kimba and Flinders Ranges Councils to accept a role in administering the community vote on the NRWFMF, set for the 20th August. Both Councils had agreed to assist on the condition that the Department provided more information to the public to help people with their decision.

37 Barbara Walker, *Submission 20*, p. 2.

38 Bob Tulloch, *Supplementary Submission 87.1*, p. 2.

39 Australian Nuclear Free Alliance, *Submission 71*, [p. 6].

40 Adnyamathanha Traditional Lands Association, *Submission 42*, [p. 5].

The increase in the benefit package arose from the Kimba Council's dis-satisfaction with the original, one-off, offer of \$10 million to the selected community. Kimba's position was that the amount, and conditions on how this money was to be administered and distributed, was greatly inadequate. This new offer, although tripled, stills falls short of what Kimba Council requested in a letter to then Minister Frydenburg on December 16th 2015.⁴¹

4.44 The Flinders Local Action Group went on to conclude that:

This \$31 million offer to the selected community, coming as it did, on the day of both Council's deadline, is viewed with a great deal of cynicism. On the same day, the Department posted links on their website to 18 Factsheets and 8 Reports. It is assumed that these were also provided to the respective Councils to fulfil the 23rd July deadline.⁴²

4.45 The Azark Project was vehemently opposed to the increased compensation:

The increased compensation payments for a total of \$31 million now announced by the federal government are inappropriate and should not be necessary to get sufficient approval from the community of the regions where the facility will be located.⁴³

Committee view

4.46 The committee is cognisant of the impact that the site selection process has had on the communities of Kimba and Hawker. The committee considers that the CBP was an appropriate compensation initiative which has funded a variety of projects in both regions that would have otherwise not been readily realised. Delivery of the programme through AusIndustry has achieved arms-length independence and there is no evidence that program has influenced community sentiment.

4.47 The committee notes the government's increased commitment, from \$10 million to \$31 million, to the community in which a NRWMF is operational. Again, the committee does not consider that the CDP has influenced community support for a NRWMF as it appears the vast majority of community members have already made their decision.

41 Flinders Local Action Group, *Supplementary Submission 73.2*, p. 2.

42 Flinders Local Action Group, *Supplementary Submission 73.2*, p. 2.

43 Azark Project, *Submission 110*, p. 2.

Chapter 5

General comments about the site selection process

5.1 This chapter examines some overarching themes about the selection process that were not specifically identified in the terms of reference. In particular, the conduct of the Department of Industry, Innovation and Science (DIIS) in providing information to the communities about the NRWMF and its operation continued to be highlighted, as was the constitution and role of the local consultative committees.

5.2 Further, this chapter examines some of the technical concerns raised by stakeholders in relation to the suitability of the nominated sites, construction and operation of the facility, and types of waste to be stored and disposed at the facility.

Conduct of the responsible department

5.3 In assessing the appropriateness and thoroughness of the site selection process, it is important to recognise that, the main role of the DIIS, in this context, is to assist the Minister for Resources and Northern Australia to find a suitable site for a NRWMF. As such, it is unsurprising that DIIS has not been seeking to undermine its objective by proactively facilitating and tacitly endorsing contrary views against a NRWMF.

Information provided by the department

5.4 As noted above, there are very strongly held views among both Hawker and Kimba residents regarding the potential siting of a NRWMF near these communities. As such, stakeholders were divided as to whether the information provided to the communities by DIIS was comprehensive and balanced.

5.5 Support for the work of DIIS to provide information to the communities was forthcoming in both Hawker and Kimba. In Kimba, Councillor Dean Johnson considered that:

...the independent experts that have come to our community have given us fact based evidence and straight answers to all questions...I do believe the people who have come here have spoken from the heart and given us the information as much as they can.¹

5.6 It was noted that DIIS has brought industry experts both from Australia and overseas. Mrs Kerri Cliff commented that:

...a turning point for a lot of people was when the French delegation visited Kimba and a lot of questions about the impact of the facility in their community were answered, and questions were able to be asked and answered all evening. That was a big turning point. And also, with respect to how it sits within the Sutherland Shire in New South Wales, we believe that we've had access to all of those people's opinions as well.²

1 Councillor Dean Johnson, District Council of Kimba, *Committee Hansard*, 5 July 2018, p. 4.

2 Kerri Cliff, Working for Kimba's Future Group, *Committee Hansard*, 5 July 2018, p. 32.

5.7 However, some stakeholders noted that the community was being asked to consent to having a NRWMF without the details of such a facility being disclosed. Mrs Toni Scott highlighted that:

Around the world, when they run processes like this, generally when they go to a community they know exactly what they're going to be building and they know who's going to be operating the facility, so they could give the community all of that information the day they get there. So you know exactly what sort of facility you're talking about, what's going to be stored there, who's going to be running it, where the transport routes are going to come through and how it's going to come—boat or train. On all of these things, we've still not been given any information on that sort of stuff.³

5.8 That said, DIIS has released a number of factsheets and reports in June and July 2018 related to site characterisation, economic impact, heritage assessment, safety and waste acceptance, employment, agriculture, transport, facility concept design and regulation.⁴ Arguably, this information would have served communities better if it had of been provided considerably earlier in the site selection process.

5.9 Mrs Toni Scott also highlighted that DIIS had not facilitated the presentation of views opposing the siting of the NRWMF in the communities nominated:

For three years we have constantly been asking for a fair representation of views from both sides of the argument. One of our major concerns right at the start was that the government weren't providing any opposing experts...We have had outside speakers come into the community once, and that was fully funded by our pockets. The government have not provided any funding or support to access information from the opposing views.⁵

5.10 Similarly, the Flinders Local Action Group raised concerns about the conduct of DIIS in providing a forum for the debate of competing ideas:

...all the information—and I'm not saying DIIS has not provided plenty of information and opportunities for information—is filtered through by the department. It's a one-to-one: 'You come and talk to us if you've got a problem. We'll try and allay your concerns. If you've got any issues, don't hesitate to contact us.' We've never had a public forum where it's moderated and all these things can be put up.⁶

5.11 DIIS contested this and submitted that it had facilitated webinars and face-to-face a number of independent experts known to oppose a NRWMF, including:

- Mr David Sweeney, Australian Conservation Foundation;

3 Toni Scott, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 40.

4 Department of Industry, Innovation and Science, 'Key Documents and FAQs', *National Radioactive Waste Management Facility*, <http://www.radioactivewaste.gov.au/site-selection-process/key-documents-and-faqs> (accessed 7 August 2018).

5 Toni Scott, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 36.

6 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 27.

- Dr Peter Karamoskos, Australian Conservation Foundation;
- Dr Margaret Beavis, President of the Medical Association for Prevention of War;
- Dr Victor Gostin presented to the Barndioota Consultative Committee meeting on behalf of Flinders Local Action Group; and
- Dr Jim Green, Friends of the Earth Australia.⁷

Public access to submissions made through the consultation process

5.12 In relation to the government renegeing on providing information about the 28 shortlisted sites and the submissions to the consultation process, Mrs Toni Scott expressed her view succinctly:

Things like that—just changing the rules along the way—are a bit frustrating.⁸

5.13 Similar issues regarding transparency were encountered with publication of submissions to the consultation process. For example, Mr Cameron Scott noted that:

It was stated on the Department of Industry Innovation & Science website that Submissions would be made public however they later changed their mind and never made them available for public viewing.⁹

5.14 This point was echoed by Mrs Toni Scott at the hearing in Kimba:

When the process was first announced, the submissions were going to be made public, and then those rules changed and the submissions were kept confidential.¹⁰

5.15 Mr Peter Woolford provided more detail:

All those submissions were meant to be put up on the consult-industry website. That was quite clear in the submissions. Unless you marked them 'confidential', they were public documents. I have repeatedly asked the department why they weren't publicly available and they said they would have to go back and check on privacy laws and stuff like that. I submitted the form and it showed that it was to be public.

...

And, in the next second consultation process, when new guidelines were put up, there was nothing recorded about how submissions would be seen.

7 Department of Industry, Innovation and Science, *Answers to questions on notice*, 2 August 2018, (received 8 August 2018), p. 7.

8 Toni Scott, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 44.

9 Cameron Scott, *Submission 18*, [p. 2].

10 Toni Scott, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 37.

It was definitely in the first process, but for the second guidelines they didn't have that at all.¹¹

5.16 Further, with the re-nomination of sites in Kimba, initial submissions were not considered:

When we were in the first nomination phase, people made submissions and then Kimba was taken off the list. When we were put back on, we had to push with the department that they actually had to advertise that people needed to remake submissions. People who had already written letters assumed that their submission would be counted. However, that wasn't the case; they had to resubmit. Again, the Minister is asking for people to resubmit, but it's not advertised anywhere.¹²

Local consultative committees

5.17 Another area of contention was the establishment and operation of local consultative committees.

5.18 Mr Peter Woolford raised concerns about the issues discussed at the consultative committee meetings:

To me, the consultative committee is supposed to be the conduit between the government and the community. We've been trying to push for more allocation of time at the end for people in the community to raise with members issues that they want to raise. That's one thing that's been lacking...generally, most of the meetings are conducted in a fashion where the government departments will put on the agenda what they want to discuss for the day. To me, the consultative committee has to engage with the community on issues that they have, because that's the reason for it.¹³

5.19 Similar concerns were raised in Hawker:

It's very one-sided...The agenda is filled with what the department wants to tell us.¹⁴

5.20 Mrs Toni Scott outlined her concerns with the allocation of places to the Kimba Consultative Committee:

Bruce McCleary...informed people at the meeting that the committee would consist of six people opposed, six people supportive and six people who are neutral. That was also again given to members of our group by the Minister—that that's how the makeup of the committee would be. On the day that the committee was announced, we were extremely concerned that there were only four people who had expressed opposition who were

11 Peter Woolford, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 38.

12 Toni Scott, No Radioactive Waste on Agricultural Land in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 38.

13 Peter Woolford, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 35.

14 Dr Susan Andersson, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 29.

actually on that committee...Bruce Wilson took my concerns on board and told me that the makeup of the committee didn't really matter because it's a non-voting body.¹⁵

5.21 However, it does appear that the Kimba Consultative Committee (KCC) has been asked to make at least one significant decision:

We were told by Bruce McCleary that the KCC would be a non-decision making body. However, our concerns probably came to light a bit in the May meeting, when the KCC was asked to vote on whether we should request that the Minister consider altering the boundaries for the ballot.¹⁶

5.22 By contrast, Dr Susan Andersson explained how the Barndioota Consultative Committee had effectively been sidelined by DIIS and the Minister in relation to defining the boundaries of the community vote:

...we spent hours deciding what community is and who will get the vote and whether that includes Quorn, whether outback areas get in and how broad this should be. We had an expert there to help us define community for two sessions. Plus it was on the agenda two or three times: you will get a vote; BCC will be inputting into what area gets a vote. Then Minister Canavan arrived on his surprise visit and said, 'The area will be this.' At a BCC meeting we said, 'Hang on, we haven't had our vote yet.' 'Oh, haven't you? You can still have your vote; we'll listen to it.' But he'd already made media and public announcements as to what the area was. The BCC had been working towards contributing to what defined the community.¹⁷

Other matters relating to the conduct of the department

5.23 A number of other matters were raised by stakeholders in relation to the conduct of DIIS.

5.24 Mr Peter Woolford implied there was a lack of respect from DIIS staff in discussing concerns of those opposed to the facility:

...if you have a view and it's not their view or the government's view, there's no respect for it. That's the issue I've found the hardest throughout all this process.¹⁸

5.25 The Flinders Local Action Group expressed frustration at the turnover in staff working for DIIS:

Since 2015 there have been four ministers responsible, there have been three task force managers and we can tally 14 other staff, including three team leaders, who no longer visit here. In terms of continuity, and the people we talk to on their visits, we're not always talking to the same

15 Toni Scott, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 35.

16 Kellie Hunt, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 35.

17 Dr Susan Andersson, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 32.

18 Peter Woolford, No Radioactive Waste in Kimba or SA, *Committee Hansard*, 5 July 2018, p. 36.

people. You think you've developed a relationship and explained some of the issues but then those people turn out not to be working there any longer.¹⁹

5.26 Ms Julia Henderson noted that, while the department encouraged the community to undertake tours of the Australian Nuclear Science and Technology Organisation (ANSTO), no opportunity had been afforded for the community to visit the proposed site at Wallerberdina:

We've actually asked as BCC [Barndioota Consultative Committee] members if we could go out to the proposed sites on Wallaberdina. We've actually been told, 'No, the traditional owners have said no,' and the DIIS has said that it's a security issue to go out and observe the site that we're discussing this proposed project to be on. So it's that balance of, 'We want you all to go to ANSTO to see how clean, shiny and professional we are,' but we're not allowed to see the site that the development is proposed to be on. I think that's a bit of a contrary point of view.²⁰

5.27 As noted in the previous chapter, similar concerns were voiced by Indigenous groups over the inability of community members to visit CSIRO's legacy waste stored at Woomera.

5.28 While a number of stakeholders have questioned whether DIIS has conducted the site selection is consistent with world's best practice, the department itself noted the inherent difficulties associated with such a unique process:

There is no handbook on this process. There's no international handbook, but we know from countries such as Canada, France, Britain and Spain that what we're doing is now consistent with international best practice, and that is really centred around volunteerism and seeking community support.²¹

5.29 ANSTO concurred with the assessment by DIIS:

In ANSTO's view, the NRWMF site selection process is meeting or exceeding current international best practice across all aspects. ANSTO is confident that upon completion, the NRWMF process will be looked upon by the international community as an example of best practice for community consultation, public education and the development of social licence for the siting of radioactive waste facilities and other major nuclear projects.²²

Committee view

5.30 The selection process and information about the NRWMF has been evolving over time. Many of the concerns about the information provided to the communities—

19 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, pp. 26–27.

20 Julia Henderson, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 35.

21 Bruce Wilson, Department of Industry, Innovation and Science, *Committee Hansard*, 2 August 2018, p. 28.

22 Australian Nuclear Science and Technology Organisation, *Submission 58*, p. 8.

for example, regarding the types of waste and number of jobs—have indeed been changing with new developments or further consideration.

5.31 For example, it was originally anticipated that the intermediate-level waste from previous reactor fuels would be encased in concrete. However, as that intermediate-level waste was returned to Australia in a much smaller volume as vitrified (glass), it is now anticipated that all future intermediate-level waste of a similar nature will be returned in this form requiring less storage space and possibly different final containment. As such, both the volume of intermediate-level waste and its ability to be transported has meant that it is more feasible to consider storing this waste at a NRWMF while a permanent disposal solution is found.

5.32 Similarly, as planning for the NRWMF has progressed, greater attention has been devoted to operational aspects, including how the facility could operate and the staffing levels might be required. In addition, it appears that government officials have not articulated well whether staffing levels have referred to just technical staff or overall operational staff. The committee notes that DIIS has released a factsheet which explains how the total full time equivalent (FTE) staffing requirement of 45 has been derived and what has changed since the previous estimate of 15 FTE.

5.33 The committee notes that DIIS's response to many of the communities' concerns regarding the details of the NRWMF proposal (including structure, transport routes, site characterisation, economic impact and Aboriginal heritage) have only been released in the two months leading up to the community sentiment vote which begins on 20 August 2018. Given that the site characterisation reports are around 500 pages each, it is not clear whether the timing of these reports has given community members sufficient time to analyse and comprehend all the information contained in these documents.

5.34 The committee is concerned that DIIS has not made publicly available the individual submissions to the consultation process and considers that the publication of submissions from those who originally intended to have their submissions made public would improve transparency and public trust in the site selection process.

Recommendation 4

5.35 The committee recommends that the Department of Industry, Innovation and Science make submissions received during the consultation process publicly available in the circumstances where the authors originally intended for their submission to be made public.

5.36 As it is anticipated that a similar process will be undertaken to identify and select a site for an intermediate-level waste disposal facility (and, if the current process is unsuccessful, a NRWMF), the committee believes that any future process would benefit from a greater understanding of the current process. To this end, the committee recommends that the Office of the Chief Economist within the DIIS undertake a policy evaluation of the first two phases of the current site selection process.

Recommendation 5

5.37 The committee recommends that the Office of the Chief Economist within the Department of Industry, Innovation and Science undertake a policy evaluation of the first two phases of the site selection process for a National Radioactive Waste Management Facility.

Technical concerns

5.38 Stakeholder raised a number of technical concerns regarding the suitability of the potential sites, construction and operation of a NRWMF, and types of waste to be stored and disposed at a NRWMF. The committee believes that it is important to ensure that these issues are addressed for the benefit of all stakeholders.

Hydrological and geological suitability

5.39 A number of stakeholders raised concerns about the suitability of the nominated site near Hawker from a hydrological and geological perspective. For example, the Flinders Local Action Group cited research by seven eminent scientists who concluded that the Hookina Plain is not a suitable place to dispose of or store radioactive waste as it is one of the most active earthquake zones in Australia and major climatic changes, including severe winds and massive floods, have left their mark on the Lake Torrens alluvial plain.²³

5.40 In response to analysis provided by the Flinders Local Action Group in their submissions to the inquiry, AECOM stated that:

To date, no significant environmental hazards have been identified during the Site Characterisation studies within any of the study areas at each of the three nominated sites which should preclude them from further technical consideration from potential siting of the NRWMF. It is noted that this contention is based on the data currently available and that the investigations proposed in subsequent stages of the site selection process will assist with more detailed evaluation.²⁴

5.41 AECOM's assessment was supported by Geoscience Australia:

Australia is what is known as a stable continental region. In general, the seismic activity we experience in Australia is probably 100 to 1,000 times less than plate boundary regions such as New Zealand and California... There are [radioactive waste management] facilities in Washington State, Utah and Japan as well. Relative to those sites, Hawker is probably a lower seismic hazard site.²⁵

23 Flinders Local Action Group, *Supplementary Submission 73.1*, p. 3.

24 AECOM letter to the Department of Industry, Innovation and Science, *Supplementary Submission 40.1*, Attachment C, [p. 2].

25 Dr Trevor Allen, Geoscience Australia, *Committee Hansard*, 2 August 2018, p. 8.

Types of waste to be stored

5.42 Stakeholders expressed concerns about the types of waste that would be stored at the facility and the potential for that waste to affect the surrounding environment. In particular, the Flinders Local Action Group expressed concerns about the 'temporary' storage of intermediate-level waste:

There's a very real concern that intermediate-level waste could become stranded as temporary storage on an unsuitable site.²⁶

5.43 Other stakeholders questioned the value of double-handling intermediate radioactive waste which would ultimately need to be disposed of in a purpose built facility.

5.44 Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) commented that, depending on the licencing arrangements for a NRWMF, intermediate-level waste could be stored for up to 100 years but ultimately a disposal option would be required. According to Dr Adi Paterson from ANSTO, however, a disposal option for intermediate-level waste could be found well before then:

While the outer boundary of 100 years is well understood and is safe, it would make sense to come up with disposal options short of that time. I would say that, once we have the waste forms like Synroc and the vitrified waste well understood and characterised, 30 to 50 years would be well within Australian capabilities if we had a well organised program, funded it appropriately and looked at those pathways in a serious way.²⁷

5.45 ARPANSA also noted that other countries—such as the Netherlands, Switzerland, Spain, Japan and Romania—have opted to consolidate their intermediate-level waste into an interim storage facility prior to potentially moving it to a final disposal facility.²⁸

5.46 DIIS noted that all waste, both low- and intermediate-level waste, would have to conform to waste acceptance criteria which will require that the waste is physically and chemically stable, solid and non-dispersible, and not reactive or flammable.²⁹

Transport

5.47 Some stakeholders considered that people living in potential transport corridors should also be consulted.³⁰ For example, the Australian Nuclear Free Alliance considered that:

26 Greg Bannon, Flinders Local Action Group, *Committee Hansard*, 6 July 2018, p. 26.

27 Dr Adi Paterson, Australian Nuclear Science and Technology Organisation, *Committee Hansard*, 2 August 2018, p. 20.

28 Australian Radiation Protection and Nuclear Safety Agency, *Answers to questions on notice*, 2 August 2018, (received 8 August 2018), [p. 4].

29 Department of Industry, Innovation and Science, 'NRWMF Transport', National Radioactive Waste Management Facility Factsheet, <http://www.radioactivewaste.gov.au/site-selection-process/key-documents-and-faqs> (accessed 8 August 2018).

All communities along potential transport routes should be informed and consulted, particularly First Nations peoples.³¹

5.48 According to DIIS, all transport methods and routes for radioactive materials have to meet ARPANSA's *Code for the Safe Transport of Radioactive Material*. DIIS also advises that consultation is undertaken in instances where there is significant public interest.³²

5.49 Dr Adi Paterson from ANSTO characterised the transport of low-level waste as safe and routine with a very low level of radioactivity:

...we make shipments to 225 hospitals and clinics every week in Australia at the moment. Those are radioactive transport events. They take place safely and with public support and understanding. I think that these types of low-level waste shipments would be no different...I think the low-level transport should not be contested on scientific, technical and engineering grounds as being anything different to moving fuel around our country in tankers.³³

Construction and operation of the facility

5.50 The site selection process is only the beginning of a number of regulatory and oversight mechanisms required for the approval, construction and operation of a NRWMF, including:

- ARPANSA licencing approval;
- environmental approval; and
- Parliamentary Standing Committee on Public Works oversight.

5.51 Mr Jim Scott from ARPANSA highlighted that a further round of consultation would be necessary before a NRWMF was given a licence for a nuclear installation:

We have a requirement that, when the chief executive of ARPANSA receives a licence application for a nuclear installation, which could be a research reactor, a waste disposal facility or a waste storage facility, he must undertake a public consultation—that is a requirement under our legislation—and invite the public to make submissions.³⁴

5.52 The licencing assessment would look at a host of factors including geology, hydrology, demography, population, seismicity and appropriateness of the location:

30 See, for example, Environmental Defenders Office (SA), *Submission 43*; and Katrina Bohr, *Submission 59*.

31 Australian Nuclear Free Alliance, *Submission 7*, [p. 6].

32 Department of Industry, Innovation and Science, 'NRWMF Transport', National Radioactive Waste Management Facility Factsheet, <http://www.radioactivewaste.gov.au/site-selection-process/key-documents-and-faqs> (accessed 8 August 2018).

33 Dr Adi Paterson, Australian Nuclear Science and Technology Organisation, *Committee Hansard*, 2 August 2018, p. 23.

34 Jim Scott, Australian Radiation Protection and Nuclear Safety Agency, *Committee Hansard*, 2 August 2018, p. 13.

Once a site licence application is submitted by the proponent, ARPANSA will assess the application against the ARPANS Act, regulations and published regulatory guides, including relevant international treaties and norms. ARPANSA would also expect the proponent, as part of the application, to provide evidence there are no heritage or cultural issues and that there is support among the impacted Aboriginal communities.³⁵

5.53 In addition, the *Environmental Protection and Biodiversity Conservation Act 1999* also requires an environmental impact statement which covers issues including flora and fauna, cultural and heritage parameters.³⁶ ARPANSA noted that:

As part the licensing process, ARPANSA will consider the environmental impact statement (EIS) and consult with the Department of Environment and Energy (DoEE) who would assess the EIS which includes consideration of heritage and cultural impacts of the facility under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). ARPANSA will consider the DoEEs assessment as part of the decision making process.³⁷

5.54 Jim Scott also noted that the ARPANSA licencing process is open and transparent:

At all stages, we will engage openly with the public with transparency. We also have a public consultation requirement in our Act and Regulations. We must seek public consultation before any licence can be issued. We invite the public to make submissions to us. Those submissions are open to anyone, not just the local community. Anyone in the Australian public can make a submission. When we receive that, we need to address those concerns and we will basically publish our responses to their concerns on our website. So, for transparency purposes, we don't ignore anyone's concerns.³⁸

5.55 Similarly, inquiries undertaken by the Parliamentary Standing Committee on Public Works will provide opportunities for interested stakeholders to make public submissions on proposed public works, which would include a NRWMF.

Senator Chris Ketter

Chair

35 Australian Radiation Protection and Nuclear Safety Agency, *Answers to questions on notice*, 2 August 2018, (received 8 August 2018), [p. 3].

36 Jim Scott, Australian Radiation Protection and Nuclear Safety Agency, *Committee Hansard*, 2 August 2018, p. 10.

37 Australian Radiation Protection and Nuclear Safety Agency, *Answers to questions on notice*, 2 August 2018, (received 8 August 2018), [p. 3].

38 Jim Scott, Australian Radiation Protection and Nuclear Safety Agency, *Committee Hansard*, 2 August 2018, p. 10.

Additional Comments from Coalition Senators

General comments

1.1 Coalition Senators note the majority report and the issues raised in the serious matter of the selection process for a national radioactive waste management facility in South Australia.

1.2 Coalition Senators are concerned that, in quite a number of cases, the Chair's report has taken statements in submission as fact, without consulting the source for verification. Coalition Senators' additional comments attempt to correct some of these factual inaccuracies.

Chapter 1—"Introduction"

1.3 Coalition Senators believe that paragraph 1.31 of the Chair's report regarding the next steps are incorrect. It currently reads "the Minister will decide if any of the nominated sites are selected to progress to a detailed business case". It should instead read "the Minister will decide which, if any, of the nominated sites are suitable to acquire for the purposes of the Facility".

Chapter 2—"Community sentiment" (Recommendation 1)

1.4 Coalition Senators agree with Recommendation 1.

1.5 Coalition Senators note that the quote reference in paragraph 2.21 of the Chair's report was given to a media interview not the meeting/community. It is also being utilised not in proper context to imply that there is a minimum benchmark figure of 65%. What the statement provided in the interview meant was that there is no actual benchmark (no magic number) but that having gotten 65% not opposed (the figure of support was 58 plus 7-8% not opposed) then the minister would most likely want to see final support not go backwards. The quote was made exclusively in relation to Wallerberdina and should not be used to imply that 65% was also appropriate for Kimba.

1.6 Coalition Senators wish to raise concerns with paragraphs 2.22 and 2.23 of the Chair's Report. The first of these paragraphs relies on assertions that the Minister agreed 65% was the benchmark (and that he repeated this to several groups in the Kimba community) made in the submission from the Kimba anti-nuclear group. Neither Minister Canavan nor the Government has stated or agreed that 65% was a benchmark figure in relation to Kimba.

1.7 Coalition Senators note in particular the way paragraph 2.23 opens ("Despite this the Minister chose to move to Phase 2 in Kimba with significantly less than 65 per cent support") is highly judgmental, implies that the 65% is THE operative benchmark and takes the comments on 65% well out of any context. It ignores the Ministers and Departments well established and central position that there is no benchmark that should be applied across all communities especially as they are all quite different in their makeup.

**Chapter 5—"General comments about the site selection process"
(Recommendations 4-5)**

1.25 Coalition Senators note that, in relation to Recommendation 4, all submissions provided to the department, where it was indicated they wished to be made public, have already been made public on the Department's website.

1.26 Coalition Senators note that most submissions did not indicate that they wished to be released (most had no indication either way).

Senator Jane Hume
Deputy Chair

Senator Dean Smith
Senator for Western Australia

1.8 Coalition Senators suggest that both paragraphs be removed or reframed to provide a more accurate and balanced position that does not provide implicit endorsement of any particular benchmark. Finally, the assertions are made through the submissions, with no evidence to support them.

1.9 Coalition Senators note that paragraph 2.33 of the Chair's Report, which is highly critical of the ORIMA survey in phase one, relies exclusively on assertions in one submission from an anti-nuclear group. This is unbalanced and unfair. If retained, then the report should also note ORIMA's submission where the methodology and process was well explained and defended.

1.10 Coalition Senators note that paragraphs 2.40 and 2.41 of the Chair's report do not accurately represent the consultation process and again rely on one view by ATLA. They imply agreement that ATLA should be added to the local community vote. It should note that the purpose of the Ballot is to capture the sentiment of the local community (which includes traditional owners who live in the area) and that it is NOT meant to be the mechanism for capturing ALL views.

1.11 Coalition Senators also believe that the consultation process and Minister's decision were separate and explicitly provided for the capture and representation of the views of the Traditional Owners, regardless of where they live (most of the traditional owners do not live in the proximate area of either site).

1.12 Coalition Senators note that paragraph 2.45 of the Chair's report, which uses the term "majority of the community", is intentionally misleading in its ambiguity. It should read "a majority of valid votes", since not all eligible members of the community voted.

1.13 Coalition Senators note that the "facts" in paragraphs 2.60 and 2.61, which are from two submissions by FLAG, lack credibility. Flinders Ranges is simply NOT one of the top ten tourist destinations in the world. The suggestion that tourism in the ranges is worth around \$450 million per annum and directly employs 1900 people is incredulous. The total population of the Flinders Ranges local government area is 1600 people. Hawker has two caravan parks and one hotel. There is one resort at Wilpena Pound. The point that tourism is an important part of the local economy is valid. Those statistics are not.

Chapter 3—"Indigenous support" (Recommendation 2)

1.14 Coalition Senators note that Recommendation 2 has already been undertaken.

1.15 Coalition Senators note that paragraphs 3.15 and 3.16 of the Chair's report, while representing the view of the ATLA CEO, are not presented with the counterbalancing facts provided by the Department on the level of consultation with ATLA. As such, it presents a one-sided and inaccurate picture.

1.16 Coalition Senators wish to emphasize the extensive consultation with ATLA, including meetings with CEO and various members in the first phase (along with a specific survey of ATLA members in the phone polling).

1.17 In support of this, ARPANSA confirmed at a public community meeting in Hawker last week that they had been trying to arrange a meeting with ATLA through Mr Coulthard for over 12 months but he has not responded to emails or phone messages.

1.18 Coalition Senators are disappointed that paragraph 3.22 incorrectly asserts that the Department had not followed best practice in its indigenous engagement. These are simply assertions without any evidence to support their veracity. They are simply wrong and the facts do not support Ms McKenzie's assertions. The supporting quote is factually unsustainable.

1.19 Similarly, paragraph 3.37 incorrectly asserts that "without the full involvement of those Indigenous stakeholders with relevant cultural and heritage knowledge, it is unlikely that the Indigenous cultural and heritage survey is comprehensive". This does not represent the facts of the matter. Many of the traditional owners in Hawker who are critical actually participated in the RPS study (they now deny it but there is logged evidence of all conversations). There are many community members who are happy with the RPS report but these are not recognised in the current drafting.

1.20 Coalition Senators believe that paragraph 3.37 ought to be reformulated to recognize that the Department's own report by RPS acknowledges the need for further assessment to fully understand and document the heritage values on the proposed site and that this will occur if the site proceeds further in the process.

1.21 Coalition Senators strongly encourage all community members with knowledge of heritage and culture to engage in this process so that all values are properly documented.

Chapter 4—"Financial compensation and incentives to communities" (Recommendation 3)

1.22 Coalition Senators agree with Recommendation 3, and wish to stress that the entire process is using independent valuations.

1.23 Coalition Senators note that extraordinary bias in paragraph 4.22. It is not appropriate or accurate to single out just one nominator (there is a trust that owns Wallerberdina) and imply it is somehow inappropriate (or worse) for him to seek compensation.

1.24 Coalition Senators note that the trust (not just Mr Chapman) is eligible to nominate land under the Act. Mr Chapman did not take this decision by himself and nor was he an elected representative or member of the government at the time. Moreover he has been at arm's length from the process and any decisions made under it. If the nomination at Wallerberdina is taken forward, then the trust that owns the land MUST under law be compensated for that acquisition.

Dissenting Report from the Australian Greens

1.1 The Australian Greens believe the site selection process is fundamentally flawed. There has been a consistently stated commitment by the Minister to respect the views of the communities relevant to the process by not proceeding without "broad community support", ensuring that the absence of such shall serve as an effective veto. However, the Minister has refused to explain what he would consider to be sufficiently "broad", ensuring that any number can be considered sufficient, or insufficient, and ultimately disenfranchising affected communities in the name of ministerial 'discretion'.

1.2 Jobs figures have been floated and inflated. Traditional owners have been cherry-picked or ignored altogether. Sites have been nominated by absentee landowners with no direct tie to the community on which the site selection process is being inflicted. And this process is simply unnecessary. It does nothing to address the need for long-term intermediate level storage, consistent with international best practice. It avoids amending the relevant Act by spending millions of dollars on a divisive and unnecessary process that is being pushed through to align with the electoral cycle instead of the science.

1.3 ARPANSA Chief Regulatory Officer Mr Jim Scott has told the Committee that Lucas Heights cannot offer long-term storage of low-level waste under the ANSTO Act. He argues that this requires the identification of a long-term disposal facility.

1.4 Low-level waste is set to be disposed at the NRWFM, consistent with international best practice regarding low-level waste management. However, intermediate level waste is also set for long-term storage at the NRWFM. This is not consistent with international best practice which supports medium to deep burial disposal of intermediate level waste.

1.5 The challenge of finding another site to store radioactive waste is one entirely created by the ANSTO Act not allowing Lucas Heights to serve as such a site. An amendment to the Act would at least allow for extended interim storage while a long-term intermediate level waste disposal pathway is investigated, as consistent with international best practice.

1.6 The Committee notes that the communities of Hawker and Kimba have been "significantly impacted" by the ongoing selection process. Community members have avoided discussing the issue for fear of retribution, and friendships have been lost. The process has been divisive.

1.7 It is disappointing then that the nature of "broad community support" has remained undefined throughout the process. The Minister has insisted that no site will proceed without broad community support, but refused to indicate a threshold at which point support is considered sufficiently broad to proceed. As a result, the community is at a loss as to what threshold needs to be met or avoided, and considerable uncertainty remains entrenched.

"Broad community support"

1.8 The Minister has broad discretion to make decisions with regard to 'broad community support'; he has previously indicated that he will not proceed with a site without it. The concept is not defined within the *National Radioactive Waste Management Act 2012*, nor is it stated that such support is required. Rather, the term is left to the Minister's discretion.

1.9 According to DIIS:

The Minister has committed that the Facility will not be placed in an unwilling host community or, in other words, a community in which it does not enjoy broad support (noting that no individual or group has a right of veto). Community support is an important but by no means the only factor that the Minister will consider in taking forward a nomination and selecting a site.¹

1.10 These two concepts, taken together, appear to imply that a site will not proceed without broad community support, but that even if the condition of there being broad community support is met, there is no guarantee that such a site will be selected.

1.11 As such the condition is of vital importance. It is concerning that it remains undefined and impossible to determine. It is not open to scrutiny and remains wholly at the Minister's discretion. It is incredible that the Minister would have the right to decide what does and does not constitute broad community support, instead of the community itself. It is even more remarkable that the Minister would be able to define it only after all other stakeholders within the community have made their feelings known. In no way should the goal posts be so flexible.

1.12 As noted by No Radioactive Waste in Kimba or SA:

The definition of broad community support has been inconsistent throughout the entire process, with differences occurring both over time and between sites. Despite a strong focus on its need, no definitive definition of 'broad community support' has been given, allowing the Minister to effectively 'move the goal posts' at whim.²

1.13 DIIS argues that "any threshold" for broad community support "would be arbitrary in nature". The Department has suggested that "setting a mandated threshold would...potentially disenfranchise minority elements of the community or result in a minority group having an automatic veto or dictating power of the majority".³

1.14 If the Department is considered with reducing arbitrariness in the decision-making process, then one can think of few more effective ways to do so than establishing a threshold before the process commences. Without a clear threshold established prior to the commencement of the site selection process, the

1 Department of Industry, Innovation and Science, *Submission 40*, p. 10.

2 No Radioactive Waste in Kimba or SA, *Submission 46*, p. 2.

3 Department of Industry, Innovation and Science, *Submission 40*, p. 11.

decision-making power of the Minister is wholly arbitrary. It is nonsensical to say that we must accept an arbitrary decision-making process as a means to avoid arbitrary decision-making processes. Surely the only relevant test is whether a decision increases or reduces arbitrary factors.

1.15 The argument that establishing a threshold would potentially "disenfranchise minority elements of the community" or give minority groups "an automatic veto or dictating power over the majority" is one against considering broad community support at all. It was the Minister who elevated the consideration of "broad" community support. This implies a threshold higher than 50 per cent. With this in mind, it is a condition introduced by the Minister himself that the views of the simple majority are insufficient.

1.16 Furthermore, it is unclear how any person or persons can be disenfranchised by having their views considered in the context of a broader community with similar standing on an issue or issues. We do not consider a person who votes for an unsuccessful election candidate to have been disenfranchised in or by the process. In this context, no minority element is disenfranchised from there being a threshold to determine what does and does not constitute "broad majority support" any more than a minority element is disenfranchised in an election when the party for whom it votes fails to win a majority in the House of Representatives. We dispute this characterisation.

1.17 The Committee's view—that the community sentiment vote "is only one contributing factor to assessing community support"—ignores the relative privilege this factor enjoys compared with other factors. Indeed, the Minister's previous commitments to not proceed without broad community support, give this factor precedence above all others. In effect, this consideration represents a potential veto on the site selection process. As such, it deserves to be clarified. Indeed, it must be clarified as a matter of utmost urgency.

1.18 The view of the committee, that "it is important for a Minister to have some discretion", is not disputed. The Minister is entitled to discretion where it is appropriate. Ministers do not have the discretion to force radioactive waste dumps onto unsupportive communities. He is welcome to use his discretion, which he enjoys as a function of his role in the Government, to mandate a threshold. To do otherwise is to abuse his ministerial discretion.

1.19 It is possible for the extent of ministerial discretion to be excessive. There is a risk that decisions—the ramifications of which will persist for centuries—are being made within the pressures of a single election cycle. Furthermore, ministerial discretion must be informed by a consistent set of principles, lest it fall prey to the particular whims of the Minister of the day. To this point, we note that there have been five Ministers for Resources since 2014.

Voting process

1.20 A critical question regarding the ballot being conducted by the Australian Electoral Commission is who should fall within the definition of 'community', for the purposes of determining broad community support. The ballot is being used to

measure community support using a limited and narrow scope of community. This scope ignores the significant relationship that exists between traditional owners and the land. Similarly, radioactive waste sited in any location in South Australia must be transported to that location in order to be stored long-term. Communities around and along the transport route for this radioactive waste have not been included in the scope of the ballot despite having clear interest in how it proceeds.

1.21 The Adnyamathanha Traditional Lands Association (ATLA) has disputed the decision by DIIS to exclude traditional owners of the site near Hawker who live outside 50km from the proposed site from the ballot surveying community sentiment, arguing:

You just can't limit Adnyamathanha people to just the few Adnyamathanha people who live in this area. It's got to incorporate and capture all Adnyamathanha people.⁴

1.22 The Adnyamathanha people have a demonstrable interest in the process of site selection. It is disappointing that DIIS has opted that they do not meet the Department's definition of community. Arguments such as those by Robyn Stewart and Councillor Dean Johnson, (that those living outside the geographic boundaries of each nominated site may not have the necessary level of information to make an informed decision) sets a remarkably high bar to participation that, if sustained, would make this ballot the least democratic of its kind in any exercise in Australian history. We do not limit the right to vote to only those able to demonstrate they know what they're voting on; nor should we. What's more, there is every possibility that people living outside the geographic boundaries of each site have a more than workable knowledge of the issues contested.

Wider community views

1.23 Observations from Malcolm McKenzie, that uranium mining at the Beverley Mine has not negatively "shut down" the tourism industry of Arkaroola, are important as a means to demonstrate the need for effective legislative protections to ensure the survival of environmental asset, such as those introduced by the South Australian State Government in 2011. It should not be taken for granted that tourism will be unaffected in its absence.

1.24 Indeed, as noted by submissions from Greg Bannon and Dr Susan Anderson, it is impossible to rule out an impact on the attractiveness of the Flinders Ranges as a tourism destination. If the presence of a radioactive waste dump causes only one in twenty potential tourists to think twice about visiting the area, the annual impact is \$21.3m and 95 direct jobs lost.⁵ The effect of this lost economic activity would thoroughly swamp any positive effect arising from the presence of the radioactive waste dump.

4 Tony Clark, Adnyamathanha Traditional Lands Association, *Committee Hansard*, 6 July 2018, p. 43.

5 Dr Susan Andersson, *Committee Hansard*, 6 July 2018, p. 29.

1.25 The committee has taken a view that the final site of any radioactive waste dump is a matter for regional economies to consider. This ignores the fact that the radioactive waste management facility is designed to store national radioactive waste. The impact of the decision is to be felt nationally; stakeholders are not simply confined to any one local government area.

1.26 Furthermore, it is condescending and inaccurate to suggest that community concerns around the impact of a radioactive waste dump on agriculture and tourism perceptions of safety and attractiveness are unfounded. This site will house intermediate level waste for an unspecified period of time. Intermediate level waste requires shielding to be safely contained. It is wrong to say that there are no legitimate safety concerns around this proposal. Workers in Lucas Heights have been exposed to potentially dangerous levels of radiation as a result of accidents in the last twelve months. These workers deal with dangerous materials. The committee is incorrect to suggest otherwise.

Indigenous support

1.27 We dispute the position of DIIS that it continues to work closely with local traditional owners. The process to date has already inflicted significant adverse impacts on the community and site itself. ATLA, rightly recognised by this committee as the peak body for all matters relating to land, culture, heritage, language and native title for Adnyamathanha people, has withdrawn from cooperating with the site selection process. It remains deeply unhappy with how the process has been managed to date.

1.28 Indigenous consultation in Kimba has been almost non-existent. The overwhelming majority of indigenous people present between the two Hawker and Kimba hearings have been against the proposals. It is misleading to characterise the nearly uniform opposition as "mixed views".

1.29 There are clear deficiencies in the degree of Indigenous consultation in the site selection process to date. In the absence of consent from Native Title representative bodies that cover the proposed sites, there is no mandate for the process to continue.

Financial compensation and incentives to communities

1.30 Considering the inevitable social and economic upheaval produced by this contentious site selection process, there is a clear issue with allowing sites to be nominated by absentee landlords with no ties to the local community. Nonetheless this is exactly what has occurred at the proposed site at Wallerberdina Station in the Flinders Ranges. The site owner stands to receive a financial gain of around four times the land's value, while the community in which the site is situated bears the impacts. The prospect that one former politician with a clear track record of advocating for nuclear waste disposal in South Australia may financially benefit from this site selection process should be galling; it is correct that this perception risks "further politicising an already contentious process".

1.31 Regarding the prospect of 45 jobs, the community does not have the capacity to provide the jobs this site is anticipated to generate. There are only 53 unemployed

people in the Flinders Ranges statistical area where Wallerberdina Station is stationed. Of these, approximately 20 have a TAFE or university qualification.

1.32 There are 47 unemployed people in the Kimba - Cleve - Franklin Harbour statistical area where the Napandee and Lyndhurst sites are based. Of these, about 21 have a TAFE or university qualification.

1.33 DIIS estimates that 26 jobs will be supported by on-the-job training not requiring previous expertise, with the other 19 jobs requiring either TAFE or University qualifications. DIIS says there will be "no fly-in, fly-out jobs".

1.34 If the local labour force cannot absorb these jobs, they will be filled by people from outside the community. This is a statistical necessity. This does not appear to have been communicated to anybody in the community, a large proportion of which remain convinced that the promise of 45 jobs will be a boon to the local economy.

1.35 Further, the net impact on jobs will be modest at best, once job losses at Lucas Heights are taken into consideration.

Double handling

1.36 This process necessitates the double-handling of intermediate level radioactive waste, as the NRWMF is only intended to serve as a temporary holding site until waste is transported to its final more permanent disposal site, which is yet to be identified.

1.37 This double-handling is not consistent with international best practice in the disposal of intermediate level waste. Nonetheless, it is inevitable if the current practice proceeds unamended. Alternatives should be canvassed, including the suspension of the site selection process until a permanent disposal site can be identified.

Transport

1.38 It is imperative that all stakeholders within transport corridors should be consulted. The presence of a radioactive waste dump in South Australia will require Port Lincoln, Whyalla or Port Pirie to serve as nuclear waste ports. As a result, these communities will necessarily be involved in the handling and transportation of dangerous nuclear waste. They have a stake in the decision-making process because they will bear some of the risk of such an outcome.

1.39 Every community impacted by the potential thoroughfare of nuclear waste have an interest in ensuring that their fate is not determined by another community without any consultation or cooperation. While ANSTO has been at pains to ensure that low-level waste can be transported safely, it is not a decision for ANSTO to make in isolation. Communities should be fully informed of the relevant costs and benefits, throughout the transport chain, and offered the opportunity to have their say on the proposal.

Recommendation 1

1.40 The Australian Greens believe the Federal Government has no mandate to situate a radioactive waste management facility in South Australia. It has mismanaged the site selection process, fallen short of international best practice and failed to secure the consent of traditional owners. For these reasons the Australian Greens recommend that the site selection process does not proceed further.

Senator Sarah Hanson-Young

Senator for South Australia

Additional Comments by Senator Rex Patrick

**Kimba and Hawker,
when you finally surrender,
it must be of your own free will!**

The Work of the Committee

1.1 I thank the committee for the work it has done in relation to this very important inquiry. I also thank the secretariat for their behind the scenes efforts.

1.2 I support the general findings in this report and the recommendations that flow from them, but I feel they do not address several substantive issues with enough force.

1.3 Out of responsibility to the communities of Hawker and Kimba, I address those issues now.

A Facility is needed

1.4 Centre Alliance accepts that Australia has a responsibility to safely and securely manage radioactive waste from the production of nuclear medicine and a range of nuclear-based scientific and industrial purposes.

1.5 Inherent in that acceptance is an understanding that Australia needs to have a national facility for the management of radioactive waste. However, the site for that facility can only be selected with the approval of the host community.

Flawed and Disingenuous Process

1.6 The Government commenced this site selection process committing to obtaining 'broad community support'. Whilst the *National Radioactive Waste Management Act 2012* does not require it, the Government has stated that it will not impose such a facility on an unwilling community.

1.7 However, when they first tested the water on whether they had 'broad community support', it was found wanting. So they increased their persuasion efforts.

1.8 They sought to inform by sending experts to the community. But they only sent experts that shared the government's perspective. Contrary views, which can be found among some highly qualified and well respected academics and professions, were not formally presented. The approach had a Soviet 'free thought feel' about it— "Please don't think, your Government will do that for you and then tell you what you need to know".

1.9 They sought to inform by taking interested members of the community on all expenses paid trips to ANSTO in Sydney. But they went beyond a reasonable brief when they extended the state funded trip to include dinner cruises on Sydney Harbour.

1.10 They sought to encourage through a multi-million dollar community benefit program, and then tripled the benefit content when they sensed encouragement was failing.

1.11 A fair process must not just be a fair process, it must also be seen to be a fair process, and on this count it fails.

Hedging of Bets

1.12 This Minister has stated that he will not proceed without broad community support. But in a sign of failing confidence in achieving that, the Department has reiterated in its submissions that:

The Act does not require, define or specify a minimum level of 'broad community support'. Rather, it provides the Minister with absolute discretion to make decisions in relation to nominations and site selection, taking into account comments received from the nominator and those with a right or interest in the land.

1.13 They lay the groundwork for the Minister to do whatever he wants in the event that a proper 'broad community support' threshold is not met.

1.14 But it is not as simple as that. The people repose (or are at least entitled to repose) trust and confidence in a Minister's statement and expect Ministers to deal straightforwardly and consistently with the public. The Minister must honour and act in accordance with his word.

A Vote of Sorts

1.15 Community sentiment assessment will finally be assessed through a vote managed by the Australian Electoral Commission. Most, if not all, have complete faith in the AEC in the running of the vote, but few have faith in the Government's honest use of the outcome.

1.16 On 22 March 2017, in response to a question about the meaning of 'broad community support' to Minister Canavan at question time in the Senate on 22 March 2017, the Minister stated:

We had taken forward a proposal from the Hawker region—Senator Xenophon might be aware of that—where support was at 65 per cent. We have not put a definitive figure on broader community support, for the reason that it is not just about the overall figure; we would need a figure in the range of the support we received in Hawker.¹

1.17 But the Minister appears to have walked away from that now. 'Broad community support' will mean whatever the Minister wants it to mean. To twist a phrase from Joseph Stalin: "It's not the people who vote that count; it's the people who interpret the meaning of the count."

1 Senator the Hon. Matthew Canavan, Minister for Resources and Northern Australia, *Senate Hansard*, 22 March 2017, p. 1816.

1.18 Having visited the communities at both Hawker and Kimba, they are bitterly divided. The process has polarised a community with some of the ill feeling likely to last a long time.

1.19 My view is that unless a 65% vote in favour of the facilities is achieved AND all adjoining neighbours are in agreement AND the aboriginal community are on board, the Government must look to alternative sites.

*The distinguishing mark of Comrade Minister is the AEC vote,
the instrument with which he does all his mischief*

Recommendation 1

1.20 The Minister must quantify how broad community support will be determined and do so before vote.

Recommendation 2

1.21 As a minimum, broad community support must mean a 65% vote in favour in the AEC vote, AND agreement from all adjoining neighbours AND the agreement from aboriginal communities.

‘Temporary’ Doublespeak

1.22 The process for finding a permanent solution for storing and disposing of Australia's low level radioactive waste began in the 1970's. It has taken at least four decades to get to the point we are now.

1.23 If one of the Hawker or Kimba sites is selected, the government intends to move intermediate level waste to any newly built facility as a 'temporary measure' until an intermediate level waste disposal facility is built.

1.24 It is anticipated that a similar process will be undertaken to identify and select a site for an intermediate-level waste disposal facility. In reality, this means that intermediate waste will be at the low level facility for decades.

1.25 It's probably reasonable for nuclear scientists, who think in radioactive half-lives, to think that 40 years is 'temporary'. But that's not how the rest of the community think.

1.26 Intermediate waste can and is being stored at Lucas Heights. ARPANSA Chief Regulatory Officer, Mr Jim Scott, stated that:

The Lucas Heights site is not actually able to be a disposal site; that is part of the ANSTO Act. The site that is currently being looked at for the national radioactive waste management facility will be a disposal site for low-level waste. That cannot be Lucas Heights under the current legislation.

1.27 This is lame reasoning. The ANSTO Act can be changed.

Recommendation 3

1.28 The ANSTO Act should be changed to permit the storage of intermediate-level waste until such time as an appropriate facility site has been identified and a facility built and commissioned.

Senator Rex Patrick

Senator for South Australia

Appendix 1

Submissions and additional documents

Submissions

- 1 Ms Denise Carpenter
- 2 Mrs Chelsea Haywood
- 3 Mr Ian Carpenter
- 4 Ms Janice McInnis
- 5 Mr Steven Taylor
- 6 Mr Gary Cushway
- 7 Mr John Hennessy
- 8 Ms Keri James
- 9 Ms Janet Tiller
- 10 Mrs Robyn Stewart
- 11 Name Withheld
- 12 Ken and Carole Wetherby
- 13 Mr David Schmidt
- 14 Ms Christine Scott
- 15 Bright New World
- 16 Mrs Justine Major
- 17 Pat Beinke
- 18 Mr Cameron Scott
- 19 District Council of Kimba
- 20 Mrs Barbara Walker
- 21 Noel Wauchope
- 22 Christine Wakelin
- 23 Barry Wakelin
- 24 Mr Frank Harris
- 25 Mr Colin Mitchell
- 26 Michele Madigan
- 27 Mrs Donna Johnson
- 28 Mrs Katrina Koch
- 29 Ms Anica Niepraschk

- 30 Independent and Peaceful Australia Network (IPAN)
- 31 Mr David Noonan
- 32 Ms Sue Tulloch
- 33 Mrs Jodie Joyce
- 34 Margaret and Charlie Milton
- 35 Mrs Annie Clements
- 36 Ms Janette Thomas
- 37 Mrs Jessica Morgan
- 38 Mr Andrew Baldock
- 39 Mr Jeffrey Baldock
- 40 Department of Industry, Innovation and Science
- 41 Regional Development Australia Far North
- 42 Adnyamathanha Traditional Lands Association RNTBC
- 43 Environmental Defenders Office (SA) Inc.
- 44 Toni Scott
- 45 No Dump Alliance
- 46 No Radioactive Waste on Agricultural Land in Kimba or SA
- 47 Hawker Community Development Board
- 48 Delores Wells
- 49 Mr Brian Cant
- 50 Mrs Leanne Lienert
- 51 Ms Mnemosyne Giles
- 52 Prof. Peta Ashworth
- 53 Matthew and Meagan Lienert
- 54 Leszek Gaweda
- 55 Conservation Council SA
- 56 Barngarla Determination Aboriginal Corporation
- 57 Eddie Hughes
- 58 ANSTO
- 59 Katrina Bohr
- 60 Australian Human Rights Commission
- 61 Mrs Chloe Hanan
- 62 Ms Ruth Tulloch

-
- 63 Mrs Kaye Fels
 - 64 Ms Heather Baldock
 - 65 Kerri and Trevor Cliff
 - 66 Australasian Radiation Protection Society (ARPS)
 - 67 Ms Ellenor Day
 - 68 Josephite Justice Office
 - 69 South Australian Chamber of Mines & Energy (SACOME)
 - 70 Australian Conservation Foundation (ACF)
 - 71 Australian Nuclear Free Alliance (ANFA)
 - 72 Bev Baldock
 - 73 Flinders Local Action Group
 - 74 Medical Association for Prevention of War (MAPW)
 - 75 Mr Daryl Koch
 - 76 Mr Donald Fels
 - 77 Miss Melanie Orman
 - 78 Mr Ken McKenzie
 - 79 Mr Leon Ashton
 - 80 Darren and Kellie Hunt
 - 81 Miss Holly Whittenbury
 - 82 Ms Anna Taylor
 - 83 Mr Shaun Barford
 - 84 Mr Philip Fels
 - 85 Mr Greg Bannon
 - 86 Friends of the Earth Australia
 - 87 Mr Bob Tulloch
 - 88 Lyn and Claire Kemp
 - 89 Name Withheld
 - 90 Name Withheld
 - 91 Name Withheld
 - 92 Name Withheld
 - 93 Confidential
 - 94 Confidential
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- 97 Confidential
- 98 Confidential
- 99 Confidential
- 100 Confidential
- 101 Confidential
- 102 Confidential
- 103 Confidential
- 104 Confidential
- 105 Confidential
- 106 Mr Dave Fergusson
- 107 Ms Regina McKenzie
- 108 ORIMA Research Pty Ltd
- 109 Everybody for a Nuclear Free Future - South Australian Chapter
- 110 Azark Project
- 111 Yes to 45
- 112 Ms Angelina Stuart

Tabled documents

- 1 Document tabled by Working for Kimba's Future at a public hearing in Kimba on 5 July 2018.
- 2 Document tabled by No Radioactive Waste on Agricultural Land in Kimba or SA at a public hearing in Kimba on 5 July 2018.
- 3 Document tabled by Flinders Local Action Group at a public hearing in Hawker on 6 July 2018.
- 4 Document tabled by the Department of Industry Innovation and Science at a public hearing in Canberra on 2 August 2018.

Answers to questions on notice

- 1 Flinders Local Action Group: Answers to questions taken on notice at a public hearing in Hawker on 6 July 2018, received 17 July 2018.
- 2 No Radioactive Waste on Agricultural Land in Kimba or SA: Answers to questions taken on notice at a public hearing in Kimba on 5 July 2018, received 27 July 2018.

- 3 Barngarla Determination Aboriginal Corporation: Answers to questions taken on notice at a public hearing in Kimba on 5 July 2018, received 27 July 2018.
- 4 Geoscience Australia: Answers to questions taken on notice at a public hearing in Canberra on 2 August 2018, received 8 August 2018.
- 5 ARPANSA: Answers to written questions on taken on notice and answers to questions taken on notice at a public hearing in Canberra on 2 August 2018, received 8 August 2018.
- 6 ANSTO: Answers to written questions on taken on notice and answers to questions taken on notice at a public hearing in Canberra on 2 August 2018, received 8 August 2018.
- 7 Department Industry, Innovation and Science: Answers to questions taken on notice at a public hearing in Canberra on 2 August 2018, received 10 August 2018.

Additional information

- 1 Additional Information provided by the Department of Industry, Innovation and Science on 9 April 2018.
- 2 Additional Information provided by the Department of Industry, Innovation and Science on 8 August 2018.
- 3 Additional Information provided by the Department of Industry, Innovation and Science on 8 August 2018.
- 4 Additional Information provided by the Department of Industry, Innovation and Science on 8 August 2018.

Additional hearing information

- 1 Additional Information provided by Mr Andrew Baldock, following a public hearing in Kimba on 5 July 2018.

Appendix 2

Public hearings

Kimba, 5 July 2018

Members in attendance: Senators Gallacher, Ketter, Patrick, Dean Smith.

BALDOCK, Mr Andrew, Private capacity

BALDOCK, Mr Jeff, Member, Working for Kimba's Future

BALDOCK, Mr Jeff, Representative, Working for Kimba's Future

BALDOCK, Mrs Heather, Representative, Working for Kimba's Future

BALDOCK, Mrs Jenny, Private capacity

CHURCHILL, Ms Johanna, Principal, Norman Waterhouse Lawyers, Solicitors for Barngarla Determination Aboriginal Corporation RNTBC

CLIFF, Mrs Kerri, Representative, Working for Kimba's Future

DARE, Ms Linda, Director, Barngarla Determination Aboriginal Corporation RNTBC

HUNT, Mrs Kellie, Executive Committee Member, No Radioactive Waste on Agricultural Land in Kimba or SA

JOHNSON, Councillor Dean, Mayor, District Council of Kimba

KOCH, Mrs Katrina, Representative, Working for Kimba's Future

LARWOOD, Mrs Debra, Chief Executive Officer, District Council of Kimba

LIENERT, Mrs Meagan, Chair, Working for Kimba's Future

LIENERT, Mrs Megan, Councillor, District Council of Kimba

MILLER, Ms Jeanne, Director, Barngarla Determination Aboriginal Corporation RNTBC

RAYNER, Mr Brett, Private capacity

SCHMIDT, Mr David, Representative, Working for Kimba's Future

SCOTT, Mrs Toni, Secretary, No Radioactive Waste on Agricultural Land in Kimba or SA

SIDHU, Ms Geeta, Solicitor, Norman Waterhouse Lawyers, Solicitors for Barngarla Determination Aboriginal Corporation RNTBC

SMITH, Ms Helen, Director, Barngarla Determination Aboriginal Corporation RNTBC

TAYLOR, Mr Leslie, Director, Barngarla Determination Aboriginal Corporation RNTBC

WOOLFORD, Mr Peter Brian, President, No Radioactive Waste on Agricultural Land in Kimba or SA

WOOLFORD, Ms Sue, Committee Member, No Radioactive Waste on Agricultural Land in Kimba or SA

YATES, Ms Rachel, Treasurer, No Radioactive Waste on Agricultural Land in Kimba or SA

Hawker, 6 July 2018

Members in attendance: Senators Gallacher, Ketter, Patrick, Dean Smith.

ANDERSSON, Dr Susan, Member, Flinders Local Action Group

ASHTON, Mr Leon, Member, Flinders Local Action Group

BANNON, Mr Greg, Spokesperson, Flinders Local Action Group

CARPENTER, Mr Ian, Vice Chairperson, Hawker Community Development Board

CLARK, Mr Anthony John (Tony), Chairperson, Elders Committee, Adnyamathanha Traditional Lands Association

COULTHARD, Mr Vince, Chief Executive Officer, Adnyamathanha Traditional Lands Association

FELS, Mr Philip Leo, Co-Owner, Merna Mora Station; and Member, Flinders Local Action Group

GILL, Mr Jon, Member, Flinders Local Action Group

HAYWOOD, Ms Chelsea, Secretary, Hawker Community Development Board

HENDERSON, Ms Julia, Executive Committee Member, Flinders Local Action Group

HENNESSY, Mr John, Member, Hawker Community Development Board

McINNIS, Mrs Janice, Chairperson, Hawker Community Development Board

McKENZIE, Mr Malcolm, Member, Viliwarinha Yura Aboriginal Corporation, Adnyamathanha Traditional Lands Association

McKENZIE, Ms Regina, Member, Viliwarinha Yura Aboriginal Corporation, Adnyamathanha Traditional Lands Association

McKENZIE, Ms Vivianne, Vice Chair, Adnyamathanha Traditional Lands Association

McKENZIE, Ms Vivianne, Vice Chair, Viliwarinha Yura Aboriginal Corporation, Adnyamathanha Traditional Lands Association

NGATOKORUA, Ms Lavene, Elder Representative, Adnyamathanha Traditional Lands Association

STUART, Ms Heather, Member, Viliwarinha Yura Aboriginal Corporation, Adnyamathanha Traditional Lands Association

TULLOCH, Mr Robert John, Member, Flinders Local Action Group

Canberra, 2 August 2018

Members in attendance: Senators Bushby, Gallacher, Hanson-Young, Ketter, Patrick.

ALLEN, Dr Trevor, Senior Seismologist, Geoscience Australia

BARRETT, Mr Andrew, Branch Head, Energy Systems, Geoscience Australia

CHARD, Ms Sam, Acting Head of Division, Northern Australia and Major Projects Division, Department of Industry, Innovation and Science

DOYLE, Ms Tone, Chief of Staff, Australian Radiation Protection and Nuclear Safety Agency

GLENN, Dr Kriton, Geologist Geophysicist, Community Engagement Senior Adviser, Geoscience Australia

GRIFFITHS, Mr Hefin, Chief Nuclear Officer, Australian Nuclear Science and Technology Organisation

HOWARD, Mx Aly, Heritage Manager, Sydney, RPS Group

McINTOSH, Mr Steve, Senior Manager, Government and International Affairs, Australian Nuclear Science and Technology Organisation

MOUTHAN, Ms Rebecca, Acting General Manager, National Radioactive Waste Management Project, Department of Industry, Innovation and Science

PATERSON, Dr Adi, Chief Executive Officer, Australian Nuclear Science and Technology Organisation

RUSK, Mr James, Project Manager, AECOM

SCOTT, Mr Jim, Chief Regulatory Officer, Australian Radiation Protection and Nuclear Safety Agency

WILSON, Mr Bruce, Principal Adviser, Department of Industry, Innovation and Science

