

David

My UK Government colleagues are fairly robust in their view that the waste is the responsibility of the Australian authorities under contract, and under international norms. Indeed, we have been extra helpful in allowing waste substitution so that the waste can be in a form that the Australian authorities find easier to handle. The facility is being developed for a range of wastes, and would still be needed even if there was no return of waste from the UK. The NDA has sought information from the Australians, and have been assured that the facility will not be located on a sacred site, and that there will be full consultation with potential host communities. I am not an expert, but I think that the wider term "Aboriginal lands" could include large areas of the country, depending on whether you count potential claims. My understanding from my meeting with Mr Cushway is that some of the local community are more prepared than others to see the facility, and the benefits on offer to the host community, as a deal worth considering.

I do not think that the UK Government would wish to place formal conditions on the Australian authorities, such as demanding a human rights assessment. There is a risk that the Australians could then chose to fail to comply with the conditions, and thus avoid the expensive and difficult process of accepting the waste that is their responsibility. The Australian Government has a responsibility to respect the human rights of its peoples, regardless. Moreover, it is difficult to find a clear human rights impact of receiving 2 flasks of vitrified waste in place of 20 flasks of cemented waste (which is what the waste substitution policy allows), or of building a repository for 1000 items or 1002 items (which is illustratively the effect of the waste return.)

So, no I do not see any sensible course of action open to us to demonstrate our sympathy for the concerns of this First Nation individual.

Charles

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From: Miller D (David)

Sent: 19 February 2018 15:36

To: Nicolson S (Stuart) Special Adviser; Stewart Roper CJK (Charles)

Cc: Communications First Minister; Communications Rural Economy & Environment; Director of Environment & Forestry; Carmichael K (Katriona); Isles D (Duncan); Pope G (Geoff); Campbell B (Bridget)

Subject: RE: MACCS Diary case: Target date: 01/03/2018 - return of Australian waste  
Charles

I agree with Stuart's assessment. A meeting with the FM would not be appropriate. However, I'm not entirely convinced by your assertion that we are facing criticism on this issue because we have been willing to engage to date.

It's also worth noting there's a high likelihood that the decision to decline will result in parliamentary questions on the subject.

I would therefore welcome advice on the following:

Is there any further course of action open to the Scottish Government which would allow it to demonstrate that it is taking the views of First Nation campaigners

seriously?

Could we, for example, seek an assurance from the UK or Australian Governments that this waste would not be stored on Aboriginal lands?

Alternatively, could we ask the UKG to ensure the Australian Government carries out some form of human rights assessment of the implications of the proposed transfer?

DM

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From: Nicolson S (Stuart) Special Adviser

Sent: 19 February 2018 13:15

To: Stewart Roper CJK (Charles); Miller D (David)

Cc: Communications First Minister; Communications Rural Economy & Environment; Director of Environment & Forestry; Carmichael K (Katriona); Isles D (Duncan); Pope G (Geoff); Campbell B(Bridget)

Subject: RE: MACCS Diary case: Target date: 01/03/2018 - return of Australian waste

Charles,

Based on your summary below, I agree that there would be little if anything to be gained by offering a meeting with the FM (or any other minister).

In anticipation of any negative coverage which a decline may provoke, can comms colleagues update lines to make very clear that these are primarily issues under the control and responsibility of the Australian and UK Governments.

Thanks,

Stuart

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From: Stewart Roper CJK (Charles)

Sent: 19 February 2018 08:57

To: Nicolson S (Stuart) Special Adviser; Miller D (David)

Cc: Communications First Minister; Communications Rural Economy & Environment; Director of Environment & Forestry; Carmichael K (Katriona); Isles D (Duncan); Pope G (Geoff); Campbell B (Bridget)

Subject: FW: MACCS Diary case: Target date: 01/03/2018 - return of Australian waste

You may remember an earlier stage in this saga from last October, when there was a request for a meeting with the First Minister from Gary Cushway, who campaigns on behalf of a number of individuals in an Australian indigenous community. These individuals are concerned by the Australian Government's consideration of sites for a nuclear waste repository, to contain a range of wastes including wastes that are due to be returned from the UK. These wastes from the UK arise from past fuel reprocessing carried out under international contract at Dounreay. Under the joint Scottish Government/ UK Government waste substitution policy, the waste will be returned to Australia in the form of vitrified waste from Sellafield, which the Australian Government is better able to handle and store. The substitution policy has no bearing on the fact that waste is due to be returned, nor on any decision of the Australian Government as to where to store this and other wastes under their control.

Following the correspondence in October, Mr Cushway was offered a meeting with officials, and this led to his friendly journalist running a story that there had been a “breakthrough”.

[http://www.heraldscotland.com/news/15655056.Breakthrough\\_in\\_Australian\\_aboriginal\\_challenge\\_to\\_nuclear\\_waste\\_transfers\\_from\\_Dounreay/](http://www.heraldscotland.com/news/15655056.Breakthrough_in_Australian_aboriginal_challenge_to_nuclear_waste_transfers_from_Dounreay/)

At the meeting, Mr Cushway seemed to understand the limitations of Scottish Government’s influence over the radioactive waste decisions of the Australian Government, and to appreciate that we were nevertheless willing to listen to the concerns about the rights of the Indigenous peoples he represents.

However, some few weeks later, there was another story placed by his friendly journalist, which was misleading in many respects and critical of us for a “lack of action”.

[http://www.heraldscotland.com/news/15808815.Video\\_\\_Aborigine\\_anger\\_over\\_lack\\_of\\_government\\_action\\_to\\_stop\\_Scots\\_nuclear\\_waste\\_transfers/](http://www.heraldscotland.com/news/15808815.Video__Aborigine_anger_over_lack_of_government_action_to_stop_Scots_nuclear_waste_transfers/)

We now have a new request for a meeting in the summer with the First Minister for an individual woman from the indigenous Australian community. We shall be recommending that this request is declined (on the standard basis of diary pressures). There is a real risk that this decline will provoke another critical story. However, in this case it is really on a matter of when we face further criticism, and not whether we do, and it is better to draw a line under this case. None of the previous stories have had any traction beyond the piece placed by his friendly journalist.

If we were to put the FM up to meet, this would be greeted as a positive move, but since we cannot ultimately give the indigenous individuals what they want – reassurance that there will be no waste depository in the areas that concern them – we would face criticism further down the line. There are real questions as to what we could change by altering or withdrawing from the waste substitution policy, since the control of international contracts and movements is ultimately reserved. Moreover, as it stands, we are facing criticism for matters that are primarily the responsibility of the Australian Government, with any UK decisions more for the UK Government than ourselves. The criticism is coming our way because we have been willing to engage, and the more we engage the more we become the focus for this criticism.

Charles Stewart Roper  
Environmental Quality Division