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SITTING DAYS—2012

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FORTY-THIRD PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia, Commander of the Royal Victorian Order

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt, Arthur Sinodinos and Ursula Mary Stephens
Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips
Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC
Leader of The Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of The Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Christine Anne Milne
Chief Government Whip—Senator Anne McEwen
Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley
Chief Opposition Whip—Senator Helen Kroger
Deputy Opposition Whips—Senators David Christopher Bushby and Christopher John Back
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert

Printed by authority of the Senate
## Members of the Senate

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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.

(3) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice Hon. M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.

(4) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.

(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.

(6) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 1.6.12), pursuant to section 15 of the Constitution.

(7) Chosen by the Parliament of South Australia to fill a casual vacancy (vice M. J. Fisher, resigned 15.8.12), pursuant to section 15 of the Constitution.

PARTY ABBREVIATIONS

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
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<td>Prime Minister</td>
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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<td>Minister Assisting the Prime Minister on Asian Century Policy</td>
<td>The Hon Dr Craig Emerson MP</td>
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<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
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<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<td>Minister for Financial Services and Superannuation</td>
<td>The Hon Bill Shorten MP</td>
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<tr>
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<td>The Hon David Bradbury MP</td>
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<tr>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10:00, read prayers and made an acknowledgement of country.

BUSINESS

Days and Hours of Meeting

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (10:01): by leave—I move:

That:

(a) on Tuesday, 20 November 2012, the Senate commence sitting from 11 am; and
(b) the routine of business from 11 am to 12.30 pm shall be consideration of the following government business orders of the day:

(i) Equal Opportunity for Women in the Workplace Amendment Bill 2012, and
(ii) Federal Circuit Court of Australia Legislation Amendment Bill 2012.

Question agreed to.

COMMITTEES

Environment and Communications Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (10:01): by leave—At the request of the Chair of the Environment and Communications Legislation Committee, Senator Cameron, I move:

That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 10 am.

Question agreed to.

BILLS

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator CASH (Western Australia) (10:02): I rise to speak on the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 and the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013. In debating these bills it is important that Australians clearly understand the reason the government is introducing these bills; why they have been rushed into the parliament so soon after, and in addition to, the 2012-2013 budget bills; and, more importantly, if these bills are passed, what impact these bills will have on the Australian taxpayer. So what is the government's reasoning and intentions by rushing these bills into the Senate?

These are bills that will appropriate additional money out of the Consolidated Revenue Fund to pay for the costs associated with the implementation of the report of the Expert Panel on Asylum Seekers and related purposes. Appropriation Bill No. 1 provides for an additional injection of just over $1.4 billion and Appropriation Bill No. 2 provides for an additional $267,980,000, giving a total appropriation for these two bills of $1,674,982,000. Let's now put that into plain English so that the Australian people understand exactly what the Senate is being asked to do today by this government. Why does the government need an additional $1,674,982,000? Because of the
government's gross incompetence when it comes to managing Australia's borders, the government, consistent with its form since it was voted into power in November 2007, has come back to the Australian taxpayer and is once again asking for the taxpayer to pay more money. The government, because of its ideological hang-ups and incompetence, has destroyed Australia's very strong border protection regime and is now continuing to plunder the pockets of the Australian public so that it can continue to pay for its political ineptitude.

Interestingly, an examination of the reasons set out for introducing these bills shows as follows. There is the need to provide additional funds to open the Nauru detention centre and the Manus Island detention centre. One might recall that these are the same two detention centres that were the substance of a bill introduced in 2006 by the then Prime Minister, John Howard. It was the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006. Who can forget the hysterical comments of the Labor opposition at the time as they embarked on a campaign across Australia to vilify the then Howard government for seeking to process illegal boat arrivals offshore? The Left, the Right and the Centre of the Labor Party united on this point. They travelled across Australia and screamed out their indignation and their total opposition to what they said was the gross injustice and a total breach of human rights: processing illegal boat arrivals offshore. They then swore to the Australian public, to the Australian voters, that they would never ever vote for what they said was a disgusting and disgraceful breach of human rights.

Some Labor members even said at that time that the Howard government bill was unconstitutional and if passed by the parliament would result in a massive compensation issue for Australia in the future. Yet here we are today, debating appropriation bills, with the government asking for an additional $1,674,982,000 to pay for offshore processing on Nauru and Manus Island.

There is no doubt that the left wing of the Labor Party in particular, in voting for this legislation today, are complete, total and utter hypocrites. They say one thing to the Australian public, but when Ms Gillard pronounces that they will now support offshore processing what do they do? They roll over in caucus—the Prime Minister scratches their little stomachs and they betray their so-called principles. They do this because they never had any principles in the first place. For those on the Labor side of politics let us now remind you of some of the previous hysterical claims of some of the Labor members who are now urging the parliament to pass these bills today. And these bills, remember, are intended to establish the very acts that Labor so passionately and vehemently opposed when they were introduced by a coalition government in 2006. In 2006 Chris Bowen, now the minister responsible for immigration issues and Australia's border security, said this about the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006:

This is a bad bill with no redeeming features. It is a hypocritical and illogical bill. If it is passed today, it will be a stain on our national character. The people who will be disadvantaged by this bill are in fear of their lives, and we should never turn our back on them.

He went on to say:

The Howard government changing our system to suit the concerns of another nation is nothing short of a disgrace. The Prime Minister is selling out our national sovereignty. This tragic and discriminatory policy does not come cheap. … offshore detention centres … are much more
expensive than detention centres in Australia. We have the worst of all worlds—an expensive, discriminatory and tragic policy.

But then came the cruncher about repealing the Howard government bill if it were passed. What did Mr Bowen say on that point? He said:

We will oppose this bill, and I call on members opposite to join us. If it is passed, it will be repealed by an incoming Labor government. Decency and self-respect as a nation would demand nothing less.

Well, what do we have today? Mr Bowen is now actually pleading with the opposition to ensure that this bill passes the Senate today—the bill which he said in 2006 the Labor government would repeal if it were passed. And what about Simon Crean? Mr Crean, as we know, is a minister and was previously a Labor Leader of the Opposition. What did Mr Crean say in 2006 when speaking on the Howard government bill? He said:

It does nothing to secure our borders and returns to the government’s old policy of deterrence and punishment based on fear. It is a bill that should be opposed.

Well, Mr Crean, I understand, will vote for it. Dick Adams, the member for Lyons, said this:

The bill means that if in future people fleeing persecution arrive on Australia’s mainland in a canoe, they will be sent to Nauru to be processed and Australia will act as though it has no obligations. Under this proposal, children will be in detention again. We will see indefinite detention come back.

And then, of course, there were the comments of well-known left-wing faction leader Anthony Albanese, who is now a senior Labor minister. Back in 2006 he had this to say:

I wish to speak in the strongest possible terms in opposition to the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

This government has a policy that is built on sand. It shifts with the wind, it shifts on the basis of what is in the political interest of the government in terms of its preparedness to promote fear, to promote hatred and to vilify some of the most vulnerable people in the global community. It is no way for this parliament to provide the leadership that we have been entrusted to provide by our respective communities.

And he concluded his comments with:

We need a government that is prepared to promote hope over fear, and we need a government that is prepared to respect the human rights of all individuals. I urge the House to reject this abhorrent legislation.

Just to remind everybody, in case we think we are actually about to reject this legislation, Minister Bowen has been pleading with the shadow minister for immigration and the coalition to ensure that this 'abhorrent' legislation, as they called it back in 2006, is passed by the Senate today. I wanted these hypocritical comments of Labor members in 2006 to be recorded in Hansard to remind Australian voters that the Labor Party are not a party motivated by principle. The Labor Party would not know what principles are. They wake up in the morning and sniff the public attitude of the day, and their principle is actually determined that morning. They are motivated by sheer power. The left wing of the Labor Party in particular will be voting with the coalition to ensure this legislation goes through. They have forsaken Labor principles on the altar of political hypocrisy and duplicity. That must make those on the left of the Labor Party very, very proud!

Labor’s mismanagement of the immigration portfolio and failure to secure Australia’s borders has cost the Australian taxpayer dearly over the last five years. That cost is reflected again today and it is a cost that continues to be out of control. To see the failure of the government’s border protection
policies and the astonishing fiscal ineptitude of successive Labor governments when it comes to this particular portfolio, you need look no further than Labor's 2011-12 billion-dollar budget for asylum seekers. That billion-dollar budget was Ironically based on just 750 arrivals for that particular financial year. It was a rather absurd target, one might say, given that this is the evidence.

Since the election of the Labor government in November 2007, and as a direct result of the Labor government reversing the strong and proven border protection policies of the former, Howard government, 29,868 people have arrived on 512 boats. An even more glaring statistic under the current Gillard government is that, notwithstanding the promises that the Labor Party made to the Australian people in the lead-up to the 2010 election, the total number of boat arrivals since polling day on 21 August 2010 is 358 boats carrying 22,519 people. The former Prime Minister, former Minister for Foreign Affairs and now backbencher, Mr Rudd, must choke on his breakfast daily when he gets the updated boat arrival numbers that come through every morning. You have to remember that one of the reasons Ms Gillard politically executed Mr Rudd was her allegation that Mr Rudd's border protection policies were failing. How ironic for Mr Rudd.

In the first five months of this financial year alone—July, August, September, October and we are now into November—9,957 people have arrived on 177 boats. That is in the first five months of this financial year. This just shows how out of touch the Labor Party are with reality. It also shows just how out of touch they are in relation to the cost blow-out of their border protection policies, because the Labor budget for the immigration portfolio for the 2012-13 financial year was based on just 3,000 arrivals. The budget for the entire 12 months was for 3,000 arrivals; in the first five months there were 9,957. If you were to merely double that number to see what might happen over the next six months, you can see an almost sixfold budget increase.

And that is not the only impact that Labor's gross fiscal ineptitude and failures in this policy area is having. Australians are also now paying an extra $1.1 million per day purely because of Labor's failure in this portfolio area alone. Compare what Australians were paying under the Howard government with what they are paying now: under the Howard government they were paying nothing; now Australians are paying $1.1 million per day for the policy failures in this portfolio alone. Australians should ask themselves how many extra hospital beds, how many additional classrooms and how many additional computers could be provided to Australian citizens for the billions of dollars that are now being used to fund Labor's border protection failures.

We saw the poll today in relation to the impact of the carbon tax. Only three per cent of the mums and dads of Australia think they are better off. I think 38 per cent of Australians now say they are worse off as a direct result of the implementation by the Labor Party, and, of course, their friends the Greens, of the carbon tax. What you have is the mums and dads of Australia, who are already struggling under the rising costs of living and who cannot afford to pay their electricity bills because of Labor's carbon tax, being slugged time and time again because of Labor's failures in this particular portfolio area. The Labor Party should have the decency to at least come clean with the Australian people and justify how, in five years of successive Labor governments, we have gone from a situation where, under the former, Howard government, Australia's immigration and citizenship portfolio in this policy area was costing the Australian
taxpayer approximately $85 million per year—that is $85 million per year. It has now cost Australian taxpayers, over five years, in excess of $6 billion compared to $85 million per year. Just two years ago, in 2009-10, Treasurer Swan got it so very wrong when he said to the Australian people that the cost of managing asylum seekers going forward would be $455 million over four years. Here we are today—five months after we passed the most recent budget—and the Senate is being asked to appropriate an additional $1.6 billion. Treasurer Swan was so very wrong. He thought it would be $455 million; we are now looking at in excess of $6 billion in this area alone.

The Australian public need to understand: when we say $6 billion in this area alone, this does not include the costs that are absorbed by other departments, it does not include the costs to the Navy for its search and rescue work, it does not include the cost to Customs for its seaborne and airborne surveillance, it does not include the additional costs that Centrelink is now paying out and the drain on our social security budget, and it certainly does not include the additional costs that are now being placed on our health budget. The reality is this: if the Labor Party had just left the former Howard government's policies intact, we would not be having this debate today. The Labor Party would have no less than an additional $6 billion of taxpayers' money that they could apply towards the interests of Australian citizens. Instead, what are we doing? We are standing here today debating a bill that will provide the government with additional money to the tune of $1.6 billion so that they can establish the regional processing centres on Nauru and Manus Island—something that we did under the Howard government and something that the Labor Party said they would never, ever do as a matter of principle.

Minister Bowen will now go down in history as the biggest-spending minister for immigration of all time. That is not something to be proud of. When it comes to the immigration policy around detention centres, you actually want to be spending next to zero. As we move closer to the next federal election, this just shows Labor have no principles. (Time expired)

**Senator HANSON-YOUNG** (South Australia) (10:22): I rise today to speak on the two bills before us which the government has put forward, the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 and the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013, asking for even more Australian taxpayers' money to be spent on inhumane, impractical and failing policies.

During the last few weeks of this parliament's sitting we have debated this issue of offshore processing over and over again. We continue to hear from the government that locking people up indefinitely on Nauru and Manus Island will be the only way to stop people from fleeing war and trying to come to Australia for safety. What a load of bollocks! It has failed. Deterrents do not work when you are forcing people to make a choice between freedom and safety or punishment for seeking protection for their families. These are people who are fleeing war, persecution and torture. Rather than punishing these people and wasting billions of Australian taxpayers' dollars, it would be much better for us to take the support and advice of the experts—which suggests that putting in place safer alternatives would be much better for both the taxpayer's pocket and human rights outcomes.
We have a refugee and humanitarian crisis—a rolling crisis. We have hunger strikes in Nauru. Those who have already been sent there are threatening, very seriously, their own lives. We have one man who has been on a hunger strike for 39 days. He is very ill. Unfortunately, it may be that, without proper intervention from the government, this man will not survive the next few days. This man—and I urge him to end his hunger strike because I do not think it is helpful for him; obviously we do not want to see people taking their lives in their hands like this—is protesting using the only weapon he has, his own body, to make a very pointed observation about how bad the conditions are for refugees on Manus Island. His issues have been raised and conferred on by some of the world's most eminent experts on refugees and those seeking protection around the world. The United Nations has been very clear in condemning Australia's indefinite detention on Nauru and the freezing of the processing of the claims of those kept on Christmas Island and, increasingly, on the Australian mainland.

We have had the United Nations refugee body, the UNHCR, say that this principle of 'no advantage' is ludicrous. It is meaningless. It has no weight. And yet, when we were in this very place only three months ago debating the legislation which allows the government to dump people in Nauru, the then Minister—Senator Lundy, who is in the chamber—representing the Minister for Immigration and Citizenship, Chris Bowen, told us that the government would work with the UNHCR to determine how the no-advantage test would be implemented. The UNHCR has said it cannot be implemented. It is meaningless. It is in breach of the convention and it is not going to work to stop desperate people fleeing danger and seeking safety.

This man, who is risking his own life in such an extreme and desperate manner, is also very concerned about how long he and other refugees will have to remain on Nauru. The government will not give us a time frame for how long people will be there. They cannot put a figure on it despite the fact that we know it is indefinite detention, by its very nature, that drives people to such desperate acts. The two bills before us are going to create a black hole into which taxpayers' money is going to continue to be thrown over and over again because there is no end in sight.

We know that we can assess people's claims quickly. We can ensure that those who have had their health and security tests done to make sure they are not a risk to the community have their claims assessed in much cheaper ways. Community detention, and the assessment of people's claims while they are living in the community, is 90 per cent cheaper and 100 per cent fairer—and yet that is not the path this government is taking. Rather than looking at the practical needs and coming up with a practical response to the issues of people fleeing war and persecution in our region, we have seen this government absolutely kowtow to the wishes and demands of Tony Abbott's coalition. It has not provided any solution to the numbers of people in our region who are seeking safety.

Let's go back to the list of things that are wrong with the current policy. We have hunger strikes in Nauru. We have conditions which have been labelled 'inhumane' by various international and Australian organisations. They have been condemned by the UN and the UNHCR. The Australian Human Rights Commission says that indefinite detention and the conditions on Nauru are extremely worrying. We have seen Amnesty International make statements and demand access because the conditions are so
bad. We have locals on Manus Island protesting the building of the new facilities—even blockading the airport last week so the personnel who were being flown in to build the facilities, this new prison, could not get on with their work. The locals on Manus Island do not want this prison there either. We have rooftop protests at Villawood detention centre. We have tents being put up on Christmas Island because the numbers of people being detained there indefinitely is ballooning.

We know what happened last time we constructed tents on Christmas Island: the frustration, tensions and dangerous circumstances that arose meant that riots broke out in the immigration detention centre. It was a combination of inappropriate accommodation and, of course, the freezing of the processing of people's claims for asylum. That is exactly what is happening all over again. This government are absolutely incompetent when it comes to managing the needs of refugees. Rather than taking a practical response to a humanitarian issue, they are far more worried about whether they can win the race to the bottom with Tony Abbott and his coalition, who, frankly, do not give a damn about the human rights of refugees. They do not give two hoots about the conditions that refugees have to face on Nauru, Manus Island, Christmas Island or any of the other detention prisons scattered around the Australian mainland. They do not care how long people have to sit rotting simply because they fled war and persecution. They do not care about the rights, protections and needs of some of the world's most vulnerable children, who are those children who have had to flee war, persecution and the torture of their mothers and fathers.

The coalition do not care, and yet what we see is Julia Gillard locked in a race to try and beat them—beat Tony Abbott at his own game of not caring about refugees and asylum seekers. This not-caring, be-mean beat-up on refugees is costing the Australian taxpayer billions upon billions of dollars. The two bills that we currently have before us are to allow another $1.6 billion to be spent continuing a regime that is inhumane, does not work and is only putting vulnerable refugees in more danger.

I want to go back to some of the conditions that the Houston report identified as needing to be met if indeed the Australian government were to reopen the hellholes of Nauru and Manus Island. Page 48 of the Houston report says that, if we are going to send refugees to Nauru and Manus Island, we need these things in place:

- treatment consistent with human rights standards (including no arbitrary detention)
- appropriate accommodation
- appropriate physical and mental health services
- access to educational and vocational training programs

Some of the country's most eminent mental health experts have said it is extremely worrying to see the conditions that are being created on Nauru. Of course, the hunger strikes of the last few weeks, and of one refugee in particular, who is very, very unwell, are a very good example of how poor those physical and mental health services are.

Again, where are they? None of those things were put in place before we started dumping people there indefinitely.
• an appeal mechanism against negative decisions on asylum applications that would enable merits review …

Again, we have seen the UNHCR ask what has been put in place. Expecting a small and impoverished country like Nauru to manage that process when they have had no experience of doing it before is simply inappropriate, and we in Australia cannot be washing our hands of our responsibilities in that regard.

• monitoring of care and protection arrangements by a representative group drawn from government and civil society in Australia and Nauru

This was another condition that the Houston report said needed to be provided if we were to send refugees to Manus Island and Nauru. Again, the government has failed. They do not have this in place.

They have absolutely failed to uphold the obligations that they said they would meet.

• providing case management assistance to individual applicants being processed in Nauru.

I would like to know what case management and appropriate assistance is being given to individuals who feel they are so in harm's way that they have to take their own lives to make a point about how bad the government are at managing the needs of vulnerable people.

This bill asks us to spend an extra $1.6 billion making people's lives even more miserable, putting children in more harm's way, ensuring that billions of Australian taxpayer dollars will be spent on us not fulfilling our international obligations, ensuring that we do not play by the rules we have signed up to, not protecting vulnerable children. This bill is asking us to spend $1.6 billion on doing the complete opposite to what the UNHCR and UN bodies ask us to do. And all for what? So we can stop the boats? The boats have not stopped, have they? They are coming in record numbers.

Deterring people from leaving their homelands that are riddled with war without giving them a safe option does not make any sense. It is illogical to ask a mother and a father and their children to 'just stay put' while the Taliban is chasing them down and murdering their other family members. It is impractical, it is illogical, it is inhumane and it does not do anything to deal with those who are in our region seeking our protection. It is inconsistent with our obligations and inconsistent with the basic value of the Australian fair go.

I will be moving an amendment to this bill which calls for a 12-month limit on the length of time that people should be left on Nauru and Manus Island. I do not want people there at all, but they are there, and the government are so obsessed with competing with Tony Abbott in a race to the bottom of the barrel that they are going to continue to send people to this hellhole. So let's at the very least put some type of time limit on it. You cannot tell me that in 12 months Australian bureaucrats cannot get through the applications of people. They will get 12 months to assess people's claims, and if they are found to be in genuine need of protection then we welcome them. If they are not then we send them home. But let's keep it confined to a time limit. Let's not be back here in 12 months having to fork out even more billions of dollars of Australian taxpayer money just to keep Julia Gillard and Tony Abbott at one in being inhumane to refugees.

The Houston report also said that we needed to spend more money on allowing assessment by the UNHCR in countries like Malaysia and Indonesia. The report recommended that the money be doubled to $140 million. The government has ignored
that advice and put up $10 million, so guess what? The boats will keep coming. People come to Australia to get their claims assessed because there is no capacity for it to be done further back along the line. If we want to give people a safer option so they do not have to risk their lives to come to Australia on leaky boats, then we need to give them other assessment options. The Houston report said $140 million, and the government, despite spending billions of dollars on an island prison in Nauru, have only given the UN $10 million. Our amendment calls for that extra $140 million, as recommended by the expert panel. We also want to see an independent health panel established because we know the conditions in Nauru are not right and people should be able to access assessment independent of those facilities.

The bills before us are a shame on this government. The bills before us spend billions of Australian taxpayer dollars, all to keep Julia Gillard in the Lodge. It is disgraceful. I move:

At the end of the motion, add:

but the Senate calls for the appropriation of funds for offshore processing to occur only when:

(a) a 12 month time limit on the detention of an individual in Papua New Guinea or Nauru is established;

(b) funding for a regional co-operation framework, and capacity building initiatives, is doubled to $140 million as recommended by the Expert Panel on Asylum Seekers;

(c) an Independent Health Care Panel to oversee the physical and mental health of asylum seekers sent offshore is established; and

(d) all contracts for services between the Australian Commonwealth and service providers in Papua New Guinea and Nauru, including costs and operational protocols, are tabled in Parliament.

Senator IAN MACDONALD (Queensland) (10:43): This bill will not keep Julia Gillard in office; it is the Greens political party that keeps the current Prime Minister in office. That was another speech from the party representing the loony left of the Australian political spectrum. That speech on behalf of the Greens political party was dysfunctional, inaccurate, lacking fact, certainly lacking logic and impractical. It clearly told untruths about Australia's obligations to the UNHCR and used the emotive words 'basic Australian values' without any understanding of what basic Australian values are.

It was a speech—yet again typical of the Greens political party—that was repetitive on how awful Tony Abbott is notwithstanding this is not Tony Abbott's legislation. But can the Greens see beyond Tony Abbott? Would the Greens ever attack the Labor Party or Julia Gillard? Never. Anything that this government does that the Greens do not like suddenly is Tony Abbott's fault. That is how illogical and irrational the speeches that you will hear from the Greens political party are. Senator Hanson-Young made an emotive speech about the coalition not caring—she did not mention the Labor Party, mind you—how long people sit in these detention camps. I point out to Senator Hanson-Young what this is all about and why the coalition has been determined to secure our borders and stop people jumping the queue. Why we become involved in this whole purpose of protecting our borders and making sure that all refugees in the world apply by the rules of the UNHCR is this: there are around the world at the current time 10 million people determined, calculated and assessed to be refugees. They are living in squalid camps around the world and have been there for years. They are waiting for their turn to get into Australia, Canada or Europe. They are complying with the rules. They are not 'possible' refugees; they have been determined by the UNHCR to be
refugees and yet they sit in squalid camps around the world—10 million of them—waiting for that one chance they will eventually have to get into Australia. But every time someone who is not yet determined to be a refugee jumps the queue and comes into this country then those people who have been determined to be refugees and who have been waiting years—some of those 10 million people—have to wait yet another year for their chance. Those 10 million people, who are determined, calculated and assessed to be refugees, are waiting their turn in accordance with the UNHCR rules.

That is why we in the coalition are determined to play by the UNHCR rules. Unlike Senator Hanson-Young—who, apart from mouthing the words, would not know what the basic Australian fair value is all about—the coalition knows the basic Australian fair value. The basic Australian fair value is that if you have been waiting in a squalid refugee camp somewhere in the world, if you have been determined to be a genuine refugee, then you take your place in the queue, and when a spot becomes available in Australia you come in. But, every time these people are not prepared to play by the rules, those who are wait yet another year.

I would like to hear the next speaker from the Greens address that issue. I would love to hear what the explanation is of that. Don't they care about the other 10 million refugees? I will use Senator Hanson-Young's words: the Greens 'do not care' about the 10 million assessed refugees sitting in squalid camps around the world. They want to give the places in Australia, the places that the Australian government determines we will accept every year, to the queue jumpers. Tell me how that complies with Australia's basic values. Tell me how that complies with the UNHCR. Senator Hanson-Young then goes on and says what squalid conditions there are in Nauru. Can I just tell Senator Hanson-Young that there are people, proud people, who happily live in Nauru. They are called Nauruans. There are people of Papua New Guinea. They live there happily. Senator Hanson-Young would have you believe that Nauru is a place like hell and that nobody but nobody would ever live there. But sorry: there are people who do live in Nauru and Manus Island, and do it happily.

Senator Hanson-Young then says that this proposal today is meant to stop the boats, and it has not stopped the boats. I say to Senator Hanson-Young that, if she were interested in logic and truth and fact, she should have a look at when the boats did stop: there were establishments set up in Nauru, there were other measures put in place, and the boats did stop. This government—the Labor government—after years of saying they would not open Manus and Nauru are now doing it, but unfortunately they are only doing one of three elements of John Howard's policy, which actually did stop the boats coming and did save lives. It did stop those hundreds of people who have been killed trying to get to Australia illegally. John Howard's policies stopped that. The Greens and the Labor Party policies have encouraged people to come into our country illegally and, in so doing, many have regretfully lost their lives.

Senator Hanson-Young, with her typical feigned emotion, again talks about suicide. I for one am distressed by, and would do anything I could to stop, anyone suiciding, and I am distressed to hear from Senator Hanson-Young at least that this is occurring in Nauru and Manus Island at the present time. I mention in passing that Senator Hanson-Young did not seem to have the same concern when people in the cattle industry were considering taking their lives because of the mess they were left in
financially as a result of the Greens' and Labor Party's live cattle ban. There are Australians who, because of a government policy, are considering taking their lives—a government policy that is egged on by the Greens. Have we heard one word, just one word, of concern from the Greens political party for those Australians in that same depressed mental state?

Have we heard one word from the Greens political party about those original Australians who are having their human rights taken from them by a combination, yet again, of the Labor Party and the Greens political party in trying to put World Heritage listing over Cape York? The first Australians in Cape York are at last understanding that the welfare mentality of the last five decades has done their people no good. They want to use their land in Cape York to build a better life for themselves and for their children. They are looking at any number of pursuits. I know; I was up there at a meeting 500 kilometres north of Cairns just a couple of weekends ago when about 250 people—about a third of them Indigenous people—came together to complain about the World Heritage listing of Cape York. The first Australians in Cape York are at last understanding that the welfare mentality of the last five decades has done their people no good. They want to use their land in Cape York to build a better life for themselves and for their children. They are looking at any number of pursuits. I know; I was up there at a meeting 500 kilometres north of Cairns just a couple of weekends ago when about 250 people—about a third of them Indigenous people—came together to complain about the World Heritage listing of Cape York. Mind you, neither they nor I nor anybody else—apart from the Labor government and the Greens—seems to know what the rules are to be for the World Heritage listing. Nobody, apart from the Labor Party and the Greens and a few insiders, seems to know where the boundaries are proposed. That is part of the problem. But 250 people from all over Cape York drove for eight hours or flew for two hours to get to this meeting to express their concern that their rights to their land were about to be taken from them. And where were the Greens? Where were the human rights then? How were we looking after these disadvantaged people in yet more decisions from the Greens and the Labor Party that take away their rights to their land, to self-fulfilment and to their own futures for themselves and for their children?

Mr Deputy President, you may think—and people who are listening to this may think—that I am very critical of the Greens political party. And you are right. I am sick and tired of the feigned emotion, the illogical arguments and saying one side of the story. I challenge Senator Milne, who is speaking next, to tell me why these recent arrivals are more worthy than the 10 million refugees who are already assessed, who are sitting in camps around the world and who would be in Australia now—some of them—if it had not been for these people jumping the queue. Senator Milne will say, 'Oh, that's because the Australian government only takes 13,000 refugees,' or 20,000 refugees as it is about to be increased to. But what about the other 9,980,000, Senator Milne? Would you say, 'Open the borders and let them all come in'? I am sorry: Australia could not cope financially or socially. Australia has to do its part and, as we all know in this chamber, Australia punches well above its weight when it comes to acceptance of assessed refugees around the world.

We have nothing to be ashamed of in Australia. Our policy under many governments has been welcoming and open to those who comply with the UNHCR rules. Senator Hanson-Young says that we do not care—the coalition, not the Labor Party, I might repeat. She says that the coalition does not care about these children in these camps whose mothers and fathers have been tortured. How emotional can you get? We do not care about it, she says. Of course we care about it. That is why we want to look after the 10 million refugees whose parents also were tortured and who have been determined—assessed—to be refugees. But does Senator Hanson-Young mention that? Of course not. It does not suit the political mantra of the Greens at this particular time.
It is no wonder that Australians have at last woken up to what the Greens political party is all about. When you see a territory, a city, like Canberra rejecting the Greens you know that the Greens have lost the plot. I could have told people that years ago, but the rest of Australia now realises that the Greens have lost the plot. They are completely un-Australian in their view of what is Australian and, as I have demonstrated earlier in my speech, some of the comments by the Greens have a very blinkered view about what the Australian 'fair go' is.

This bill is about spending another $1.6 billion of taxpayers' money to try and fix yet another Labor Party failure. We are at a net debt currently—I cannot keep track of it; what is it today?—of $157 billion. In gross debt I think it is about $250 billion. What are we doing? I do not have the figures because they change by day, but we are spending $20 million a day—is it?—in interest payments to the foreign lenders for money that the Labor Party has had to borrow to try and correct its earlier mistakes. And here we are: only another $1.6 billion! Easy to say when it is not your money.

I can guarantee that those on the Labor benches, those on the Greens benches and many of us on this side too will get the same pay at the end of the month. But all those Australians out there breaking their backs to earn money to get a better life for them and their families in Australia are the ones who have to pay the additional taxes that Labor keeps imposing upon Australia to pay for things like this new $1.6 billion blowout to set up an operation that the Howard government had in place. It was there. You did not have to spend anything on it—well, you might have had to scrub up a few things; you might have had to wash the windows or the bathrooms. It was all there.

But what did the Labor Party do? They took it down, they dismantled it, they destroyed it and they let it fall into the ground. It was all there and it was working, and it was working because that was one of the three elements we used to stop the boats: send people offshore for determination and for processing; turn the boats around where it is safe to do so; and issue with temporary protection visas. But the Labor Party could only bring themselves to do one-third of what was needed to be done, and of course the boats have not stopped. The one true thing that Senator Hanson-Young said was that the boats have come with increasing regularity, and this bill spends that extra $1.6 billion to fix up what was already there. This is just part of $2.7 billion to run the various programs that are consequences of boats coming to Australia.

The Labor Party are pretending that they are going to have a surplus. Nobody believes that will happen; in fact we have already shown that it will not happen—they fiddled the books a bit. But here is another $2.7 billion being spent because Labor simply cannot control the borders and are not interested in doing it. Why aren't they interested in doing it? To do that they would have had to adopt John Howard's policies and they, like the Greens, said that anything that John Howard did was bad and anything that the Labor Party does is good. That is why they stopped a policy that was working. There cannot be any argument about that.

You will hear Senator Milne say that there have been new conflicts in Afghanistan and Sri Lanka and that is why there is a huge new increase. Sorry. There have been conflicts everywhere every year, regretfully. It is a sad state of the world's situation and there are always refugees looking for a better place. Australia welcomes them to the extent of our ability to look after them, but we want to take those who are playing by the
UNHCR rules. That is fair. That is the Australian way. There is a set of rules. We welcome these people and we understand their torment and their torture and their turmoil and we want to bring them here to a new life. But every one of these failures of the Labor government coming in illegally to our shores is one of those already assessed refugees who has to wait yet another year to try to get to our country.

This is a bill that should not be necessary. If the Labor Party had not shown significant failure in this aspect of governance, as they have with everything else, this bill would not have been necessary. But because, belatedly, they are coming to the table in a partial way, it is something that should be looked at.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (11:03): I rise today to comment on the current bill before the Senate and, after Senator Macdonald's rather ugly and mean-spirited contribution, we would be hard-pressed to know what we are actually doing here. But we are debating the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-13 and the appropriation of $1.6 billion. That is where we are having a discussion today, about whether or not it is appropriate to spend that amount of money considering that a substantial amount of this money, $557 million, is going to the operating costs for Manus and Nauru for the rest of this financial year and you have got at least $267 million going for the capital costs. So $557 million of this is going to the construction of those detention centres and their operating costs, whereas the expectation was that the government was going to seriously fund the UNHCR regional capacity to assess asylum seekers regionally, to look at them and assess their status as refugees and move them through quickly and, at the same time, to increase our humanitarian intake.

I am pleased to say that part of the allocation of this money, $93 million, is going to the increase in the humanitarian intake. There is also an extra $8 million for family reunion places. But there is only $10 million for the UNHCR regional capacity. So we are going with $557 million for Nauru and Manus Island and $10 million to boost UNHCR regional capacity in Indonesia. I would suggest that it should be a much better balanced outcome than that, because $10 million is going to go in no small way to actually frustrating asylum seekers even more. They are going to see Australia more willing to pour those millions into keeping people in offshore detention centres indefinitely, contrary to our international obligations.

We sat here in this Senate when these bills went through in June and the Greens said very clearly that it would not stop the boats coming to Australia because deterrence does not work. People are going to continue to try to seek asylum in our country because they are running from appalling circumstances in Afghanistan and in other places around the world. We said that deterrence would not work and that this would not stop the boats. What would work was to increase our humanitarian intake and boost the UNHCR capacity.

Senator Lundy, who is in here today for the government, argued strenuously at the time that what Australia was doing was not contrary to our international obligations even though it is as clear as the nose on your face that in fact it is. The whole point of this legislation in the first place was to get around the High Court, which had said quite clearly that because there was no legally binding obligation to guarantee the rights of asylum seekers offshore—in Malaysia in particular—the legislation was not legal. This legislation that went through. All this hastily gotten together so-called compromise
has done is breach Australia's standing internationally. People are looking at us now and saying, 'What is Australia doing, sending people offshore to indefinite detention?' That is what it is: indefinite detention.

I heard Senator Macdonald going on about people in this parliament not caring about others in Australia with mental health issues. Well, he could not be more wrong. I think it is a disgraceful thing to say, because I would say that people right across this parliament of all political persuasions are very concerned to protect mental health. There is no party more concerned about that than the Greens. We have argued strongly for a big injection of funds into mental health. My colleague Senator Penny Wright is currently conducting a survey in rural and regional Australia on mental health provision and how best to achieve that around rural and regional Australia.

We recognise that people need to be assisted in this way. That also extends to people in our care in detention. The government has put these people into detention. Human rights advocates and many very highly regarded health professionals are saying that one of the reasons why there is such a rapid deterioration in the mental health of people who are seeking asylum and sent offshore indefinitely is the fact that there is no hope and they see no end to it. They are stuck on Nauru or Manus Island and they have no end in sight. That is why several hundred of them went on a hunger strike recently and, in fact, at least two of them are seriously ill at this time. That is on the government's record. It is something they will have to take responsibility for.

Why are people left in indefinite detention when it is contrary to what Australia should be offering under human rights law? Because the government argues we want a no-advantage test. Yet where is this no-advantage test? It was an ill-considered concept. There was no meat on the bones when it was raced through this parliament. The Greens said at the time: what does the no-advantage test mean? You cannot apply an average across the region. We still do not know. So, on the basis of no advantage, people are shoved into indefinite detention and that is driving deterioration in their mental health.

I have a press release from the Australian Human Rights Commission. This goes to many of the rather ignorant remarks that we heard from Senator Macdonald a short while ago. The Australian Human Rights Commission's press release on Thursday, 1 November 2012 was entitled 'Migration Act amendments undermine Australia’s international law obligations'. I trust Senator Lundy is listening, because she told the Senate that what Australia was doing did not undermine Australia's international law obligations. You can only assume now that she misled the Senate at that time or believed it to be true at that time and now can no longer believe it to be true. We will see when the minister responds. The press release says:

The proposed amendments to the Migration Act requiring that asylum seekers who arrive anywhere in Australia by boat be taken to a regional processing country undermine Australia’s obligations under the Refugees Convention and other human rights treaties.

That is a fairly emphatic statement, Senator Lundy. It continues:

The Australian Human Rights Commission President, Professor Gillian Triggs says this legislation discriminates against some of the most vulnerable people in our region, based on the way in which they arrive in Australia.

“Australia is obliged to implement the Refugees Convention in good faith. The proposed amendments to the Migration Act undermine the Refugees Convention because they penalise asylum seekers who arrive in Australia by boat,” said President Triggs.
This is a point I made when we debated the legislation at the time. I said that the convention says you cannot discriminate against people on the basis of the manner in which they arrive. That is exactly what Australia is doing. The press release continues:

Professor Triggs said the Commission is concerned that transferring asylum seekers to a third country will lead to breaches of their human rights, including the right to be free from arbitrary detention and the rights of children to have their best interests considered in all actions concerning them, to be detained only as a measure of last resort and for the shortest appropriate period of time and for asylum seeker children to receive appropriate protection and assistance.

"States cannot avoid their international law obligations by transferring asylum seekers to a third country," said President Triggs.

"Effectively all boat arrivals are already potentially liable to third country processing. However, preventing all maritime arrivals from having their protection claims assessed in Australia sends a message that Australia is not prepared to meet its human rights obligations to asylum seekers," said President Triggs.

The Commission also holds serious concerns about the more than 5000 people potentially liable for transfer to a third country currently in detention in Australia.

"These people, including children, are currently indefinitely detained and face what is in effect a suspension of the processing of their claims for protection. The Australian Government should release these people from detention and process their claims for asylum as soon as possible," said Professor Triggs.

There you have the Australian Human Rights Commission coming out so clearly saying we are behaving absolutely contrary to our obligations under the refugee convention and other human rights treaties. When the parliament raced this through only the Greens stood up and said it was contrary to all of our obligations and will not stop the boats. History has shown that that is absolutely what has occurred—it has not stopped the boats.

What interests me is that the whole crisis was brought on in June because a boat containing asylum seekers sank and a lot of people drowned. I said at the time that Australia knew on the Tuesday afternoon that that boat was in trouble but we did not go to their assistance until the Thursday, by which time 90 people had drowned. The question I have asked all along is: why is it that when we knew these people were in trouble we did not send the appropriate rescue at the time given our obligations under the International Convention for the Safety of Life at Sea, which is a fundamental maritime obligation?

I still pose that question because, since then, the Australian community has been oblivious to this—and they are oblivious to it because it has not been reported. Why was it reported then and not reported now? There is a story from a lone survivor who has been returned to Indonesia. His story is that he:

… clung to a rubber tube and drifted helplessly for three days before rescue as the sole survivor of a boat that sank en route to Christmas Island. Habib Ullah, 22, of Karachi, said he was among 34 Hazara from Afghanistan and Pakistan aboard a rickety boat that left Indonesia on October 26. Speaking from … detention centre in Jakarta, an emotional Mr Ullah said the engine failed and the boat started taking on water in treacherous conditions after about one-third of the voyage. He described the horror of watching friends, many of whom could not swim, drown around him as he clung to the tube he took aboard with him.

"One by one they were drowning before my eyes," he said. "I could not do anything but watch. I witnessed about 18 to 20 people drown." He said he was in despair as his hopes of rescue faded fast.
"I saw very big oil tankers but they were too far from me," he said. "I was at the mercy of the ocean and very scared.

"My face was burnt, my legs were sore and my whole body was in a critical condition."

He was semiconscious when fishermen picked him up and nursed him for five days before handing him to Indonesian officials.

Mr Ullah told his story to send a message to Prime Minister Julia Gillard and Opposition Leader Tony Abbott.

"Please accept asylum seekers because it is too dangerous to go back to our homeland," he said.

"We Hazaras are very grateful to the Australian Government and people for their generosity that is willing to accept us into their society."

But he did not see offshore processing as the solution.

Mr Ullah said Hazaras in Pakistan and Afghanistan gambled with their lives just walking into the markets. "I want to complete my education in a safe environment where there is no prejudice or religious violence," he said.

Refugee advocate Victoria Martin-Iverson said it was the second boat lost in the last four months with neither reported in the media.

Shahin Tanin, of Brisbane, has grave fears for his cousin Mohammed Jawad, 40, left Jakarta 13 August.

Mr Tanin said none of the 26 Hazara passengers, including women and children, has been heard from. "I fear he has drowned or why wouldn't one of them contact us?" he said.

He said Mr Jawad was forced to flee Afghanistan after the Taliban threatened to kill him when he refused to join them.

Ms Martin-Iverson said she wondered how many lives were lost at sea without the public knowing.

In June, it was reported a boat with 67 asylum seekers disappeared en route to Christmas Island.

The issue here is: if the concern is about people losing their lives at sea, why is it that this policy has not been declared an abject failure because more people have risked their lives at sea since it was brought than before? Doesn't that say that the legislation that went through here did nothing to help people decide whether or not to get on one of those boats?

What will help to stop people getting on one of those boats is to give them hope, in those processing centres in Indonesia, that they can find a safe passage to Australia or to another country and not to be so despairing that this is their only alternative. Contrary to what Senator Macdonald said about queue jumping, there is no such thing as a refugee queue. You have to be realistic here. There are people in refugee camps all over the world. The Australian Greens are keen to see as many of those people as possible, once their countries get out of conflict situations, enabled to go back home or, if they are refugees from political persecution, helped to be placed elsewhere in the world. Of course we want to see that happen. What has been so mean-spirited about this government and, indeed, the Howard government is that, as they accepted people arriving by boat, they reduced the number of people coming from those camps. That is a decision of the Howard government and the Gillard government; that is not something that the Greens have endorsed.

In one day, 9 November this year, 11,000 Syrians crossed the border and were refugees—11,000 in one day. Would Senator Macdonald say that they were queue jumping because they sought to leave Syria in the most appalling circumstances? It is a nonsense idea. When people are in trouble, when they are being persecuted, when they are being set upon, of course they are going to leave. They are going to try to get somewhere safe and, as that young person said, somewhere to get an education and live a safe life. That is what Australia offers. No
amount of leaving people on Nauru indefinitely is going to deter people seeking asylum in Australia. That is why deterrence has never worked. That is why this policy is going to get more and more expensive—and not only because of the operating expenses for Nauru and Manus. When I say 'expensive' I mean in terms of human lives, the deterioration in people's physical and mental health and the long-term exposure to the compensation claims that Australia will have to meet.

We need to reassess this policy and say it has not worked. Let's get realistic here and recognise that there are large numbers of people around the world seeking asylum. Let's do what we undertook to do when we signed up to the refugee convention. Let's respect that convention. Let's actually give people their access to natural justice. It is a disgrace in Australia that the legislation takes natural justice away from people. It takes away their ability to access the courts. One of the most disgraceful things that have been done—and this is a stain on the Gillard government, just as it was a stain on governments previously—is that the government brought legislation into this Senate which was passed by the majority of the parliament, with the exception of the Greens, to exempt the minister from his duty of care to children.

The High Court had said that, as the guardian of unaccompanied children, the minister must act in their best interests and therefore that cannot be to send them into offshore detention. So the government moved in this place to exempt the minister from his responsibility as a guardian of unaccompanied children and, as a result, those unaccompanied children do not have to be dealt with in the best interests. Senator Macdonald says the Greens do not know what Australian values are. I think I know what Australian values are when it comes to the protection of children. I do not think I would find a single person walking down the street who thinks it is appropriate that the minister legislates to exempt himself from guardianship and doing the right thing by children in order to send them indefinitely somewhere else, if he chooses to do so. That is not Australian. That is not something a parliament should be proud to have done, nor should we be proud to have taken away people's natural justice.

I want to see the humanitarian intake increased. I want to see more family reunion places. I want to see much more than $10 million going to boosting the UNHCR regional capacity, so that people can be assessed and so that they do not feel like they have no other option but to come on boats.

So let us not have any more pretence here: this has not stopped people risking their lives at sea. More people than ever have done so. And my question to the minister is: why hasn't the government made any statements about the lost boats? If there is such concern in the government about saving lives at sea then get rid of this policy and actually save lives at sea by massively increasing that humanitarian intake and by supporting the UNHCR in Indonesia to assess people and give them hope. Hope is the answer here, not despair, not punitive measures, not punishment and not out of sight, out of mind, indefinitely.

**Senator LUNDY** (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (11:23): I would like to thank senators who have made a contribution to this second reading debate on the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 and the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill
(No. 2) 2012-2013. These bills seek urgent appropriation authority from parliament for the additional expenditure of money from the Consolidated Revenue Fund. These bills require immediate passage to provide additional appropriation to the Department of Immigration and Citizenship. These bills address the increased cost of irregular maritime arrivals resulting from higher rates of arrivals, and the implementation of the recommendations of the Expert Panel on Asylum Seekers, including capital works and services for regional processing facilities on Nauru and Manus Island in Papua New Guinea. The total appropriation being sought through these two bills is $1,674,982,000.

Turning to appropriation bill No. 1, the total appropriation being sought is a little over $1.4 billion. This includes $110.6 million for Houston report measures, including $92.043 million to increase the humanitarian program by an additional 6,250 places to 20,000 places per annum from 2012-13. It also includes $8.181 million to increase the family reunion stream of the permanent migration program by 4,000 places, and it contains $10 million to fund capacity building or to add to our expenditure to date on capacity-building initiatives in regional countries. It also includes $1.296 billion to meet expenses arising from the management of higher levels of irregular maritime arrivals and the operational expenses associated with the implementation of the expert panel's recommendations to establish regional processing centres on Nauru and Manus Island. This does include $186 million accrual from 2011-12. Despite claims otherwise by the coalition, the funding sought in these appropriations is consistent with and already budgeted for within MYEFO.

The government will be opposing the Greens second reading amendment. I would like to address the series of four points contained in that amendment. Point (a) relates to the 12-month limit: the Greens, as we have heard from Senator Hanson-Young, are seeking to limit the time of detention. This issue was canvassed quite thoroughly when we originally debated the bills to implement the expert panel recommendations and it certainly would render void the concept of no advantage—people smugglers would be able to point to a limit of 12 months and would therefore again have a product to sell. So this amendment undermines completely the recommendations of the expert panel. As I know my Senate colleagues understand full well, we are committed to the whole package of recommendations by the panel.

In relation to point (b) of the Greens amendment, the bill provides $10 million for regional capacity-building measures. Additional funding for future years will be considered as is appropriate during normal budget processes. It would not be appropriate for any fiscally responsible government to agree to funding of this size in a forum like this. Unlike the Greens, this government has agreed in principle, as I just mentioned, to all of the recommendations of the Expert Panel on Asylum Seekers and we will continue to progress these recommendations. Obviously, future consideration will need to work through the budget processes and our normal consideration.

Point (c) of the Greens amendment calls for an independent healthcare panel. I would like to refer the Greens—I am sure they are already aware of it—to the submission by the Department of Immigration and Citizenship to the inquiry by the Senate Standing Committee on Legal and Constitutional Affairs into the Migration Amendment (Health Care for Asylum Seekers) Bill 2012. The department's submission outlines our approach. We as a government are pursuing
an oversight advisory model that would include monitoring of mental health. The details and timing of these considerations are, as you would expect, in the hands of the minister. That submission is available on the committee's website and I refer the Greens senators to it for reference.

Point (d) of the amendment relates to contract services. It is important to note that there are available through the AusTender website some versions of these contracts, albeit redacted; we make no apology for not disclosing operational protocols in relation to these contracts and also the breakdown of the costs. We have provided, and will continue to provide, the overarching costs. Also, I note, in the context of this amendment, that some of those contracts are not yet in their final stage but the heads of agreement are, and we discussed those at length at Senate estimates. We provide information on all that wherever we can and wherever possible, as is the nature of our approach. I should wrap it up by saying that was responding to the second reading amendment and that the government will be opposing the second reading amendment, for the reasons that I have outlined.

In relation to a couple of points raised by Senator Milne, we have not suspended any processing; it is true there are a large number of asylum seekers to be processed, but we continue to do this. We certainly maintain that our processing offshore on Manus Island and Nauru is in line with the refugee convention. In relation to the facts about lost boats, obviously if we are aware of boats we will make available, as has been the practice of the government right from the start, whatever information there is about tracking and issues related to lost boats so that it can be placed on the public record. So I am at a bit of a loss as to that point.

It is only this government, the Labor government, that is fully committed to delivering a proper and sustainable regional solution through the full implementation of the recommendations of the report of the expert panel led by Angus Houston. No-one should doubt the government's commitment to implementing these 22 recommendations and we will persist with it, including the presentation and passage of this bill in the House and now its debate here in the Senate. The aim is to break the people smugglers' business model and help stop people losing their lives tragically at sea on a very dangerous journey. And this is how responsible governments develop policy; by listening to the advice of experts and then acting on the recommendations, and that has included establishing regional processing on Nauru and in Papua New Guinea as soon as practical. We believe that the measures that we are putting in place will be an effective combination. Having an increased refugee intake from offshore and having no advantage for those who arrive by boat removes the attractiveness of attempting the expensive and dangerous journey to Australia. It undermines completely the people smugglers' business model. I have certainly made this point several times in this chamber and it is made consistently in the public debate—and I think that my colleagues, particularly those opposite, understand this full well. The suite of measures in the recommendations is the only way that we will see a reduction in the rate of boat arrivals, and, of course, the immediate implementation of regional processing will help us do that.

We have almost 400 people on Nauru currently and transfers will begin shortly to Manus Island. Nauru will have a capacity of 1,500 beds; it currently has about 500 places. We expect to see 600 places in Papua New Guinea as works continue on the facilities
there. We are providing more opportunities for vulnerable and displaced people to pursue safer resettlement options in Australia and we are telling desperate people that there is a better way than taking a dangerous boat journey, a better way as part of an orderly humanitarian program. I remind my colleagues that we have increased that humanitarian program substantially. In fact, it is the greatest increase ever implemented and we are now proudly saying that, if you look at the number of humanitarian entrants on a per capita basis, you see we are the best-performing nation in the world in this regard.

The message here is that taking a dangerous boat journey will provide no advantage, that there is no visa awaiting people on arrival and that there is no speedy outcome or special treatment. This gives the lie to the people smugglers' spin. It exposes what they are offering as a complete sham. I think in the meantime we understand that, given the costs of processing and accommodating asylum seekers, it is expensive. It always has been. But the only way to reduce these costs is to have fewer people arriving by boat.

If the coalition were really concerned about the costs of processing and accommodating boat arrivals, it would not have for so long stood in the way of offshore processing legislation. We know why those opposite stood in the way of offshore processing, refusing to let the government implement its border protection policies. It was to score what can only be described as cheap political points. They do not want the government to succeed as it is not in their political interests, so I reject completely the accusation that somehow we are acting in an unprincipled way or in an inconsistent way. Yes, we took issue with the coalition government over their implementation of these policies and we understand very clearly that, if we were to play politics with this issue, it would come to a bad end for every party involved and, as we have seen in the past, there would be no solution.

The government have taken the politics out of this issue. We have called on the advice of an independent expert working panel and we stand here putting forward our proposals on that advice and on evidence based advice to the parliament. I find it quite offensive to hear the arguments, particularly from the opposition, that are embedded in some challenge to Labor's principle. Our principle is to have a workable solution. This is in the national interest and it is certainly in the interests of those asylum seekers whose lives are at risk because of what they are being pitched by people smugglers. I think the coalition had one little moment of bipartisanship when they supported the legislation that gave form and life to the expert panel recommendations. They should remember that time and that tiny window of bipartisanship, which, frankly, now seems just like another effort of expediency in giving expression to their view through the course of this debate. Since then they have reverted to type. If you review the comments of Senator Cash earlier on, it is opposition for opposition's sake.

Those opposite are not interested in a durable solution. They choose not to see the merit in having a regional approach. I think they understand that we are well on the way to finding a durable solution with the implementation of the expert panel report, and they are concerned that this will render them completely ineffective in the debate. Indeed, I would suggest that they already are ineffective. Opposition for opposition's sake does not work for anybody, and it certainly does not work on very challenging problems such as the one we are addressing.

We know that the game-playing by the opposition is pretty well entrenched in their
outfit. We know this because there is a very firm piece of evidence, and that of course is the Malaysia arrangement, a key recommendation of the panel report. We know that the Malaysia arrangement can indeed break the people smugglers' business model, and it is time to allow it to be implemented to build on what we have already built with offshore processing. No-one can deny that the combination of regional processing in Nauru and PNG, along with returns to Malaysia, would stop the flow of boats and provide that ironclad deterrent. So I call upon the opposition to reconsider their position on Malaysia. They have nowhere to hide on this. They say Malaysia is not a signatory, but in the same breath they clamour for returns to Indonesia, which is not a signatory. So there is inconsistency there. But there is consistency, however, with us because we see it as a regional approach. This is what is required. We cannot manage this international challenge as a single isolated country; we need to work within our region.

These bills support the government's measures to reduce the rate of boat arrivals through a proper and sustainable regional solution. As such, they deserve widespread support, albeit begrudgingly—and I understand that. Finally I refer to comments by Greens senators. We have been criticised in this debate from the far Right and from the far Left. I understand their concerns, but I also believe that our policy, at its heart, is based on good evidence and principles that we have maintained. I commend these bills to the Senate.

The ACTING DEPUTY PRESIDENT (Senator McKenzie) (11:40): The question is that the second reading amendment on sheet 7313 be agreed to.

As divisions cannot take place before 12:30 on Mondays, this question will be postponed until a later hour.

Debate adjourned.

Illegal Logging Prohibition Bill 2012
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator COLBECK (Tasmania) (11:40): I rise to make my contribution to the debate on the Illegal Logging Prohibition Bill 2012. I note that this legislation has a reasonable history through this place with two Senate inquiries so far, through which the opposition has played a very constructive role in its development. The government is trotting around the countryside a whole range of allegations about where the opposition is on that, which I am more than happy to refute. But I indicate that we will not be supporting this legislation because the government is not prepared to put in place some sensible modifications which we have suggested over a period of time to actually make this legislation workable and not become a weapon to be used against the forest industry by extreme environmental groups. And we know that that is what will happen because we have experienced it and we have seen it.

The government claims to be negotiating with industry around this legislation, but as late as today the Australian Timber Importers Federation said: 'It is considered that in its present form the bill is inefficient, bureaucratic and probably unworkable.' This comes from the organisation that the government has been negotiating with around the regulations that sit under this piece of legislation. The opposition remains concerned about the way the regulations align with the legislation. But it is not only the opposition that remains concerned; some
of our key trading partners also remain concerned.

In what has been a quite unusual circumstance in relation to a piece of legislation, the Rural and Regional Affairs and Transport Committee has received representations from Canada and New Zealand—not countries you would think of as having poor forest management standards or systems, or even associate with illegal logging—expressing their concerns about the impact this legislation will have, the bureaucracy it will impose and the costs it might impose on the industry. Also, Indonesia, Malaysia and Papua New Guinea have expressed concern about the legislation, the level of the government's consultation with them and the mechanisms by which the government proposes to introduce the legislation. And that comes back again to the concerns that the opposition has had.

It is not as if we have not taken this process seriously. We have participated in two Senate inquiries, and I do not think you could accuse us of having been anything but constructive when the government brought forward the exposure draft of this legislation. In fact, I am happy to acknowledge that government senators on the Senate committee were more than happy to take up a number of recommendations made by the opposition. So there have been some changes to improve the bill to align it with what the opposition saw as reasonable to try and make it a systems based system and less bureaucratic than it was—and it was an absolute minefield to start with. So seriously have we taken this legislation that the Leader of the Opposition actually wrote to the Prime Minister to outline our concerns and put them in front of the government. The concerns relate to the implementation of the bill. The regulations are so important and so fundamental to the workability of the bill that we want to see them before the bill comes into effect.

It is important that that is the case. If they do not, we will see a range of allegations made against companies importing timber from overseas as to their legality. Whether they are true or not, those allegations will be made and Australian businesses, being defensive of the perception of them as businesses, will take defensive action as well and, most likely, stop importing the products. That is going to create significant issues for those importing nations.

The opposition wants to work cooperatively with these companies. We recognise that they are working to put processes in place to deal with illegal logging. Like the government, we had a policy at the last election to take measures to prevent illegally logged timber coming into Australia. We acknowledged the problem; we acknowledged the issue. There are currently two processes operating in other parts of the world. The United States has the Lacey Act, which itself has its own problems—which, I think, has been recognised by the moves to modify the Lacey Act at the moment to take out some unintended consequences. The European Union, the EU, are looking at the FLEGT process. That process works on a bilateral system where countries within the EU negotiate country-to-country arrangements with their trading partners to put in place regulations or systems to prevent illegal logging and the sourcing of illegally logged timber—a cooperative process and a process that builds capacity in those countries that are looking to do that.

That is the sort of thing the opposition want to see. We do not want to provide a blunt instrument for rogue environmental groups to attack legitimate business and legitimate industry with allegations that they
are importing or exporting from a country and importing into Australia illegally sourced products. That is what will happen; we have already seen that process commence. Greenpeace in evidence to the inquiry alleged that up to 80 per cent of the timber coming out of Papua New Guinea, for example, was illegally sourced. What is the basis for those allegations? The basis for those allegations is that they—that is, Greenpeace—have determined what the definitions around illegally sourced timber will be. The problem is that we do not have any of that sort of work decided yet as part of the process.

Having spoken to industry players just last Friday night, we know that the regulations are nowhere near being ready yet. One of the things the opposition wanted to do in a cooperative way with the government as part of the approval process for this legislation—we have had these conversations with the minister—was to have the regulations pass through a Senate inquiry process so that we could check that the capacity to misrepresent was not there and the regulations were working. Now the minister has indicated to us that the regulations might be available by the end of the year. Indications to me from industry as late as last Friday night were that they have no chance. We are looking to have a process where, because the regulations under this legislation are so important and so fundamental, everybody who is participating in the timber trade industry has a good understanding of those before everything comes into effect.

The government are desperate to get some achievement out of the ag portfolio, given that this is the only policy for agriculture that the government took to the 2010 election. There was nothing else to do with anything else within agriculture; Tony Burke released one policy only and that was the illegal logging policy. We should be very suspicious of anything Minister Burke puts on the table given his performance over the past few months. But this is the only policy they had and they are so desperate to get some achievement on the table that they are prepared to push this through. They are not prepared to be cooperative. They will do a deal with the Greens—there is not much doubt about that—and they will create a weapon to be used against industry by extreme environmental groups. I have no doubt about that. You can see it being lined up right now.

Greenpeace say that 80 per cent of the timber coming out of PNG is illegal—on the basis of their own definitions; they make up their definitions, which is the way these groups often operate—and so what is that going to do to Papua New Guinea's forest industry? It is a $60 million-odd export industry; about one-third of that comes to Australia. So are we going to create through this process a crash in the New Guinea forest industry and are we going to see that impact work back down through the local communities? The Papua New Guineans think that is the case; it is what they are concerned about. They are more than happy to work to stop illegal logging. They do not want an organisation like Greenpeace to come in and define for them what is legal and what is illegal. They would like to understand what our regulations are, they would like to understand what our regulations say and they would like to work cooperatively with Australia to develop mechanisms to prevent illegal logging.

At what point do we recognise what a government says is illegal or not? That is one of the fundamental questions we have been asking through the development of this legislation. If a government says to us something is legal, who are we to say it is not? One of things that has been put into place as part of the development of this
legislation is a requirement of due diligence. Industry generally has accepted that that is a reasonable way to go. I know that the PEFC system, a global umbrella group that takes forest certification schemes and aligns them across a global platform, has said that it is developing a due diligence system to incorporate into its forest certification system.

That should be welcomed because, as I said before, it puts in place a systems based mechanism, as part of an industry's general certification process, to ensure that due diligence is taken to ensure that a product has been sourced legally. It can become a verification scheme as a part of that proper due diligence process. That should be welcomed. I would urge other certification systems to do the same.

The Indonesian government is putting in place a timber legality assurance system. My understanding is that there is a lot of work being done between Indonesia and the EU around the recognition of their system. It is called the SVLK. I will not try to pronounce it, because it is difficult and I would probably get it wrong, but let us call it the SVLK because that is how it has been recognised. It is their national timber legality assurance system. One of the things that the opposition wanted as part of this process was adequate, sensible time for these systems to be put into place so that the allegations, which I know will come from these extreme environmental groups against companies exporting timber to us, have some parameters around them—so we know what the rules are. At this stage we do not know which timber products are in and which are out.

The reality is that the more complex a timber product—the more it has been modified—the more likely it is to have illegally sourced timber in it. A medium-density fibreboard, for example, is the sort of product where you are most likely to find illegally sourced product. It is not likely to come in the form of solid timber products. The allegation might very well be made that it will, because that is about stopping forestry—that is the Greens and the extreme environmental groups' agenda of shutting down forestry—but the greater likelihood is that it will be in complex products. It may also, perhaps, enter in things like furniture where the timber is sourced from a number of different places.

Let us not pretend that the issue of illegal logging is not a problem. I am aware of the study out of Laos where the official inputs to a particular sawmill were something in the order of 350,000 cubic metres per year of logs, while the output was something like 650,000 cubic metres—so either they have a fantastic conversion rate or there is something going on. It is quite obvious that something is going on and we need to deal with that. We genuinely need to deal with that, but from my understanding a lot of that timber is going to a neighbouring country to be put into furniture. We do not know whether that is going to be included in the scope of the legislation yet, so, at the moment, what the government proposes is to create an offence. At the moment the proposed date of effect of that is the date of the royal assent to the legislation; then, two years after that, the regulations will come into effect. They will define other elements of the offences, including what particular products are going to be included and whether those highly modified, complex products are included.

Are paper, MDF boards and small batches of furniture that a small business might go to South-East Asian countries to buy going to have to be declared at the border? Are they going to have the capacity to do the due
diligence down the supply chain—to actually
determine whether the products are legally
sourced or not? None of that is yet known.
The opposition is saying, 'Let's deal with that
once we have put the offence in place; let us
deal with that properly once we have decided
what is in and what is out—once we know
those things.' Let us not create a bureaucratic
nightmare that industry is not going to be
able to manage properly. Let us let them
know what the rules are before we throw
them out for the extreme environmental
groups to get hold of.

If the government do not believe that that
will happen, they only have to look at their
complete mismanagement of the IGA
process—the Tasmanian Forests
Intergovernmental Agreement—where they
created the weapon. Again, Tony Burke is
involved in this. Tony Burke, Julia Gillard
and Lara Giddings signed an agreement
around forestry negotiations in Tasmania,
and notional reserves, or areas to be
considered for inclusion as reserves, were
created as part of that process. Those forests
immediately became a weapon against a
company called Ta Ann in Tasmania.
Accusations of them logging in those forests
were made in their markets. Industry and
business moved away from their products.

Ta Ann are not a logging company. They
do not harvest a stick; they take product that
is supplied to them by Forestry Tasmania.
They are not involved in logging operations.
They do not get to choose where their timber
comes from. Their markets were told that
they were selling old-growth products out of
these reserve areas—or areas proposed for
reserves; they have not been declared. That
company, after making an $80 million
investment, is now considering leaving the
state. One hundred and sixty jobs may be
lost, all based on misinformation and the
allegations made against them in their
markets. So, if anyone does not believe that
the government's mismanagement can create
a problem, there is the perfect example and
this company is the victim. That is exactly
the same thing that will happen as soon as
this declaration comes into effect with the
passing of this legislation. There will be
allegations about illegal sourcing of timber
and Australian businesses which are the
recipients of that product, particularly at a
retail level, will have market campaigns run
against them. They will take the only
defensive action available to them, which is
to stop sourcing the product. That will
happen. You can see the environmental
groups lining up. Worse—if you look at the
amendments proposed by the Greens, they
are looking to give another layer of armour
to those environmental groups by making it
about trade between states. If the government
does not believe that that is part of the
process, just read the amendments that are
being proposed by the Australian Greens to
this piece of legislation in this place. That is
what will happen.

We have treated this process with respect.
We have negotiated or tried to negotiate with
the government. Tony Abbott wrote to the
Prime Minister suggesting a way forward.
Minister Ludwig has written back to Tony
Abbott rejecting that way forward. They
would prefer to deal with the Greens and
they would prefer to give the environment
groups a weapon against Australian business,
Australian industry and our trading partners,
so for five countries to express concern is
quite a step. Canada and New Zealand—as I
said before, not countries that you would
associate with bad logging or forestry
practice—have even expressed concern
about the issues around that.

In that context, the opposition cannot
support this legislation even though we have
a similar policy, because we recognise the
government's complete failure to be able to
manage the process properly. (Time expired)
Senator MILNE (Tasmania—Leader of the Australian Greens) (12:00): I rise to support the Illegal Logging Prohibition Bill 2012, which starts the process of dealing with illegal logging around the world and seeks to stem the trade in illegally logged timber. This is something the Greens have been passionate about for a long time, and I am interested in Senator Colbeck's remarks because the coalition are always standing up at rallies where we are arguing for an end to native forest logging in Australia, saying, 'Why don't you do something about the illegally logged timber elsewhere?' We are doing something about timber illegally logged elsewhere, and it is the coalition now who are worried about the conservation outcomes of stopping illegal logging and do not want to support the bill. So let it be on the record the next time they get up and say, 'What about the people trying to stop native forest logging here not wanting to stop it elsewhere?' I think we have the coalition on record: they are not going to participate in trying to deal with illegally logged timber.

Senator Colbeck says a number of countries have expressed some views about the bill, but in March this year the World Bank put out a report called Justice for forests: Improving criminal justice efforts to combat illegal logging. They said:

Every two seconds, an area of forest the size of a football field is clear-cut by illegal loggers around the globe. A new World Bank report released today shows how countries can effectively fight illegal logging through the criminal justice system, punish organized crime, and trace and confiscate illegal logging profits.

The report, Justice for Forests: Improving Criminal Justice Efforts to Combat Illegal Logging, affirms that to be effective, law enforcement needs to look past low-level criminals and look at where the profits from illegal logging go. By following the money trail, and using tools developed in more than 170 countries to go after ‘dirty money,’ criminal justice can pursue criminal organizations engaged in large-scale illegal logging and confiscate ill-gotten gains.

The World Bank estimates that illegal logging in some countries accounts for as much as 90 percent of all logging and generates approximately US$10–15 billion annually in criminal proceeds. Mostly controlled by organized crime, this money is untaxed and is used to pay corrupt government officials at all levels. The new report provides policy and operational recommendations for policy makers and forestry and law enforcement actors to integrate illegal logging into criminal justice strategies, foster international and domestic cooperation among policy makers, law enforcement authorities and other key stakeholders, and make better use of financial intelligence.

“We need to fight organized crime in illegal logging the way we go after gangsters selling drugs or racketeering,” said Jean Pesme, Manager of the World Bank Financial Market Integrity team that helps countries implement effective legal and operational frameworks to combat illicit financial flows.

Despite compelling evidence showing that illegal logging is a global epidemic, most forest crimes go undetected, unreported, or are ignored. In addition, estimates of criminal proceeds generated by forest crimes do not capture their enormous environmental, economic and societal costs—biodiversity threats, increased carbon emissions and undermined livelihoods of rural peoples, with organized crime profiting at the expense of the poor.

“Preventive actions against illegal logging are critical. We also know that they are insufficient,” said Magda Lovei, Sector Manager at the World Bank. “When implemented, the recommendations of this publication can have a strong deterrent effect that has been missing in many actions taken against illegal loggers.”

Organized crime networks behind large scale illegal logging have links to corruption at the highest levels of government. The investigation of forest crimes is made even more complex by the international dimension of these operations. Recognizing these challenges, this study calls for
law enforcement actions that are focused on the “masterminds” behind these networks—and the corrupt officials who enable and protect them.

That was the World Bank on 20 March 2012. I heard Senator Colbeck’s contribution, but I am also very well aware of just what a disaster is going on around the world. Recently in the Jakarta Post there was an article by a police chief in West Sumatra saying:

Illegal logging is one of the illegal activities on top of our priority list for us to eradicate. There we have in West Sumatra a local police chief saying, ‘We have to do something about it. It is one of our top priorities.’ The article noted that the police had uncovered 44 illegal logging cases as of September this year, so it is pretty prolific in Sumatra, for example.

In the Congo, there was a recent report from Reuters saying:

Derelict ports in Congo’s riverside capital … are piled high with logs ready to be shipped out to China and Europe as part of the lucrative timber trade.

More than a million cubic metres of illegal wood was ready to be transported and was identified in those ports.

That just gives you some idea of the scale of illegal logging. It is difficult to estimate, but it is believed that more than one-half of all logging activities in the most vulnerable forest regions—South-East Asia, Central Africa, South America and Russia—may be conducted illegally. Worldwide estimates suggest that illegal activities may account for over one-tenth of the global timber trade, representing products worth at least $15 billion a year.

For too long consumer countries including Australia have contributed to these problems by importing timber and wood products without ensuring that they are legally sourced. You only have to go around and look in many of the outdoor-living shops to see furniture that you know has been made from imported timbers and which has no certification to say where the timber has come from for that outdoor setting. There is nothing about it at all, and that is where we need to get serious.

The breaking of laws on harvesting, processing and transporting timber or wood products is widespread in many major timber-producing countries. By logging in protected areas such as national parks, overallocating quotas, processing the logs without acquiring licences and exporting the products without paying export duties, companies may be able to generate much greater profits for themselves than they would by adhering to national laws and regulations.

I have to say the Australian government facilitated logging of Indonesian protected forests. That was under the Howard government, when the Howard government facilitated the mining industry having a lobbying office in our embassy in Jakarta. The idea was that our mining industry was facilitating the overturning of forestry law 41 in Indonesia. That law was to protect the forests. With protected forests, we would not be able to have open-cut mines. But the Australian government, on behalf of the mining industry, went in and threatened to take the Indonesian government to international tribunals asking for compensation for those mining companies which had been given leases under what I would regard as the corrupt years of previous Indonesian administrations. Of course, the result was the Indonesians changed and overturned forestry law 41, allowing Australian mining companies to go in and clear-fell for open-cut mining in massive areas of Indonesia’s protected forests. So we do not have a glamorous record ourselves in relation to encouraging logging of protected
forests in Indonesia. But we know that the corrupt logging goes on. As I have just said, it often comes down to how the licences were acquired for either logging or mining.

Not only do you have environmental impact in terms of depleting forests, losing habitat for critically endangered species, destroying wildlife habitat generally and impairing the ability of land to absorb carbon dioxide emissions, with the resultant climate change impacts; you also have the ongoing effects. In December 2004, for example, there were flash floods and landslides in the north-east of the Philippines which killed over 1,000 people. The government blamed illegal logging which had denuded the mountain slopes. That is not just a story for the Philippines; it often happens in Asia in particular, but we have also seen it in other parts of the world.

There are budgetary implications because illegal logging means that governments do not get the revenue that they ought to have. A Chatham House briefing paper report estimated that in Indonesia the government is losing more than $1 billion a year from unpaid taxes and charges in relation to illegal logging. Future generations will suffer even more. World Bank studies in Cambodia have suggested that illegal extraction at least 10 times the size of the legal harvest has left a level of forest logging that is completely unsustainable in that country.

In terms of social impacts, when you have illegal logging it undermines the respect for the rule of law and it is frequently associated with forcing local communities out of the forest areas in which they live or on which they depend for their livelihoods. So you get illegal groups moving in or licences issued corruptly. They push the local people out of their forest areas. The local people get nothing from the flattening of their forests. You also get trade related issues because illegally logged timber is cheaper than legitimate products. It distorts global markets and undermines incentives for sustainable forest management. A study published by the American Forest and Paper Association—and I admit it is dated, being from 2004—estimated that world prices were depressed by between seven and 16 per cent by the presence of illegal products in the market. That is why the forest industry in Australia did come out in support of the bill when the government first announced it. I understand they have mixed views about it, but essentially they understand that illegal timber coming into Australia drops the value of forest products and that has a knock-on effect for them.

Politically, revenues from illegal logging have been known to fund national and regional conflict in, for example, Liberia, the Congo and Cambodia, where for several years the Khmer Rouge forces were sustained primarily from the revenue from logging areas under their control. So there are all kinds of reasons why Australia would want to do more to deal with the issue of illegal logging, and that is all bad news.

The better news is that in recent years producer and consumer countries have been paying increasing attention to illegal logging. One of the main initiatives includes measures to exclude illegal timber from international markets, notably the European Union’s Forest Law Enforcement, Governance and Trade Action Plan. That initiative centred on the exclusion of illegal products from the EU markets. That is the intent of what we are trying to do here in Australia.

Whilst this bill is a step in the right direction, it does not go far enough. Senator Colbeck is right to say that the Greens have a number of amendments which would strengthen this bill. At the moment, the only
regulation that exists in Australia to control importation of illegally logged timber is the Convention on International Trade in Endangered Species of Wild Flora and Fauna, and that convention targets only a limited number of timber products that have been derived from an endangered species; therefore, large amounts of timber continue to be imported without any requirement to verify its legality other than through voluntary industry measures.

When in 2010 at the election the Labor Party committed to encourage the sourcing of timber products from sustainable forest practices and sought to ban the sale of illegally logged timber products, the Greens were very supportive. It is long overdue and we need to get on with it. However, there are some serious shortcomings, and the first is the definition of illegal logging. We are not persuaded by the government's reasoning that if you go to a prescriptive definition then you might through that exclude something by omission. We do not believe that is the case and we retain the view that the Australian definition should be consistent with the European Union definition. If we are going to deal with a global problem, we need globally consistent definitions of what constitutes illegal timber; otherwise you are going to have a situation where what is rejected by the EU will be put into Australia and allowed here under a different definition.

Secondly, in relation to due diligence, we do not believe that the due diligence provisions should remain unclear. The DAFF officials, in a working group meeting in August 2011, indicated that the declaration should include, amongst other things, the following information critical to satisfying due diligence: the name of the importer, the name of the supplier, the botanical name and common name of the timber product, the value of the import, the country of origin, the region and the coupe. The coupe is really important because it is no use saying it is from that region if you do not know which coupe it came from. Knowing the region is not enough because illegal products will almost always be sourced from areas where there is also legal logging. If you just say the region, that is no good at all—you have to be able to trace to the coupe. The reason to trace to the coupe is that then you can trace how that licence was given and how it was secured. That goes to the issue of corruption. It also goes to the issue of tracing the money. We argue that the due diligence requirements must provide for traceability to coupe level and an assessment of the risk of illegality due to corruption. That is a critical thing. The government has not got that there, and I encourage the senator in response to tell me, in the absence of traceability to the coupe, how you are going to deal with knowing whether a timber is sourced from an illegal source and how you are going to deal with corruption.

The other thing we are going to deal with is compliance. We believe that, in order to determine the levels of compliance and assist in assessing the standards used in due diligence, we need to have regular compliance audits and aggregated data reports. That is, I think, essential to where we need to be. We also need to give NGOs and timber industry competitors the ability to initiate action and have standing under the law in relation to the act. I think it is all very well to have a bill like this, but you have to be able to allow a large number of actors to be able to have standing in the courts when it comes to assessing it.

The Greens will be moving a number of amendments in the committee stage to strengthen this piece of legislation. Whilst it is a step in the right direction, I am desperately concerned that, if the amendments are not supported by the government, you are going to end up in a
situation where Australia has a weaker definition than the EU. It has no traceability provisions to the coupe level, which is so necessary if you are going to, as the World Bank said, 'get to the Mr Bigs of the operation'. The 'Mr Bigs of the operation' are the people who secure the licences and get the money, and that is going to the issue of corruption in the host country. We know corruption exists and that is a large part of the timber trade, just as it has been a large part of the trade in animals, both live and animal products. We have to get down to actual detail here. When you go into a store to buy an outdoor setting or buy another thing, you should be able to see on in it some certification of where that timber has come from because, as it is now, illegally sourced or logged timber is shipped to China or somewhere else, where it is made into a lounge suite. That lounge suite or whatever is imported and a person would have no idea that the timber was illegally sourced somewhere, moved somewhere else where it was processed and then ended up in Australia. We need to have that on the labelling because it is critical that that is there for the consumer, but also for the importer, because that importer then knows exactly what they are doing. In the absence of that labelling, the importer may well be acting in good faith and they are not going to be able to satisfy the customer that product actually is certified as having come from a legal source. So there are a number of issues with the bill and I look forward to the debate in the committee stage.

Senator BOSWELL (Queensland) (12:20): I rise to speak on the Illegal Logging Prohibition Bill 2012. Amongst the penalties included in the bill are $33,000 for an individual and $165,000 for a corporation for offences that include importing regulated timber products and processing raw logs without complying with the due diligence requirements. Those fines no doubt will act as a strong incentive to comply with the due diligence requirements. But what exactly are the due diligence requirements that must be complied with? We only find out the answer to that question when the regulations are developed at some time in the future. However, the bill in proposed section 14(5) says:

The regulations may provide for due diligence requirements for importing regulated timber products to be satisfied … by compliance with— amongst other things— … rules or processes established or accredited by an industry or certifying body …

Similarly, at proposed section 18 (5), referring to processed raw logs, the bill again says that the regulation may provide for due diligence requirements to be satisfied by compliance with rules or processes established or accredited by industry or certifying bodies. These certifying bodies, no doubt, will include the Forest Stewardship Council, the body supported by a number of radical green groups. For example, members of the Forest Stewardship Council ruling general assembly include Greenpeace, the Wilderness Society, the Australian Conservation Foundation, Friends of the Earth, the World Wildlife Fund—the WWF—and other environmental non-government organisations, or ENGOs.

The debate has hardly started, and yet we see the Greens making a big direct play to get these green groups to issue certificates so they get their snouts right in the trough. We see ENGO sustainable certification bodies established or projected in a number of primary production areas: for example, forestry and fishing, and now beef and others, I believe. This raises the fundamentally important issue of how Australia will be governed in the future. It is certainly about how food, fibre and timber
products will be harvested. The growth of the certification bodies highlights an apparent abdication of responsibility by the current federal government for making important decisions about primary production. I believe it also represents a direct attack on science and the role of scientists in decision making in primary production and other areas. It also belittles the role of experienced resource managers and potentially sidelines them.

It highlights the growing power of the ENGOs, especially their financial power and their ability to exert influence over government decisions. We are all familiar with references to 'big business' as a general term for wealthy and influential business organisations. Now in Australia we are seeing the rise of 'big environment', a large, wealthy network of environmental activists. How wealthy they are was shown by the *Canberra Times* article in December 2009 which reported that in that year Australia's four largest environmental groups had spent a total of $70 million, much of it for political lobbying.

Under this Labor government we have seen 'big environment' grow more and more powerful and influential, to the point where environmental activists now seem to be orchestrating much of Labor's policy on primary industry and natural resources. It appears that the Illegal Logging Prohibition Bill 2012 will require both importers and domestic processors of logs to have a due diligence system in place to ensure that to the best of their knowledge they do not import or process products obtained from illegal logging. The exact requirements in relation to due diligence are not yet known and will be specified in regulations at some time in the future.

However, it is absolutely vital that the regulations must not give any form of preference to one certifying organisation over another. Industry people tell me that producers, exporters and importers are possibly faced with having to construct a whole new system to meet the requirements of this legislation and would feel themselves forced to join a sustainable forest management certification scheme. Our importers and domestic processors might also come to the conclusion that it is necessary, at the end of the day, to handle logs certified through such a scheme.

When this is the case, it is vital that they have more than one certifying body to choose from. It would be a nightmare scenario if the only organisation that the market enables to anoint timber products as sustainably produced was something like the Forest Stewardship Council Australia. The way the Forest Stewardship Council Australia, or FSC, operates is to force timber producers to go through an expensive series of steps to have their products accepted by the FSC as sustainable. In the case of the Australian timber industry, those industry groups and businesses that choose to go for a certification scheme for their products at least have a choice.

Apart from the Green-NGO dominated Forest Stewardship Council Australia, there is a body called Australian Forestry Standard Ltd, or AFS. AFS says that it covers the majority of certified forests in Australia, with more than 10 million hectares certified under Australian standard 4708, the *Australian Standard for Sustainable Forest Management*. However, through the supply chain from the loggers right through to the final end users, businesses are already under constant pressure to use FSC-certified timber.

One company that has experienced this is Ta Ann Tasmania. It uses timber harvested by others and which was previously destined
for the woodchippers. Ta Ann value adds by veneering these previous woodchip logs into valuable veneer for plywood production. The timber is sourced from regrowth and plantation. Environmental activists are conducting what my Tasmanian colleague Senator Eric Abetz described in this place earlier this year as a:

… deceptive campaign to cruel the markets of Ta Ann around the world, prejudicing Tasmanian jobs when our unemployment rate in Tasmania is well over seven per cent, and heading north.

Ta Ann's reputation is being defamed, and their markets drying up.

One example is where an activist group called Markets for Change flew to London before the Olympic Games and convinced the local company buying plywood for a basketball court not to use Ta Ann's products that they had previously agreed to purchase. A spokesman for the London contractor was quoted in the media as saying:

The reason we've stopped or we've suspended purchasing from Ta Ann is mainly because of the controversy around the logging in Tasmanian forestry. The NGO's will have to be happy with any changes that they can make to enable the product to be purchased by us again.

The Olympic basketball court represented one contract. Far more serious for Ta Ann has been the persistent lobbying by Markets for Change of the company's overseas customers for flooring products, especially in Japan. I understand that this has directly cost the company a significant percentage of its market there, which must directly affect jobs in Tasmania.

It is no surprise, then, to see media reports that Ta Ann's board of directors could decide as early as the end of this month to close down the operations in Tasmania. This is a company which last year injected $45 million into the Tasmanian economy and provided hundreds of jobs. They are hoping that there still might be a so-called peace deal between environmentalists and industry emerging in coming weeks, despite the recent collapse of negotiations over the Tasmanian Forests Intergovernmental Agreement, or IGA.

As well as conducting an ongoing campaign against Ta Ann, the Markets for Change activists are also targeting retail chain Harvey Norman. Harvey Norman is selling furniture made from sustainable Tasmanian timber, but that is not good enough for Markets for Change.

Both Ta Ann and Harvey Norman products are certified by Australian Forestry Standard, but of course Markets for Change and their fellow activists say that that is not the right certifying body. The Markets for Change website tells businesses like Ta Ann and Harvey Norman what they should do, saying that they should:

… give preference to plantation products with full Forest Stewardship Council certification.

So there we are, trying to force producers and buyers to use Forest Stewardship Council approved material.

It is a familiar pattern. In July last year Greenpeace activists climbed on a construction crane on the Central Park development in Sydney in a protest over the use of plywood that the organisation claimed was sourced illegally. Soon afterwards, Greenpeace trumpeted the news that the developers had promised not to use any timber that was not certified by the Forest Stewardship Council—again, direct action to make sure that other companies use only FSC certified material.

The examples I have drawn here relate to timber and timber products. However, the aims of the ENGOs go far beyond just timber in Australia. In Australia we have already seen the formation of the Forest Stewardship Council for timber products, the Marine Stewardship Council for wild-caught
seafood, the Aquaculture Stewardship Council for farmed fish, and now a so-called roundtable for beef production. These are all WWF initiatives. Last year WWF International stated it was focusing on commodities including beef, bioenergy, cotton, dairy, farmed fish, palm oil, pulp and paper, soy, sugar, timber and wild-caught fish. It intended to target companies such as commodity traders, manufacturers, retailers and banks, insisting they deal only with producers endorsed by WWF.

It is by no means far-fetched to say that WWF and other ENGOs fully intend that all food and fibre products harvested in Australia will be forced to go through one of its cash-producing ‘sustainability certification’ processes. They will want every food and fibre product—every single one—to be certified. Australian primary producers should think about that. These are the schemes that cost individual producers thousands of dollars for the initial certification process and then regular ongoing costs for auditing.

Someone who has studied the impact of such sustainability certification schemes worldwide is Alan Oxley, one of Australia's most influential advisers on international trade. He was previously Australian Ambassador to the General Agreement on Tariffs and Trade, or GATT, which was the predecessor to the World Trade Organization. Mr Oxley said:

WWF has made no secret of its strategy to pressure companies occupying strategic positions in the supply chain, such as dominant consumer goods manufacturers and retailers, to adopt its certification standards. Other NGOs such as Greenpeace and the Rainforest Action Network are aggressively attacking brand names and leading products of major companies to encourage them to join the strategy.

He went on:

ENGOS will also engage a method often referred to as 'greenmail' to force companies into certification. 'Greenmail' involves action to devalue the public perception of a brand name or company reputation of producers and retailers through advocacy campaigns aimed at consumers and processors. Running negative campaigns against brand labels with significant market position is common. The aim is to pressure these businesses to align with or adopt certification systems developed by NGOs. Once the company adopts that system, it has become an agent for delivering the sustainability values of the NGO.

By these means, ENGOs are able to influence, and even control, the supply chain. When they hear that statement, perhaps Australian cattle producers can understand why WWF has been so keen to include McDonald's, the largest single buyer of Australian beef, and JBS, our largest single beef processor, on its Australian Roundtable for Sustainable Beef. WWF sees this roundtable as a first step towards pushing Australian cattle producers into another one of its costly sustainability certification schemes.

A couple of years ago, WWF US Senior Vice President Jason Clay gave an interview explaining how WWF’s roundtables work. He said:

… we convene roundtables—meetings of all the members of a commodity’s value chain—everyone from producers, traders and manufacturers to brands and retailers, as well as scientists and non-governmental organizations (NGOs). Together we agree on the key impacts of producing a commodity – deforestation, water use, and so on – then design standards to minimize these impacts, which are ultimately certified by an independent third party. The participants publicly commit to producing, buying and selling within these standards, to be part of the commodity roundtable, forming a chain of sustainability.

Of course, to successfully achieve what Mr Oxley accurately describes as 'greenmail' and devalue the public perception of the brand
The ENGOs first have to convince the Australian public and international buyers that current practices in forestry or fisheries or beef are environmentally unsustainable.

How can they possibly do that? Australia rightly insists that its primary producers maintain production methods and standards that are amongst the very highest in the world from an environmental point of view. I will tell you why ENGOs can portray our primary production methods as 'unsustainable' and in need of their own particular brand of expensive sustainability certification scheme. The ENGOs can do that because, while the current government continues to insist on stringent environmental standards from our primary producers, this Labor government says and does nothing to defend them. Instead, being politically captive to the Greens and radical green policies, it surrenders at the first sign of manufactured outrage. Instead of governing on the basis of good science, sound management principles and good old-fashioned common sense, this government is itself managed by social media. For this government, science can be trumped by emotion. It surrenders fact to opinion and rational management to the 140-character Twitter message.

This is a government that responded to a television program by shutting down Australia's live cattle export trade. That cost the cattle industry millions and millions of dollars and is still hurting cattle producers and related business operators throughout Northern Australia. Then of course later, realising the enormous harm it has done by such an emotional, knee-jerk reaction, the government reversed its decision.

This is the government that encouraged efficient harvesting of fish in southern waters and agreed to the use of a large international trawler but then panicked at some of the reaction to the vessel's arrival and banned its operation. What that did was effectively cast doubt over Australia's fisheries management and fisheries science. Our fisheries science and fisheries management are internationally acknowledged as amongst the very best in the world. This is the government that gave in to the slick, well-funded lobbying campaign of international environmental activists and closed much of the almost one-million-square-kilometre Coral Sea region to most forms of fishing. That was completely unnecessary.

This is the government that allows ENGO activists to use deceitful public campaigns to target timber suppliers operating sustainably in well-managed forests. This government does nothing. This government stands on the sidelines and watches. It does nothing to defend sustainable businesses providing vital Australian jobs. It allows damaging campaigns to be waged against markets for sustainable Australian products here and overseas without lifting a finger or saying a word to help protect the jobs of Australian workers.

Who is running this country? Clearly not the current government. It looks more like mob rule. Scientists and resource managers must be seething with anger and frustration when sound, long-term advice is overruled for expedient short-term politics. What we see from some green groups is in fact antiscience. Science is complex and rational. The ENGO messages are inevitably simple and emotional: 'Save this, save that and save the other; donate now.'

What is to be done? Clearly, the government must speak out on behalf of Australia's primary producers and the sustainability of their farming, forestry and fishing practices. Then they must take action to back up those words. They must support
our wealth-creating, job-creating primary industries in the marketplace. In other words, they must refute the lies told about our primary producers by the ENGOs. Then these ENGOs must be made accountable. The government should urgently re-examine the exemption of the ENGOs from the secondary boycott provisions of the Competition and Consumer Act—for example, where the ENGOs encourage the boycott of products not carrying the sustainability certification label they prefer.

The government should also examine what looks to be a free ride for activists who take apparently illegal actions but use the excuse that they were doing it for the environment. Why do these big environmental organisations, which seem to be able to spend millions and millions of dollars lobbying government and running advertising, PR and social media campaigns to influence the public opinion, enjoy tax-free charity status?

The ACTING DEPUTY PRESIDENT (Senator Moore): Order! Senator, your time has expired.

Senator BOSWELL: I seek leave to incorporate the last page of my speech.

The ACTING DEPUTY PRESIDENT: This has not been previously agreed. We will return to your request after we go through the next process. We will keep it under consideration. If you can show the remainder of your speech to the whips, that may facilitate it.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013

Second Reading

Debate resumed on the motion:
That these bills be now read a second time.
to which the following amendment was moved:
At the end of the motion, add:

but the Senate calls for the appropriation of funds for offshore processing to occur only when:

(a) a 12 month time limit on the detention of an individual in Papua New Guinea or Nauru is established;

(b) funding for a regional co-operation framework, and capacity building initiatives, is doubled to $140 million as recommended by the Expert Panel on Asylum Seekers;

(c) an Independent Health Care Panel to oversee the physical and mental health of asylum seekers sent offshore is established; and

(d) all contracts for services between the Australian Commonwealth and service providers in Papua New Guinea and Nauru, including costs and operational protocols, are tabled in Parliament.

The ACTING DEPUTY PRESIDENT (Senator Moore) (12:46): Pursuant to order, the question is that the second reading amendment moved by Senator Hanson-Young be agreed to.

The Senate divided. [12:46]

(The Acting Deputy President—Senator Moore)

Ayes .................. 9
Noes ................... 39
Majority .............. 30

AYES

Di Natale, R  Hanson-Young, SC
Ludlam, S  Milne, C
Rhiannon, L  Siewert, R (teller)
Waters, LJ  Whish-Wilson, PS
Wright, PL

CHAMBER
NOES
Back, CJ
Bishop, TM
Brown, CL
Cash, MC
Collins, JMA
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Gallacher, AM
Ludwig, JW
Macdonald, ID
McEwen, A
McLucas, J
Nash, F
Polley, H
Ruston, A
Smith, D
Sterle, G
Thorp, LE
Xenophon, N

Bilyk, CL
Boswell, RLD
Cameron, DN
Crossin, P
Farrell, D
Feeney, D
Furner, ML
Kroger, H (teller)
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Pratt, LC
Singh, LM
Stephens, U
Williams, JR

That this bill be now read a second time.

Senator BOSWELL (Queensland) (12:50): by leave—I have sought permission from the very generous and popular Chief Government Whip in the Senate, Senator Anne McEwen, to incorporate in Hansard the last page of my speech on the Illegal Logging Prohibition Bill 2012 and she has agreed.

Leave granted.

The incorporated page of the speech read as follows—

In most cases, they can massively out-spend the companies they choose to campaign against, companies who must comply with taxation and other rules that simply do not apply to the E.N.G.Os.

I believe the Australian public, and this Parliament, need to be alerted to what is at stake here. Australia’s agricultural, forestry and fisheries industries have a gross value of production of some 50 billion dollars. That is a huge amount of money. It is a very attractive target for E.N.G.O strategies designed to extort money from primary industries and other businesses in the supply chain to allow them to continue harvesting and marketing their products.

Clearly, environmental non-government organisations like WWF, Greenpeace and others intend to move from one primary industry sector to the next “green mailing” or otherwise forcing them to comply with their favoured sustainability certification schemes.

Their tactics should alarm all Australians.

I believe their tactics raise important questions. They are questions fundamentally important for the way government operates ... for the maintenance of a genuine, informed democracy ... and for the role of science in guiding and informing decision-making.

Senator IAN MACDONALD (Queensland) (12:51): I was about to say to Senator Boswell, 'It's amazing what flattery can do for you!'—then I was going to start my speech by flattering both Senator Boswell and Senator Colbeck for their
contribution on this bill before the chamber relating to illegal logging. But I am not flattering in the way of seeking any return: it is always good to follow people of the calibre of Senator Colbeck and Senator Boswell in a debate on these quite technical subjects. Senator Colbeck will make a great minister dealing with this area in a new government and I know that Senator Boswell has had a long passion not only for sustainable forestry but for exposing how some of the radical green groups are destroying Australian industry.

I want to speak on this bill and oppose it on several grounds, some of which have been covered by my colleagues. But I will start with a broad historical approach to this. When I was the forestry minister many years ago, trying to stop the importation of illegally logged timber was paramount in the work that my department and I were doing. In fact, the coalition had promised it, as I recall, in the 2001 election and again in the 2004 election—and, I suspect, since then. We have been determined to try to do something about importing timber that has been illegally logged. As I found out at the time, the concept was easy to grasp; putting the rules into place in the form of legislation was exceedingly more difficult. The Labor Party have tried but, as with most things when it comes to governance by the Labor Party, their attempts have been fraught with problems. Hence this bill before us, which we will be opposing for all the reasons mentioned by Senator Colbeck and by Senator Boswell, some of which I will elaborate on now.

The thing that disturbs me most about illegal logging and the importation into other countries including Australia is that there should not be any call for importation of any sort of timber into Australia. Australia has some of the most significant forestry assets in the world, and forestry was an industry that was entirely sustainable. But the Greens political party has succeeded over a period of time in destroying what was a major industry for Australia, a big work creator for Australia and an industry that was fully sustainable.

I remember Richo, then Senator Richardson, as environment minister coming up to Ravenshoe behind Cairns in the early nineties and standing before a forest and saying, 'We are bringing in World Heritage listing to save this pristine forest'. You could just hear him above the boos and hisses from the large crowd gathered there. Unfortunately for Senator Richardson and for the Labor Party at the time—and I think Richo later acknowledged this in his book *Whatever It Takes*—the pristine forest that he wanted to save had been logged for 100 years, and it had been logged so sustainably that Richo, the Greens, the Wilderness Society and the ACF thought that it was a pristine forest. It had been well managed, it had been harvested sustainably and it had produced some of the most magnificent timbers. Richo said this in his book *Whatever It Takes*—it is a bit old these days but I still recommend that anyone should have a read of it. It just shows how interested in power the Labor Party is. It is not interested in governance; it is just interested in power, and Richo made that quite clear in his book *Whatever It Takes*. But he did refer to this. This had nothing to do with saving the pristine forest and nothing to do with environment; it was all about getting Greens second preference votes in Sydney and Melbourne, and Richo was very open about that.

But this is how the Greens work. Here was an industry that employed so many people. I was encouraged back in the days when I was minister to have the CFMEU—well, the ‘F’ part of the CFMEU—work hand in glove with the Howard government
to save the Tasmanian timber industry. I thought we had achieved that. Everyone will recall that magnificent rally in the 2004 election when John Howard was mobbed by forestry workers, and I have to say the forestry part of the CFMEU assisted in arranging that function. As a result of that, we won two seats in Tasmania and we had saved the industry.

But the Greens never give up. When other ministers came along and the government changed, they were back in their own old ways of trying to shut down this sustainable industry. They have continued with the fishing industry; they have almost succeeded there. So we import a lot of timber now that we do not have to. We already import most of our fish but, thanks to the Greens, we will import practically all of it. I am told that just today former Senator Brown has been appointed to the board of Markets for Change, the group that is quite open about shutting down the timber industry in Australia. So we will have all imported timber. Of course, the Labor Party fall for this because they need the Greens votes to keep Ms Gillard in power as Prime Minister. It is as simple as that.

I understand this group, Markets for Change, is trying to commercially penalise Harvey Norman, one of the very few Australian retailers that actually supports the Australian manufacturing industry. Most other furniture retailers in Australia import their furniture from China. The one who makes a virtue of using Australian manufacturing is Harvey Norman, because it creates jobs for Australian unionists and workers. But what happens? Ex-Senator Brown and the Greens want to shut him down. Why? Because he is using Australian timber in some of his furniture products.

This bill would not be needed if Australia had continued its vibrant, sustainable native forest industry. Any reasonable observer who gets in a plane in Cairns and flies to Hobart will see magnificent stands of Australian forest, most of which have been logged for 100 years, but you would not know it.

They have been sustainably managed over many years. They have created jobs.

We used to export timber. Now we are in a situation where, thanks to the Greens, Australians are buying timber from countries in South-East Asia and the Pacific, who we all know are illegally logging. So, thanks very much, Greens political party, you have contributed to the raping and pillaging of some very special tropical timbers in countries in South-East Asia and in the Pacific! But it does not matter; the Greens have had their way!—they have shut down yet another Australian industry.

If I could be bothered talking to any of them at close quarters I would like to understand, one day, what the underlying theme of the Greens is. Do they want Australia to be a totally mendicant state, where we just rely on borrowed money and government handouts for our living? Because you would think that the Greens are determined to shut down any industry Australia has. I have mentioned the fishing industry; it is on its knees. I have mentioned the forestry industry; it is on its knees. The Greens are attempting to shut down the manufacturing industry. It is because of the Greens—because Ms Gillard wanted to be Prime Minister and needed their support—that we have this carbon tax that is continuing to send Australian manufacturing jobs offshore. Yet the Labor Party is the great party of the workers! Most of their senators were formerly members of unions. They are supposed to be looking after the jobs of workers, but they have introduced a tax that sends manufacturing jobs offshore.
The one competitive advantage Australia used to have in the manufacturing area and in our cost-of-living area was that we had the greatest supply of cheap energy anywhere in the world. That cheap energy allowed us to compete. But again the Greens, and the Labor Party because they have no courage, have introduced this tax which will effectively, in time, shut down the coal industry.

Some people still believe in the fools' paradise: they think foreign investors are rushing into Australia to invest in our vast mineral products. Well, they should really have a look at the facts. Most of the international investors are now avoiding Australia. You will not see it happen tomorrow or next week or next month, but it is happening. The investment is going into Africa, which investors now find is more secure than Australia. Investment is going into South America, where they have comparable minerals to Australia but do not have taxes like the carbon tax and the minerals resource rent tax. So there is another industry that the Greens have been instrumental in shutting down.

All credit to the Greens. They have these views and they have been enormously successful because there is a party that is weak and lacking courage—the Labor Party—who are not prepared to stand up and look after Australian jobs or do something about the enormous cost-of-living increases we are having in Australia at the moment.

Do you know that in 2001—I think that was when it was—China used to consume, if my memory is accurate, about 1.2 billion tonnes of coal every year. By 2015 China are going to be consuming 7.5 billion tonnes of coal every year. Thanks to the Labor Party and the Greens, Australia's carbon tax is putting up costs of living and sending more jobs overseas. It is supposed to reduce Australia's carbon emissions by five per cent by 2020. Isn't that going to save the world, when China is increasing its coal usage from 1.2 billion tonnes a year to 7.5 billion tonnes a year by 2015! How ridiculous! How could the Labor Party fall for the Greens' line? They know, I guess, that eventually the cycle will change—you will get a Liberal government back, which will reverse these things. The first thing we will do is abolish the carbon tax. It distresses me as an Australian—forget about my politics or the political party I am involved in—that these industries go overseas and that we continue to tax ourselves. Again, with this Illegal Logging Prohibition Bill the sentiment is right, but it should not be necessary. If we had a vibrant industry in Australia this bill would not have been necessary.

I will move to the detail of the bill. As a member of the Senate Standing Committee for the Scrutiny of Bills I alert the Senate to a number of concerns that committee had to this particular bill. There are very substantial penalties imposed by regulation—five years imprisonment. The Committee for the Scrutiny of Bills rightly said that those sorts of penalty provisions should be included in the primary legislation, not in some regulations that might, at some time in the future, be promulgated. The Committee for the Scrutiny of Bills had a number of other concerns, including the reversal of the onus of proof on strict liability offences. These concerns were raised by the committee, which is helping me come to my conclusion that this bill should be defeated.

I am also concerned about the impact that this legislation will have on the timber importation industry in Australia. I think it is a matter of fact that 97.5 per cent of the total volume of timber product imported into Australia is sourced from supplier countries where legality is not an issue. We acknowledge that 2.5 per cent of imports...
might be from illegally harvested forests and yet to try to address that problem we bring in the proverbial sledgehammer. That is not to say we should not keep trying but this bill, regrettably, is not going to do that. In its present form the bill is inefficient and it is bureaucratic, and it has been suggested in evidence given to the Senate committee that it is quite unworkable. As I mentioned, it is an overreaction to the possibility of illegal product entering Australia. As I understand it, those figures came from ABARES.

The timber-importing industry itself has been working with governments, since my time in government, to restrict the import of timber products sourced from illegal logging activity. But any instrument that does that must be workable, efficient and cost effective and, regrettably, this bill and the regulations—most of which we have not seen—do not seem to be the way to go.

The bill is certainly inconsistent with the government's commitment to cutting green tape and improving international trade efficiencies and arrangements. The Labor Party in opposition waxed lyrical and long about the need to reduce green and red tape. We all know their record. They have reduced red tape by a figure of, let's say, one, at the same time as they have increased regulations by a figure of about seven. So they have got rid of one and brought in seven. That is the Labor Party's commitment to a reduction in red and green tape.

There are real concerns that the timber product imported from high-risk countries is sourced from illegally logged material, but it is only a very small amount and there needs to be a better way to actually address those particular issues than the way this bill and the regulations do.

There is the issue of working more closely with our neighbours in Indonesia and PNG. We know that the Labor Party take a very cavalier attitude to Indonesia. You have only to look at how they stopped the import of a very substantial part of the protein consumption by the Indonesian people by cutting off the live cattle export without any warning to the Indonesians. We know what the Indonesians, rightly, think about that. We would be offended and we well understand why the Indonesians themselves are offended. Because this bill is poorly thought through—it takes the Big Brother approach to our neighbours in South-East Asia—it is also fraught with problems and should this legislation go ahead it is also likely to offend our nearest neighbours.

The time allotted for this speech is, regrettably, coming to an end but, for those and many other reasons I would have liked to have spoken on, I will be opposing this bill.

Senator XENOPHON (South Australia) (13:11): I indicate that I will be supporting the IllegalLogging Prohibition Bill 2012, notwithstanding that I have reservations about how effective it will be. Clearly, it is far from perfect. There is an old saying that 'The perfect should not be the enemy of the good' and I think that, on balance, this bill will do some good. If the opposition—and I say this respectfully—share the view that the issue of illegal logging should be addressed, then what alternative approach is there in respect of this so that it can be dealt with effectively rather than simply opposing the bill? That is what I got from Senator Macdonald's contribution and I respect his position on this. I do agree with Senator Macdonald that we do need to work closely with our neighbours, with Indonesia and Papua New Guinea. We have seen significant reports of corruption over the years in relation to illegal logging. Obviously, a cooperative approach, engaging with those governments, is the preferred course. But with good friends—as Papua
New Guinea and Indonesia are to Australia; it is a mutual friendship, formed with very strong ties—we sometimes need to be not so much undiplomatic but more straightforward in our views and concerns about illegal logging.

Obviously, the committee stage of this bill will give us an opportunity to look at the potential effectiveness of this bill. I think this bill is, at least, a step forward. There has been wide consultation with the industry in relation to the bill. Industry is broadly supportive, although there are concerns about issues of red tape and effectiveness. I believe that we need to put this in context in terms of the evidence that has been heard by the committee and what is on the public record. This bill requires due diligence requirements to mitigate the risk of importing or processing illegally logged timber and, to me, that is important because without that sort of due diligence then the trade in illegally logged timber will continue unabated. We need to be aware of the impact of illegal logging, the level of corruption involved and the importance of tackling this issue. I see this bill as one of a number of steps and measures in tackling illegal logging.

At this point I think it is worth referring to the work that has been undertaken by Clare Rewcastle Brown. She is a British investigative journalist. She was born in the Malaysian state of Sarawak. She is the founder of the Sarawak Report website and Radio Free Sarawak. In terms of her biographical details she is the sister-in-law of former British Prime Minister Gordon Brown, so she is also known by virtue of her relationship by marriage to the former British Prime Minister.

During a visit to Sarawak in 2005 to speak at an environmental conference, Ms Clare Rewcastle Brown was asked by local journalists and others who were concerned about the impact of illegal logging to help publicise issues of deforestation. When she began to investigate this issue, she was not able to enter the state of Sarawak; she was blacklisted, despite being born in Sarawak. She also received death threats. In February 2010, she founded the Sarawak Report. This is a blog that seeks to highlight the issues of illegal logging and the destruction of the tropical rainforests of Sarawak. They have made a number of serious allegations of corruption against the state government, which is led by Chief Minister Abdul Taib Mahmud. These are matters that have been widely publicised due to her advocacy and that of the radio station, Radio Free Sarawak, which broadcasts into Sarawak to publicise these issues. Their DJ is Peter John Jaban, who is well known to the people of Sarawak.

These are issues that are in the public interest to publicise. The level of corruption associated with illegal logging is quite staggering. The profits made are staggering. This bill sets out a framework so that we can at least begin to tackle it.

It is also worth reflecting on a report about Sarawak on the ABC’s 7:30 program last year on 14 April by Mike Sexton, an Adelaide based reporter. Mr Sexton made the point that Sarawak is blessed with natural resources, including stunning tropical rainforests. But during the 30-year reign of Taib Mahmud much of the forest has been cleared by logging and replaced with palm oil plantations. The deforestation has marginalised wildlife—most notably the orangutan, which is now an endangered species—and destroyed the lifestyle of the indigenous people, who traditionally live in communal homes known as long houses. Mr Sexton pointed out that the Sarawak government strenuously disputes the claims made by the radio station, arguing that it has a sustainable forestry industry and that it has
delivered wealth and advancement, such as hydroelectric schemes. The home minister says that a police investigation has begun into what he calls 'the broadcast of malicious lies'. Obviously, the Sarawak government contests the claims made, although there have been investigations by the Malaysian Anti-Corruption Commission and there have been continued reports of threats and intimidation.

Most disturbingly, Clare Rewcastle Brown and Peter John Jabban decided to go public after one of their informants, a former Taib aide, was found dead in suspicious circumstances. These matters that I am referring to are on the public record. It is important to put into context the seriousness of illegal logging, the money that can be made doing it and the corruption involved. This bill will go some way towards demanding a level of accountability, due diligence and some basic levels of regulation, which will be of some considerable use. But it should be a building block for other measures to tackle illegal logging.

It is relevant in the context of considering this bill that the Australian timber industry has suffered because of illegal logging overseas. It has suffered because it cannot compete with cheap, illegally logged imports. That has cost Australian jobs and damaged the Australian industry significantly. I also note that, for instance, the Australian Network News recently, on 17 October 2012, had a story about the Premier of the Solomon Islands Guadalcanal province, Anthony Veke, calling on the government to act on illegal logging after a foreign logger was shot one weekend. This is an issue not just in Malaysia. It has been raised in Indonesia, Papua New Guinea and the Solomon Islands. This is an important and fundamental issue that this bill at least makes a genuine attempt to tackle.

Earlier this year, I was fortunate enough to meet with Tan Sri Bernard Giluk Dompok, who is the Minister of Plantation Industries and Commodities of the government of Malaysia. I discussed with him the concerns expressed by many with respect to the issue of labelling palm oil. This is not about getting people to not harvest palm oil but to ensure that it is sustainable. That means having a labelling system in force that will encourage greater production of sustainable palm oil, which is environmentally desirable. Several years ago, I introduced a bill, along with my colleagues Senator Bob Brown from the Australian Greens and Senator Barnaby Joyce from the Nationals—an unusual unity ticket if there ever was one—that sought to have palm oil products labelled. That is something that I still think is desirable. I am happy for other oils to be labelled also. I note that the opposition has shown some sympathy for that. The government has yet to act. It is important that this move should not be one against palm oil per se but about the way that palm oil is harvested. We need to make sure that it does not take place at the expense of forests being harvested illegally. The meeting that I had with Mr Dompok was a useful one.

I also had a meeting with Dr Jalaluddin Harun, who is the Director-General of the Malaysian Timber Industry Board. I must say that I was quite impressed with the approach of Dr Harun and his colleagues to the value adding of timber products. It is something that I have discussed with Michael O'Connor, the National Secretary of the CFMEU, who is quite excited at the potential for value adding of timber products, which would create jobs and is the future of a sustainable Australian timber industry. So I think it is fair to say that the innovations through the Malaysian Timber Industry Board are very encouraging in terms of value adding, and that is clearly a relevant factor.
Going back to the issue of illegal logging, it is fair to say that there is widespread corruption. The allegations in Sarawak are incredibly serious—allegations of death threats, allegations of lives being lost—and that is very disturbing. I think this piece of legislation, by requiring due diligence to mitigate the risk of importing or processing illegally logged timber, will be useful. But I also think it would be useful for the Australian government to engage, as Senator Macdonald suggested—and I think quite wisely—with governments of those countries in the region where illegal logging is still a significant issue. But if it is the case that illegal logging in the state of Sarawak, for instance, is being sanctioned at the highest levels through the Sarawak government, then that is something Australia has to be outspoken about, and I hope this bill provides a vehicle for accountability of illegal logging that is taking place.

So I support this bill, and I look forward to the committee stages. And whilst this bill is far from perfect, I believe it contains a number of useful measures for accountability, for transparency and for due diligence that are long overdue.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (13:23): I wish to make clear and confirm the statements of the shadow minister, Senator Colbeck, that the coalition is strongly committed to addressing the trade of illegally sourced timber and timber products coming into this country. Contingent on the government being prepared to accept amendments that will put a reasonable time frame on this legislation, the coalition would go forward in supporting it, but in its present form and within the present time frame it will not.

I also understand that the industry itself is strongly in favour of continuing to work with the government to restrict the import of timber products sourced from illegal logging activity. But, again, industry is pleading with government for a round of consultation, both within Australia and with the countries that import timber and timber products, to ensure that the legislation is workable and that we can maintain good relations with those countries with whom we trade. The concern, both from this side and from industry, is that the bill in its present form is not going to achieve that—that it is bureaucratic and probably unworkable. And that is the role of people in this chamber: to assist the government to end up with legislation in final form that actually does make it workable and not so bureaucratic that it cannot be introduced without unnecessary imposts on industry.

I want to investigate for a moment the size and scale of the issue, if we can rely on ABARES data—and I am sure we can—as well as the relationship with our regional neighbours, particularly Malaysia, Indonesia, Papua New Guinea and to some extent China. They are the ones who will be most adversely affected should we not deal with this legislation and this consultation process in an expeditious and statesmanlike way—and we are at risk of not doing that. One of the concerns expressed to me by industry representatives is the whole question of due diligence in how they comply with the legislative requirement. Once again, we will be examining what the role of government and of government departments will be in that due diligence process. Once again, we just cannot leave this to industry without ministerial and bureaucratic involvement, and I wish to address that issue if I can. The bill is seen by many to be inconsistent with this government’s commitment to cutting green tape and improving international trade efficiencies. Concern has been expressed that sufficient time has not been given to
suppliers, particularly in South-East Asia, and that the timber product legality systems that have been under development would be accepted under the bill. And of course we then find ourselves at variance with some other countries of the world who import quite legally and for whom there is no question about the probity of the source of the timber and timber products. So the bill runs the risk of making timber products in this country less competitive against other building materials that are, as we know, less environmentally friendly.

But returning to the scale of the issue itself: ABARES data suggests that about 10 per cent of timber products imported into this country come from those countries that would be under some question mark—Indonesia, Papua New Guinea, Malaysia and to some extent China. If another basic assumption is correct—that up to a quarter, or 25 per cent, may be the subject of illegal logging—then we are looking at an issue involving 2½ per cent of the timber and timber products that come into the country. By definition, then—and by deduction—we know that 97½ per cent of the total volume of timber product into Australia, if you accept that figure of possibly a quarter being the subject of questionable source, is legally introduced into this country. And there is not and never has been an issue. So if we are dealing with legislation that is in some way going to put at risk that relationship with those countries, that is something we should examine, and I propose to do so.

The Joint Committee on Foreign Affairs, Defence and Trade examined this very issue. I will quote from two submissions made, respectively, by New Zealand and the United States—countries that are not under any suspicion in this. The New Zealand Institute of Forestry said:

The lack of definition of “regulated timber products” (until prescribed in regulations) adds to the difficulty of interpreting the definition of “illegally logged” and to the development of due diligence processes between importers and their exporting counterparts in other countries.

New Zealand are the largest of the importers of timber and timber products into this country, and I think the point they make should be reasonably taken on board by legislators here in Australia.

If I can, at the same time, refer to a brief quotation in their submission from the American Hardwood Export Council, they said: ‘The council believes many of the trade related objections to the bill could be dealt with through outreach activities.’ So we have evidence from countries with whom we have safely dealt for many years—countries that are under no threat, under no impost and under no cloud—saying to us that there are other mechanisms we can use.

I now turn to this relationship with countries in our region over whom there is the suspicion or the knowledge of illegal timber or timber products coming into this country—specifically, Indonesia, Malaysia, Papua New Guinea and to some extent China. It is only in the last few weeks that we have had the government referring to Australia as being in the Asian century. This provides us with the opportunity to define what we mean by that statement and what role we want to take. I do not think it is to the advantage of this country in its relationship with those in the region to be using a sledgehammer to crack a nutmeg in the way that we are.

I refer to submissions to the Joint Standing Committee on Foreign Affairs, Defence and Trade. The submission from the Ministry of Trade of the Republic of Indonesia makes a couple of very important points that this chamber should consider. It states:

The negative impact on trade should also not be underestimated bearing in mind that timber
products commonly have long and complex chains of supply with mixed sources from different locations and different kinds of timber.

It goes on to say:

It is for this reason that the GOI has recommended the deferral of the legislation until 2015 to provide time to ensure the legislation will not have unintended consequences that will unnecessarily harm the mutual trade between our two nations. Furthermore, the three years of adjournment will provide time for proper consultation between both countries including detail clarification as well as period of adjustment for the Indonesian producers/exporters to comply with the regulation.

Again, that is a plea from our nearest neighbour—one of our largest trading partners—with whom the trading relationship over the last 12 months has been strained.

There are ample opportunities there in which we should move cautiously, in which we should take on board the advice of those who have submitted to the government and to various committees examining this particular situation—we are dealing with a circumstance possibly involving 2½ per cent of the product that is introduced into this country.

I come then to the imposition on Australian industry and Australian importers of timber and timber products. The proposed regulatory apparatus associated with this bill appears, in fact, to be contrary to the government's free-trade direction and commitment to reducing green tape. Estimates have been made that the cost of regulatory compliance as a percentage of the imported wholesale value of timber products to Australian larger importers, assuming an efficient legality verification compliance mechanism is in place—and I will come back to that—would be of the order of 2½ to 4½ per cent. That is for larger importers.

The percentage cost of compliance for smaller- and medium-sized businesses importing complex, composite products—with long supply chains right back to the grower at the point of harvest or from other countries or importing myriad product types, with each product or shipment being very small—will be immeasurably higher. In this economic climate there is such pain in the business community, reflecting itself in a lack of confidence or investment, regrettably in a circumstance of not adding new employment; indeed, they are having to put some employees off. The last thing we want to do is introduce unnecessary burdens that will further put those circumstances at stress and at risk.

It is not yet completely clear how the due diligence process will work. This is a point of immeasurable concern to industry. How does an importer comply? Is it sufficient to rely on the advice of the exporter or of a middle business associated with the exercise in the supply chain? The answer is no. The Australian importer must have their own due diligence, must satisfy themselves that there has been compliance with local laws in countries such as Indonesia, Malaysia, Papua New Guinea and China.

I ask the question, in the absence of better advice from the minister and the department: just how does an importer satisfy themselves and therefore satisfy independent scrutiny that they have undertaken that due diligence? None of that information, that due diligence process, has been released by the minister or by the department. Therefore, importing businesses in Australia are not unreasonably concerned. My own experience, limited as it is, was to observe the logging industries in Sarawak and Sabah. I can assure you, having seen what I saw and having followed up on some of the comments of Senator Xenophon a few moments ago—and I have no reason to disbelieve him, having observed what I
did—as an importer, I would not like the task of going right back through the supply chain to observe for myself the compliance. Therefore, how do we deal with this matter better? We deal with it by allowing an extended period of time for consultation and we allow for a better process, a process of multilateral negotiations and liaison, a process of examining what has been undertaken successfully in Europe and the United States. We know that there have been failures in legislation and in procedures, even in such a developed country as the United States, when it comes to compliance.

The spirit of the legislation is fine but the timing is not appropriate. The mechanism by which the government is going about the process without adequate consultation and without examining alternative mechanisms is putting at risk our relationships with our nearest neighbours. They are the countries with whom, if we are to engage in the Asian century, we need to be engaging. I urge caution and I urge delay. I urge that we go through a process of consultation so that we can look at alternative ways of assisting these countries to comply. In the same way we can assist our own importing companies to ensure that, when the legislation is passed in whatever form, there are processes for due diligence that they know about, that they can comply with and that will not end up causing their businesses to fail or be significantly reduced to the extent that they become uncompetitive and allow other less environmentally friendly products to be used in the building and construction industry.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (13:38): I thank senators for their contribution during the second reading debate. In summing up I note a report published earlier this year by the World Bank—and I think we should not miss this sentence—which stated:

Every two seconds, an area of forest the size of a football field is clear-cut by illegal loggers around the globe.

It went on to say that large-scale illegal operations are carried out by sophisticated criminal networks. Illegal logging is a social, environmental and economic issue globally, and we should not delay. Those opposite are, in effect, calling for a delay. Bear in mind that a delay means that every time we stand in this place we are saying that we support those who are part of sophisticated criminal networks that illegally log.

In 2007 the Labor Party made an election commitment to restrict the import of illegally logged timber into Australia. In 2010 both the Labor government and the coalition made election commitments to pass legislation restricting the import of illegally logged timber. What I hear now from the opposition, particularly Senator Back's helpful contribution, is that they not only want delay but are worried about a raft of issues that were addressed, by and large, in the Senate committee, by the department through workshops, through much industry dialogue and by industry itself calling for the ban of illegally logged timber. We now have the coalition walking away from that commitment. That is disappointing. It is not something I would have expected you would want the coalition to walk away from.

It is effectively a motherhood statement that we are all opposed to illegally logged timber entering Australia. It is in essence a very simple statement. It is, I suspect, difficult for Senator Colbeck to speak against the bill when, through the Senate Standing Committees on Rural and Regional Affairs and Transport, he made—and I want to recognise this—a substantial contribution to improve the bill's effectiveness and reach in this area. The government took cognisance
of that, recognised the contribution that he made and accepted much of the recommendations that were put forward. The Illegal Logging Prohibition Bill, which is before us today, fulfils the government's commitment, and is another clear example of this Labor government delivering on the mandate it was given in the 2010 election to introduce this legislation. It is a bill that will support global efforts to combat illegal logging and to promote trade in legal timber. It will support our importers and our domestic processors who are already doing the right thing.

I note the concerns of those opposite about the development of regulations. I think both Senator Back and Senator Colbeck said something about correspondence between the government and the opposition on this matter. The government made an offer to the coalition about the regulations and the coalition rejected that. The government's position has always been that the regulations would be available for public comment six months from the bill passing, and I reiterate that today. The government will continue to engage with trading partners and importers and with state governments and domestic processors when developing and finalising the regulations. Again, to correct Senator Colbeck's comments about the regulations, I can advise that preliminary discussion drafts of two regulations have been distributed for comment to key trading partners and to other stakeholders. These draft regulations are available on the department's website for viewing. The distribution of these draft documents is the first step in the detailed consultation process through which the government will actively seek comment from domestic and international stakeholders as the package of regulations is developed.

The bill aligns Australia's efforts to combat illegal logging with international initiatives including legislation introduced in 2008 by the United States and developments in the European Union. The European Union are implementing a new timber regulation that requires importers to undertake due diligence when first placing timber or timber products on the market. The European Commission is scheduled to apply its timber regulation in March 2013. Australia's proposed legislation is closely aligned with the views of other countries in the Asia-Pacific region, which is reflected in the 2011 Asia-Pacific Economic Cooperation leaders declaration made in Honolulu which stated that economies would: … work to implement appropriate measures to prohibit trade in illegally harvested forest products and undertake additional activities in APEC to combat illegal logging and associated trade.

An APEC expert group on illegal logging and associated trade has recently been established pursuant to a proposal from Chile, Indonesia and the United States and supported by Australia, and Australia participated in meetings in February and May 2012. The bill is consistent with Australia's international trade requirements under the World Trade Organization and relevant free trade agreements. The government will continue to source advice relating to Australia's international trade law obligations as the regulations are developed. Australia presented details of its proposed legislation to the Committee on Trade and Environment of the World Trade Organization on 14 November 2011.

The bill will regulate timber products at two key points of entry onto the Australian timber market—at the border, for imported timber products, and at timber-processing plants where domestic raw logs are processed for the first time. The bill will restrict the importation and sale of illegally logged timber in Australia in three main ways. First, it will prohibit the importation of
all timber products that contain illegally logged timber and the processing of raw logs that have been illegally logged. The high-level prohibition enters into force on the day after royal assent of this bill. The prohibition will act as a strong deterrent and send a clear signal of Australia's intention to take action to combat illegal logging. To prosecute under this prohibition, a high bar has been set. The government will need to be able to prove that the illegally logged timber was imported or processed either intentionally with knowledge or recklessly. Second, it will require importers of regulated timber products and domestic processors of raw logs to undertake due diligence to mitigate the risk of those products containing illegally logged timber. Timber products for which due diligence will be required will be prescribed by regulations that are being worked with key stakeholders. Requirements for due diligence will come into force two years after the bill becomes law, which gives businesses sufficient time to establish and implement their due diligence systems and processes. Individual country initiatives and national schemes, including national timber legality verification and forest certification schemes like those being developed with Indonesia, can be one of the tools used by businesses in Australia to demonstrate that timber products have been legally harvested. Third, the bill establishes a comprehensive monitoring, investigation and enforcement regime to ensure compliance with all elements of the bill.

In conclusion, by restricting the trade of illegally logged timber products, this bill will restore the balance as to the legally harvested timber market. The bill will remove unfair competition posed by illegally logged timber for Australia's domestic timber producers and suppliers to establish an even economic playing field for the purchase and sale of legally logged timber products. What the bill does not do is place requirements on Australia's trading partners or their exporters. Australian importers will likely be seeing information from their suppliers about the timber they are purchasing, to minimise the risk of importing illegally logged timber. Information that may be sought will be the focus of future work and consultation. Guidance material will be developed to support those interested in the requirements under the bill. The Illegal Logging Prohibition Bill 2012 delivers on the government's commitment to restrict the importation and sale of illegally logged timber in Australia. It delivers on the promise, despite those who were opposed to what is in effect a very easy concept, that we—as a government and as individuals, traders and suppliers in the market—should not support illegally logged timber. The bill will promote the trade of legally logged timber and will be good for jobs in all well-regulated timber-producing markets. With those few words I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:49): Chair, I indicate for the benefit of my colleagues who are going to be dealing with the amendments—I am the only one with amendments and I am doing this informally now, but I will move amendments each time in a formal sense, so this is just to let people know—that it is my intention to deal with amendment (1) and then amendment (4) and then with (3), (9) and (18) together, (2), (5), (7), (8) and (19) together, (20) on its own, (21), (22), (23) and (6) together, and then (24) on its own. So I let you know that is how I would like to proceed to try and
expedite things as quickly as I can. I move Australian Greens amendment (1):

(1) Page 2 (after line 7), after clause 2, insert:

**2A Objects of this Act**

The objects of this Act are:

(a) to prevent the trade of timber products derived from illegal logging; and

(b) to help reduce illegal logging in Australia's region and globally; and

(c) to encourage the sourcing of timber products produced using sustainable practices; and

(d) to help Australia to become a country that trades only in sustainable timber products; and

(e) to assist in the implementation of Australia's international obligations in relation to the eradication of corruption, including under:

(i) the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions done at Paris on 17 December 1997 ([1999] ATS 21); and

(ii) the Convention against Corruption done at New York on 31 October 2003 ([2006] ATS 2); and

(iii) the Convention against Transnational Organised Crime done at New York on 15 November 2000 ([2004] ATS 12); and

(f) to assist in the implementation of Australia's international obligations in relation to the environment, including under:

(i) the Convention on International Trade in Endangered Species of Wild Fauna and Flora done at Washington on 3 March 1973 ([1976] ATS 29); and

(ii) the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992 ([1993] ATS 32); and

(g) contribute to the implementation of Australia's commitment to the environment under the Montréal Process, and the Santiago Declaration of Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests made at Santiago on 3 February 1995.

Note: In 2012, the text of an international agreement in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

This amendment goes to the objects of this proposed act. The Greens want to include 'sustainability' in the objects clause of the proposed act. In the lead-up to the 2007 election the government announced its policy to bring in a ban on illegal timber imports with the heading 'Ensuring sustainable timber imports'. That has not appeared in the objects of the proposed act as currently before us. So the Greens believe that this is an important addition. In December 2009, the then Minister for Agriculture, Fisheries and Forestry, Minister Burke, signed off on changes to the objective of the government’s policy, which remains current. It 'provides the basis for addressing all five components of the government’s illegal logging election commitment’. It states that the policy objective is ‘the Australian government will combat illegal logging and its associated trade by establishing systems that will promote trade in legally logged timber and wood products and, in the long term, trade in timber and wood products from sustainably managed forests’. I add, for emphasis, that it says 'sustainably managed forests'.

The explanatory memorandum recognises that this is existing government policy, and flags on several occasions the possibility of a shift from legality to sustainability in the legislation. It says:

Review elements of the policy necessary to meet the government’s policy objective would include consideration of the range of timber products that are covered and the possible timing of a shift from a legality requirement to one based on sustainability.

That is on page 49. It goes on to say:

At some future time it would be possible to consider whether the legality verification requirement could be replaced with due diligence
applied to the sustainability of the products covered by the regulatory elements of the policy; (c) the economic impacts of the due diligence compliance requirements; (d) potential for increasing the legislative requirement from ‘legality’ to ‘sustainability’ of timber products (to meet the long-term objective of the policy); and (e) the effectiveness of the arrangements in reducing illegal logging in producer countries.

It is clear that the government recognises the five-year review is an opportunity to begin to examine this possible shift to sustainability. However, nothing in the bill as it is currently written reflects this. So we have a proposed objects clause which I think gives effect to what the government has said is its intention to move towards sustainability in timber trade and practice. It does so in a way that is cautious and non-prescriptive, and allows the five-year review—which is a review of the legislation, not the policy—to consider the shift from legality to sustainability. That is the basis of the amendment.

Senator COLBECK (Tasmania) (13:54): The opposition will not be supporting this amendment. As I indicated in my speech during the second reading stage, we have enough concerns about this legislation at the moment. I reject the minister's comment earlier that all we are looking to do is delay. What we are looking to do is allow industry and our trading partners enough time to put in place the measures that will effectively allow them to comply with this legislation. That is the concern that we have. In fact, our leader has written to the Prime Minister to express those concerns. The government rejected that opportunity.

With this clause, what the Greens are looking to do is bringing the term 'sustainability' into the whole argument—rather than the purpose of this legislation as it was originally designed, which is to deal with illegal logging—is to provide another layer in a weapon that would be used by environmental groups against industry. If you look at the Australian forest industry and the commencement of the arguments, we started off talking about old-growth forests and logging in old-growth forests. The Greens moved on from that process and started talking about high conservation value forests. In fact, some of those high conservation value forests are actually regrowth forests. Former Senator Bob Brown recently made a very glowing statement about a coupe on the back of Mount Wellington that is 'full of biodiversity, full of different species, a magnificent example of Tasmanian forest'—it was clear-felled and burnt in 1963. In the Greens' terms it was destroyed in 1963, but the Greens now claim it is a high conservation value forest and want to lock it up.

We are now talking about all native forests. The sustainability argument is one about the Greens being able to continuously redefine the argument to continue to campaign and achieve the objective of trying to kill off the forest industry—which is completely and utterly absurd when you consider that timber is the only renewable and sustainable building product available in the construction industry. Here the Greens are trying to provide a mechanism for their environmental groups, particularly some of the more activist ones, to continue to redefine the argument, to wind back the industry, to make attacks on the industry and to sustain their own political party. They have absolutely no interest in peace in the forests of Australia because then they would have nothing to argue about. The opposition will not be supporting this mechanism that the Greens have put up because it is just another mechanism for them to beat up on industry and redefine the argument to suit themselves.
This bill is about illegal logging. As the minister rightly said, the coalition has played a constructive part in the process of developing this legislation. We are disappointed that the minister has not been prepared to come as far as we might have liked to give industry—

Senator Ludwig: We have come a long way.

Senator COLBECK: I am happy to concede that you have come a fair way, Minister; but you have not come far enough to allow industry and our trading partners to put in place the provisions that will actually allow them to comply with the legislation—and that is the important thing. So we are not supporting the legislation and we are certainly not supporting this amendment.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (13:58): I understand the Greens position on this. The government will not be supporting the amendment for the principal reason that this is about what clause 6 of the bill makes very clear—that the purpose of the bill is to prohibit the importation of illegally logged timber and the processing of illegally logged raw logs and requires importers of regulated timber products and processors of raw logs to conduct due diligence in order to reduce the risk that illegally logged timber is imported or processed. That is the essence of what the bill does. It does not stretch into the objects clauses, particularly what the objects clause in your amendment goes to. It is a very specific piece of legislation that is designed to prohibit the importation of illegally logged timber and the processing of it domestically.

What I can say is that the 2010 election commitment by the Australian Labor Party makes it clear that that would be the nature of the legislation that we would be implementing. I will end there and continue after question time.

Progress reported.

QUESTIONS WITHOUT NOTICE
Child Care

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:00): My question is to the Minister representing the Minister for Early Childhood and Child Care, Senator Kim Carr. Given the cost of child care has risen by more than 20 per cent since Julia Gillard became Prime Minister and that, according to Australia's largest childcare provider, Goodstart, Australian families can expect to be hit with an extra $2,000 in childcare costs as a result of Labor policies, does the minister concede that Labor has made it more expensive to raise a family?

Senator KIM CARR (Victoria—Minister for Human Services) (14:01): I thank Senator Nash for her question. This is the first question we have received for some time—in fact, I think it might be the first question ever—on child care—

Opposition senators interjecting—

Senator KIM CARR: It is certainly the first I have received. We had today an announcement from the opposition that when it comes to new policy they will have an inquiry. They will inquire into whether or not they need a new policy. They will go to
the next election with a proposition that says they have got the mirror out; they are going to look into it. That is essentially the policy we are looking at today: a policy of looking into the mirror.

When it comes to the question of whether or not it is in fact more expensive for child care under a Labor government, of course that is one of the great myths that the coalition pedals. It is a myth that Labor's reforms have in fact made it more costly. Take, for example, the classic case of a family on an income of $75,000 a year. In 2004 child care would account for some 13 per cent of a weekly budget. By 2011 it was just 7.5 per cent. This is a direct consequence of the Labor government's commitment to quality child care. We raised the childcare rebate from 30 per cent to 50 per cent. We have increased the maximum limit by more than $3,000 per child. We have also allowed parents to receive the payment each fortnight rather than wait all year for the money to arrive. I understand that is part of your suggestions at the moment—that is, we put some sort of tax deduction system in. Of course we know who that advantages; it advantages high-income earners.

It is true that childcare fees are rising and quality does have a price, but the net rise has been no faster than we saw under Prime Minister Howard. Over the last four years—

(Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:03): Mr President, I ask a supplementary question. I remind the minister that under Labor the childcare rebate has been slashed from $8,179 to $7½ thousand; the baby bonus has been slashed, making it more expensive for a family to have more than one child; and the promise to make child care more accessible has been scrapped, after Labor broke its promise to build 260 new childcare centres. Why does the government continue to break its promises to Australian families when it comes to child care, putting further strain on household budgets already under pressure from the rising cost of living?

Senator KIM CARR (Victoria—Minister for Human Services) (14:03): When it comes to the question of investment, this government has a very, very proud record. Over the next four years this government will invest more than $22 billion in child care and early childhood education—$22 billion. That is more than triple the funding of the coalition in its last four years.

We have had to make that investment for a number of reasons. We want quality of education for every Australian child, and we expect that the education of our children will begin in childcare placements. That is why we are working in partnership with the states and territories to ensure that every childcare provider is delivering for this nation's children. That means better staffing, better childcare ratios. It means better staff training. It means a transparent rating system for parents. It also means we are able to ensure that we can sustain quality—

(Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:04): Mr President, I ask a further supplementary question. Will the minister now concede that the government has failed to make child care more affordable, failed to make child care more accessible and has completely lost touch with the cost-of-living pressures facing Australian families?

Senator KIM CARR (Victoria—Minister for Human Services) (14:05): As I think I have already indicated to the chamber, child care has declined as a percentage of income. We have seen it decline from 13 per cent of
weekly earnings for a family of $75,000 a year, down to 7.5 per cent. We have seen this year alone more than 600 services open. Accessibility is actually improving under this government.

We are spending $22 billion in new investments. We have 20 per cent more children in child care than there were in 2007. So in terms of reach, the policy positions of this government are working, they are effective and they enjoy a higher level of quality for the parents of this country than occurred under those knuckle draggers on the other side of the chamber that pursued a policy of reducing standards, limiting access and limiting the benefits to the high income in this country. *(Time expired)*

**Environment**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:06): Mr President, my question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. I ask: can the minister confirm that the decision on the natural heritage listing of the Tarkine will be announced before the end of the year? If so, can you confirm that it will conform to the boundaries recommended by the Australian Heritage Council and incorporate all of the Meredith Range Regional Reserve, or will the Venture Minerals mining exploration licence and lease area be excised from the listing?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:07): The Gillard government is committed to thorough environmental assessments under the EPBC Act to ensure matters of national environmental significance in the Tarkine region are protected. The assessment process under the EPBC Act is rigorous and there are a number of points at which the public is invited to comment. Mining and development projects are currently being assessed under national environmental law in the Tarkine region, as Senator Milne has indicated. The Australian government's role is regulating proposals that have an impact on matters protected by national environmental law, including matters of national significance such as listed threatened species. Only actions which might have a significant impact on matters of national environmental significance are required to be referred for approval under national environmental law.

**Senator Milne:** I rise on a point of order, Mr President. I ask the minister to answer the question of whether there will be a decision on the National Heritage listing by the end of the year.

**The PRESIDENT:** I believe the minister is answering the question. There is no point of order at this stage.

**Senator CONROY:** Mr Burke is well aware of the issues in the Tarkine. He has been to the Tarkine region on a number of occasions, where he met with mining stakeholders, environmental groups and tourism operators, to make sure that he had firsthand knowledge before any decisions were made. Minister Burke may seek further information and advice before making the decision. A National Heritage listing of the Tarkine, just on 30,000— *(Time expired)*

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:09): Mr President, I ask a supplementary question. Given that the Tasmanian Premier, Lara Giddings, opposes National Heritage listing for the Tarkine and is all for mining the largest tract of temperate rainforest and the last remaining habitat for disease-free
endangered Tasmanian devils, how can the government be confident that handing over environmental powers to Tasmania under the EPBC Act at COAG on 7 December will see the environmental and cultural values of the Tarkine protected?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:10): I cannot actually accept the premise of the question. Minister Burke may seek further information and advice before making that decision. A National Heritage listing of the Tarkine would not mean an automatic lockout for development or other activities; rather, it would ensure that the Tarkine's heritage values are given appropriate consideration in statutory decision making. If listed, any future action might have a significant impact on the listed heritage values of the Tarkine and would require approval under the EPBC Act. So, as I said, I cannot accept the premise of the question. More importantly, what Senator Milne is seeking to get me to do is make an announcement on behalf of Minister Burke, which clearly I am not in a position to do. I invite the senator to await Minister Burke's announcements.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:11): Mr President, I ask a further supplementary question. The minister needs to remember we have been waiting for a decade for this. Given the performance to date of Premier Giddings in Tasmania on the Tarkine, Premier Barnett on James Price Point, or Premier Newman on the Great Barrier Reef, will the government now abandon its deal with the Business Council of Australia and the mining and gas industry to hand over environmental protection to the states at its COAG meeting in December?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:12): The government have taken a position on that matter and I am not going to stand here and say that we are going to back away from it simply because the Greens do not agree with it. Let me be very clear about this: we have reached a position. We are going to COAG. It is a thorough process. Many people have had their say, like you, but we are going to go ahead and improve the situation in the streamlining of these processes. In terms of the COAG meeting I, like you, await the outcome of the final COAG discussions.

Institutional Child Abuse

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (14:12): My question is to the Minister representing the Prime Minister and the Leader of the Government in the Senate, Senator Evans. Can the minister advise the Senate on the Prime Minister's announcement of the establishment of a royal commission into allegations of child sexual abuse in Australia?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:13): I thank Senator Brown for the question. Last week the Prime Minister announced that she would be recommending to the Governor-General the establishment of a royal commission into institutional responses to instances and allegations of child sex abuse in Australia. The allegations of child sexual abuse in Australia are absolutely heartbreaking. No child should be subjected to abuse. We must do everything as a society we can to make sure that what has happened
in the past is never allowed to happen again. That is why this government has announced the royal commission—to thoroughly investigate how institutions have responded to child sexual abuse and to identify ways to prevent institutional failings from being repeated. The commission will have a broad scope to consider a range of institutions involved with the care of children including religious, charitable and state institutions. The government will consult with representatives of survivors of child abuse, with religious and community organisations and with state and territory governments in the drafting of the terms of reference. I am pleased to say all state and territory governments have committed to cooperating with the royal commission and the government will consult closely with them in the development of the terms of reference.

The royal commission will be focused on identifying systems and institutions that have failed young people and how to prevent this happening in the future. Individual submissions and stories will be a necessary part of understanding what has gone wrong in the past. In addition, it may be that sharing these stories will be helpful for some survivors of child sexual abuse. The royal commission will be able to refer material about instances of abuse to prosecutors. It remains the responsibility of the law enforcement agencies in each state or territory to bring prosecutions and for the courts to determine justice, but people with reports of child abuse should still make those reports to the police.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (14:15): Mr President, I ask a supplementary question. Can the minister further advise the Senate on how Australians will be able to make submissions to the royal commission?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:15): The government will firstly develop the terms of reference and the membership of the commission. Once the government have undertaken the appropriate consultation and settled the terms of reference, we will submit these to the Governor-General pursuant to the Royal Commissions Act 1902. As the Prime Minister has indicated, we anticipate that the commission will start its public work early next year. Given the scale of the inquiry, it is likely that more than one commissioner will be required. The royal commission will need to determine how long it will need to take to conduct the full inquiry on the terms of reference. It will balance the need to ensure a thorough investigation with delivering timely results. It is likely that the royal commission will be asked to report back to the government early and regularly in their investigations, but we do want to ensure that, by early next year, the work has begun.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (14:16): Mr President, I ask a further supplementary question. Can the minister advise the Senate on how Australians will be able to make submissions to the royal commission?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:16): All individuals and organisations wishing to provide input into the royal commission will have ample opportunity to do so. We anticipate that the royal commission will begin its public work early next year. We have established a call centre and an email address and, as of Friday, 16 November, over 170 calls had already been received.
The call centre is taking down people's names and contact details and including these in a register that will be provided to the secretariat of the royal commission. The secretariat will then send details to registered callers about how to make a formal submission to the commission. Regular updates on the establishment of the royal commission will be posted at the Department of the Prime Minister and Cabinet website. We want to make sure that as many Australians as want to make a submission are able to do so.

Can I just, on behalf of the government, thank those senators who have already indicated their support for the work of the commission.

Mining

Senator SINODINOS (New South Wales) (14:17): My question is to the Minister representing the Treasurer, Senator Wong. Does the government stand by its estimate in the MYEFO that its mining tax will raise $2 billion this year and $9.1 billion over the forward estimates, despite the fact that none of the miners who signed the mining tax deal with the Gillard government have paid the tax for the first quarter of this financial year?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:18): I thank Senator Sinodinos for his question. As he knows, the government stand by its estimate in the MYEFO that its mining tax will raise $2 billion this year and $9.1 billion over the forward estimates, despite the fact that none of the miners who signed the mining tax deal with the Gillard government have paid the tax for the first quarter of this financial year?

Senator SINODINOS (New South Wales) (14:20): Mr President, I ask a supplementary question. Does the government agree with the modelling conducted by PricewaterhouseCoopers reported in today's Financial Review which reveals that the iron ore price would have to go up from its current price of around US$120 to US$140 a tonne for the mining tax to raise any revenue? Does that mean the government expects iron ore prices to rise to over $140 a tonne for the remainder of this financial year?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:20): I think Senator Sinodinos has been around long enough to know that I am not going to give him an answer to a hypothetical question, which is what that was. What I was going on to say was that the government will release information on resource tax collections each month in the
normal way, commencing from the October monthly financial report due out in December, subject to taxpayer confidentiality rules. I referenced earlier the drop in commodity prices which, as the senator might recall, was some 38 per cent in the iron ore price between budget and early September. The senator, unlike most on the other side, would also know that you cannot necessarily extrapolate the total annual take by multiplying the first quarter by four; taxpayers can vary their instalment rate in any quarter and the instalment rate is applied to revenue in each quarter, which varies from quarter to quarter, particularly when you see large fluctuations in— *(Time expired)*

**Senator SINODINOS** (New South Wales) (14:21): Mr President, I ask a further supplementary question. Given that the government's mining tax revenue estimates for the current forward estimates have plummeted from $22.5 billion when the mining tax deal was signed to $13.4 billion in the most recent budget forecast, to $9.1 billion in MYEFO— **Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:22): Unlike those opposite, we have actually had to get on with the hard task of identifying savings, including to offset revenue downgrades, and we have done so.

**Senator SINODINOS:** and you know this is true, Senator Conroy; you know this is true—what action will the government take to offset the revenue impact on the budget if there is a further slippage?

**Senator WONG:** (South Australia—Minister for Finance and Deregulation) (14:22): Thank you very much, Senator Rhiannon. I say first of all that it is heartening to hear the Greens supporting ESCAS. For once we have a system in place for the control of...
animals throughout the supply chain. If there are any breaches in the supply chain then there is a regulator who can then investigate those circumstances and take appropriate compliance action. This is the important framework. What can now occur within that framework is appropriate compliance action. That compliance action can go to the extent of ensuring that the exporter has additional conditions or the import permits are modified. Alternatively, exports can be suspended into those markets.

We also have a system where the exporters themselves can self-identify and provide advice to the regulator in respect of breaches of ESCAS. In addition, as we know, we encourage third parties also to provide appropriate information to the regulator in respect of any breaches of ESCAS. That has occurred on occasion, and we encourage any person who is aware of animal welfare breaches of ESCAS to bring those to the attention of the relevant regulator when they can. We also encourage, right across the industry plus the range of animal welfare groups out there, that, if they are aware of animal welfare breaches throughout the supply chain, they should make those available to the regulator so the regulator can investigate those circumstances, take that on board and provide appropriate regulatory response to those issues.

To provide some background, MLA is a research and development corporation. (Time expired)

Senator RHIANNON (New South Wales) (14:26): Mr President, I ask a supplementary question. Considering the failure of MLA staff to report the ESCAS breach, what requirements or arrangements do you have in place? Or are you considering introducing for government funded agencies such as MLA and LiveCorp reporting of any problems with the ESCAS system when they are in importing countries?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:26): I thank Senator Rhiannon for her first supplementary question. First, I do not accept the premise of her question. I will outline. MLA is an independent research and development corporation. The government's involvement with MLA is to provide assistance to the extent of their research and development work, which is 0.5 of the work that they do. It is not a representative body for the meat industry. It provides a range of marketing and research and development work for the industry. In doing that, it does have overseas interests to ensure marketing is done and to ensure that the appropriate meat industry is represented in those markets. Second, if there are breaches in ESCAS, as I indicated, they or anyone else who sees breaches in ESCAS should bring them to the attention of the regulator.

Senator RHIANNON (New South Wales) (14:27): Mr President, I ask a further supplementary question. Considering you have previously said the system of regulation works and we can identify breaches, how can you achieve this when MLA representatives have said that it is not their role to report ESCAS breaches?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:28): I thank Senator Rhiannon for her second supplementary question. I reiterate: if there are breaches of ESCAS or anyone comes across breaches of ESCAS then both the regulator and any third party can bring them to the attention of the independent regulator. I then reject the premise in her question. If
MLA has information in respect of any breach then I would expect them to provide that to the independent regulator. I have full confidence that that would be the course of action they would take if they saw any breaches. Like Animals Australia, the RSPCA or the companies themselves that are involved in the live animal export industry, they bring to the attention of the regulator where there has been a breach. They voluntarily provide that. Why? Because they support animal welfare outcomes. They support the ESCAS being put in place. They want to ensure that this trade continues to have a bright future. Unlike the Greens, who would see this industry decimated— (Time expired)

Middle East

Senator STEPHENS (New South Wales) (14:29): My question today is to the Minister for Foreign Affairs, Senator Bob Carr. Can the minister please update the Senate on events in the Middle East and on Egypt's efforts in particular to mediate the current crisis.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:29): The Australian government is gravely concerned by the escalating crisis in the Middle East. We deeply regret the loss of life and injuries to civilians on both sides. We condemn the repeated rocket and mortar attacks on Israel from Gaza. These attacks must end. We recognise that Israel has the right to defend itself. We do, however, urge both sides to do all they can to resolve the current crisis peacefully.

Over the weekend there has been extensive diplomatic activity across the globe in an effort to calm the situation. Egypt in particular is playing a crucial role. Egypt wields significant influence in the region and has successfully brokered ceasefires between Hamas and Israel in the past. Today I met Egypt's ambassador to Australia, Dr El-Laithy. I conveyed to him Australia's full support for Egypt's efforts to broker a ceasefire. We acknowledge the visit to Gaza on November 16 by Egyptian Prime Minister Kandil and strongly support his call for a truce. We welcome the endorsement by the President of Israel, Shimon Peres, of Egypt's efforts to end the current crisis. UN Secretary-General Ban will visit Egypt for talks with President Morsi, possibly as early as tomorrow. The UN Security Council met over the weekend in a closed-door emergency meeting and will likely meet again over the coming days. Arab League foreign ministers met in an emergency meeting in Cairo on November 17. The league plans to send a delegation to Gaza tomorrow and we encourage it to focus efforts on de-escalating this conflict. What I am saying accords with many comments from Australia's friends around the world. The British Foreign Secretary, William Hague, for example, alerted us to the danger were this to escalate further and 'stressed to our Israeli counterparts that a ground invasion of Gaza would lose Israel a lot of the international support and sympathy'— (Time expired)

Senator STEPHENS (New South Wales) (14:31): I thank the minister for that answer. Mr President, I ask a supplementary question. Can the minister share with the Senate the position of the Australian government on the Middle East peace process?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:31): On my visit to the region in August I underlined to the Israeli and Palestinian leadership the need to return to negotiations and refrain from actions that undermine prospects for peace. The only way to achieve peace is through a negotiated two-state solution, with a secure Israel living alongside
an independent Palestinian state. In this crisis it is critical for all sides to exercise restraint.

Opposition senators interjecting—

Senator BOB CARR: I can't hear you—you will have to speak up! In this crisis it is critical for all sides to exercise restraint, take all steps to protect the lives of civilians and move to end this conflict. Yesterday the President of the United States, Barack Obama, said:

… if we see a further escalation of the situation in Gaza then the likelihood of us getting back on any kind of peace track … is going to be pushed off way into the future.

We can hope for the contrary.

Senator STEPHENS (New South Wales) (14:32): Mr President, I ask a further supplementary question. Can the minister update the Senate on steps being taken by the Australian government to protect the safety of Australian citizens living in the region?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:33): On Saturday the Department of Foreign Affairs and Trade activated its 24-hour crisis centre to monitor developments and assist Australians in the region. The department continues to advise that Australians should not travel to Gaza and surrounding areas. Australians in Gaza should remain in a secure location indoors, monitor the media for information and contact the Australian embassy in Tel Aviv. Australians in Israel are advised to continue to exercise a high degree of caution. They should monitor local media and official announcements and follow the instructions of local authorities. If any Australians have concerns for the welfare of family and friends, they should first attempt to contact them directly. If unsuccessful, they should call the department's consular emergency centre within Australia or overseas.

Climate Change

Senator BIRMINGHAM (South Australia) (14:34): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Ludwig. I refer the minister to Australia's May 2012 submission regarding the application of a second commitment period of the Kyoto Protocol, which states that Australia:

… has consistently maintained that a second commitment period of the Kyoto Protocol must be balanced by an agreement with legally binding mitigation commitments by all major economies. I ask the minister whether such an agreement with legally binding mitigation commitments by all major economies has been reached and ratified by all such major economies.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:34): I thank Senator Birmingham for his continued interest in climate change—perhaps the only one from the opposition.

Senator Kim Carr: He has changed his tune, though. He has changed his tune.

Senator LUDWIG: He may have backflipped. A recent report published by the Climate Commission dispels once and for all the myth pushed by those opposite that Australia is acting alone with the carbon price and that our policies will make no difference to greenhouse gas emissions. The commission concluded, and I think this is very important to consider, that every major economy is tackling climate change, including Australia. It finds that 90 countries, representing 90 per cent of the global economy, have committed to reduce their carbon pollution and have policies in place to achieve those reductions. Many of these countries are relying on market-based mechanisms such as Australia's. The
The commission's report concluded that a carbon price is the most cost-effective way to reduce emissions and is more efficient than other direct subsidy policies. That is why next year 1.1 billion people will be living in a country, state or city with an emissions trading scheme in place. They include countries like the United Kingdom, Germany, France, Sweden, Norway, New Zealand and Switzerland. Carbon trading is also operating at the subnational level in the United States, Canada and Brazil. Of course, the momentum is growing. Japan just introduced a carbon tax last month. California commenced its emissions trading schemes last week. China is developing pilot emissions trading schemes in seven cities and provinces and in Korea an emissions trading scheme will commence in 2015. If you look all across the OECD, 94 per cent of members have, or are implementing, emissions trading at the national or subnational level. That is the commitment that is happening on the ground as we speak.

Senator BIRMINGHAM (South Australia) (14:36): Mr President, I ask a supplementary question. Given that the conclusion and ratification of—quoting the government's own submission—'an agreement with legally binding mitigation commitments by all major economies' remains at best a distant aspiration, why has the Minister for Climate Change and Energy Efficiency ditched this requirement for binding action, which was restated as recently as May this year, and instead declared Australia ready to join a second commitment under Kyoto as soon as the end of this month?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:37): I thank Senator Birmingham for his second supplementary question—for his helpful comment.

Senator Abetz: Wishful thinking—you don't even know which sup it is!

Senator LUDWIG: Thank you very much. It is clear when you look at the coalition themselves that the carbon price did not have the impact that they suggested. Senator Barnaby Joyce I think continues to support the proposition that a lamb roast will cost $100 due to the carbon price. On Meet the Press, on Channel Ten, he reiterated again that promise that that would be the outcome for lamb. It is not—

Senator Birmingham: Mr President, I raise a point of order. The question went very particularly to the government's position about a second commitment period under Kyoto, as did the supplementary question. We have got through all two minutes of the first answer and 53 seconds of the answer to the supplementary, and not once has the minister actually mentioned the Kyoto Protocol or the second commitment period. I urge you, Mr President, to ask the minister to be directly relevant to the question.

The PRESIDENT: Order! The minister needs to address the question that has been asked by Senator Birmingham.

Senator LUDWIG: Thank you, Mr President. As we know, on 9 November 2012, the minister—(Time expired)

Senator BIRMINGHAM (South Australia) (14:39): Mr President, I ask a further supplementary question. Given that the government introduced a carbon tax despite promising not to do so, axed its floor price of that carbon tax despite saying that a floor price was central to certainty and signed on to a second commitment period under Kyoto despite putting in previous submissions that doing so was conditional upon legally binding action by all major economies, how can anything this
government says about climate change policies actually be believed?

Government senators interjecting—

The PRESIDENT: Order! I remind senators on both sides that the time to debate this is after three o'clock.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:40): Australia joins those countries around the world that are taking action on climate change. That is why Greg Combet, the Minister for Climate Change and Energy Efficiency, announced on 9 November that Australia is ready to join a second commitment period of the Kyoto protocol.

What is unbelievable from those opposite, if we want to talk about believability, is that they opposed income tax cuts and family tax cuts for business. Tripling the tax-free threshold, tax cuts for more than seven million people, was opposed by those opposite, unbelievable if you are a family; and a company tax cut—unbelievable if you are a company. Increasing the Medicare levy surcharge threshold—

Senator Birmingham: Mr President, I raise a point of order, again on the matter of direct relevance. For the last 30 to 40 seconds of the minister's answer he has talked about anything but climate change policies or the second commitment period under Kyoto and is traversing a range of completely unrelated policy areas. I ask you to draw the minister's attention to the question.

The PRESIDENT: Order! The minister needs to address the question. The minister has 16 seconds remaining.

Senator LUDWIG: Again, it is unbelievable that they would oppose household assistance with the introduction of a carbon price. It is unbelievable that they would do that, but it is true. It is embarrassingly true that that is precisely what those opposite did, and they cannot bring themselves to— (Time expired)

Broadband

Senator GALLACHER (South Australia) (14:42): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister advise the Senate on the progress of building the National Broadband Network?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:42): I thank the senator for his question and his interest in the National Broadband Network. When NBN Co.'s three-year rollout program was announced in February by the Prime Minister, we said that we would have commenced or completed 758,000 premises by the end of 2012. The member for Wentworth, on Sky News that day, called that an 'extraordinary promise', and he went on to say:

If they can do that, I guess there will be a lot of admiration in terms of construction.

In August the government released NBN Co.'s 2012-15 corporate plan. The plan showed that the capital cost of constructing the National Broadband Network will be $37.4 billion. The plan was informed by the construction contracts that were signed and the firm agreements that were in place. The plan also confirmed the targets announced with the three-year rollout plan, including that construction will be commenced or completed for 3.5 million premises by June 2015.

Around the country—as you yourself know, Mr President—the NBN Co. is
actively building a fibre network. Just in the last fortnight, Senator Pratt has been hauling fibre in Geraldton. Senator Thistlethwaite did the same in Coffs Harbour. The members for Oxley, Blair and Petrie have witnessed and pulled the fibre in Aspley and Goodna, in Queensland. To those who keep baying from the opposite side: almost 30,000 by this week and every single day more new customers. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! When there is silence, we will proceed.

Senator GALLACHER (South Australia) (14:44): Mr President, this is my first supplementary question. Can the minister advise how the overall costs of the project translate to cost per service, and how does this compare with similar networks?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:46): Mr President, as I was saying, fibre construction is up and away in over 65 locations Australia wide, and you can expect to see more and more green fibre in the streets of your cities and suburbs. The member for Wentworth has claimed the cost of building the NBN is much dearer than comparable networks— and we have had the $50 billion, the $70 billion and the $100 billion. Last month the NBN Co. provided the Joint Committee on the NBN with details of the cost of a fibre access network for the premises to be passed this year. What did it show? What it showed was how, through the experience of building the NBN, it is bringing the cost of the local component per premise to between $1,200 and $1,500 per premise. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Order on my left! I remind honourable senators on both sides that this is not the time to debate. Order!

Senator GALLACHER (South Australia) (14:46): Mr President, my second supplementary question is: can the minister provide information about how these costs translate into wholesale prices for broadband in Australia?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:46): An important part of the NBN is this government's commitment to uniform national wholesale prices. The fibre being deployed in regional areas like Ballarat, Geraldton and Coffs Harbour is priced the same as the fibre in the city. The fixed wireless service and satellite services are priced the same as fibre in the city.

Customers on TransACT's network here in Canberra are also benefiting. In response to the NBN, the wholesale price of 100 megabits on the TransACT network has dropped from $119.95 to $59.90. The only threat to the NBN and uniform national pricing is those in that corner down there, the supposed supporters of regional Australia. We are delivering uniform prices no matter where you live. (Time expired)

Homelessness

Senator PAYNE (New South Wales) (14:47): My question is to the Minister representing the Minister for Housing, Senator Evans. Given that former Prime Minister Kevin Rudd described the issue of homelessness as a national obscenity in 2008, how does the minister describe the situation now that the number of homeless people has increased by 17 per cent over the
past five years of this government according to the ABS 2011 census figures?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:48): I thank Senator Payne for the question because it is a very important issue in our community. We know that there are too many Australians who are homeless. That is why this government made it a priority on coming to government, through the inaugural white paper, which makes it clear that by 2020 we want to halve overall homelessness and provide supported accommodation to all rough sleepers who seek it. That was a very important goal that this government set because we take this issue so seriously. To back that commitment, the Labor government has invested an unprecedented $5 billion into support for homelessness services and programs since 2008.

Senator Abetz interjecting—

Senator CHRIS EVANS: Senator, it would have got a lot worse if we had followed you and done nothing. But we do take this issue seriously. You had no housing minister and no policy. We have been working with the states and territories and with business, charities and the community to reduce homelessness in Australia, and we are delivering through the National Partnership Agreement on Homelessness over 180 new or expanded homelessness services.

As we indicated last week, the ABS statistics did release a complex picture. The headline figure showing an increase in the rate of homelessness of eight per cent is disappointing. But a more in-depth analysis reveals some promising signs.

Senator Abetz interjecting—

Senator CHRIS EVANS: It is a complex picture, Senator. The report speaks for itself. The rate of people sleeping rough has fallen by 13½ per cent and that is encouraging. The number of people in supported accommodation has risen by 23 per cent.

The PRESIDENT: Order, Senators Conroy and Ronaldson! Senator Payne is entitled to hear the answer. Order!

Senator CHRIS EVANS: As I was saying, it is a complex picture but there are some encouraging signs in the sense that, for instance, the number of people in supported accommodation has risen by 23 per cent. So more people are in supported accommodation. (Time expired)

Senator PAYNE (New South Wales) (14:50): Mr President, I ask a supplementary question. Why will the government only commit to funding the National Partnership Agreement on Homelessness for one year after the current agreement expires on 30 June 2013? How does that actually provide any certainty for service providers and for homeless people themselves?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:51): Mr President, as I understand it, on Friday the Minister for Housing and Homelessness reached agreement with state ministerial colleagues, subject to their own cabinet processes, to commence negotiations for a new partnership agreement on homelessness. Those decisions on a future national homelessness partnership will be based on evidence and performance information to ensure that strategies beyond June 2013 are effectively targeted. These negotiations are expected to take time, so the Commonwealth has put money on the table for our half of the cost to continue services for another 12
months. We are calling on the states to make clear as soon as possible whether they will match this funding to ensure that the sector and the homeless clients they serve have certainty for the next year. It remains a priority of this government and we have put an offer to the states and put our money on the table.

**Senator PAYNE** (New South Wales) (14:52): Mr President, I ask a further supplementary question. Given that the government has a $120 billion black hole in its federal budget following its series of multibillion-dollar spending commitments, can the minister explain why the government has made significant promises to some sectors of the community but provided only one year's extra funding for homelessness service providers, thereby denying them certainty in their operations?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:53): I made very clear that this government remains committed to action on homelessness and had made an offer to the states. What is not clear is whether the opposition actually have developed an interest in this issue and are going to make any commitment at all to tackling these questions. Under the Howard government we know there was no minister responsible, there was no funding and there was no attempt to tackle this deep-seated social issue in our community. We know that this government is committed, has invested heavily and is seeing some positive results, but the problem remains a difficult and complex one.

We have put an offer to the states to say: 'We want to continue this work. Programs are seeing results. Will you commit to continuing the program?' I would be interested in Senator Payne explaining whether or not the opposition will commit to the program.

**Natural Disasters**

**Senator FURNER** (Queensland) (14:54): My question is to the Minister representing the Minister for Emergency Management, Senator Ludwig. It is pretty ironic that I ask this question given that yesterday afternoon he, I and others were stuck in the Brisbane airport because of severe thunderstorms. Flights were delayed. I ask this question on that basis. Can the minister advise the Senate how the Gillard government is supporting communities across Australia to prepare and be more resilient this summer as we head into what is traditionally a summer of natural disasters? Hopefully, we will not experience natural disasters like we have in Queensland in previous years when we had to look at putting in place incentives and arrangements to assist Queenslanders who were affected by those terrible disasters over the last several years.

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:55): I thank Senator Furner for his continued interest in emergency management matters, particularly those in Queensland. Over the past few summers we have been reminded how devastating natural disasters can be—the Queensland floods and cyclones in 2010-11, the Victorian and New South Wales floods last year and the tragic Black Saturday bushfires of 2009. The Gillard government is investing a total of $6 billion in Queensland to recover and rebuild. Across Australia we have allocated $3 billion this financial year in post-disaster support to help families get back on their feet.

The recent natural disasters show how important it is for households and
Communities to be prepared. They have highlighted to Australians how important our committed volunteers are as well. For the government it is important we invest in preparation. Disaster management is a shared responsibility between both the Commonwealth and the states and territories. Clearly, the states and territories do take the brunt. They are the first responders in emergencies.

The Commonwealth invests in mitigation, relief and recovery work. The Gillard government take disaster resilience and mitigation seriously. We are investing $110 million to support communities in disaster mitigation to deliver a range of projects so communities are better prepared. The Gillard government is investing in a range of measures that will help communities prepare and potentially save lives and properties. These include projects in Victoria to improve bushfire predictions, funding for flood mapping in Gippsland and support for education and safety. In Tasmania funding is being provided for improved state-wide emergency management planning. In South Australia almost $7 million in joint funding is being used to—

**Senator FURNER** (Queensland) **(14:57):**
I thank the minister for his answer and I ask a supplementary question. Can the minister outline to the Senate specific government programs or projects that are helping people and communities across Australia be better prepared for natural disasters this summer? Once again I have a specific interest in what is occurring in Queensland. I would like information on that if that is possible as well, thank you.

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) **(14:59):**
When it comes to emergency resilience and response, everyone has a part to play. We should all have emergency plans. We can be better prepared. Last week was SES Week and all of us thank those volunteers for the hard work that they do. The volunteers who fight fires and help us during floods and those people who support them are invaluable. So it is disappointing to see that in Victoria the Baillieu government has decided to slash funding from the Country
Fire Authority, with a $41 million cut to the CFA in one year. In Queensland nine Rural Fire Service offices will be closed. In New South Wales up to $70 million will be cut from fire services. All of these cuts are to front-line services, as communities across Australia prepare—*(Time expired)*

**Senator Chris Evans:** Mr President, I ask that further questions be placed on the Notice Paper.

**QUESTIONS WITHOUT NOTICE:**

**ADDITIONAL ANSWERS**

**Environment**

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:00): On 1 November, Senator Waters asked me questions regarding the handover of federal environmental responsibilities to the states. I seek leave to have incorporated in *Hansard* some further information that has been supplied to me by the Minister for Sustainability, Environment, Water, Population and Communities, Mr Burke.

Leave granted.

The answer read as follows—

Regarding the matters of national environmental significance that are within scope of the bilateral reform process:

In keeping with the agreement made on 13 April 2012 at the Council of Australian Governments (COAG), Australian, state and territory governments are working together to prioritise the development of bilateral arrangements that accredit state and territory assessment and approval processes. Through this process, the Australian Government is prepared to consider accrediting state and territory jurisdictions to approve all matters of national environmental significance, except uranium mining, where the Australian Government is confident that the requirements for accreditation under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) will be met.

**Regarding involvement of the business community in the design of our environmental laws:**

The Australian Government has consulted a variety of stakeholders, including representatives from the business community, environmental non-government organisations and the public, throughout the reform process to ensure that the EPBC Act continues to serve Australia effectively. This includes consultation in relation to the Australian Government response to the independent review of the EPBC Act, the EPBC Act amendment bill and cost recovery under the EPBC Act.

Since the release of the government response to the independent review of the EPBC Act on 24 August 2011, business groups have not met with the Federal Environment Minister about the design of amendments to the EPBC Act. However, representatives from business groups have attended the following consultation events with the Department of Sustainability, Environment, Water, Population and Communities (the department) relating to the design of EPBC Act amendments:

(a) 27-28 March 2012: Stakeholder roundtable to discuss the implementation of the Australian Government response to the independent review of the EPBC Act.

(b) 14 June 2012: Stakeholder roundtable to discuss Cost Recovery under the EPBC Act draft cost recovery impact statement.

Regarding the capacity of State and Territory jurisdictions to protect matters of national environmental significance:

The Australian Government will only accredit State and Territory systems where they meet the requirements of the EPBC Act. The draft standards, released on 2 November 2012, represent the Australian Government's framework for accrediting environmental assessment and approval bilateral agreements.
ANSWERS TO QUESTIONS ON NOTICE

Question No. 2389

Senator LUDLAM (Western Australia) (15:01): Pursuant to standing order 74(5), I ask the Minister representing the Minister for Resources and Energy, Senator Evans, for an explanation as to why answers have not been provided to question on notice No. 2389 asked on 19 October 2012.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:01): I do not think I had any warning that this was coming, so I am not able to provide the Senate with an answer. It is normal in these events to at least give us a bit of a heads-up so that we can try and find out, but I will take it on notice and see what I can find out.

Senator LUDLAM (Western Australia) (15:01): I thank Senator Evans and I do acknowledge that I have not provided him with prior warning that I was going to move this. It is a little unusual in that the question has only fallen late by a day or two, so I can understand why the minister does not have a brief before him. However, I move:

That the Senate take note of the failure by the Minister for Resources and Energy to provide either an answer or an explanation.

Senator Chris Evans: Don't you need an explanation before you can take note?

Senator LUDLAM: I will put some brief remarks on the record as to why I am bringing this forward now. I know it is a little unusual. Sometimes we wait for months with unanswered questions. I am not willing to do that in this instance. This is an extremely time-sensitive matter. I have sought explanation for these unanswered questions on notice because several of them pertain to time-sensitive matters.

Question No. 2389 included questions about the status of the tender process for the concept design of a national radioactive waste facility. The question also put to the minister whether the department had any dialogue or provided briefings to the new Northern Territory government or its agencies regarding the location of a national radioactive waste facility at Muckaty. Particularly importantly, the question asked: has the department had any dialogue with any stakeholders over the potential for a further site nomination, either within the Muckaty Land Trust area or in any other region of the Northern Territory or elsewhere?

At successive budget estimates hearings I have put precisely that question to officers from DRET: are you looking at an alternative site? We know that the government is in serious trouble with the existing Muckaty nomination that is now five or six years old. We have been warning the government, from the time that it was proposed in the late years of the Howard government to the time that it was taken up by Minister Martin Ferguson of the Rudd and then Gillard governments, that the government has gone the wrong way and that this proposal would fail. I believe what we are seeing now is some signs that the government realises its proposals for the Muckaty radioactive waste dump is going nowhere.

There are some developments to report on and that is why I am keen for an answer to my question, as well as because they pertain to legislation that passed in this place earlier this year. The developments I specifically want to refer to include a meeting on Muckaty Land Trust land on 7 November 2012. What was discussed at this meeting? The site targeted for a nuclear waste dump by Minister Ferguson and the Northern Land Council that is currently under Federal Court
action, for example—was that discussed at this meeting? Was it discussed that this Federal Court action is likely to take a very long time? Likely it would not have been appropriate for this court action to have been discussed at that meeting considering that one of the leading NLC participants in the meeting is the solicitor representing the land council in this action. His conduct will be under scrutiny as an agent of the Northern Land Council who participated in the consultations for the original 2007 nomination. If that issue was not raised, what else is going on at Muckaty? Is there another site under discussion or not?

According to people with whom I have spoken, the meeting on 7 November included no maps and no specific sites were named, but there was also microphone and a lot of informal discussions, side conversations and so on. Some people that I know were invited, then they were uninvited and then they were re-invited—very strange times on the Muckaty Land Trust when traditional owners are treated like this on their own land. The agenda in the meeting information sheet for that meeting was clear that this was not a decision-making meeting. Items 8 and 9 on the agenda included: whether the federal government will consider other land in Australia for the national radioactive waste facility and how an additional nomination affects the 2007 nomination of land adjacent to the haulage road on Muckaty Station. So two of the items referred to the potential for an alternative site nomination, additional to the one that is currently being tested in the Federal Court.

After that meeting, according to some participants, it was not at all clear whether the meeting convened by the Northern Land Council and the Muckaty Land Trust on Wednesday, 7 November, was to discuss a proposed new site for a radioactive waste dump. However, while not much light may have been shed at the meeting itself, the Northern Land Council principal legal officer, Mr Ron Levy, did help clear matters up when he addressed a press conference on 13 November and said that in fact there is a specific alternative site known to the Northern Land Council. His exact words were:
The Northern Land Council has been asked to formally consult in relation to an additional nomination of separate land under the new statute at Muckaty Station. The consultations were the commencement of that process.

Really? Okay. The NLC principal legal officer said: ‘Well, this is separate from and additional to, not alternative to, the nomination which is the subject of court proceedings.’ Really? That is interesting. When asked who had requested that these consultations commence, the NLC principal legal officer said the following: ‘Well, traditional owners of the relevant land. I don’t intend to give names of those persons at the moment.’ I wonder when he will. The NLC principal legal officer also said, ‘So the Commonwealth will need to persuade first the traditional owners and subsequently the public about safety considerations, but there will be a major effort in that respect in the consultative process.’ What does Mr Levy know that nobody else knows? What does he know that none of the participants at that meeting were told, to keep on trying to persuade them?

I am interested to know: will the NLC and the Commonwealth recognise exactly when it is that they have failed to persuade—because of course they have. The vast majority of people on the Muckaty Land Trust who are signatories, and their families, remain not only unpersuaded but implacably opposed. Does the government really think that the same factors will not come into play if another site is chosen in the same earthquake zone that has been the site of so
much contest and division between family members since this nomination first came to light—a place where several of the same groups of traditional owners have the same interlocking ownership and the same say over country due to overlapping songlines and stories? All of the same problems will follow the dump if the government tries to simply move it 10 or 20 kilometres in one direction or another. It must know that.

Do the government and the Northern Land Council really believe that another site process has begun with these consultations and with this meeting? These are consultations that have already gotten off to a nasty start—where all of those party to the Federal Court action were not invited, where some people were invited and then uninvited and then invited again, and where no specific site was indicated—but then the NLC principal legal officer goes and tells a press conference that there is a nomination.

Will the minister answer my question? Will he provide the precise geographical location of the proposed alternative site referred to by the Northern Land Council’s principal legal officer? There clearly is another site in play; Mr Levy was happy to tell a press conference that. It does not appear that he told any of the participants in that meeting—those of them who eventually made it—that there was such a nomination under way. It would be appropriate for the minister to provide that information to the chamber, and it would fit well under my question: Has the department had any dialogue with any stakeholders over the potential for a further site nomination: (a) within the Muckaty Land Trust area; and (b) in any other region of the Northern Territory or elsewhere?

Just in case the minister does not quite see what I am getting out, we can put another set of questions in to help him. We can continue kicking this particular can down the road, or the minister can come clean and hold a national radioactive waste commission to finally answer the question of what we should do with the nation's inventory of radioactive waste that does not involve the premise being which remote Aboriginal community should host this shed for all time.

We have to start a different process: a more honest, deliberative, open and scientific process—which is what we thought we were getting, because ALP candidates told us in 2007 that that was what they would do if they were elected. I hope that the minister will provide us with an answer to these questions. I thank the Senate for allowing me to detain it briefly, and I hope you will all agree that these questions require an urgent resolution by the government.

Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Child Care

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (15:11): I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Kim Carr) to a question without notice asked by Senator Nash today relating to child care.

There is no doubt that the answers that were given today by Senator Carr to the questions on child care were nothing short of embarrassing. Here we have a minister who is supposed to be across these issues and who is supposed to understand these issues but who could do nothing more than bluff and bluster and refer to his briefing notes in some vain attempt to try and cobble together some sort of response to the Senate questions. It is simply not good enough. I think that families in this nation, particularly in regional areas, want to know that the ministers in this government are competent. They certainly did not get that today from...
this minister, Senator Kim Carr. It is really and truly an embarrassment for the government to have a minister that is so inept and so unable to properly answer questions of this nature which are vitally important to families right around the country.

The government is trying to say that it is improving child care for families. Nothing could be further from the truth. Time and time again, we see the failure of this Labor government to properly implement policy that is going to improve the situation for families with regard to child care. We have now seen Goodstart, Australia's largest childcare provider, saying that there is going to be an extra $2,000 in childcare costs as a result of Labor's policies. So here we have a policy under Julia Gillard with regard to child care that is going to increase costs for families by $2,000. For that in any way to be seen as any kind of policy success is just completely ridiculous. I do not know that the government is actually spending much time out there talking to families. I do not know that it is actually spending any time in these childcare centres. I am sure, to give credit where credit is due, the minister might possibly be but I certainly doubt that the minister representing is, and I doubt many of his colleagues are either—because, if they were, they would understand the very real concerns that are held out in these areas, particularly in regional areas, when it comes to child care.

We have seen the Goodstart Early Learning childcare provider, the largest childcare provider in Australia, estimating in its annual report that fully implementing Labor's national quality framework will see fees for long day care rise by about 20 per cent. So we are looking at over 60,000 families having around a $2,000 hit. It has actually cited it as a 'burden which would be unaffordable for many parents'. What is this government doing? As the government, it is supposed to be making it easier for families. It is supposed to be making child care more affordable. It is supposed to be making it easier for families to get on with the business of trying to juggle work and family, which I know my colleagues on this side of the chamber actually understand.

**Senator Kroger:** We do!

**Senator NASH:** Thank you very much, Senator Kroger, and I will take that interjection. Yes, we do; we absolutely understand and the contrast between us in the coalition, those on this side of the chamber, and those on the other side, in the Labor government, is absolutely stark. The government walks the walk and talks the talk but does not deliver for families, and it is ongoing and I think the people out there right across Australia have simply had enough. This is on top of a 20 per cent increase in childcare costs since the Prime Minister came to office. We have seen the childcare rebate slashed from $8,179 to $7½ thousand. We have seen the baby bonus slashed, making it more expensive for a family to have more than one child. We have seen Labor's broken promise to build 260 new childcare centres. The list goes on and on.

How Senator Carr can sit on the other side of this chamber and try to claim that they are doing a good job is simply ridiculous. We are seeing further pressure on household budgets under the Labor government and further pressure from the rising cost of living. What we are seeing is a Prime Minister who is starting to seem as if she has a problem with Australian mothers. We hear this talk about Tony Abbott having a problem with women, but I think the Prime Minister has more of a problem with mothers. The Prime Minister broke Kevin Rudd's promise to deliver 260 new childcare centres across the nation. Her changes to
Medicare have doubled the cost of IVF treatment, resulting in 1,200 babies not being conceived. Within a few short weeks the Prime Minister will boot single mothers onto the dole. It was under Prime Minister Julia Gillard that the government attempted to stop Defence personnel getting free trips home to visit their mothers at Christmas and most recently the Prime Minister has slashed the baby bonus for second and subsequent children. I would say that this is a Prime Minister that has a real problem in developing proper policy for the betterment of the Australian people, and families right across this nation understand that.

Senator GALLACHER (South Australia) (15:16): I am absolutely astounded that this debate has degenerated into a personal attack on our Prime Minister and former education minister, who has been absolutely resolute in her support of Australian families. Whilst everybody is entitled to their own opinion, I am not sure they are entitled to their own facts, so I would like to put the record a few facts about what we in the Labor government have done in respect of looking after families and in particular I will be referring to child care. Take paid parental leave. We have delivered on Australia's first paid parental leave scheme. Eligible working parents are paid up to 18 weeks of government funded leave, at $606 a week before tax from 1 July 2012, and, very importantly, 160,000 families are benefiting from paid parental leave.

We know that the opposition leader, the Hon. Tony Abbott, has his version of parental leave and we also know that is going to be funded out of a new tax on business—if he ever gets the opportunity to implement anything like that. We know that the new schoolkids bonus provided 1.3 million families with $410 a year for kids in primary school and $820 for kids in secondary school to meet education expenses. We are also paying out the full amount of the education tax refund so that, importantly, families can get extra support right away. We know that there is the teenage dental scheme with more than 1.5 million check-ups for eligible teenagers. For health checks we have allocated $25.6 million for Healthy Kids checks, supporting families who want their four-year-old to get a health assessment through their GP. There is $120.5 million in the maternity reform package, a key element of the government's health reforms plan to deliver improved maternity care particularly in regional Australia and to give women more choice. There is $66.6 million to expand support for eligible midwives, $25 million to restore access to additional indemnity insurance for eligible midwives, $9.4 million for improved access to information support, $11.3 million for expanded medical outreach services to rural and remote areas, bringing care closer to home and family, and $8 million for workforce support.

In respect of child care we have, as Minister Carr said, increased the childcare rebate from 30 to 50 per cent of out-of-pocket expenses. We have raised the annual limit for each child from $4,354 to $7,500. We have increased the childcare benefit giving extra assistance for 650,000 low- and middle-income families each year. A low-income family using full-time child care now has around 80 per cent of its childcare fees covered. There are more places. Let us not forget that we saved the centres at risk from the collapse of ABC Learning in 2008, stepping in with $58 million to ensure continuity of care for around 95,000 families. As a result, 90 per cent of these centres are still operating. The opposition gloss over those sorts of facts very glibly. Probably quite rightly, they give us no credit for that, but I am sure that the families who had their children in ABC Learning centres
strongly recognise the fact that we stepped in and made sure that those very good centres, those very well built centres, continued to operate.

We are funding an unlimited number of childcare places. The number of childcare centres has increased from 11,449 in December 2007 to 13,807 in December 2010. With the states and territories we are setting up 38 child and family centres, offering integrated services like child care, playgroups, family support and child and maternal health support. What is very clear, and this always comes up at question time with the opposition, is that if you have a position and you state it vehemently ad nauseam, hopefully, in the opposition's opinion, that will then become a fact. But what is becoming increasingly clear to me is the need for us to continue to restate the facts to the opposition so, hopefully, they may then consider the merits of their argument—so instead of singling out a point they will take the whole picture and look at it properly. (Time expired)

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:21): I feel sorry for Senator Gallacher that he has to stand up and defend the merits of Prime Minister Gillard's so-called empathy with women and, in particular, mothers as to the difficulties that they have and choices that they have to make in weighing up how they remain in the workforce and balance that with childcare and working considerations.

I say that because it was only last sitting week here in question time that Senator Bob Carr chose to impugn me as a mother and hide behind my children in deflecting a question, in deflecting scrutiny of his portfolio. Rather than answer a very direct question, he sought to hide behind my children and directed extraordinary criticism and abuse at me as a mother. I raised this with the Prime Minister to seek a qualification of those comments, her support for the institution of motherhood and an explanation of how that related to the development of policy. The Prime Minister not only did not respond to that directly but had an adviser write to me to say it had nothing whatsoever to do with her and it was a matter for the Senate if there was concern that one of her cabinet ministers was impugning another senator as a mother. So, Senator Gallacher, I have great sympathy for you because, if the Prime Minister is not prepared to stand up for women not only in this place but around the country, I do not think we can hold out much hope for the policies she implements in relation to childcare.

That question in question time went to the fact that the National Quality Framework smacked of policy on the run and sniffing the breeze. This issue was hurting the government, certainly in the electorate of Chisholm, where I had a huge number of parents come to me seeking advice as to how they should deal with the implications of a National Quality Framework which not only increases their costs in providing child care for their kids but in many instances reduces the availability of childcare places on the ground. That is essentially what we are talking about here. It is choice that families are seeking. They need to be given choices so they can balance the very difficult life, work and family decisions that they have to make.

In every policy decision that the government have made since the last federal election we have witnessed policy on the run—not, as Senator Cash rightly pointed out this morning, based on deep-seated principle but based purely on what they believe the electorate wants to hear. It has a political basis; it is not based on any principle. This is yet another example of that. It does not take
a chartered accountant to ascertain that, if you reduce from one to four to one to five the ratio of staff members to children, and at the same time increase the academic requirements of staff, it is going to increase the cost for providers of providing childcare places and therefore reduce or eliminate the choices that families have. I applaud the Leader of the Opposition's announcement that if and when we come to government—and I hope for all families that it is sooner rather than later—this approach will be explored by the Productivity Commission. *(Time expired)*

**Senator POLLEY** (Tasmania—Deputy Government Whip in the Senate) (15:26): What an opportunity—to follow on from Senator Kroger and her ramblings. Yet again, we hear a personal attack on the Prime Minister. When all else fails, we can rely on those opposite to attack the Prime Minister personally. I want to correct the record in relation to the assertions from Senator Nash about whether those on the government side visit childcare centres. I would like to inform the Senate that it was only in the last two weeks—the first week of the sitting break—that my colleague Lin Thorp and I participated in the 'walk in the shoes of childcare workers campaign' at a childcare centre in Launceston. It was a great experience to see firsthand what those opposite, including Senator Kroger, alluded to: ensuring that early childcare workers are actually rewarded with the remuneration they deserve and their qualifications are accepted and respected in the community. We not only saw and spoke to the staff but participated in looking after the children—and before anyone interjects, yes, the children were safe and well when we left!

I put on the record that not only is the criticism by those who have contributed to this debate today misleading but the Howard government had 11 long years to do more for the childcare industry and ensure that our early childcare educators are acknowledged and rewarded for their work and families have greater access to child care. They did nothing. Over the next four years the Labor government, under Julia Gillard, will invest more than $20 billion in early education and care. This is $13 billion more than was provided in the last four years of the Howard government. We are providing record levels of assistance directly to families through childcare benefits and the childcare rebate. Over the next four years we will provide $16.4 billion in direct fee assistance for Australian families through childcare benefits and the childcare rebate.

While the coalition and those opposite are perfectly happy to leave the childcare rebate at 30 per cent, with an annual cap of just $4,350 per year, the government increased the rebate to 50 per cent of parents' out-of-pocket expenses and increased the maximum for each child in care to $7,500 a year. It has been suggested that in recent times there has been a price hike of up to 11 per cent, but that is certainly not the average cost increase that we are seeing across the sector. The fact is that long day care fees in Australia have increased marginally above trend growth at about 7.6 per cent for the year to March 2012.

This was predicted as part of the national quality reforms—that is, changes to staff-to-child ratios and new qualification requirements—and we have always been upfront with the public about that. We respect those who look after our children because, after all, they are the most precious commodity we have in our community—that is, our children. They deserve the very best child care and early childhood education possible.

Of course there are waiting lists and in some areas there is still greater need for
childcare places. We are working to resolve that. Those opposite have not got a policy. Their policy is: employ a nanny. I suggest that Mr Abbott ought to employ a nanny to keep those people over there up to date with their own policies so that they are able to come in here and talk about the facts rather than try to mislead the Senate. Nannies! Nannies are an option, but they are certainly not the option for the majority of Australian families.

As I said, it is this government that has already committed the $22.3 billion of early learning and care initiatives. More than $20 billion of that is to directly help with childcare costs, the childcare benefit and the childcare rebate. We want to make sure that parents can be assured that their children are being looked after, being educated by those with the best qualifications. We want to do more to keep people who are well qualified to look after our young children in the childcare sector. (Time expired)

Senator RUSTON (South Australia) (15:31): I rise to take note of answers given by Senator Kim Carr today in response to questions from Senator Nash about the increasing costs of child care in Australia. I noted that Senator Carr made the comment that this side is always looking into everything every time the government announces a new policy. I suggest that the reason we constantly do request to look into things is that so often many of the negative consequences and implications of these policies have not been thoroughly considered, such as the potential negative impacts on our communities. These policies are made without a thorough investigation of those consequences for the very people they are purporting to help.

So often these policy announcements are a little bit like trying to crack a walnut with a sledgehammer. In the instance of child care, in the recent debate we have seen that child care is being forced out of the reach of many Australians. I understand that there are an estimated 110,000 parents who may no longer be able to afford to return to the workforce. In deciding to increase the requirements of childcare operations, we have to ask: has the government looked at the impact on Australian families of these increases? Has the government looked into whether the changes are going to improve the accessibility, the affordability or the flexibility of childcare services for Australian families?

Child care is so, so important, and every mother will tell you that child care and the quality of child care are the most important things she considers when she lets go of her child for that first time when she goes back to work. Many parents need child care because they do have to go back to work. Their finances demand that they go back to work. Other parents go back to work simply because they choose to; they want to go back to work. From the perspective of employers, many of them need their staff to come back to work because there is a lack of people in their particular pool that they are drawing from or possibly because the skills of the people who are off on maternity leave or have just had children are very, very important to their particular business. On the productivity front, denying access to appropriate child care denies Australia a huge section of the workforce. This is particularly true of the more skilled areas of our workforce. Many of our professional women are in high demand in the workforce and we have an obligation and a responsibility to give them every opportunity to put their skills back to work if and when they choose to do so.

As I said before, as parents we all want the very best for our children and this includes child care. But in the pursuit of
excellence we need to be careful we do not regulate ourselves out of the market, and that seems to be what is happening here. Changes to child care over the past five years are making this fundamental service so overburdened it is becoming completely out of reach and totally user unfriendly. The coalition certainly welcome the positive elements of the national quality framework, but my understanding is that the implementation of that particular framework has so many demands in relation to regulation and compliance that it is estimated that the cost of child care over the next few years will increase by up to $2,000 every year.

The 20 per cent increase in childcare costs that have occurred under this government have hit every family, but they hit people in the country so much more. The increasing training requirements for childcare staff often cannot be accessed in regional areas. I understand that centres with more than 29 children will require a teacher with a four-year tertiary qualification. Where on earth are people and communities in the country going to find these highly qualified people when at the moment they are struggling to attract doctors and nurses and teachers?

The nine-to-five economy is not one that exists in the country. I can tell you stories about the lack of flexibility that is denying people the opportunity to go back to work. Seasonal work is an example. People work double shifts or they want to work early in the day to get away from the heat of the day, but so often these people are denied the opportunity to go back to work because they cannot access appropriate child care. I know firsthand the dilemma that women face in making the decision to go back to work from a financial perspective—the combined effect of the reduction in family support payments and the cost of child care means these parents are actually financially better off staying at home and living off the government purse.

Another impact that is acutely felt in the country is the lack of professionals who are prepared to go to the country. If they cannot get good childcare services, they are just not going to come any more. We need to stop putting this burden of regulation on our people so that we can get on with being productive in this country. (Time expired)

Question agreed to.

Environment

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:36): I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Milne today relating to the Tarkine and the national heritage listing.

I find it extraordinary that the Business Council of Australia put a proposition to the Prime Minister before the COAG meeting in March this year saying that they wanted to streamline environmental protection. By that they mean get rid of it and devolve it to the states so that the states can go with business as usual and fast-track major developments to the detriment of the environment. The Prime Minister went along with it. At that meeting what she announced was what the Business Council of Australia asked for. Now we are going to the COAG meeting on 7 December this year and the Commonwealth is going to devolve environmental protection responsibilities to the states. The Prime Minister is turning her back on the Hawke government legacy.

This is unbelievable. This is taking us back to the pre-seventies. This is back to before the Hawke era when the Commonwealth used its powers to come in over states like Tasmania which were completely abandoning any kind of decent
environmental protection in favour of development. No-one will forget Robin Gray standing in Queenstown with boxing gloves on saying that he was going to build that Franklin Dam; it was a case of the Commonwealth coming in over the top, using its external affairs powers and taking charge. Does anyone think we would not have had oil wells in the Great Barrier Reef if it had not been for Commonwealth powers? If it had been up to the Queensland government that would have happened. Now we have a situation where Premier Giddings in Tasmania has said she does not want National Heritage listing for the Tarkine—no, she wants it mined! In Queensland we have Premier Newman pushing half a dozen new coal ports, dumping waste into World Heritage areas so that we have UNESCO sending out a mission to Australia saying we risk the Great Barrier Reef—our World Heritage in danger. Oh, no! Let us hand over protection of the environment in Queensland to the state. I keep calling it Queenstown; it is the same mentality, I have to say. Who would give Premier Barnett, over there in Western Australia, responsibility for James Price Point when we have seen the appalling assessments already done on James Price Point—where the majority of people on the environmental protection assessment panel had to resign; they had to stand aside from the assessment because they all had conflicts of interest. This is what Prime Minister Gillard is now going to do. That means that the future of the Tarkine is that of yet another one of those places.

It is extraordinary. I think people around the country will be shocked to know that the Tarkine has had well-identified wilderness values—not just outstanding National Heritage values but World Heritage values. In the 1990s, an inquiry found that it should be World Heritage listed. In 2010, the Australian Heritage Council concluded that 433,000 hectares of the area met the criteria for inclusion on the National Heritage list, Australia's pre-eminent heritage list; and, earlier this year, an independent assessment carried out for the purposes of the Tasmanian Forestry Agreement process found it should be put forward for inclusion on the World Heritage list.

There are places around Australia which would give their eye teeth to have their state or municipality on the World Heritage list, because everybody knows that that is where people now go for their tourism experiences. The north-west of Tasmania does not have a tourism icon. It is why people get off the Spirit and turn left to go to Hobart or down the south-west and everywhere else but not to the north-west—because it does not have a tourism icon. The Tarkine could be that tourism icon for north-west Tasmania. But, no; they would prefer to have two mines with a two-year life which are needed to facilitate a bigger mine right in the heart of the Tarkine—a big open-cut mine. If it goes ahead it will produce very few jobs and hardly any return to Tasmania. Once the Tarkine is destroyed it will be gone forever. It is the same mentality as that of the OTD—the Organisation for Tasmanian Development—at the time of the Franklin. It is the same 'dig it up, cut it down, ship it away' mentality, and it is going to undermine the potential for north-west Tasmania to join the rest of the state in getting the benefits of having World Heritage listing—not to mention the loss of the last disease-free habitat for the Tasmanian devil. They are prepared to jeopardise even that.

It is disgraceful. Prime Minister Gillard and Minister Burke are prepared to hand it over to Tasmania for assessment just like all those other areas around the country. Shame on them.

Question agreed to.
NOTICES

Withdrawal


Presentation

Senator Birmingham to move:

That the Environment and Communications References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 21 November 2012, from 3 pm, and on Thursday, 22 November 2012, from 1.05 pm.

Senator Bishop to move:

That the time for the presentation of the report of the Economics Legislation Committee on the Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012 be extended to 21 March 2013.

Senator Bishop to move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 26 November 2012, from 6.30 pm, to further examine the 2012-13 supplementary budget estimates.

Senator Cameron to move:

That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 22 November 2012, from 1 pm.

Senator Crossin to move:

That the time for the presentation of reports of the Legal and Constitutional Affairs Legislation Committee be extended as follows:

(a) Migration Amendment (Health Care for Asylum Seekers) Bill 2012—to 7 December 2012;
(b) provisions of the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012—to 25 February 2013;
(c) provisions of the Courts and Tribunals Legislation Amendment (Administration) Bill 2012—to 25 February 2013; and

Senator Heffernan to move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on aviation accident investigation be extended to 27 February 2013.

Senator Marshall to move:

That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 21 November 2012, from 4 pm, to take evidence for the committee's inquiry into the provisions of the Fair Work Amendment Bill 2012.

Senator Nash to move:

That the Parliamentary Joint Committee on Law Enforcement be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 20 November 2012, from 5.30 pm, to take evidence for the committee's inquiry into the Regulatory Powers (Standard Provisions) Bill 2012.

Senator Sterle to move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2) be extended to 21 March 2013.

Senator Xenophon to move:

That the time for the presentation of the report of the Joint Select Committee on Gambling Reform on the Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 be extended to 28 March 2013.

Senator Rhiannon—

The Senate—

(a) notes that:

(i) the University of Western Sydney (UWS) has foreshadowed planned cuts to economics and
community languages courses and academic staffing cuts across various schools,

(ii) UWS claims the cuts are in response to budgetary pressures due to lower than expected student enrolments following the uncapping of university places, however the university still carries a budget surplus and can expect a steady increase in enrolments over time,

(iii) in 2003 UWS allocated 62.5 per cent of student fees earned to teaching and learning, whereas in 2012 only 38.3 per cent of student fees earned went to teaching and learning, with a corresponding increase in administration expenditure,

(iv) teaching and learning is under resourced at UWS, with one of the highest staff to student ratios in Australia as well as one of the highest staff casualisation rates, and further staffing cuts will deny the students of Western Sydney a quality education, and

(v) UWS plans to close its student learning service that targets academic skills support to socially disadvantaged students and students who are the first in their family to attend university, which applies to a large number of students from Western Sydney; and

(b) calls on the Government to:

(i) urge UWS management to retain its current courses and academic staffing resources, and

(ii) immediately increase public funding by 10 per cent per government supported university student, as recommended by the Bradley review, to give budget certainty to universities.

Senator Abetz to move:

That the Migration Amendment Regulation 2012 (No. 6), as contained in Select Legislative Instrument 2012 No. 237 and made under the Migration Act 1958, be disallowed.

Fifteen sitting days remain, including today, to resolve the motion or the instrument will be deemed to have been disallowed.

Senator Wright to move:

That the Senate—

(a) notes that:

(i) 2.5 billion people currently live without access to sanitation, half of these people are women who have nowhere safe to go to the toilet,

(ii) women lacking access to safe toilets are at risk of verbal, physical and sexual violence,

(iii) women are significantly and disproportionately impacted by lack of access to sanitation,

(iv) women in sub-Saharan Africa spend 19 billion hours a year finding a place to go to the toilet,

(v) access to sanitation is a foundation for good health, and women and girls who have no toilet face the additional risks posed by infectious diseases, malnutrition due to repeated diarrhoea and reproductive infections due to poor menstrual hygiene management,

(vi) girls at school require access to a toilet with suitable facilities and privacy for menstrual hygiene management, and without this access, evidence shows that the attendance of girls at school significantly drops impacting upon girls' educational opportunities,
(vii) women’s economic opportunities can be significantly reduced as a result of poor access to a toilet as their time and health are impacted, and

(viii) the Australian Government supports the recent Rio+20 outcomes document ‘The Future We Want’ and its commitments regarding the human right to safe drinking water and sanitation; and

(b) acknowledges Australia’s support for the right to water and sanitation.

Senator Collins to move:

That:

(1) On Tuesday, 20 November 2012:
(a) the hours of meeting shall be 11 am to 6.30 pm and 7.30 pm to adjournment;
(b) the routine of business from not later than 7.30 pm shall be government business only; and
(c) the question for the adjournment of the Senate shall be proposed at 10 pm.

(2) On Thursday, 22 November 2012:
(a) the hours of meeting shall be 9.30 am to 6 pm and 7 pm to 10.40 pm;
(b) divisions may take place after 4.30 pm;
(c) consideration of committee reports, government responses and Auditor-General’s reports shall not be proceeded with;
(d) the routine of business from not later than 7 pm shall be government business only; and
(e) the question for the adjournment of the Senate shall be proposed at 10 pm.

Senator Hanson-Young to move:

That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958, and for related purposes. Migration Amendment (Special Protection Scheme for Afghan Coalition Employees) Bill 2012.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:43): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for the bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS
WATER AMENDMENT (LONG-TERM AVERAGE SUSTAINABLE DIVERSION LIMIT ADJUSTMENT) BILL

Purpose of the Bill

The bill provides a mechanism for adjusting a long-term sustainable diversion limit (SDL), within set limits, without the Basin Plan going through the formal amendment process. It will provide for the Murray Darling Basin Authority to be able to adjust the limit in a way that reflects the environmentally sustainable level of take, determine that any criteria in the Basin Plan for the above purposes have been met and require a State water resource plan to reflect the adjustments to the limit. It provides that notice may be tabled by the Minister adjusting the SDL.

Reasons for Urgency

During the Basin Plan public consultation there was strong support for a process that would enable the SDL to be adjusted without the formal Basin Plan adjustment process being invoked. The s.43A(4) consensus statement by the Murray-Darling Basin Ministerial Council on the proposed Basin Plan included support for the development by the Murray-Darling Basin Authority, together with Basin States, of an SDL adjustment mechanism.

The Government intent is to make the Basin Plan this calendar year. Unless the amendment is made this sitting then the adjustment mechanism to be included within the Basin Plan could not take account of the amendment.

Senator JACINTA COLLINS (Victoria—Manager of Government
Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:43): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Corporations Legislation Amendment (Derivative Transactions) Bill 2012
- Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012
- Freedom of Information Amendment (Parliamentary Budget Office) Bill 2012
- Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012
- National Health Security Amendment Bill 2012
- Personal Liability for Corporate Fault Reform Bill 2012
- Superannuation Auditor Registration Imposition Bill 2012
- Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Bill 2012
- Superannuation Legislation Amendment (New Zealand Arrangement) Bill 2012
- Tax Laws Amendment (2012 Measures No. 5) Bill 2012
- Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012.

I also table statements of reasons to justify the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

CORPORATIONS LEGISLATION AMENDMENT (DERIVATIVE TRANSACTIONS) BILL

Purpose of the Bill
- The bill provides a legislative framework to implement Australia’s G-20 commitments in relation to over the counter (OTC) derivatives reforms.

Reasons for Urgency
Australia has committed at G-20 that standardised OTC derivatives should be trade reported, centrally cleared and, where appropriate, traded on-platform by the end of 2012. Therefore, passage in the Spring sittings is necessary in order to implement Australia’s G-20 commitments in 2012.

Australia’s framework needs to be designed to meet the requirements for mutual recognition under international OTC derivatives regimes, which are currently still in the process of being settled. There is also a need for further consultation on the details of Australia’s framework, which is why the proposed amendments need to be introduced in the Spring sittings.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

CRIMES LEGISLATION AMENDMENT (SERIOUS DRUGS, IDENTITY CRIME AND OTHER MEASURES) BILL 2012

Purpose of the Bill
The bill contains a range of measures to improve Commonwealth criminal justice arrangements, including amendments to:

- the Commonwealth’s serious drug offences framework to ensure that it can respond flexibly and quickly to new and emerging substances
- expand identity crime offences to cover people who deal with identification information with intent to commit an indictable offence against the law of a foreign country, or who use a carriage service such as the internet to obtain the identification information
- respond to identified vulnerabilities to organised crime in the aviation environment by creating new offences relating to air travel and the use of false identities
improve the operation of the Law Enforcement Integrity Commissioner Act 2006
clarify that superannuation orders can be made in relation to all periods of a person’s employment as a Commonwealth employee, not only the period in which a corruption offence occurred, and
increase the value of a penalty unit and introduce a requirement for the triennial review of the penalty unit.

**Reasons for Urgency**

Urgent introduction and passage of the bill is required to enable new substances, including certain synthetic cannabinoids, to be listed within the Commonwealth’s serious drug offences framework as soon as possible. This will enable law enforcement and border protection agencies to respond rapidly to threats posed by these substances. The bill also contains key measures to combat organised crime and identity crime.

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS**

**FREEDOM OF INFORMATION AMENDMENT (PARLIAMENTARY BUDGET OFFICE) BILL**

**Purpose of the Bill**

The bill amends the Freedom of Information Act 1982 (FOI Act) to provide a new FOI exemption for documents related to confidential requests to the Parliamentary Budget Office (PBO) and to make a consequential amendment to the Privacy Act 1988.

While the PBO is an exempt agency under the FOI Act, documents related to PBO information held by departments and agencies may not be protected from release under the FOI Act. The bill amends the FOI Act to provide an exemption for information held by departments and agencies that relates to a confidential request to the PBO. The bill also amends section 25 of the FOI Act to provide that an agency is not required to give information as to the existence or non-existence of a document where it is exempt under the new exemption for documents that relate to a confidential request to the PBO.

**Reasons for Urgency**

As the Parliamentary Budget Office commenced operations on the 23 July 2012 it is essential that the amendments are introduced and passed as soon as possible.

The amendments are critical to the effective operation of the new Office and will enhance the operation of the Parliamentary Budget Office for all senators and members from all political parties.

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS**

**HIGHER EDUCATION SUPPORT AMENDMENT (STREAMLINING AND OTHER MEASURES) BILL**

**Purpose of the Bill**

Amendments are required to the Higher Education Support Act 2003 (the Act) to give effect to the April 2012 COAG National Partnership Agreement on Skills Reform.

The amendments give effect to the Government’s decision to implement the COAG agreement for a trial of specific Certificate IV VET courses of study to commence on 1 January 2013. The proposed amendments will implement a risk management approach to improve quality assurance of the approvals process and to enhance the provider suspension and revocation processes to improve protection of students and public monies.

**Reasons for Urgency**

Introduction and passage of the bill in the 2012 Spring sitting period is necessary to ensure the COAG trial of Certificate IV qualifications can commence by 1 January 2013. A delay in the amendments to improve the approvals process and the provider suspension and revocation processes may jeopardise public monies paid to high risk private providers on behalf of students undertaking courses at such providers.
NATIONAL HEALTH SECURITY AMENDMENT BILL 2012

Purpose of the Bill
The bill amends the National Health Security Act 2007 (NHS Act) to:
- introduce greater flexibility to better manage the security risk of security sensitive biological agents (SSBA) handleings by entities that:
  - handle SSBA temporarily
  - are in the process of complying with the SSBA Standards
  - are doing emergency facility maintenance
- enhance reporting about suspected SSBA by:
  - including handling particulars on the National Register of SSBA
  - requiring initial testers which are registered entities to report the results of confirmatory tests
  - exempting the requirements of handling suspected SSBA to already prescribed law enforcement agencies

Reasons for Urgency
The object of the NHS Act is to establish controls for the security of biological agents of security concern that could be used in bioterrorist attacks. The controls are aimed at a group of agents collectively designated as security sensitive biological agents (SSBAs). Entities that handle SSBAs must register under the NHS Act and comply with the reporting requirements and SSBA Standards.

Passage of the bill is required as soon as possible to reduce uncertainty among stakeholders.

SUPERANNUATION LAWS AMENDMENT (CAPITAL GAINS TAX RELIEF AND OTHER EFFICIENCY MEASURES) BILL

Purpose of the Bills
The bills will:
- require self-managed superannuation (SMSF) auditors to be registered and to comply with ongoing competency and independence

Australian legislation in accordance with a set of principles. These reforms will ensure that personal liability for corporate fault is only imposed when justified under Principles endorsed by COAG, and are imposed in a consistent manner across Australian jurisdictions.

Reasons for Urgency
The COAG timeline pursuant to the National Partnership Agreement for a Seamless National Economy requires that all jurisdictions develop a legislative plan to implement agreed reforms and introduce legislation by end-2012. The Government has released three exposure drafts of the Bill as part of its public consultation process.

Reforms in the area of personal liability for corporate fault had been in progress for some time. In addition to general concerns regarding the delays in this COAG project, the new COAG deadline has been publically criticised by industry, as well as the COAG Reform Council. In response to these views, the Government considers that passage of legislation by end-2012 would be more appropriate.

To ensure that the COAG timeline is met, the Commonwealth has been preparing draft legislation on the understanding that it would be introduced and passed by spring 2012. In the event that introduction does not occur in Spring of 2012, the Commonwealth would be found to be in breach the COAG milestone that all jurisdictions plan to implement agreed reforms and introduce legislation by end 2012.
standards (to impose registration, examination and annual renewal fees on SMSF auditors);

- mandate the use of data and payments standards and e-commerce for processing of roll-overs and accepting contributions (SuperStream measure);

- mandate consolidation of multiple accounts within superannuation (SuperStream measure);

- expand existing reporting requirements for superannuation providers in order to support the SuperStream measures, specifically account consolidation and on-line display of accounts held by an individual; and

- provide taxation relief in the form a loss transfer and capital gains tax roll-over for merging superannuation funds to support the implementation of Stronger Super (Part 1).

**Reasons for Urgency**

- The Stronger Super measures implement recommendations of the Cooper Review and have a start date of 1 July 2012.

- The superannuation reporting requirements measure is critical to ensure industry readiness to meet reporting timeframe.

- The relief for merging superannuation funds measure was announced in the 2012-13 Budget. The Minister for Financial Services and Superannuation’s press release indicated legislation would be introduced in the Spring 2012 sittings of Parliament. It applies from 1 October 2011. Taxpayers seeking to benefit from this measure will be unable to do so until legislation is passed.

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS**

**SUPERANNUATION LEGISLATION AMENDMENT (NEW ZEALAND ARRANGEMENT) BILL**

**Purpose of the Bill**

The bill will:

- make consequential amendments to the taxation of gaseous fuels;

- phase out eligibility for the mature age worker tax offset by restricting eligibility to those born after 30 June 1957;

- amend the definition of ‘eligible no-till seedert’ to include just the tool as a combination of the tool and cart;

- remove a loophole from the wine equalisation tax (WET) rebate in relation to blending and further manufacture; and

- add the Queen Elizabeth Diamond Jubilee Trust as a specifically listed deductible gift recipient.

**Reasons for Urgency**

- The Government wants to provide DGR specific listing in the tax law to the Queen Elizabeth Diamond Jubilee Trust (the Trust) during the period of The Queen’s diamond jubilee celebrations. Timely passage of the necessary amendment in the tax law is required to enable tax deductible fundraising by the Trust to commence as close as possible to the Trust’s proposed fundraising launch in early November 2012. Donors may be reluctant to donate to the Trust until it is granted DGR status, hampering fundraising efforts.
• The gaseous fuels consequential amendments need to be legislated as soon as possible as the principal alternate fuels legislation commences on 1 July 2012.

• The phase out of the eligibility for the mature age worker tax offset measure was announced in the 2012-13 Budget and commences on 30 June 2013.

• The ‘eligible no-till seeder’ measure applies over a three-year period to tools which were installed and ready for use on 1 July 2012 and is intended to provide an incentive to adopt ‘no-till’ practices. Hence the measure should receive passage as early as possible to provide certainty for stakeholders.

• The WET measure applies from 1 July 2012. This measure must be implemented to prevent further exploitation of the wine producer rebate.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

TAX LAWS AMENDMENT (CLEAN BUILDING MANAGED INVESTMENT TRUST) BILL

Purpose of the Bill

The bill will:

provide a final withholding tax rate of 10 per cent on fund payments from eligible Clean Building Managed Investment Trusts (MITs) made to foreign residents in information exchange countries.

Reasons for Urgency

The Government has committed that this measure will be introduced and passed in the current Spring sittings of Parliament.

BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (15:44): by leave—I move:

That leave of absence be granted to Senator Urquhart from 19 November to 22 November 2012 on account of parliamentary business.

Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:45): by leave—I move:

That leave of absence be granted to Senator Ryan for 19 November 2012 on account of parliamentary business and to Senator Cormann for 19 and 20 November 2012 on account of parliamentary business.

Question agreed to.

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:45): I move:

That general business order of the day No. 83, Low Aromatic Fuel Bill 2012, be considered on Thursday 22 November 2012 under the temporary order relating to the consideration of private senators' bills.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:46): At the request of Senator Heffernan, I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Tuesday, 20 November 2012, from 4:30 pm, to take evidence for the committee’s inquiry into the Foreign Investment Review Board national interest test.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:46): At the request of Senator Heffernan, I move:
That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 21 November 2012, from 4 pm, to take evidence for the committee’s inquiry into aviation accident investigation.

Question agreed to.

National Capital and External Territories Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:46): At the request of Senator Pratt, I move:

I move:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 28 November 2012, from noon to 1.45 pm, to take evidence for the committee’s inquiries into the 2010–11 annual reports of the Department of Regional Australia, Regional Development and Local Government, and the National Capital Authority.

Question agreed to.

MOTIONS

Female Genital Mutilation

Senator CASH (Western Australia) (15:47): I, and also on behalf of Senator Kroger, move:

That the Senate—

(a) notes the World Health Organization (WHO) findings in relation to female genital mutilation (FGM), including:

(i) FGM is defined by the WHO as ‘all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons’,

(ii) it is estimated that FGM is practiced in 28 countries in western, eastern and north-eastern Africa, in parts of the Middle East, and within some immigrant communities in Europe, North America and Australasia, and that 100 to 140 million women and girls around the world have experienced the procedure, including 92 million in Africa,

(iii) that, in seven of the countries where FGM is practised, the national prevalence rate among women aged 15 to 49 is almost universal – more than 85 per cent,

(iv) FGM has no known health benefits and is known to be harmful to girls and women in many different ways; it is painful and traumatic and the removal of, or damage to, healthy genital tissue interferes with the body’s natural functioning and causes immediate and long-term health consequences,

(v) in terms of impact on health:

(a) immediate consequences of FGM can include severe pain, shock, haemorrhage, tetanus or sepsis, urine retention, open sores in the genital region and injury to nearby genital tissue, and

(b) long-term consequences include recurrent bladder and urinary tract infections, cysts, infertility, an increased risk of childbirth complications and newborn deaths and the need for later surgeries; for example, the FGM procedure that seals or narrows a vaginal opening needs to be cut open later to allow for sexual intercourse and childbirth, and

(vi) FGM is a manifestation of deeply entrenched gender inequality and is recognised as a human rights abuse, and it constitutes an extreme form of discrimination against women, a violation of the rights of the child, the rights to health, life, security, physical integrity and the right to be free from torture and cruel, inhuman or degrading treatment;

(b) acknowledges that:

(i) several international and regional treaties have specifically identified FGM as being both a violation of the rights of women and girls and a form of discrimination, including the United Nations Commission on the Status of Women, ‘Ending female genital mutilation’ resolutions 54/7 of 2010, 52/2 of 2008 and 51/2 of 2007, and

(ii) in Australia, any type of FGM is clearly prohibited by specific legislation in every jurisdiction; and

(c) expresses concern at recent identified cases of FGM in Australia.
Question agreed to.

Grameen Bank

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:47): I, and also on behalf of Senators Stephens and Eggleston, move:

That the Senate—

(a) recognises and applauds the work of the Grameen Bank in helping to lift millions of poor people, particularly poor women, out of poverty;

(b) acknowledges the work of founder Professor Muhammad Yunus and Grameen Bank as joint recipients of the 2006 Nobel Peace Prize for their work fighting poverty;

(c) notes the actions of the Government of Bangladesh on 22 August 2012 in amending the section of the Grameen Bank Ordinance relating to the appointment of a Managing Director;

(d) encourages the Government of Bangladesh to work cooperatively with the Bank’s board of directors on the appointment of a new Managing Director;

(e) urges the Government of Bangladesh to ensure the continued effectiveness of the Grameen Bank; and

(f) encourages a resolution of the appointment of a new Managing Director that supports the bank’s good governance.

Question agreed to.

Hicks, Mr David

Senator WRIGHT (South Australia) (15:48): I move:

That the Senate—

(a) recognises that:

(i) the recent ruling by the United States (US) Court of Appeals for the District of Columbia Circuit, which found that providing material support for terrorism was not a war crime between 1996 and 2001 and therefore could not support a conviction, invalidates Mr David Hicks’ conviction for this crime,

(ii) in 2007, Mr Hicks was incarcerated in a South Australian prison for 7 months as a result of negotiations between the Australian and US Governments and on the basis of this invalid conviction, and

(iii) in 2011, the Australian Government instituted proceedings against Mr Hicks under the Proceeds of Crime Act 2002 on the basis of this invalid conviction; and

(b) calls on the Government to conduct an independent inquiry into Mr Hicks’ detention, treatment and unfair trial while in US custody, as well as the role played by the Australian Government in upholding the invalid and unlawful conviction.

The Senate divided. [15:53]

(The Deputy President—Senator Parry)

Ayes ...................... 10
Noes ...................... 36
Majority ............... 26

AYES
Di Natale, R
Hanson-Young, SC
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

NOES
Back, CJ
Bernardi, C
Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Cash, MC
Colbeck, R
Collins, JMA
Crossin, P
Edwards, S
Eggleston, A
Faulkner, J
Fawcett, DJ
Feeney, D
Fifield, MP
Furner, ML
Gallacher, AM
Kroger, H (teller)
Ludwig, JW
Lundy, KA
Madigan, JJ
Marshall, GM
McEwen, A
McKenzie, B
McLucas, J
McQueen, B
Moore, CM
Parry, S
Pratt, LC
Ruston, A
Singh, LM
Smith, D
Stephens, U
Sterle, G
Thistlethwaite, M
Thorp, LE

Question negatived.
Environment and Communications Legislation Committee

Senator MADIGAN (Victoria) (15:55): I move:

That—

(a) for the purpose of its inquiry into the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012, the Environment and Communications Legislation Committee have power to consider and make use of the evidence presented to the Community Affairs References Committee for its inquiry into the social and economic impact of rural wind farms, including, subject to paragraph (b), evidence or documents ordered by that committee to be treated as in camera evidence; and

(b) the Environment and Communications Legislation Committee shall not make use of any evidence or documents ordered by the Community Affairs References Committee to be treated as in camera evidence, except in accordance with the following conditions:

(i) the committee must first obtain the agreement of the witness who provided the evidence or documents,

(ii) the committee must not publish the evidence or documents without informing the witness in advance of the proposed publication,

(iii) the committee must provide reasonable opportunity for the witness to object to the publication and ask that the particular parts of the evidence or documents not be published,

(iv) the committee must give careful consideration to any objection by a witness before making its decision, and

(v) if the committee resolves to publish the evidence or documents, it must also consider publishing them in such a way as to conceal the identity of persons who gave the evidence or provided the documents, or who are referred to in the evidence or documents.

The Senate divided. [16:00]
MATTERS OF PUBLIC IMPORTANCE

Asylum Seekers

The DEPUTY PRESIDENT (16:02): A letter has been received from Senator Fifield:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:

The failure of the Gillard government to stop the boats and secure Australia’s borders.

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—

Senator CASH (Western Australia) (16:03): I rise to address the coalition's MPI today in relation to the Gillard government's failure to secure our borders. Two incidents that have occurred today highlight why the coalition brought on the MPI. The first is that a standoff has developed on Nauru at a tiny Nauru courthouse where 14 asylum seekers are due to appear on rioting charges. As a result of the standoff, the appearance of the 14 men has now had to be delayed. All of the men due to appear at the courthouse are facing three charges which carry potential jail sentences of two to seven years. This is what has now happened under the government's current border protection policies.

The second incident which highlights the importance of the coalition's MPI is the following. Earlier today I addressed the Senate on the two appropriation bills that the Senate was debating. We were appropriating a further $1.67 billion, because the government has run out of money since the May budget due to its failed border protection policies. In my speech I referred to some statistics. Well, lo and behold, between the time I gave my speech this morning, at 10 am, and now, at 4 pm, when I am addressing the coalition's MPI, guess what? Quite ashamedly another boat has been intercepted, this time on Cocos Island and this time carrying 72 people.

So I now have to update the Senate again on the number of people who have arrived under the current Gillard Labor government—bearing in mind that at 10 am today, when I was addressing the issue of border protection, these figures were different. The total number of boat arrivals since November 2007, under successive Labor governments, is now 29,940. It has gone up by 72 since 10 am today. The total number of boats that have arrived under the Rudd-Gillard Labor government is now 513.

The number of boats that have arrived this financial year is now 178.

Bear in mind that the government have only budgeted for 3,000 arrivals. So the government have taken from the taxpayer the money to pay for 3,000 boat arrivals this financial year. Guess how many have actually arrived—because, ladies and gentlemen; you get to pay for this. The government budgeted for 3,000 and, in the first five months of this financial year, 10,029 have arrived. So what is the bet—and the Australian taxpayer should be very aware of this—that come February 2013 we are back in this place and the Labor Party will be putting their hands further into the pockets of taxpayers, because they have so grossly underestimated the failure of their border protection policies.

Over 7,000 people have arrived since the government announced that it would commence offshore processing on Nauru. In that time, what the Australian people have witnessed is but a trickle of people who have been transferred to Nauru for offshore processing.

This is leading to heightened tensions in our immigration detention centres.
The bad news for Australians is this: this has been done before; we know exactly how this script is going to end. If you recall, because of putting increased tension on our detention centres, this time last year we had riots on Christmas Island.

This is a government that refuses to learn from its mistakes. It has been in this situation before. Because of overcrowding on Christmas Island, because of overcrowding at various detention centres throughout Australia, we have seen the result: riots. And when riots occur, things go very wrong: people get hurt; buildings are burnt down. And, in the end, what happens? The Australian taxpayer is yet again asked to pay to rectify a problem that is the direct result of the Gillard Labor government's failed border protection policies.

Asylum seekers—for those who may not be aware—are currently housed in tents on Christmas Island. They are housed in tents for one reason only: there are no more beds available for them on Christmas Island. Such is the extent of the number of people who are coming here, Christmas Island is once again full, so the department of immigration has had to get out tents to put people in. Again, what happened on Christmas Island the last time the government had people staying in tents? History now records that there were massive riots and the Australian taxpayer had to cough up the money to pay for the damage that was caused as a result of the riots, and these costs can be put squarely back at the fault of this government's border protection policies.

This is not the only problem associated with the government's failure to control its borders. Look at Customs and border protection. It is no longer just the coalition that has issues with the government's border protection policy. The Community and Public Sector Union have now gone on the record confirming that the damage the Labor staffing cuts are doing to Australia's national security is real. The Australian Customs and Border Protection Service is being forced by Labor to cut a further 20 frontline staff from Sydney Airport and another 38 staff from the intelligence division, and this is all part of the 190 staff to be cut from Customs so that the Labor Party has some hope of perhaps delivering a very small budget surplus next year.

Again, this is not the coalition speaking; this is Nadine Flood, the National Secretary of the CPSU. Nadine Flood said that 'the work that these Customs staff do is absolutely crucial' and 'the CPSU does not think that that particular portfolio can handle those cuts'. When you have a union that comes out and criticises its mates on the other side—the majority of them former unionists back in the good old days—you need to start worrying. It is not just the coalition that is now criticising the way the Gillard government is handling our borders. The unions are now coming out and saying, seriously, you can only compromise Australia's security so far, which is exactly what the Labor Party have done, and then there are real issues to be tried. That is exactly where we find ourselves at the moment.

If you want to talk about cuts to border protection, and in particular Customs, in the 2009-10 budget, Labor cut the budget for cargo screening by $58.1 million. Labor cut aerial surveillance by $20.8 million and 2,215 aerial surveillance hours or more than 90 days. Labor cut boat interception funding by $48.1 million over the forward estimates. In the 2012-13 budget, Customs was forced to cut one in five senior executive service officers. Labor have cut $9.3 million in 2014-15 from Customs, and in the latest MYEFO it has been estimated that a further
$35 million will be cut from Customs over the forward estimates.

This is a government that has left our front line of border protection, our Customs and border protection agencies, so ill-equipped that it is little wonder that illegal weapons, drugs and other contraband are now coming into Australia and making their way onto our streets. This is a direct result of Labor's failed border protection policies. The fact that they do not learn from their mistakes and, therefore, the Australian taxpayer gets to keep—and I notice Senator Collins actually mimicking me as I speak—

Senator Jacinta Collins: I didn't do a thing!

Senator CASH: That is fine, Senator Collins, I am big enough and ugly enough to take that. But I can tell you the Australian people do not take kindly to the fact that $6 billion of their money has been spent on Labor's failed—(Time expired)

Senator FURNER (Queensland) (16:13): I rise also to contribute to this matter of public importance on the alleged failure to stop the boats and secure Australian borders. I think we should take the politics out of this debate. We should sit down and have a sensible debate over this issue. Partisan politics should be removed. We should be working in bipartisanship on this matter to get some sort of resolution around it. But, no, all we hear from those opposite is this view that there is some issue about stopping the boats. We know what their policy is when it comes to stopping the boats—and that is turning the boats around, towing them back into international waters. That won't work. I am surprised that Senator Cash comes into this chamber and proclaims that this sort of policy—for once we have an opposition that has some sort of policy—will work, because she is one of the key opposition spokespeople on the migration portfolio that she and I sit on each estimates, and we hear time and time again evidence from key specialised people in this area why it will not work. Let's have a look at that.

Let us reflect on some of that evidence that was provided at estimates. I go back to Mr Metcalfe, the Secretary of the Department of Immigration and Citizenship, in answer to questions from me. In respect to the key opposition policy on tow-backs, he said:

… I do not believe that tow-backs are operationally feasible. Indonesia has made it very clear that they do not welcome tow-backs. There is no agreement with Indonesia.

This is quite clear. We know categorically that Indonesia will not agree to this policy. Mr Deputy President, why would you question it? Why does the opposition keep peddling this line that it will work? Mr Metcalfe went on to indicate the concerns about safety. I have spoken quite often in this chamber about safety. Mr Deputy President, you know very well that I have been up at Border Protection Command on defence programs. I have gone out on the water with our brave men and women and seen the particular issues that they work with and have heard firsthand from them why it is not feasible to consider any example or opportunity for tow-back. Mr Metcalfe went on to say:

Operational discussions with operational agencies also indicate that they think it is extremely likely that a tow-back would not be operationally possible because of the great risk of harm either to Australian crew—Australian sailors: Navy or Customs—or the passengers of the vessels themselves.

Once again, here is expert evidence provided before Senate estimates that tow-backs, which is the key policy of the opposition, will not work and that they will put our sailors—the men and women who work on our Customs boats—at risk. Mr Metcalfe, in his expert evidence, went on to say:
... we have seen numerous efforts—some successful—to sabotage or to sink vessels and we have seen an explosion on a vessel that killed five people. So the collective view of the senior departmental officials—not just in my department—who advise on this issue is that it would be extremely unlikely that an Australian patrol boat captain would be able to safely secure a vessel, bring the people onto his vessel, sail it back to the waters adjacent to Indonesia and for there not to be a major diplomatic incident in the absence of an express agreement with Indonesia, which is not present.

This is also an issue. It is fine having a belief or a policy on towing boats back but trying to get a diplomatic position or agreement on it with the Indonesian government is impossible. Mr Tony Abbott went to Indonesia recently and he was reluctant, unable or frightened—I do not know what the case was but he did not have the intestinal fortitude—to ask the Indonesian President whether he could sit down and have a discussion with him about a tow-back policy with his country. The only reason behind that would be that he knows for a fact, as we all know here, that it is not an area on which we will reach agreement with the Indonesians.

Furthermore, Mr Metcalfe has said on record that the Malaysian solution would be effective. That is the solution that we are still able and still willing to put up, but those belligerents on the other side are not willing to even consider it. Mr Metcalfe indicated that the Malaysian agreement was effectively a virtual tow-back. It effectively has the means of taking people back to a country but one in which arrangements are in place for asylum seekers to access UNHCR processes.

Once again, we have a situation where we have heard evidence on this opposition policy, we know that it will not work and we know that we need to look at some sort of arrangement like the one that we have suggested and that has been supported. It is a matter that we worked through in the Houston report. As we work through each of the policies and principles in the package of recommendations in the report we will meet each of its recommendations and arrive at solutions to the issues. A particular recommendation was the consideration of the Malaysian solution. As I indicated recently, it is supported by government officials. It is on the Hansard record, through the estimates process, that we should look at a Malaysian solution, hand-in-hand with the Nauru and the Manus Island centres that were proposed and are working.

I want to spend a little bit of time going through some of the numbers showing why we need to stop this terrible trade. This is the trade of the people-smugglers. They should be considered as murders for what they do to the innocent people who have come from terrible places and who board their craft. If we go back to 2001, there was the SIEVX incident in which 353 men, women and children were lost. Also in 2001, there were several elderly asylum seekers who died near Ashmore Reef when their boat sank. In 2009, an on-board explosion on SIEV36 resulted in five men dying, seven other asylum seekers suffering serious burns and several Australian personnel also receiving serious injuries. They narrowly avoided death. Hence, my suggestion that we cannot have a tow-back policy which puts our men and women, whether they are from the Australian Navy or Customs, at risk. Also in 2009, 12 Sri Lankans died in the Indian Ocean when their boat sank. In 2010, five men died north of the Cocos Islands in the Indian Ocean when they left their stricken vessel. In December 2010, there was the horrendous accident involving SIEV221, which we all know about. We saw the crashing of this boat off Christmas Island, with 30 men, women and children, along with a possible 20 more, killed. More recently, on 21 June
2012, up to 90 people lost their lives when their boat capsized, and then there were a further four lives lost the other day.

We heard during estimates that approximately 1,000 people have lost their lives in our surrounding waters. Recent reports indicate that about 400 people have drowned in the last 11 months. We cannot afford to allow this horrendous trade to continue. This is why we need to have some consideration from those opposite. They need to sit down and look at the possibility of the Malaysian solution and the other initiatives that we are putting in place, which have been endorsed by the Houston report and put together by expert witnesses for consideration in order to stop this terrible trade.

The opposition felt that consideration should be given to the Nauru solution, which we did. We capitulated in that regard and allowed that to be put forward. Fortunately, it passed through both houses, but now we are reaching a point where we need to look at further initiatives, as have been endorsed by the Houston report. We need to look at solutions like the Malaysian solution, which no doubt will have a reasonable objective being a distant centre from which people launch themselves on those terrible leaky craft to come to our shores.

We want to work together but, once again, there are some people in the Liberal Party who do not seem to want to get involved and assist. They would rather keep fighting and keep playing politics, and that is not the position we in the government take. We want to work through a solution whereby we stop this terrible trade and make sure we see an end is put to those mass-murderers, people-smugglers who put people on those terrible leaky boats to make their way to our shores and our waters. We do not want that situation to continue. We need to make sure that the opposition comes good and is willing to sit down to reach a solution to this terrible trade. (Time expired)

Senator HANSON-YOUNG (South Australia) (16:23): In rising to speak in this discussion today, it feels as though this debate just continues on and on. All sides, as we have heard from the government, throw away all values that they once held in relation to standing up for the rights of refugees, protecting vulnerable asylum seekers, and standing by the rule of law and our obligations under the refugee convention. We hear the coalition continuing to say that the only way to stop the boats is to turn them back, put in awful temporary protection visas and continue to lock people up indefinitely.

The fact is that both the government and the opposition colluded to put in place the policy that we have. Dumping people on Nauru and Manus Island indefinitely, taking away people's rights under family reunion, being as mean and nasty as possible, making the conditions as inhumane and as uncomfortable as possible—that is the policy that both the Labor Party and the coalition agreed to only two months ago. It was only the Greens in this place who stood here and said, 'This will not stop people from coming here.' The reality is that the fear, the terror, the conditions that people are fleeing from are so horrendous that these people will continue to flee in hope of safety and protection. Unless we give them another option, unless we give people a safer pathway—a different avenue by which to seek protection and safety—then they will continue to come.

All the Greens senators stood here during the debates on the offshore processing bill and said that this was exactly what would happen. These deterrent policies may sound nice for the media—that nice, quick grab on
the six o'clock news that says you are being so nasty that people will not come here any more, notwithstanding our obligations under international law, the refugee convention, the rights of the child and the basic understanding that Australia should play by the rules that we have signed up to and that you cannot have an on-off button for when we would like to be nice and when we would not, for when we would like to play by the rules and when we do not. Every single Greens senator in this place said that this was not the way to stop people taking these dangerous boat journeys.

We were howled down in this chamber for not caring about people, yet the policy that we have before us is sending brave, courageous individuals who have had to flee some of the worst atrocities in our region—the brutality of the Taliban—to such desperate acts that they attempt to take their own life. Such was the gall of people in this place to suggest that it was the Greens who did not care about what happened to refugees. The submission that the Leader of the Greens in this place, Christine Milne, and I put to the Houston expert panel in relation to these issues outlined what all the international experts have said: if you want people to not have to take dangerous boat journeys, you have to give them a safer option.

We know that there are thousands of refugees in Malaysia and Indonesia who cannot get their cases assessed, or who are unable once they finally, if they are lucky enough, do have their cases assessed, to be resettled in a safe third country. They cannot stay in Malaysia, because it is not safe; they cannot stay in Indonesia, because they are considered to be illegal in that country. So, people-smugglers come along, pick them up, offer them a deal and they get on a boat.

Not one of the people to whom I spoke when I travelled to Indonesia to talk to refugees who were contemplating coming to Australia by boat actually wanted to take that option. They are afraid of that option—understandably: it is a dangerous journey—but they also need to be able to put their lives back together. They cannot go home because of the torture and persecution that they would face in their homeland. They take the only option that they see is available to them and, at the moment, that is coming by boat to Australia. Locking people up indefinitely on Nauru is not stopping people from having to flee war and persecution. People continue to run. They will do so until there is a safer option or another option for them to take.

Australia cannot just wipe our hands of our responsibility to these people in our region. We are amongst the wealthiest countries in our region. We have the most robust legal protection system. We have a proud history of being one of the key nations who drafted the refugee convention when it was first established. Yet we see today the Labor Party and Tony Abbott's coalition getting together to reinstate the horrors of John Howard's Nauru and Manus Island policies. Despite the collusion, and both the major parties agreeing that that was the policy they wanted, now we see that the policy is not working and they continue to argue. This is the exact debate that we were having in this place six months ago.

And where has it got the Labor Party? They have sold out their values; they have locked up hundreds, thousands, of refugees, including children, indefinitely and in dangerous conditions. They have sent the poor souls who have been dumped in Nauru to madness. They have incited condemnation of the policy from some of the world's most eminent experts on this, including the UNHCR, including the UN Human Rights Commissioner. Where has it got the Labor
Party? Nowhere, because we are back to where we were six months ago, having the coalition tell them that their polices were a failure. All for what? And it is costing the Australian taxpayer billions of dollars. They are wasting billions of dollars on a policy that does not even work.

We hear from the coalition that they do not want to take any responsibility for this policy anymore. They voted with the government, they did a deal, they colluded, they stitched it up and they pushed it through the parliament. Now it is not working and we are back to the same debate we were having only six months ago. No-one is safer. On the high seas, no-one's lives are safer. Children are terrified. We are inflicting long-term indefinite detention on young refugees and their families, creating a whole new generation of institutionalised abuse of these children—and all for what? So that the Labor Party can say that they are as tough and as mean as the coalition.

Now we have Senator Cash saying that they have to go even further, rather than taking the advice of the convention and what it actually says: implement proper policies to not force people to take those dangerous boat journeys in the first place; give them a safer pathway, an alternative. Rather than putting all of the energy into that, we have this continued spat about who can be the nastiest, the toughest and the meanest to refugees for the sake of some quick votes—cheap, dirty, grubby votes—at the next election.

Senator Johnston (Western Australia) (16:33): I want to talk about one of the most incompetent governments and one of the most incompetent ministers on this subject that I think Australian history has ever had the misfortune to have to endure. When I heard my very learned and able colleague Senator Cash talk, I realised that my figures were up to last Thursday. They are completely redundant. I had in my notes that I had been researching for this speech that halfway through November there were 23 boats with 1,250 people. I now know it is closer to 30 with 1,500 people. I had 9,600 people for this financial year. I now know it is more than 10,000. This is in three days. The 7,000 since the announcement of Nauru is now 7½ thousand. The 86 boats in the last two weeks is closer to 90, and we have had in that fortnight 1,500 people, as opposed to the 1,200 that I had as at last Thursday. The 170 arrivals at Christmas Island in the previous 24 hours to last Thursday is now about 200. We have had 29,000 people arrive into Australia by boat illegally since 2007—29,000 people! This is just an outrage. This is incompetence on steroids. This is incompetence at an Olympic standard.

I want to talk about SEIV36. The coroner of the Northern Territory named the three people who blew that boat up. They poured petrol into the bilge and set it alight. As a result of them so deliberately causing that explosion, nine Navy personnel were put into the water. The whole event was captured on video and the coroner named the three people responsible. What, Mr Acting Deputy President, do you think happened to those three people, those three asylum seekers? They have been released into the community, notwithstanding the coroner named them as causing that explosion. You would think the minister would have said, 'Well, look, hang on. They don't pass the character test. I've got the capacity and a discretion to rule these people out'—but, no, they have been released into the community. I want to remember that there were nine hardworking ADF personnel, who suffered injuries and burns, who were put into the water. Notwithstanding their injuries, they rescued other people who were blown up in that boat; there were some 40 on board.
I want you to remember that, Mr Acting Deputy President, because I want to now talk about interpreters in Afghanistan who are fighting and helping alongside our soldiers. They may not be combatants but they are right there, providing assistance as we go through villages and towns, providing some security and a communication basis for our soldiers to do their work. They are risking their own lives. Indeed, if I remember rightly, Corporal Donaldson actually rescued one during the course of being awarded his Victoria Cross.

Not only do they put their own lives in jeopardy by helping Australian soldiers; they put their families lives at risk to advance our honourable and righteous mission in Afghanistan. You would think that the Australian government would want to protect those interpreters. You would think that as we draw down the Australian government would want to provide an easy route for them to get a visa to come to Australia. You would think that we would want to look after their families because they have served us so very loyally and very well in Afghanistan. But the answer is no—'We are going to leave them in Afghanistan; we are going to leave them out there.' But, if you come to Australia on a boat and blow it up, and you injure nine Australian service personnel, nine brave Navy people, you get straight in—you just waltz in.

In 2010-11, the number of visas for Afghans going through the proper process of applying offshore has fallen from 1,027 to just 495. At the same time this government made provision for 16,000 places for family reunion for people arriving by boat. Here you have it: people who arrive by boat are welcomed with open arms by this government, notwithstanding they commit offences and crimes, and try to blow us up on the way through, but our interpreters in Afghanistan, who are standing toe to toe with our soldiers and fighting with them, and providing assistance and communications, are treated like dirt. They are given no avenue to come to Australia for their own protection or for the protection of their families.

This government is making it hard for good people, as they always do. Australia knows this. This government makes it hard for people in small business, miners and people trying to get ahead. We have here the classic example of what has been going on. This government cannot stop people who come by boat. The government has no policy initiatives. This government is completely at sea on this subject—it is a $5 billion to $6 billion running sore, putting thousands of people on Manus Island, Nauru and Christmas Island, and then those who blow the boat up are released into the community in Adelaide and Darwin. This is a scandal. People who are helping our soldiers in Afghanistan cannot get in, cannot get a visa, cannot get assistance and cannot get priority.

I want to talk about those Navy personnel. From memory, there were five or six who received direct commendations for bravery as a result of the vessel that was blown up. I want to tell the Navy personnel that on this side of the parliament we have great empathy for the work they do. We support them during their nine-day turnaround from Darwin out to Christmas Island. We empathise with what they are doing. We understand the difficulty of their task—the fact that they have to dive into the water and rescue people when they scuttle their boats. When the weather turns bad, these little rickety boats do not survive.

This is a massive policy failure that is nothing more or less than a national scandal, particularly in the face of people who are helping our soldiers and doing the right thing who are given every barrier, every hurdle,
every resistance and every obstacle by this government to prevent them from protecting themselves and their families. My call is for the government wake up and let them come in quickly as we draw down. Let's look after some people who have helped us and looked after us, and let's not keep bringing in the ones who have blown up boats, who take action unilaterally to put lives at risk and who put our Navy personnel at risk. This government needs to do the right thing for the first time on this subject matter in this area. It has been doing the wrong thing day in, day out.

Senator CROSSIN (Northern Territory) (16:41): This is an afternoon of an MPI where we stand in this chamber and debate the issue of asylum seekers and immigration policy in this country, and we hear endlessly, minute after minute, relentless and reckless negativity from those opposite. They throw about figures and numbers endlessly. Their negativity is endless. They never have a policy, a solution or a suggestion about how they are going to deal with this in any measured way.

The opposition are not about people; they are about the politics of this situation. So here we have another MPI that talks about stopping the boats. It suits those opposite this afternoon if the boats are not stopped. It suits their politics to ensure that they are not part of a solution when it comes to people seeking asylum in this country. We heard clearly this afternoon in the contributions of the people opposite that they are not about any humanitarian concern for the people who may be seeking asylum. They are not about any concern for people who lose their lives as they get on those boats and cross those horrific waters. They are not about any concern for people like my constituents on Christmas Island who have to manage the tragedies—as the boats smash into the rocks before their eyes and they are helpless to do anything about it.

What we have done on our side of politics, and what the Labor Party have done, is sought to find a solution to the problem. We are concerned about the people who continue to get on these boats in a desperate attempt to get a better life for themselves but who also risk their lives trying to get this country. We want to work to find a solution. We had a solution and that was to prefer the Malaysia agreement. Our preference was to actually go for the Malaysia agreement. The opposition had a preference, we thought, of Nauru.

In trying to broker a compromise in the last 12 months, we actually put aside our politics to find a solution. The way we did that was to gather together three eminent people in this country, including the former head of the Defence Force and Paris Aristotle. Three people put together the report which has now become known as the Houston report. Angus Houston chaired that panel, the former head of our Defence Force. In a way, to compromise a solution, we went out there and got three eminent people to put together a review to get around the country and have a look at all of the options—our ideas and the coalition's ideas—and come up with a report.

Senator Polley interjecting—

Senator CROSSIN: What we find at the end of the day is that that is exactly right, Senator Polley; they are not happy. They are still not happy because they want to play politics. They do not want to find a solution to the problem of people getting on a boat, risking their lives and dying in an attempt to get to this country. We want to put aside the politics and work together; the opposition wants to continue to reject that idea. The opposition started with Nauru and we wanted to start with Malaysia. We have put aside our
idea of Malaysia and we have started with Nauru in an effort to compromise. That is the only thing at the time that the opposition would support.

Liberal Party policy has three arms to it: they want Nauru and this offshore processing to occur, they want TPVs brought back in and they want to turn back the boats. The Houston report examined the proposals in the opposition's policy forum and supported only one of those, which was to open the Nauru processing centre and to go back to offshore processing starting with Nauru, as we have compromised on.

There were 22 recommendations all up, and we as a government have said we have to support those 22 recommendations. If we are going to be serious about finding a solution, about putting in place a workable definition to stop people risking their lives in getting to this country, we need to accept the advice of those three eminent Australians and put in place all of the 22 recommendations. I have not heard anybody from the opposition suggest for one minute that they would support all of the 22 recommendations and accept that package as it is. Those opposite want to continue to play politics, picking the eyes out of certain bits and pieces of it because it suits them politically as they head to the polls in next year's election. It suits them not to have a humanitarian solution. It suits them not to care or have any concern about the people who are risking their lives in trying to get here.

The proof was revealed in David Marr's quarterly essay on Tony Abbott. On page 36 David Marr had this to say:

WikiLeaks told us how keen the Coalition is to exploit the boats. In late 2009, in the dying days of Malcolm Turnbull's leadership of the Opposition, a "key Liberal party strategist" popped in to the US embassy in Canberra to say how pleased the party was that refugee boats were, once again, making their way to Christmas Island. The issue was 'fantastic', he said. And, 'the more boats that come the better'. But he admitted they had yet to find a way to make the issue work in their favour: his research indicated only a 'slight trend' towards the Coalition.

This is living proof, in black and white, of political strategists walking into the US embassy in Canberra in late 2009 and admitting that this is an issue the coalition wants to play politics with, not resolve. It is a very dark side of the debate, but it is an obvious side for those opposite and the lack of policies they have for finding this solution themselves.

We know that in 2009 they were opposed to Nauru. Sharman Stone, the former shadow minister for immigration, said on Lateline back in April:

We don't need the Pacific Solution now, that's Nauru Island and Manus Island, because we have the Christmas Island centre completed. … So we don't need alternatives to Nauru and Manus Island …

On Insiders in October 2009 she went on to say:

No we don't need the Pacific Solution with Nauru, Manus Island now because of course we built Christmas Island as an offshore detention facility.

One minute those opposite want Nauru; the next minute they do not. Now, suddenly, in 2012, they want Nauru again. It used to be Labor Party policy. We are not quite sure what the Labor Party policy is now—

Senator Edwards: We don't know either!

Senator CROSSIN: Sorry, we are not sure what the Liberal Party Policy is now; we are very sure what the Labor Party policy is, and that is because we have a definite plan. We are waiting for the Liberal Party and the coalition work together with us to resolve this issue, to get on board and so we
finally have an end to the politics and the division that is happening here.

The Liberal Party argument is very simple. It wants to do three things: Nauru, TPVs and turning back the boats. The Houston report looked at all three of those issues and they only supported one. They rejected the TPVs and they rejected the issue of turning back the boats. It was interesting to hear Senator Johnston talk a minute ago about the role of the Defence Force in turning back the boats. We know quite clearly that the Defence Force has said that to turn back the boats would be an extremely dangerous thing for the Defence Force or the Customs and Border Protection Service to be involved in. If those opposite were really concerned about the role of the Defence Force and about the welfare of our men and women in all of those services they would drop the notion of turning back the boats. If they had read the Houston report they would know that it has categorically ruled that out as not a viable policy option—not at all.

In the Houston report we have picked up the key principle that no advantage would be gained in circumventing the regular migration agreements. Let us get really clear as to what that is about. That means that if you arrive in this country by boat there is no fast track, no fast lane, no express lane. Under the Houston report, there would be no advantage to be gained in trying to get around the regular migration arrangements.

I have not heard the coalition support that principle. I have not heard the coalition stand up and say that the way to solve this matter is to treat those people arriving by boat like every other person in the world who is seeking to get to this country as a refugee. I have not heard any of the speakers from the opposition this afternoon say that the very least they could do is support the underlying principle of the Houston report. I have not heard them say that whatsoever. And we will not hear them say it because it is about politics for them; it is not about people. If it were about people, then they would be ensuring that there is no advantage in getting here by boat and in circumventing the regular migration arrival pathway to this country. But we cannot even get the people opposite saying that at least they support the main underlying principle of the Houston report. We cannot even get them to say that. The message is very clear. The Labor Party's policy is that, if you come to Australia by boat, you are subject to being transferred to Nauru or PNG. There is no advantage in coming to Australia by being put on a boat by people smugglers. But I have not heard the people opposite even endorse, espouse or support that underlying principle.

Labor has signed the legislative instrument designating Papua New Guinea as a regional processing country under the Migration Act, which means we have put in place recommendations 8 and 9 from the Houston report. We have increased our humanitarian intake to 20,000 people, which is recommendation 2, and we have strengthened cooperation with Indonesia on search and rescue operations, which is recommendation 20.

We endorse all 22 recommendations and we are going to ensure that, as a package, that report is put in place. We have not heard at all what the Liberal Party plan to do in relation to their response to the Houston report. The report made it very clear that embarking on a policy of towing back the boats, stopping the boats—that reckless, endless negativity we hear from Mr Abbott and those opposite—creates a risk to the lives of ADF personnel and would only ever work with the agreement of other countries, something that Indonesia has categorically said would not happen. I am not sure why the opposition continue to peddle the line.
Where would you tow the boats back to, where would you turn the boats back to, when even the Indonesian Minister of Foreign Affairs, Marty Natalegawa, has said that it is 'not on' and that they will not agree to it and they will not do it? I am not sure where that takes your policy and I am not sure why you peddle that myth.

The report also examines TPVs, temporary protection visas, a measure that in the past saw 68 per cent of refugees permanently remain in Australia because they knew that, once they got a TPV, they were here permanently. So it did not stop the boats. If you have a look at the figures that have been presented time and time again to the Senate's legal and constitutional committee during estimates you will see that immediately TPVs were introduced the number of boats coming to this country increased. Not only did it mean a genuine guarantee of permanency in this country but it also meant that people could reunite with their families, which saw more women and children get on a boat to join a partner who was here in this country under a TPV.

In the spirit of compromise Labor offered to actually examine TPVs and to look at the issue, to have a cross-party group, a committee—even a parliamentary committee—to look at the fors and againsts, the positives and the negatives, of TPVs. But even that was ruled out by the coalition because they did not want to accept that, somewhere along the line, their policy was a failure, that it would not work. Time and time again, we have MPIs here about TPVs, about turning back the boats. Time and time again, we have evidence that neither of those policies would work. Both of those policies are dangerous. (Time expired)

Senator EDWARDS (South Australia) (16:56): I rise to support my colleague Senators Cash and Johnston in this most important matter for the public—that is, the failure of the Gillard government to stop the boats and secure Australia's borders. Senator Crossin, I know that you are a good person but, somewhere along the line, you must have done something wrong to have caught that ball today. You did not really need 15 minutes to talk about the coalition's three-pronged border protection policy because it is well known.

But I would congratulate you, Senator Crossin, because at about the nine-minute mark of your 15-minute dissertation you did admit what we already know—and I will quote you—'We now no longer know what the Labor Party policy is.'

Senator Birmingham: It was a good quote!

Senator EDWARDS: It was good and I must say that you caught everybody's attention here in the chamber. Not one of us did not look up and say: 'Finally, they have come to grips with this whole issue of managing their borders.' It indicates the vortex of nothingness that is going on over on the other side. It is a 'come ye, come all' policy. That is what we see at our borders under the Labor government.

As Senator Birmingham reminded me earlier, we have our second test cricket match coming up in Adelaide on Thursday. If only the Australian cricket team could score at the rate of illegal boats arriving in this country, the second test would be over before it begins. It was reported in Australia's national daily today that two new boats have arrived, bringing another 195 illegal asylum seekers. I am sure it is a score that Michael Clarke would be proud of but, of course, it is one that embarrasses the Gillard government. As we have heard from my colleagues, 7½ thousand illegal asylum seekers have arrived since Labor announced the solution of Nauru and Manus Island.
Somebody better do the maths for me, because Nauru and Manus Island can take 2,100 people. Since they announced this breakthrough policy, what has happened is that all those people in Indonesia that have set up this vile business of people smuggling have now sent nearly three times the amount that these two islands can cope with. The Australian population has to continue to watch as illegal boats flood onto our shores.

What are the Gillard government doing to fix this? Nothing. In fact, they are making it easier. Senator Cash pointed out that Labor have cut $20.8 million in aerial surveillance. Boat interception funding was cut by $48.1 million over the forward estimates. In this MYEFO, $35 million will be cut from Customs. She did list the rest of the cuts, but I will not burden the chamber with double information. While Labor will not admit it, this is becoming a business—and it is a big business at that. People smugglers are laughing at this government and their shoddy efforts to protect the borders and our nation. The traffickers have seen an opportunity opened up by the Gillard government's lack of attention to detail, and they are using this opportunity to grow their empires, with lining their pockets as their number one concern and no regard for anything else.

If there was a deterrent, if the Gillard Labor government was strong and took control of this situation, the people smugglers would go out of business and the boats would not come. Unfortunately—and I listened to Senator Hanson-Young give her contribution in this chamber—I am afraid that what people from the other side fail to point out is that for many years this country has been taking legitimate migrants under various programs, and in 2012, there will be 190,000 people admitted to this country through legal channels. On average, over the years, 12,000 to 13,500 of that will be for humanitarian visas. There is a suggestion about this policy, and I quote Sarah Hanson-Young, that it is 'mean and nasty policy' and we want to adhere to the rule of law. Actually, we just want some order. There are 22 million refugees around the world, and what is the suggestion from the Greens—that we just let everybody in? There are 23 million people in Australia now, and there are 22 million refugees.

We have to have an ordered migration system, one in which our country folk can have confidence throughout its policy and throughout its tenure under every government. Since Labor dismantled the coalition's border protection policy in 2008, 358 boats and 22,519 suspected asylum seekers have arrived in Australian waters. I heard Senator Furner, in his contribution to the debate, say: 'We are not playing fair. We are not doing the right thing by the government and we all should settle down and have a chill pill.' They cried foul and they changed the rules in 2007, and implemented them in 2008, which has seen this change. This industry—the people-smuggling industry—was not present in 2007. It is omnipresent now. Another boat turning up to our shores is just a fact of life. I can only suggest, with the indulgence of all of the people on the other side of the chamber, that they come to their senses and do something about it. (Time expired)

DOCUMENTS
Tabling

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:03): Pursuant to standing orders 38 and 166, I present documents as listed below which were presented to the President, the Deputy President and Temporary Chairmen of Committees after the Senate adjourned on 1 November 2012.

The list reads as follows—
Government responses to parliamentary committee reports

1. Community Affairs References Committee—Report—Disability and ageing: lifelong planning for a better future (received 5 November 2012)

2. Select Committee on the Scrutiny of New Taxes—Reports—
The carbon tax: Economic pain for no environmental gain—Interim (received 15 November 2012)
The carbon tax: Secrecy and spin cannot hide carbon tax flaws—Final (received 15 November 2012)

Government documents

1. Private Health Insurance Administration Council—Report for 2011-12 (received 5 November 2012)

2. Australian Nuclear Science and Technology Organisation Act—Statement, pursuant to subsection 7(3), concerning the formation of a company, Synchrotron Light Source Australia Pty Ltd (received 5 November 2012)

3. Commonwealth Superannuation Corporation (CSC)—Report for 2011-12, including Defence Forces Retirement Benefits Scheme (DFRBR), the Defence Force Retirement and Death Benefits Scheme (DFRDB) and the Defence Force (Superannuation) (Productivity Benefits) Scheme (DFSPB) (received 8 November 2012)

4. Commonwealth Superannuation Corporation (CSC)—Reports for 2011-12, including the Military Superannuation and Benefits Scheme (MilitarySuper) (received 8 November 2012)

5. Australian Prudential Regulation Authority (APRA)—Report for 2011-12 (received 9 November 2012)

6. Director of National Parks—Report for 2011-12 (received 9 November 2012)


9. Torres Strait Regional Authority—Report for 2011-12 (received 14 November 2012)

Report of the Auditor-General

Report no. 10 of 2012-13—Performance audit—Managing aged care complaints: Department of Health and Ageing (received 13 November 2012)

Statement of compliance and letters of advice relating to Senate orders

1. Statement of compliance relating to indexed lists of files:
   - Foreign Affairs and Trade portfolio (received 8 November 2012)

2. Letter of advice relating to lists of departmental and agency appointments and vacancies:
   - Climate Change and Energy Efficiency portfolio (received 5 November 2012)

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:03): In accordance with the usual practice and with the concurrence of the Senate, the government responses will be incorporated into Hansard.

The documents read as follows—

Government Response to the Senate Community Affairs Reference Committee report: Disability and Ageing: lifelong planning for a better future

Foreword

This is the Commonwealth Government's response to the Senate Community Affairs Reference Committee report: Disability and Ageing: lifelong planning for a better future, tabled on 6 July 2011. The Government welcomes this Inquiry and acknowledges the Committee's findings in examining access to options and services to assist people with disability, their families and carers to plan for the future.

The Commonwealth Government's response to this Inquiry (the Response) acknowledges systems of support for people with disability, their families and carers are provided by a range of governments and departments across Australia. The Commonwealth Government is engaging in collaborative relationships with all stakeholders.
across sectors to ensure improved access to disability and carer supports and continuity of care across key life stages for people with disability, their families and carers.

The National Disability Strategy, agreed to by all levels of government at the Council of Australian Governments in February 2011, outlines a 10 year national policy framework to guide government activity across six key outcome areas and to drive future reforms in mainstream and specialist disability service systems to improve outcomes for people with disability, their families and carers. Two specific areas that are of particular relevance to planning options for people with disability, their families and carers are economic security and personal and community supports.

The National Disability Strategy is supported by an $11 million package of measures which are designed to promote inclusion of people with disability in all aspects of community life.

On 19 August 2011, the Council of Australian Governments agreed that major reform of disability services was needed through a National Disability Insurance Scheme. They agreed to establish a Select Council of Treasurers and Disability Service Ministers on Disability Reform to consider the Productivity Commission's recommendations and lay the foundations for a scheme. The Commonwealth Government also established a National Disability Insurance Scheme Advisory Group and subsequent expert groups to help advise the Government and the Select Council on the key design elements and features of a scheme.

In April 2012 the Council of Australian Governments reaffirmed their commitment to a National Disability Insurance Scheme. The Commonwealth and the States and Territories agreed to high-level principles that will guide governments’ consideration of the Productivity Commission's recommendations on a National Disability Insurance Scheme. The Council of Australian Governments asked its Select Council on Disability Reform to undertake further work on funding, governance and the scope of eligibility and support as a matter of priority, to enable consideration at its next meeting in 2012.

In the 2012-13 Federal Budget, the Commonwealth Government committed

$1 billion over four years to deliver the first stage of a National Disability Insurance Scheme. This first stage will begin in mid-2013 – a full year ahead of the timetable set out by the Productivity Commission.

Following agreement with state and territory governments, the first stage will include launch sites in the Australian Capital Territory, Tasmania, South Australia, the Barwon region of Victoria and in the Hunter region of New South Wales. More than 20,000 people with disability will benefit from the first stage of a National Disability Insurance Scheme.

The Government's funding also includes a new National Disability Insurance Scheme Launch Transition Agency that will be established to run the delivery of care and support to people with disability, their families and carers in the select locations.

The Commonwealth Government is also committed to ensuring the National Disability Insurance Scheme is developed in close coordination with its wider reform agenda particularly for health and aged care.

The National Health Reforms are aimed at simplifying the aged care and disability systems to allow more coordinated service delivery across Australia. Under these reforms the Commonwealth Government will be the level of government with full funding, policy, management and delivery responsibility for a national aged care system.

The Commonwealth Government will be responsible for basic community care services delivered through the Home and Community Care program for older people (except in Victoria and Western Australia), in line with its responsibility for other national aged care programs. This refers to non-Indigenous people aged 65 or over, and Indigenous Australians aged 50 or over.

The Commonwealth Government will also fund specialist disability services delivered under the National Disability Agreement for people aged 65 years and over. The state and territory governments will be responsible for care services for people under the age of 65 years, in line with
their principal responsibility for delivery of other disability services under the National Disability Agreement.

There is a significant interface between health, disability and aged care and it is essential that these issues be considered in a comprehensive way to facilitate enhanced linkages and integration across these services, systems and processes.

Another key reform area is the implementation of the National Disability Agreement which commenced on 1 January 2009. From this date to 30 June 2015, the Commonwealth Government will be providing $7.6 billion in funding to the state and territory governments for increased and improved specialist disability services such as supported accommodation, early intervention and targeted care and respite.

The Commonwealth Government recognises that access to accommodation and disability support is critical to enabling families to plan for the future.

In July 2010, the Government established the Supported Accommodation Innovation Fund to provide $60 million over three years to build innovative, community-based supported accommodation places for people with disability. This builds on the $100 million the Commonwealth provided to states and territories for supported accommodation through the Capital Words Memorandum of Understanding. More than 300 supported accommodation places for people with disability have been built using funding from this scheme.

The National Carer Strategy is a significant initiative designed to improve outcomes for people with disability, their families and carers.

The National Carer Strategy outlines the Government's long-term commitment to recognising and supporting carers and contains six priority areas that will help to ensure carers have the same rights, choices and opportunities as other Australians to participate in work, community and family life. The information and access priority area is of particular relevance to planning options for people with disability and older carers.

The National Carer Strategy is supported by a $60 million package of measures, which will improve the financial security of carers and raise public awareness of the role and contribution of carers.

The Commonwealth Government remains committed to reforming disability support services, including planning, to provide individuals with the support they need over the course of their lifetime.

**Responses**

**Recommendation 1**
The committee considers that there is a need for a clear transition process to facilitate uninterrupted funding when people with a disability move between states, and recommends the Department of Families, Housing, Community Services and Indigenous Affairs work with the states and territories to seek to resolve issues related to portability as a matter of urgency.

**AGREE**
The Commonwealth Government supports the principle of interstate portability of disability services and will direct the Department of Families, Housing, Community Services and Indigenous Affairs to continue working with state and territory governments to address portability issues through Commonwealth and state/territory forums.

Work undertaken to achieve improvements in the portability of disability services includes:

- state and territory governments agreeing to a portability protocol;
- the establishment of a network of portability officers in each jurisdiction to assist people with disability to move between states and territories; and
- a moving interstate information fact sheet to assist people with disability to access aids and equipment through government programs.

The Commonwealth and state and territory governments have also agreed to consider this recommendation under broader disability and carer reform frameworks including the National Disability Agreement.

This is also one of the key recommendations from the Productivity Commission's report into
disability care and support and is reflected in the work currently underway towards a National Disability Insurance Scheme. This is also reflected in the high level principles for a National Disability Insurance Scheme that have been agreed by the Council of Australian Governments. In particular, Principle 1b states that:

A National Disability Insurance Scheme should be needs based and provide people with disability access to individualised care and support.

To achieve this, a National Disability Insurance Scheme should recognise existing best practice across the states and territories and build on this best practice through foundation reforms to:

b. Be simple to understand, navigate and provide portability across jurisdictions and service providers;

Recommendation 2

The committee considers it critical that effective planning support be available for people with disabilities transitioning from education to employment and from employment into retirement. The committee recommends that the Department of Families, Housing, Community Services and Indigenous Affairs provide retirement planning support options for people employed in Australian Disability Enterprises.

AGREE

The Commonwealth Government agrees with this recommendation. As the system of supports for people with disability who are ageing in Australia are provided by various governments and departments, a collaborative approach between all stakeholders will be required to promote planning supports for people with disability who are transitioning to retirement.

Currently, the Commonwealth and state and territory governments through the Disability Policy Research Working Group, are examining strategies that might be pursued to improve employment options for people with disability over a medium term timeframe. This includes particular consideration of transition issues for people with disability into work from school, and out of work, into retirement.

The Department of Education, Employment and Workplace Relations is responsible for several programs that assist individuals with disability transition from education to employment.

Under the More Support for Students with Disabilities initiative the Commonwealth Government is providing additional funding to both government and non-government education authorities to support schools and teachers in meeting the needs of students with disability. Education authorities have selected activities to support students with disability in their jurisdiction. This may include the provision of additional support for students with disability to transition from school to post-school education and employment. Activities are being undertaken in the 2012 and 2013 school years.

Under the Disability Employment Services program young job seekers with disability can have streamlined access to Disability Employment Services. These job seekers are referred to as Eligible School Leavers. They can be assisted through Disability Employment Services before they leave school, when they enter directly from a state-based transition to work program, or within 12 months of leaving school. Eligible School Leavers are exempt from the normal requirement of an independent assessment of their work capacity before entering Disability Employment Services. Eligible School Leavers can directly approach a Disability Employment Services provider, who can commence servicing the job seeker straight away. Assistance for young job seekers with disability may include any required training, work trials or work experience, as well as other assistance to promote job readiness.

The National Partnership on Youth Attainment and Transitions aims to increase participation of young people in education and training; encourage more young people to make a successful transition from school to further education, training or full time employment; and increase attainment of young people aged 15 to 24, including Indigenous youth. The National Partnership will better engage young people in education and training through programs like Youth Connections which delivers individual
support services to more than 45,000 young people, including 12,600 who have been identified as having disability and young people for whom mental health is identified as a barrier.

The Department of Industry, Innovation, Science, Research and Tertiary Education, through the National Disability Coordination Officer Program, assists people with disability to access and participate in post-school education and training, and subsequent employment, through a network of officers across Australia. The program works to reduce systemic barriers, build links and coordinate services between the education, training and employment sectors so that people with disability have assistance at all levels and are subsequently able to make better informed decisions about further employment, education or training.

The Department of Families, Housing, Community Services and Indigenous Affairs, through a Transition to Retirement pilot, has also explored pathways to retirement for older employees with disability working in Australian Disability Enterprises. The pilot's aim was to determine the capacity of Australian Disability Enterprises to assist in retirement planning (utilising a case management approach), and the capacity of communities to include older people with disability in mainstream activities. An independent Evaluation Report of the pilot findings was released on 18 May 2012.

The Commonwealth Government released Inclusive Employment 2012-2022: a vision for supported employment on 8 May 2012. The vision identifies that by 2022, employment supports will be 'flexible and responsive over the life course of the individual' and that 'people with disability will be able to organise their own transitions at a time when they are ready'.

Recommendation 3

The committee recommends that the government look to identify people with disabilities as a special group who may age earlier than other members of the population and should therefore have access to a range of aged care services at an earlier age.

AGREE IN PART

The Commonwealth Government is committed to building a National Disability Insurance Scheme and recently committed $1 billion to deliver the first stage of the scheme. The Government is working with the States and Territories on the final design which will include consideration of interactions with other care systems and mainstream services.

For the majority of younger people with disabilities, it is more appropriate for them to be cared for through specialist disability support services than through aged care services. However, younger people with a disability are eligible for services provided under the Aged Care Act 1997 if they are approved for those services by an Aged Care Assessment Team and there are no other more appropriate care facilities or services able to meet the person's needs.

The changes to government roles and responsibilities as part of the National Health Reform Agreement mean that state and territory governments have funding, program and operational responsibility from 1 July 2012, for basic community care services for younger people and funding responsibility for residential aged care and packaged community aged care delivered through the Commonwealth aged care program to younger people (under the age of 65 years and under 50 years for Indigenous Australians). Until otherwise agreed, Victoria and Western Australia are not party to these reforms.

Commonwealth and state and territory governments are working towards better interfaces between the disability and aged care systems to ensure that people receive the right services in the most appropriate setting as their needs change.

The National Health Reforms will enable a more simplified and integrated provision of aged care, including people with a disability who may age earlier. These arrangements will allow continued access to aged care services for young people with a disability where they are approved for these services by an Aged Care Assessment Team and no other more appropriate services are available. They also allow older people access to specialist disability services where this is most appropriate.
A key principle underpinning this reform is that all governments share responsibility for providing continuity of care across health services, aged care and disability services to ensure smooth client transitions.

The disability and aged care sectors are working together through Commonwealth and state/territory forums to resolve implementation issues that have arisen from this policy change and to meet the needs of people with disability who may age earlier.

**Recommendation 4**

The committee recommends that the Department of Health and Ageing review the assessment tools used by the network of Aged Care Assessment Teams to take into account the needs of people with a disability who are ageing prematurely.

**NOTE**

Through the National Health Reforms, state and territory governments have responsibility for the funding and provision of community care services for younger people (under 65 years and Indigenous Australians under 50 years) with a disability. This includes responsibility for assessment of this population. The Commonwealth Government has responsibility for community care services, including assessment, for older people. Until otherwise agreed, Victoria and Western Australia are not party to these reforms.

The Aged Care Act 1997 (the Act) is the current legislative framework within which assessments, eligibility and approvals for aged care are stipulated and the program operates. In accordance with the Act, a person is eligible to receive subsidised care if they have physical, social or psychological needs that require the provision of care and they meet the criteria specified in the Approval of Care Recipients Principles.

The Secretary of the Department of Health and Ageing has the ability to approve people for Commonwealth Government subsidised care covered under the Act, and has delegated authority to make these decisions to selected members of Aged Care Assessment Teams. The 2007 National Review of Aged Care Assessment Teams recommended that expert advice be sought to develop a set of validated, specific assessment tools and develop criteria for their use in the Aged Care Assessment Program context.

The Aged Care Assessment Program Toolkit has been developed to enable nationally consistent assessments to identify the client’s need for aged care services and supports, entrance to residential care or referral to other health, mental health or disability services.

Commonwealth and state and territory governments have also agreed to pursue common assessment tools for consideration across state, territory and Commonwealth programs and services to support continued momentum in reform of disability services nationally. The Commonwealth Government has commenced its review of the assessments for aged care and is taking into account linkages to the disability system.

As part of the Commonwealth Government's National Health Reform agenda, options for reform to the access and assessment pathways of the aged care system are being considered. The Assessment Framework and Tool for Aged Care project looks to design the structure and components of an assessment framework for aged care by reviewing current assessment tools used for initial needs identification and developing an appropriate, nationally consistent, needs identification assessment tool that accommodates for the full spectrum of aged care clients from those requiring base level services in the community to high level care in a residential setting.

**Recommendation 5**

The committee notes the National Disability Agreement requirement for states and territories to consider one-stop-shops for disability services. The committee recommends that the Commonwealth, in consultation with the states and territories, establish its own presence and representation at one-stop-shops. The committee considers that one-stop-shops must be capable of directing enquiries towards whichever service is most appropriate, whether that service is provided at a state, territory or Commonwealth level. Further, the committee endorses Recommendation 22 of the Who Cares...? Report
on the inquiry into better support for carers, calling for the establishment of a dedicated Carer/Disability Unit at Centrelink. This dedicated Unit should be accessible via disability services one stop shops.

NOTE

The Commonwealth Government notes this recommendation and supports greater accessibility to information and streamlined assessment processes for people with disability, their families and carers.

The Commonwealth will consider this recommendation under broader disability and carer reforms including the development of the foundations for a National Disability Insurance Scheme.

The Commonwealth and state and territory governments have been working on reforms to improve service planning and simplifying access under the National Disability Agreement. A National Framework for Service Planning and Access for Disability Care has been developed. The Framework aims to reduce the complexity of systems used by people with disability, their families and carers by making it easier to navigate across and between systems and focus on a person centred approach to service delivery. The Framework outlines the key principles and objectives to be incorporated in jurisdictional service access and planning frameworks. It also features current good practice in the provision of key objectives. All governments have developed plans to support the implementation of the Framework.

As indicated in the Commonwealth Government's response to the Who Cares...? Report on the inquiry into better support for carers, there are a number of supports and mechanisms in place to ensure carers receive appropriate and accurate advice, in particular those with complex needs. The Department of Human Services is implementing Service Delivery Reform, transforming the way its services are delivered to make it easier and quicker for customers, including people with disability and carers, to access government services so that they have more control and better support and assistance when it is needed.

The Service Delivery Reform measures include co-located shopfronts, more mobile and outreach services, case coordination, Local Connections to Work and other support services.

**Recommendation 6**

The Committee recommends that the Department of Families, Housing, Community Services and Indigenous Affairs improve its website to make information about disability services and planning support more up-to-date, comprehensive and navigable. In so doing, the Department should establish a working group, which includes carers, people with disabilities and disability services organisations, to seek feedback on matters of design, utility and accessibility.

**AGREE IN PART**

The Commonwealth Government will ensure that the website of the Department of Families, Housing, Community Services and Indigenous Affairs (the Department) is accessible and easy to use for everyone in the community. This includes meeting the new website accessibility standards (WCAG2.0), agreed to by all Commonwealth and state and territory governments, at the required compliance level by the end of 2012.

The Department agrees to review the material on its website about support provided by the Commonwealth Government to assist people with disability, their families and carers to plan for the future. While the Department's website is not an appropriate mechanism to provide comprehensive information about supports and services available for particular issues, a link will be created on the website to a national stocktake of future planning initiatives for families of people with disability (to be released in 2012).

The Commonwealth Government values input from people with disability, their families and carers in the development and implementation of policies, programs and services that directly affect them. The Department will continue to engage people with disability, carers and peak bodies, including the National People with Disabilities and Carer Council, in the development of initiatives that are designed to improve access to information for people with disability, their families and carers.
Recommendation 7

While the committee would like to see improvement in the quality and accessibility of information on government websites for people with disabilities and their carers, it also mindful of the limited reach of new technologies. In acknowledgement of this, the committee recommends that all levels of government should consider effective non-web-based tools for the communication of critical information on disability and planning services. The working group suggested in Recommendation 6 should also be engaged for this purpose.

AGREE IN PART

The Commonwealth Government is committed to ensuring people with disability, their families and carers have access to appropriate and timely information about services and supports. While information is available on Commonwealth Government websites to be downloaded, paper-based reports and materials are still being produced and can be requested in various formats. The National Disability Strategy, National Carer Strategy and various other documents are available on request as a hard copy report, Easy English, Braille and Audio Version.

The National Disability Strategy and the National Carer Strategy are two significant initiatives that have priority areas dedicated to improving access to information that is relevant, reliable and responsive to changing needs.

The National Disability Strategy outlines a 10-year national policy framework to guide government activity across six key outcome areas, including inclusive and accessible communities. Under this outcome, the priority area of promoting and sustaining community support networks which provide information and support to families and carers will assist in addressing this recommendation.

The National Carer Strategy outlines the Commonwealth Government's long term commitment to recognise and support carers across six priority areas including information and access. Under this outcome, the priority area of addressing the information needs of older carers will assist in addressing this recommendation.

Recommendation 8

The committee is seriously concerned by evidence suggesting that as many as 25 per cent of carers are not linked in with Centrelink and therefore are not receiving payment to which they are entitled. The committee therefore recommends that Centrelink review its communication strategy with respect to carers and engage local disability service providers more directly.

NOTE

The Commonwealth Government notes this recommendation and will direct the Department of Human Services to investigate, with the Department of Families, Housing, Community Services and Indigenous Affairs, how it can further raise awareness of carer payments and engage with disability service providers more directly.

Under the National Carer Strategy, the Department of Families, Housing, Community Services and Indigenous Affairs is providing $1.6 million over two years to fund a national and targeted campaign to raise public awareness of the role and contribution of carers and encourage people with caring responsibilities to seek assistance and support.

The campaign will promote services and supports available for carers, including carer payments. It will target the community as a whole as well as highlighting the needs of particular groups such as older carers, young carers, Indigenous carers, carers in rural, regional and remote areas and carers from culturally and linguistically diverse backgrounds.

The Department of Human Services' Carer and Disabilities Communication Strategies are reviewed annually to identify and implement strategies to raise awareness of carer payments and services.
The Department of Human Services is currently exploring alternative stakeholder engagement options to target carers who might not be linked in with payments and services which they are entitled to.

Some of these options include increasing external communication and stakeholder engagement activities through third party organisations and professionals, such as medical practitioners, staff in health care settings and carers who are already engaged with the Department of Human Services. The Department of Human Services will also look to provide further education to front of house staff so they are able to provide information to customers who present for assistance in their initial contact with the department.

The Department of Human Services has developed annual stakeholder engagement plans with the aim to inform key bodies and service providers about the department’s payments and services available to carers and disability recipients. These key bodies and service providers then provide this information to their members. The Department of Human Services also convenes a Carer Service Delivery Reference Group, which includes members from carer organisations throughout Australia who represent, for example, Indigenous carers, multicultural carers and young carers.

Each year, the Department of Human Services organises a number of local community events to promote and celebrate Carers Week, which is usually the third week in October. Carers Week is an annual event launched by Carers Australia.

All communication products are available upon request in alternative formats. These formats include audio CD or DVD, large print, Braille and e-text. Customers can also select the 'listen to this page' icon on the Department of Human Services Centrelink program website to hear the contents of selected pages. The Department of Human Services' publications 'Caring for someone?' and 'Are you ill, injured, or do you have a disability?' contain information specifically for carers and people with disability on the options and services available to them.

Further, the Department of Human Services also produces News for Carers, a newsletter for customers who receive Carer Payment or Carer Allowance that is also circulated to key stakeholders and peak bodies. In 2011 market research on the News for Carers publication was conducted to inform future enhancements to this product.

**Recommendation 9**

Within the framework of life-long planning, the committee recommends that the government facilitate the provision of specialist financial and legal advice to people with a disability and their carers to assist them with planning decisions, including the decision to utilise a Special Disability Trust. This advice could be made available via:

- Commonwealth funded financial and legal planning workshops specifically targeted to address the issues that arise in disability planning;
- The provision of specialist advice through an established Disability / Carers' Unit at Centrelink; and / or
- Commonwealth funded independent legal services specialising in disability services, potentially operating in conjunction with non-government service organisations, and nationally registered on a list accessible to people with a disability and their carers.

**AGREE TO FURTHER CONSIDER**

The Commonwealth Government currently provides a number of publications to assist people with disability, their families and carers to make future planning decisions.

- The Planning for the future: People with disability booklet includes:
  - guidance on the things to consider when planning for the future;
  - options available to families when planning for the future;
  - information about how to set up a trust;
  - information about how to obtain financial and legal advice; and
  - useful contacts in each state/territory.
- The Special Disability Trusts: Getting things sorted booklet includes information on:
o planning for the future, taking account of disability issues generally;
  o how families can use trusts to provide for family members with disability; and
  o the availability of concessions from social security and veterans' entitlement means tests for eligible family members establishing a Special Disability Trust.

Commonwealth and state and territory governments under the National Disability Strategy have agreed to the priority area of developing innovative approaches to future planning, including private provision for people with disability, their families and carers. This recommendation will be considered as part of further work undertaken to progress this priority area.

The Department of Human Services will examine with the Department of Families, Housing, Community Services and Indigenous Affairs ways to improve servicing of people with disability, their families and carers.

The Department of Human Services' Financial Information Service currently provides general information about financial matters including Special Disability Trusts but under its current mandate they cannot provide advice on these matters. Although departmental staff can provide information on the income support impacts of financial decisions including Special Disability Trusts, qualified or licensed people would need to be engaged to provide specific advice about financial, legal or taxation issues.

Recommendation 10

As Aboriginal and Torres Strait Islander people with a disability face particular barriers accessing planning services, the committee recommends that the Office for Aboriginal and Torres Strait Islander Health undertake research to identify how planning support can best be provided to them.

NOTE

The Commonwealth Government notes that the Department of Families, Housing, Community Services and Indigenous Affairs, rather than the Office for Aboriginal and Torres Strait Islander Health, has portfolio responsibility for undertaking research to identify how planning support could best be provided to Indigenous people.

The Commonwealth Government recognises that Indigenous people with disability and their carers face particular barriers in accessing planning support.

A national stocktake of future planning programs and initiatives for people with disability, their families and carers, developed by the Commonwealth and state and territory governments, identified this particular challenge. The findings of the national stocktake will be considered by the Commonwealth and state and territory governments when developing policies and programs focused on future planning options for people with disability and their carers. The stocktake will be released publicly in 2012.

Increased access for Indigenous Australians to specialist disability services was identified as a priority area under the National Disability Agreement. A National Indigenous Access Framework has been developed to ensure that the needs of Indigenous Australians with disability are addressed through appropriate service delivery arrangements. This framework will be released publicly in 2012.

The Commonwealth and state and territory governments have also agreed to contribute $10 million over five years to research and development under the National Disability Agreement. Research efforts will be focused on building the evidence base for policy and practice change relevant to the outcomes of the National Disability Agreement. Research into issues affecting Indigenous people with disability may be considered under this agenda.

The Council of Australian Governments has agreed high level principles to guide the development and implementation of a National Disability Insurance Scheme. The Principles provide that a National Disability Insurance Scheme should be needs based and provide people with disability access to individualised care and support. To achieve this, the National Disability Insurance Scheme will build on best practice through foundation reforms to ensure equity of access by addressing the needs of people in regional and remote Australia and
people from Indigenous and Culturally and Linguistically Diverse backgrounds.

As part of the development of a National Disability Insurance Scheme, the Department of Families, Housing, Community Services and Indigenous Affairs has also contracted the Centre for Aboriginal Economic Policy Research (CAEPR) to provide advice on service delivery models and data capture for Indigenous Australians to better understand the nature of Indigenous disability and best practice service delivery options for Indigenous people in a National Disability Insurance Scheme.

**Recommendation 11**

As people with disabilities living in regional and remote areas face particular barriers accessing planning support, the committee recommends that the Department of Families, Housing, Community Services and Indigenous Affairs provide additional funding and resources to develop planning services in these areas. The committee also recommends that the Department establish a working group of people with disabilities, their carers and regional disability service organisations, to provide advice on how additional funding should be utilised.

**AGREE IN PART**

The Commonwealth Government recognises that people with disability and their carers living in regional, rural and remote areas face particular barriers in accessing planning support.

A national stocktake of future planning programs and initiatives for people with disability, their families and carers, developed by the Commonwealth and state and territory governments, identified this particular challenge. The findings of the national stocktake will be considered by the Commonwealth and state and territory governments when developing policies and programs focused on future planning options for people with disability and their carers. The stocktake will be released publicly in 2012.

The challenges faced by carers living in regional and remote areas in gaining access to information, services and supports are also identified in the National Carer Strategy. In response, addressing the information needs of carers living in regional, rural and remote areas is included as an area of action in the Strategy.

The Department of Families, Housing, Community Services and Indigenous Affairs remains committed to engaging people with disability, carers, service providers and peak bodies in the development of programs and services that impact them, including future planning services.

The Council of Australian Governments has agreed high level principles to guide the development and implementation of a National Disability Insurance Scheme. The Principles provide that a National Disability Insurance Scheme should be needs based and provide people with disability access to individualised care and support. To achieve this, the National Disability Insurance Scheme will build on best practice through foundation reforms to ensure equity of access by addressing the needs of people in regional and remote Australia and people from Indigenous and Culturally and Linguistically Diverse backgrounds.

As part of the development of a National Disability Insurance Scheme, the Department of Families, Housing, Community Services and Indigenous Affairs has also contracted the Centre for Aboriginal Economic Policy Research (CAEPR) to provide advice on service delivery models and data capture for Indigenous Australians to better understand the nature of Indigenous disability and best practice service delivery options for Indigenous people in a National Disability Insurance Scheme.

**Recommendation 12**

The committee recommends that the government, through the Department of Families, Housing, Community Services and Indigenous Affairs, work with the states and territories to establish a succession planning framework. The framework should:

- Make clear the importance of long-term planning;
- Provide guidance on the critical aspects of long-term planning;
- Take into account the individual differences of families;
Support a range of approaches to planning.

**AGREE TO FURTHER CONSIDER**

The Commonwealth and state and territory governments have agreed to consider this recommendation under broader disability and carer reforms, including the National Disability Agreement, National Disability Strategy, National Carer Strategy and a National Disability Insurance Scheme.

The Commonwealth and state and territory governments have developed a national stocktake of future planning initiatives for families of people with disability. The stocktake defines future planning as any activity or support that is undertaken to ensure arrangements are in place for the future care of a person with disability. Future planning is also referred to as succession or transition planning.

The stocktake identifies the key barriers that make it difficult for people with disability who are ageing, their families and carers, to plan for the future. The paper draws attention to policy and service delivery gaps present in the provision of future planning programs and initiatives across Australia. It also identifies a number of best practice features of future planning programs to be considered by governments when undertaking future work in this area.

Commonwealth and state and territory governments, under the National Disability Agreement, have also endorsed a National Framework on Early Intervention and Prevention, Lifelong Planning, and Increasing Independence and Social Participation Strategies. The Framework will assist jurisdictions to develop individual implementation plans which target services and resources towards:

- preventing problems from escalating;
- improving collaborative approaches across service systems;
- ensuring the system can respond to people's individual needs;
- lifelong, planned support through life stages;
- strengthening carers resilience to increase opportunities for participation; and
- improving collaborative approaches to early intervention and prevention across service systems.

**Recommendation 13**

The committee recommends that as part of the succession planning framework the government establish nationally consistent guidelines on lifelong planning. It is recommended that these guidelines consider matters such as: registration, constitution of boards, management of funds, governance arrangements, transparency, reporting requirements, and the role of paid facilitators.

**AGREE IN PART**

The Commonwealth Government remains committed to sharing information and learnings across government and the service sector and applying the best practice features of future planning programs to support national consistency in lifelong planning programs. However, the Commonwealth Government does not agree with providing prescriptive guidelines that focus on operational aspects of managing an organisation as outlined in the recommendation.

**Recommendation 14**

The committee recommends that the succession planning framework be the first step in the development of an integrated and coordinated national approach to planning. In making this recommendation, the committee stresses that the framework should balance the need for individualised or tailored planning support with clear standards of governance and accountability.

**AGREE TO FURTHER CONSIDER**

The Commonwealth and state and territory governments have agreed to consider this recommendation under broader disability and carer reforms, including the National Disability Agreement, National Disability Strategy, National Carer Strategy and a National Disability Insurance Scheme.

Commonwealth and state and territory governments, under the National Disability Agreement, endorsed a National Framework on Early Intervention and Prevention, Lifelong Planning, and Increasing Independence and Social Participation Strategies. The Framework will provide greater national consistency with a
shared vision for the disability service system that is targeted to programs and initiatives that support individuals and carers with a lifelong focus across the ageing continuum and where people with disability and their carers have enhanced choice, independence and participation in the community.

The Framework provides an overarching structure for services provided by governments and is a foundation for coordinated, collaborative action and a platform for establishing common definitions, principles and strategies to guide the disability service system.

Under the National Disability Agreement, Commonwealth and state and territory governments have also committed to people with disability having as much control as possible over their lives. To achieve this, governments have agreed to focus on how to achieve individualised approaches for people with disability while supporting the sustainability of the disability services sector.

The high level principles for a National Disability Insurance Scheme provide that this reform should take a social insurance approach that would share the costs of disability services and supports across the community. The reform should adopt insurance principles that estimate the cost of reasonable and necessary supports and promote an efficient allocation of resources based on managing the long-term costs of supporting people with disabilities and their carers while maximising the economic and social benefits.

This would involve consistent application of eligibility criteria, and the timely and efficient delivery of reasonable and necessary supports, including early intervention. A National Disability Insurance Scheme will fund reasonable and necessary individualised services and supports directly related to an eligible person’s ongoing disability support needs.

**Recommendation 15**

The committee recommends that in its next Budget the government allocate funds to assist with the development of disability planning. It is suggested that this funding be made available to:

- Organisations currently involved in planning;
- Individual families seeking to purchase planning services from providers;
- Other disability service organisations that intend to develop lifelong planning services for families.

The committee recommends that this funding be made available on a recurrent basis.

**NOTE**

The Commonwealth Government recognises that people with disability, their families and carers have little or no certainty that they will get the support they need over the course of their lives. The design of a National Disability Insurance Scheme will incorporate the need to provide adequate planning and support for people with disability their families and carers to access and benefit from.


**Recommendation 1**

It is the Committee's view that the carbon tax should be opposed and the legislation defeated in the Parliament as:

- there is no electoral mandate for the carbon tax;
- the modelling that supports it is based on a number of highly contestable assumptions;
- it is likely to undermine Australian businesses' ability to compete in the global economy;
- it will have significant adverse effects on particular sectors and regions, with a particularly disproportionate impact on regional Australia;
- the effect of the policy on the cost of living, and on jobs is likely to be higher than the government's current estimates indicate;
- there is considerable evidence that the carbon tax will not result in any real environmental gain, despite imposing a significant cost on the economy over the next thirty years.
The Committee recommends that the carbon tax be opposed by the Parliament.
Response: Not agreed.

The Clean Energy Bill 2011 and 17 related bills were passed by the House of Representatives on 12 October 2011 and by the Senate on 8 November 2011.

The Steel Transformation Plan Bill 2011 was passed by the House of Representatives on 12 October 2011 and by the Senate on 9 November 2011.


The Climate Change Authority Act 2011 and the Clean Energy (Household Assistance Amendments) Act 2011 received the Royal Assent on 29 November 2011.

The remaining Clean Energy Acts received the Royal Assent on 4 December 2011.

**Recommendation 2**

The Committee recommends that if the Parliament believes that it should proceed with the carbon tax, any provisions in the legislation designed to bind future governments seeking to prevent them from amending or rescinding the scheme be removed.

Response: Not agreed.

There are no provisions in the Clean Energy Legislative Package specifically designed to prevent a future Parliament amending the legislation or repealing it.

**Recommendation 3**

The Committee recommends that if the Parliament believes that it should proceed with the carbon tax, that it does so once current global economic circumstances have improved and there is a legally binding global agreement on tackling climate change.

Response: Not agreed.

The carbon pricing mechanism commenced on 1 July 2012.

The mechanism, along with related initiatives, will allow Australia to meet its unconditional international commitment to reduce greenhouse gas pollution by 5 per cent by 2020 on 2000 levels, for which there is bipartisan agreement.

Ninety countries, accounting for over 80 per cent of global emissions and over 90 per cent of the global economy, have pledged to reduce or limit their carbon pollution by 2020.

Decisions by the United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties in Durban in December 2011 build on this existing practical action by launching negotiations for a new agreement under the UNFCCC that will apply to all countries.

**Recommendation 4**

The Committee recommends that, should the government remain committed to proceeding with its carbon tax, before any vote the Senate should demand that:

- the government release all of its modelling, including the actual models, datasets and specifications used by the Treasury, to allow third party review;
- the government establish an Independent Expert Panel to review its modelling approach and framework;
- the Productivity Commission be asked to undertake a cost-benefit analysis of the proposed carbon tax;
- the legislation should be amended to ensure that any increase in the tax or lowering of the emissions cap be made a disallowable instrument and to ensure that carbon permits are not private property.

Response: Not agreed.

The Senate voted to pass the relevant legislation in the form in which it was introduced on 8 November 2011.

**Final Report - The Carbon Tax: Secrecy and spin cannot hide carbon tax flaws**

**Recommendation 1**

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Response: Not agreed.

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- the government release all of its modelling, including the actual models, datasets and specification used by the Treasury, to allow third party review; and
- the government establish an Independent Expert Panel to review its modelling approach and framework.

Response: Not agreed.

The Senate voted to pass the relevant legislation in the form in which it was introduced on 8 November 2011.

Recommendation 3

The committee recommends that if the government proceeds with its carbon tax, that the relevant regulator be sufficiently resourced to minimise the risk of fraud or other undesirable activities that might undermine the integrity of the Australian carbon permits.

Response: Agreed.

The Clean Energy Act 2011 and the Australian National Registry of Emissions Units Act 2011 include provisions which robustly address the risks of fraud and criminal behaviour involving the carbon pricing mechanism. The Government is confident that the legislation provides a comprehensive framework to address those risks.

In particular, the carbon pricing mechanism will ensure security and combat fraud and other related crime, including through:

- the provisions of robust investigation powers to the Clean Energy Regulator, consistent with those of other economic regulators like ASIC and the ACCC;
- tough criminal penalties for fraudulent or dishonest conduct, consistent with those that apply in laws on financial services, financial markets, competition and consumer protection;
- anti-money laundering provisions;
- identity checks and fit and proper persons checks for persons wishing to open a Registry account to hold permits;
- powers to prevent suspicious or fraudulent transfers of emissions units held in the Registry and to restrict or suspend the operations of Registry accounts; and
- regulation of financial services involving carbon units consistent with the regime for shares and other financial products.

Additionally, the Department of Climate Change and Energy Efficiency is working closely with relevant Commonwealth regulatory bodies through a working group under the Heads of Commonwealth Operational Law Enforcement Agencies, to identify risks and appropriate mitigation treatments.

In relation to the resourcing of the Clean Energy Regulator, 350 staff members (including board members) are expected to be employed when the Regulator becomes fully operational.

Recommendation 4

The committee recommends that the government carefully consider the risks and benefits from linking to foreign carbon markets and that comprehensive safeguards be put in place to minimise the risk to Australian purchasers of foreign carbon abatement units.

Response: Agreed.

Access to verified international emissions reductions means Australia can meet its mitigation commitments at least cost whilst maintaining environmental integrity.
Use of credible international permits from 1 July 2015 will significantly reduce the cost of meeting Australia's emissions reduction commitments.

The carbon pricing mechanism includes adequate restrictions to ensure only quality international units can be used for compliance from the start of the flexible price period.

Regulations will be made to ensure that Australia will not accept Kyoto units from nuclear energy projects, certain industrial gas destruction projects and large scale hydro-electric projects that do not conform to criteria adopted by the EU.

The Climate Change Authority will assess the integrity of international units in its regular reviews of the carbon pricing mechanism and recommend to the Government which units should be permitted and which should be prohibited under the carbon pricing mechanism.

Recommendation 5

In the event that the government proceeds with the carbon tax, the committee recommends that clause 103 of the Clean Energy Bill 2011 be amended to ensure that a property right does not attach to permits and to make it clear that permits can be altered, repealed or revoked at any time without that amounting to an acquisition of property.

Response: Not agreed.

Recommendation 5 misunderstands the purpose of section 103 of the Clean Energy Act 2011.

Section 103 is not intended to prevent future Parliaments from repealing the legislation.

Section 103 is intended to allow persons to deal with carbon units in the same way as they deal with other forms of personal property. Carbon units could, for instance, be traded, offered as security, treated as trust property, the subject of family law proceedings or vested in a trustee in bankruptcy. Creating carbon units as personal property will reduce uncertainty about their status under other laws, and promote confidence in the market for units.

Whether or not carbon units are property for the purposes of s 51(xxxi) of the Constitution does not depend on whether the units are declared, by the legislation, to be personal property. The High Court has found that permits created under other regulatory schemes can be property, even if this is not explicitly stated in the legislation.

Recommendation 6

If the Clean Energy Future legislative package is passed by the Parliament, the committee recommends that the Senate review the conduct of relevant regulators.

Response: Noted.

The Clean Energy Regulator, the Climate Change Authority, and the Australian Renewable Energy Agency, as government bodies, are accountable to the Parliament. The agencies must:

- comply with their accountability and operational obligations under relevant Commonwealth laws, including their respective constituting Acts, and, as appropriate, the Financial Management and Accountability Act 1997 or the Commonwealth Authorities and Companies Act 1997;
- provide annual reports to the relevant Minister, which must be tabled in both Houses of the Parliament; and
- if required, attend and answer questions posed by Parliamentary committees, including as part of the regular Senate Estimates hearings process.

The Energy Security Council (ESC) will comply with any accountability and operational obligations which apply under relevant Commonwealth laws, comply with the ESC charter, Key Principles and Program Administrative Guidelines (once settled). The Treasury will attend and answer questions posed by Parliamentary committees, including as part of the regular Senate Estimates hearings process, in relation to the ESC.

The Clean Energy Finance Corporation will be established by legislation in the first half of 2012. The CEFC will be required to comply with its enabling legislation and relevant Commonwealth laws.

Recommendation 7

If the Clean Energy Future legislative package is passed by the Parliament, the committee recommends that the Senate review the cost to the Budget of the Clean Energy Finance Corporation.
and the Australian Renewable Energy Agency given that between them they will be responsible for $13 billion of expenditure.

Response: Noted.

Establishment of the Australian Renewable Energy Agency will not increase Budget costs. Australian Renewable Energy Agency funding is to be sourced from existing initiatives currently administered by the Department or Resources, Energy and Tourism, the Australian Solar Institute and the Australian Centre for Renewable Energy.

The Clean Energy Finance Corporation's impact on the Budget is outlined in the 2011-12 Mid-Year Economic and Fiscal Outlook and the Clean Energy Future Plan document.

**Recommendation 8**

The committee calls upon the government to carefully consider further expenditure on its so-called community education for the carbon tax and suspend further unnecessary advertising if the government's legislation passes the Parliament.

Response: Noted.

Governments have a responsibility to inform citizens of their responsibilities and entitlements. The Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies are in place to ensure that advertising activity undertaken by Government is carefully considered.

**Dissenting Report Recommendation**

That the Senate pass the government's Clean Energy Future Plan bills so that action is taken from next year to reduce greenhouse gas emissions and meet Australia's emissions reduction targets.

Response: Agreed.

The Clean Energy Bill 2011 and 17 related bills were passed by the House of Representatives on 12 October 2011 and by the Senate on 8 November 2011.


The Climate Change Authority Act 2011 and the Clean Energy (Household Assistance Amendments) Act 2011 received the Royal Assent on 29 November 2011.

The remaining Clean Energy Acts received the Royal Assent on 4 December 2011.

**Senator CAROL BROWN** (Tasmania—Deputy Government Whip in the Senate) (17:04): I move:

That consideration of the government responses to committee reports be listed on the Notice Paper.

Question agreed to.

**DOCUMENTS**

**Tabling**

The **ACTING DEPUTY PRESIDENT** (Senator Bernardi) (17:05): I present responses to Senate resolutions as listed at item 13 on today's Order of Business.

Minister for Foreign Affairs (Senator Bob Carr) to a resolution of the Senate of 16 August 2012 concerning family planning

Minister for Mental Health and Ageing (Mr Butler), the Premier of South Australia (Mr Weatherill), the Tasmanian Minister for Health (Ms O’Byrne) and the Premier of New South Wales (Mr O’Farrell) to a resolution of the Senate of 10 October 2012 concerning World Mental Health Day

Charge d’Affaires, a.i., Embassy of Cambodia (Kimsour Savannary) to a resolution of the Senate of 29 October 2012 concerning Cambodia

**World Mental Health Day**

**Senator BACK** (Western Australia—Deputy Opposition Whip in the Senate) (17:06): I seek leave to take note of the responses by the Minister for Mental Health and Ageing, Mr Butler, the Premier of South Australia, Mr Weatherill, and the Premier of New South Wales, Mr O’Farrell, and to continue my remarks, unless, with your concurrence and forbearance, Acting Deputy
President, you would allow my colleague Senator Fierravanti-Wells to speak on that matter.

The ACTING DEPUTY PRESIDENT: Senator Back, were you seeking leave to take note of all the documents, or just the one?

Senator BACK: Only that of the Minister for Mental Health and Ageing, Mr Butler.

Leave granted.

Senator FIERRAVANTI-WELLS (New South Wales) (17:06): I rise to take note of this response to the Senate's motion, which is a very important motion passed on World Mental Health Day. For the benefit of the Senate, I think it is very important that we reiterate some key statistics in relation to mental health. One in five Australians, as we know, will experience mental health issues in any one year and it remains an area where there is a lot of stigma. Despite worthy attempts—in particular, the Senate has on different occasions marked days such as World Mental Health Day, R U OK? Day and various other initiatives such as Sock it to Suicide and other things—there remains, regrettably, a lot of stigma in the community in relation to mental illness and there is discrimination that people suffer as a consequence of it. Importantly, the motion noted that people affected by mental illness can recover to live a happy and rewarding life with adequate and high-quality services and broad community understanding.

The motion called upon the Australian government and states and territories to continue reforms in relation to a range of different areas, and it is that that I would like to focus on today. There are criticisms being levelled at this minister and this government for the delay in rolling out important programs in the mental health area. We know that this government was finally shamed into taking some action on mental health in the 2011-12 budget and this followed a sustained campaign by both the coalition and eminent stakeholders. Coalition motions were passed in both the Senate and the House of Representatives, in this place with the support of independent Senator Xenophon and then independent senator Fielding and in the other place with support from the Independents. But those opposite and their Green alliance partners voted against them.

But when we did finally have this $2.2 billion package, we saw, when we scratched the surface, that, like most things that this government has done, there was a lot of spin and not much substance. Scratch away and you are really only talking about a net spend over the forward estimates of $583 million. In real terms that, net spend, despite the big headline figure, because that is what this government is good at. There is a big headline figure but when you scratch the surface there is not much there. Most of this was achieved by ripping out $580 million from the Better Access program. We know that this government has been heavily criticised for its actions in relation to Better Access but most importantly by making this decision, as it has done repeatedly in the health and ageing space, to rip so much money out. They continually misrepresent this and peddle this misrepresentation about the then health minister, Mr Abbott, but here they are themselves ripping out of health about $1.6 billion and out of mental health $580 million, from the Better Access program. They are doing that without a proper evaluation, without looking at the object of Better Access, which was to give better coordinated care for people suffering from mental illness. At the time in the Howard years when Tony Abbott was the health minister this was the biggest ever spend in mental health: $1.9 billion was allocated over five years, and indeed a lot of
people got access to mental health services who had never had that access in the past.

So that is why for a lot of people the changes to Better Access, which were made without consultation with practitioners, caused widespread concern—because in the end the important thing was what would have been the effect on patients. This was something that the government failed to take into account because it had wasted and mismanaged so much money on pink batts, on Julia Gillard memorial halls and on all the rest. So what did they have to go and do? They had to go and make cuts from places like Better Access and in the mental health space, where people are in desperate need. Let me remind the Senate of another statistic, that particularly amongst our young people aged between 15 and 24 suicide is the leading cause of death. Suicide currently ranks 15th in the overall causes of death in Australia. The National Survey of Mental Health and Wellbeing in 2007 talked about more than 360,000 people having contemplated suicide that year.

Let us look at some of the criticism of this government in relation to its so-called mental health reform. It keeps talking about this roadmap, this roadmap to nowhere—a 10-year roadmap in mental health. One in five Australians needs help now, Minister Butler. They do not need to wait 10 years for your government to get its act together to roll out a plan. It is understandable why eminent professors such as Professor Alan Rosen have referred to this 10-year roadmap as just an illusory false start. Professor John Mendoza referred to it as yet another Pollyanna document from our federal health bureaucracy that commits no-one to anything. Professor Ian Hickie AM said: 'As a result of the mess left at the end of the Rudd era, key structural issues in mental health services remain unresolved.' Professor Rob Donovan said: 'This is a 10 year program but there is no timeline for the proposed action. The document simply refers to two imprecise, undefined time frames: short-term actions and long-term actions.'

Minister Butler the other day appeared on Australian Agenda, and Paul Kelly put to Minister Butler the criticism that is being levelled against him and the government for its failure to roll out reforms—these so-called reforms or programs. We have been talking about suicide prevention for years. It was a 2010 election commitment to roll out $277 million in relation to suicide prevention matters. Yet we are still no closer to the rollout of this money. Indeed, I understand that only $7 million was rolled out in the first year and we are still no closer to understanding what this government has actually done in relation to that. So, understandably, Paul Kelly is criticising this and raising these justifiable criticisms against Minister Butler for his failure to roll out programs.

So, Minister, until you actually move on this, you will continue to have criticism—and justified criticism—as to why you are not rolling out these programs in a timely manner. It makes me wonder, as Paul Kelly asked the minister, and we did not get a very clear answer, as to whether moneys allocated in mental health are actually going to be left in mental health or whether they are going to be clawed back to pay for the waste and mismanagement of this government.

I seek leave to continue my remarks later.
Leave granted; debate adjourned.

COMMITTEES

Electricity Prices Committee
Documents

Senator McEwen (South Australia—Government Whip in the Senate) (17:17): On behalf of the Select Committee on Electricity Prices, I present the Hansard
record of proceedings and documents presented to the committee.

DOCUMENTS
Tabling
The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

Details of the documents also appear at the end of today’s Hansard.

COMMITTEES
Rural and Regional Affairs and Transport References Committee
Membership

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:17): Order! The President has received a letter from a party leader seeking a variation to the membership of a joint committee.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:17): by leave—I move:

That Senator Ruston replace Senator Edwards on the Rural and Regional Affairs and Transport References Committee for the committee’s inquiry into the management of the Murray-Darling Basin on Friday, 23 November 2012, and Senator Edwards be appointed as a participating member.

Question agreed to.

BILLS
Fair Entitlements Guarantee Bill 2012
Tax Laws Amendment (2012 Measures No. 5) Bill 2012
Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012
Wheat Export Marketing Amendment Bill 2012

First Reading
Bills received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:18): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading
Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:19): I table four revised explanatory memoranda relating to the bills, and move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.
The speeches read as follows—
FAIR ENTITLEMENTS GUARANTEE BILL 2012

In 2010 the Gillard Labor Government made an election commitment to better protect the entitlements of Australian employees impacted by the insolvency or bankruptcy of their employer.

This commitment, entitled the Protecting Workers’ Entitlements Package, provides the strongest protection of employee entitlements working Australians have ever seen.

We made this commitment because Labor is the party of work and what work provides for us, financially but also for our families and sense of well being in society.
Today, I rise to introduce a bill which embeds our commitment to this package as it relates to the Fair Entitlements Guarantee.

In doing so the Fair Entitlements Guarantee Bill 2012 will replace the existing General Employee Entitlements and Redundancy Scheme (GEERS) and enshrine the Fair Entitlements Guarantee in legislation.

The bill will provide certainty for Australian employees who find themselves without a job and left out of pocket when their employer becomes insolvent or bankrupt and cannot pay them the employment entitlements they are owed.

On this side of the chamber we know that employees who lose their job through insolvency or bankruptcy of their employer have enough to worry about. They have to worry about where their next mortgage payment will come from. They have to worry about how to buy the children new clothes or pay school fees. They have worry about what money will cover unexpected bills or an unexpected emergency. Those of us on this side of the chamber believe that these individuals should not have to worry about being paid what they have already earned.

It will be a good day for working Australians when this bill passes and they have certainty that their entitlements are protected even if the company they work for enters liquidation and cannot pay them what they are owed.

This bill will protect Australian employees under circumstances which are brought about through no fault or choice of their own.

This bill will ensure that Australian employees who are victims of employer insolvency or bankruptcy, where employment entitlements are owed, are supported by a Government that supports Australian workers.

In doing so, this bill also enshrines Labor’s commitment to the Australian sense of a fair go by providing a legislative framework employees can rely on and an entitlement which, unlike the employment entitlements those opposite advocate for, cannot be scrapped with the flick of a pen.

Eligible entitlements

Under this bill, eligible employees will be covered for unpaid entitlements including:

- Redundancy;
- Annual leave;
- Long service leave;
- Wages; and
- Payment in lieu of notice.

In the majority of cases, employees will be entitled to an advance for unpaid entitlements as provided for in the relevant industrial instrument under which they are employed.

The bill will protect redundancy pay, up to a maximum of 4 weeks per year of service. This will mean that most employees will receive all of the redundancy entitlements they are owed.

The bill will only enable payment of unpaid wages for up to 13 weeks and will provide payment in lieu of notice at 5 weeks.

This bill also strengthens the recognition of eligible entitlements for employees who continue to be employed following the appointment of an insolvency practitioner. Under current arrangements, some employees lose out if they continue working through the administration of the company and neither the administrator nor GEERS covers their unpaid entitlement.

From now on if you are an employee in this situation you will be entitled to receive unpaid entitlements accruing right up to your last day of working. No longer will there be a gap in entitlements paid.

Where an advance for entitlements is made, the Commonwealth is empowered for recovering advances from the dividends payable once companies are wound up. In doing so this bill proposes that the Commonwealth have the same rights as creditors in the winding up or bankruptcy of the business that the employee would have otherwise had. This measure strengthens the Government’s commitment to working Australians and the taxpayer. It also makes clear that those companies who enter insolvency or bankruptcy due to irregular business practices can no longer avoid paying the entitlements of hard working employees.

Eligible employees

I want to make it clear that this bill establishes an important legislative safety net for genuine employee redundancy. It is not a scheme which
can be used recklessly by employers seeking to purposely renge on their employer obligations. Under the bill, employees will only be eligible for an advance in genuine cases where they have lost their job as a result of the insolvency or bankruptcy of their employer.

Some people will not be eligible for advances under this proposed legislation. The bill maintains existing arrangements under GEERS that advances will not be payable to people that are excluded under the Corporations Act - contractors, directors and family members of a director.

This bill mirrors existing GEERS arrangements that assistance will not be available to support business restructures or where insolvent entities are able to pay employee entitlements within a reasonable period.

The Government has also taken the opportunity to simplify the assessment of transfer of business arrangements. To this end, from 1 July 2014, only where a claimant’s entitlements and service are recognised by the new employer will they be ineligible for financial assistance under the bill.

This measure will overcome operational barriers in assessing claims and reduce unnecessary delays in employees receiving their entitlements.

To further reduce complexity, this bill will also remove the existing eligibility arrangements for employees affected by Deed of Company Arrangements (DoCA) or equivalent bankruptcy proceedings. Employees often get very little say in how these DOCA arrangements are structured and it simply is not fair that they be disadvantaged when they don’t work well enough to save their job.

The bill maintains existing arrangements under GEERS that a claim for assistance will need to be made within 12 months.

The bill also clarifies that to be eligible for assistance under the bill, a claimant must have met the residency requirements as at the date of termination, as this is the most relevant date to assess what level of assistance an employee is entitled to receive.

The bill also includes three important areas where capacity for flexibility is needed. By outlining the circumstances and conditions that must exist before flexibility can be used, the bill contains the following key areas:

- ability to make payments in administration prior to liquidation;
- early advance of a payment; and
- a regulation making power to enable regulations to be made to facilitate payments to people who are not employees.

Reviews and appeals

Ensuring a fair and transparent decision making process is a key part of this bill. A person that makes a claim for an advance can be confident that their claim will be assessed in a just and transparent way.

Where a person does not agree with a decision in relation to their eligibility for an advance or the amount of an advance they are eligible for, they will have the right to apply for a review of the decision. As is currently the practice under GEERS, where a decision is able to be reviewed, the Department will review the initial decision and advise the applicant of the review decision and the reasons for the decision.

Importantly, under this bill where a person does not agree with a review decision they may apply to the Administrative Appeals Tribunal for an external review. The Administrative Appeals Tribunal will conduct an impartial and timely review. This change to the review process will improve transparency and accountability.

Conclusion

I am proud that we are meeting the election commitment to better protect the entitlements of Australian employees impacted by the insolvency or bankruptcy of their employer. Protecting Workers’ Entitlements Package provides the strongest protection of employee entitlements working Australians have ever seen.

Today, Labor delivers on that commitment and with the passing of this bill the Government will deliver on its pledge to Australian employees by providing a clear, fair and robust legislative framework to protect the entitlements Australians work so hard for every day.
The Fair Entitlements Guarantee Bill I am introducing today is supported by the Labor Government and a range of stakeholders. We hope those opposite will also support this bill so as to ensure even stronger protections for working Australians across our Nation.

I commend this bill to the Senate.

TAX LAWS AMENDMENT (2012 MEASURES NO. 5) BILL 2012

This bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 makes a small but important amendment to the definition of ‘eligible no-till seeder’ for the purpose of the conservation tillage refundable tax offset in Subdivision 385 J of the Income Tax Assessment Act 1997. Currently, in order to access the offset, a primary producer must purchase a no till seeding tool and a cart.

This requirement was included following consultation on the initial measure to ensure that farmers could access the offset on the cart as well. However, it is the ground-engaging tool component that delivers the benefits of conservation tillage practices, while the cart simply carries the seed and fertiliser.

Concerns raised since that initial legislation was passed suggested that the requirement to purchase both the cart and the tool together creates a financial barrier to participation in the tax offset, or conversely could encourage wasteful behaviour.

The amendment remedies this by ensuring that an eligible no-till seeder can comprise either the tool alone or the combination of the cart and the tool. The measure will apply from the same time as the original measure, 1 July 2012, to the benefit of primary producers wishing to upgrade just their seeding tool.

Schedule 2 phases out the mature age worker tax offset (MAWTO) from 1 July 2012 for taxpayers who were not already 55 or older on 30 June 2012, that is, those born on or after 1 July 1957.

Those currently eligible because they were aged 55 years or older on 30 June 2012 are unaffected by the change and remain eligible for the MAWTO.

By closing off the MAWTO to new recipients and investing in better targeted participation programs the Government will improve value for money while protecting those who have built the MAWTO into their household budgets.

The Government is encouraging workforce participation by older Australians through the $26 million Mature Age Participation – job seeker assistance program. This will provide eligible mature age job seekers aged 55 and over with a peer based environment in which to develop their IT skills, undertake job-specific training and prepare for work.

The Government’s $41 million response to the Final Report of the Advisory Panel on the Economic Potential of Senior Australians includes $10 million for new Jobs Bonuses that will encourage businesses to employ older Australians who want to stay in the workforce. The $1,000 bonuses will be paid to employers who recruit and retain a mature age jobseeker for three months.

The Government is also providing a $15.6 million extension of the successful Corporate Champions program to provide support to employers who wish to promote mature aged employment at their workplace.

Schedule 3 amends the excise law by putting in place a robust and sustainable compliance regime for gaseous fuels (liquefied petroleum gas – LPG, liquefied natural gas – LNG, and compressed natural gas – CNG) that recognises that the fuel tax regime applied to these fuels is different from that applying to liquid fuels.

The liquid fuels — petrol and diesel — are all subject to fuel tax before leaving licenced premises and entering the market. Fuel tax is subsequently removed if the fuel is used for non-transport purposes by way of fuel tax credits.

However, LPG and LNG that are destined for non-transport use are subject to automatic remissions of tax while non-transport use CNG receives an exemption when it enters the market.

As a result of the different approach for gaseous fuels where untaxed gaseous fuels can be held on unlicenced premises, a different
administrative approach is required to ensure that fuel excise is paid when it should be.

The amendments ensure that for duty-free gaseous fuels there are requirements on suppliers, whether licensed or unlicensed, for record-keeping and providing access to ATO officials. There is also an appropriate penalty regime to encourage compliance.

This regime will have lower compliance costs for the gaseous fuels industry than applying fuel tax to all gaseous fuels that enter the Australian market, with subsequent fuel tax credits where appropriate. Businesses that currently comply with their excise and excise-equivalent duty obligations should already be keeping the required records.

The remaining amendments in Schedule 3 clarify the tax treatment of gaseous fuels used in forklifts and make it clear that gaseous fuel not directly used in fuel manufacture is subject to duty.

The amendments in Schedule 4 make clear how fuel blends will be treated in the future. This is done by clarifying the Commissioner of Taxation’s power to make legislative instruments to deal with these situations, rather than relying on legislative rules for exemption. This will provide certainty for the industry, as well as a more flexible and robust approach.

The amendments commence on 1 December 2012.

Schedule 5 amends the list of deductible gift recipients (DGRs) in the Income Tax Assessment Act 1997. Taxpayers can claim income tax deductions for certain gifts to organisations with DGR status. DGR status will assist the listed organisation to attract public support for their activities.

Schedule 5 adds one new organisation to the Act, namely, The Diamond Jubilee Trust Australia. The Diamond Jubilee Trust Australia has been established to raise funds in Australia for the commemoration of Her Majesty Queen Elizabeth II’s Diamond Jubilee. It will collect funds for the purpose of delivering charitable projects for the support and advancement of individuals of all ages, with a focus on the poor and disadvantaged, through supporting the work of the Queen Elizabeth Diamond Jubilee Trust in the UK.

Schedule 6 amends the wine equalisation tax producer rebate provisions to ensure that a wine producer cannot claim a rebate for wine used in manufacture, unless the previous producer or supplier provides a notice that a previous producer is not entitled to the rebate on that wine.

The changes protect the integrity of the rebate by removing the opportunity existing under current legislation for multiple rebates to be claimed on the same quantity of wine. The Government has responded to the wine industry’s concerns about inappropriate access to the rebate.

The amendments reduce the amount of rebate a producer can claim for acquired wine used in manufacture, unless a notice is received. The amendments provide a voluntary system of notification, where notices state the extent to which the rebate has not been claimed on a sale of wine.

The amendments also prevent multiple claims of the rebate with respect to wine purchased from a New Zealand participant.

The amendments apply to assessable dealings on or after 1 December 2012 or the day on which this Act receives Royal Assent, whichever is later.

Full details of the measures are contained in the explanatory memorandum.

I commend this bill to the Senate.

Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012

This bill amends the Water Act 2007 to facilitate adjustment of the long-term Sustainable Diversion Limit (SDL) under the Basin Plan, within clearly set limits, and with a clearly defined process to provide transparency to this Parliament and the community. This mechanism will allow jurisdictions to work together collectively to improve on the socio-economic and environmental outcomes of the Plan.

I am committed to making a Murray-Darling Basin Plan to be presented to the Parliament that delivers a healthy river, strong communities and sustainable food production. The Basin Plan
involves far reaching reform of water management so that the Basin is managed as a single connected area and in the national interest.

It is clear that there will be a continuing need to adapt management of the Basin’s water resources over the next decade to respond to opportunities to obtain and enhance environmental outcomes, with, at least, no worse socio-economic conditions and vice versa. It is my view, therefore, that the Basin Plan should include an SDL adjustment mechanism. The mechanism will allow the outcomes of work to improve river management rules, infrastructure upgrades and the removal of constraints on the delivery of environmental flows to be integrated into the Basin Plan.

The inclusion of an SDL adjustment mechanism in the Basin Plan, which will be facilitated by this amendment, has been sought by all Basin governments. Stakeholders also raised the need for such a mechanism as part of the 20 week public consultation on the Basin Plan. The House of Representatives Standing Committee on Regional Australia, in its July 2012 Report into certain matters relating to the proposed Murray-Darling Basin Plan, also recommended the Commonwealth develop a mechanism to adjust SDLs automatically.

This amendment will allow the adjustment mechanism in the Basin Plan to operate as effectively as possible.

It is not the purpose of the bill to create the legal possibility of a mechanism. This already exists under the section 23 of the current Water Act. However, all jurisdictions and the Murray-Darling Basin Authority (the Authority) have now agreed that it is desirable for the Basin Plan to include an improved adjustment mechanism. The bill sets out the broad parameters for the mechanism, how it is intended to operate, and introduces transparency in the process, requiring any use of the mechanism to be reported formally and publicly to the Parliament.

Under the Water Act, the Basin Plan itself is a disallowable instrument and parliament will have the opportunity by that means to consider the precise elements of the SDL adjustment mechanism that will be written into the Basin Plan.

The current version of the Basin Plan includes an adjustment mechanism in accordance with the current act. As the legislation currently stands Parliament would not be notified of any adjustments, as well as these adjustments not being disallowable. This bill improves transparency while maintaining the position that amendments would not be disallowable.

The Water Act requires that the Basin Plan include an SDL for the water resources of the Murray-Darling Basin. This bill allows the Authority to make adjustments to the SDL in accordance with the provisions of the Plan. The adjusted SDL must continue to reflect an environmentally sustainable level of take, which is defined in the Water Act to include several elements.

It is envisaged that criteria to be specified in the Basin Plan will reflect the intention of all Basin Governments that the mechanism must operate on a no-detriment basis. The adjustments would then not be able to weaken the social, economic and environmental outcomes inherent in the Basin Plan.

Projects that enable environmental water to be used more efficiently, thereby reducing the need to remove additional water from productive use, must achieve equivalent environmental outcomes to those in the Basin Plan. Projects to enable improved environmental outcomes, must maintain or improve the socio-economic circumstances of basin communities compared with the Basin Plan.

Initiatives to recover more environmental water are likely to focus on things like improving the efficiency of on-farm irrigation or off-farm irrigation water delivery systems. The savings recovered by these initiatives will enable improved environmental outcomes to be achieved without impacting on irrigated production. These projects would be in addition to those already approved or planned to contribute at least 600GL towards the recovery of the proposed 2750GL, through the current Sustainable Rural Water Use and Infrastructure Program.

It is envisaged that governments would consider new investment in additional projects – called efficiency measures, in conjunction with action to address particular constraints in the
system, thereby enabling the best use of any additional water recovered for the environment. The government’s intention is that all ‘impact neutral’ water recovered under these efficiency measures can only be credited towards delivering environmental outcomes beyond those envisaged under a 2750GL reduction.

The water savings identified through projects – called supply measures, to make environmental watering more efficient, will mean the proposed 2750GL recovery volume can be reduced. These proposals will need to achieve equivalent environmental outcomes to those under the 2750GL reduction proposed in the plan. An example of a supply project could be installing works on a significant floodplain site to deliver improved environmental outcomes at that site but by using less water.

Projects of the sort that could in the future deliver efficiency or supply measures are already underway in many communities throughout the Basin. Some of these I have described above. However, there is always room for innovation. This bill allows for projects like those above that are familiar to communities and industry, as well as for innovative ideas, to be considered. As is standard practice, projects will be put forward by the community, stakeholders, industry and/or Governments. Projects will be developed over time and in consultation with funding bodies, and will undergo thorough assessment in the business case stage and also due diligence checks. This means projects will be well understood by the time they are considered and assessed by the Basin Officials Committee and the Authority.

The adjustment of the SDL will need to be based on the best available science, involving the use of models and assumptions generally accepted by professional hydrologists and other experts at the time the calculation of any adjustment is made.

The bill allows the Authority to determine that criteria set out in the Basin Plan have been met for the purpose of adjusting the SDL after considering advice from the Basin Governments through the Basin Officials Committee.

This bill provides that an adjustment may be made within a specified variance threshold; a maximum of five per cent of the SDL of Basin water resources as a whole, though the variance at individual water resource plan areas or parts of water resource plan areas may be more or less than this.

The bill will allow the Basin Plan to require the adjustments to be reflected in the State water resource plans, including during the generally ten year accreditation period of these plans. Having these State plans include a mechanism to reflect the outcomes of projects to use less environmental water and recover more water for the environment without impacting on the local economy means, that the outcomes of projects will be given effect in water resource plan. The precise mechanism for this would be included in the Basin Plan.

The bill requires Minister to table in Parliament the notice of adjustment and the amendment. The amendment will be a non-disallowable instrument reflecting its technical nature and that the criteria for any adjustments will be included in the Plan itself, which is a disallowable instrument. In addition to the explanatory statement that accompanies all legislative instruments, the bill requires that a notice be tabled with any amendments. This notice must include detailed information on the changes to the SDL at the water resource plan area level and at the Basin wide level, together with an outline of the material on which the Authority based its decisions in determining that the criteria in the Plan have been met in relation to whether to adjust the SDL and the amount of the adjustment.

In closing, these amendments to the Water Act 2007 will provide a simplified but certain and transparent process for making adjustments to the SDL within the Basin Plan, and enable the potential benefits of these far-reaching reforms to be fully realised.

I commend this bill to the Senate.

WHEAT EXPORT MARKETING AMENDMENT BILL 2012

On 1 July 2008, the Australian Government reformed wheat export marketing arrangements with the abolition of the single desk and the establishment of the Wheat Export Accreditation Scheme (the Scheme) administered by Wheat
Exports Australia (WEA). Previously Australian farmers could not choose who would export their wheat.

The abolition of the single desk has led to improved productivity and created new global export markets for Australian growers. This has led to improved job opportunities in rural and regional centres. There are now 26 accredited exporters with 19 of these being active in the last marketing year.

As promised by the government when the reforms were introduced, an independent review of the arrangements was undertaken by the Productivity Commission in 2010. The Commission found that the Scheme had served industry and the nation well, but that the industry was now mature enough to move to a deregulated model.

The government agrees in-principle with the Commission's recommendations. However, after carefully considering the views put forward by industry, it has decided to introduce the next set of changes through a staged approach which will provide a more efficient transition to full market deregulation in the longer term.

The first stage was the introduction of a 'lighter-touch' accreditation scheme to be applied until 30 September 2012. This change has reduced the level of 'red tape' for exporters while still meeting grower concerns about 'fit and proper issues' and maintaining the link with the access test for port operators that many exporters believe is critical. It is, however, not a 'softer-touch' as WEA still has the capacity to respond to any issues that may relate to the accreditation of an exporter.

Passage of the Wheat Export Marketing Amendment Bill 2012 will implement the next stages of the government response and complete the transition to a fully deregulated bulk wheat export market.

The bill will abolish the Scheme and the Wheat Export Charge (WEC) on 30 September 2012. WEA will continue in operation until 31 December 2012 to complete outstanding tasks such as preparation of its final Annual Report and also the Report for Growers.

Abolishing the Scheme will ensure that the benefits to industry provided by accreditation during the transition to deregulation are not undermined in the longer-term by the direct and indirect costs of continuing with a scheme that has served its purpose. These costs include the WEC and the administrative and regulatory burden of accreditation, as well as the negative impact of unnecessary regulation on efficiency and competition in the wheat industry over time.

The recent strong export performance has led to the WEA Special Account holding more funds than are required to fund the operation of WEA. As this represents an overpayment of industry funds, the government will look to amend the regulations and set the WEC rate at zero as soon as possible.

However, the Account will still hold surplus funds when WEA is abolished. The Department of Agriculture, Fisheries and Forestry will be repaid $500,000 owing from a previous funds transfer that was not used. The remainder will be reinvested in the wheat industry after consultation with relevant stakeholders.

The government agrees with the Commission's recommendation to retain the access test until 30 September 2014. The link between the access test and the ability to export bulk wheat will remain during this period. This action responds to concerns among some growers and traders about possible anti-competitive behaviour with respect to grain port terminal access.

Retaining the access test until 2014 will give the industry sufficient time, and appropriate incentives, to adjust to the new trading environment. It will also allow for some new features of the competitive environment to be institutionalised, while minimising the chances of damaging future investments or undermining reasonable returns to existing asset holders.

The bill will facilitate the removal of the access test requirements for grain port terminal operators on 30 September 2014. The market will then move to full deregulation, with all aspects of the industry subject to general competition law administered by the Australian Competition and Consumer Commission (ACCC). This will bring the wheat export market into line with other agricultural commodity markets and promote further competition in the wheat export industry, leading to increased productivity and profitability.
To provide certainty for growers and bulk wheat exporters about security of access to grain port terminal services in the longer-term, the access test will only be abolished if the industry has a non-prescribed voluntary code of conduct covering grain export terminal operations in place. The code must include continuous disclosure rules and be consistent with ACCC guidelines for voluntary codes of conduct. The Minister for Agriculture, Fisheries and Forestry will determine if the code of conduct is of a standard that will allow the abolition of the access test.

The implementation of an industry code of conduct will give growers certainty that, irrespective of which exporter they sell to, their product will gain access to grain port terminal services. It will reinforce Australia's international reputation as a reliable wheat supplier and give overseas customers certainty that all Australian exporters will be able to meet supply commitments. It will also help ensure that these facilities have the necessary throughput to attract the level of return on investment required to keep them viable.

The government is aware of some concerns from parts of the wheat industry that a lack of access to market information on stocks and flows of grains is impacting competitiveness. The government is willing to help industry find a solution, potentially through the voluntary code of conduct. It is already working with Grain Trade Australia and the wider industry to develop the code and strongly encourages all industry sectors to engage in this process.

If an acceptable code is not approved, the requirement for bulk wheat exporters that are grain port terminal service providers to pass the access test in order to be able to export will continue.

The bill reflects the government's commitment to promoting competition within the wheat export industry. Australian producers are the most innovative and efficient in the world. Passage of the bill will further develop a wheat marketing system that rewards this and provides benefits for all industry sectors.

I commend this bill to the Senate.

Debate adjourned.
COMMITTEES
Economics Legislation Committee
Education, Employment and Workplace Relations Legislation Committee
Environment and Communications Legislation Committee
Legal and Constitutional Affairs Legislation Committee

Report
Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (17:20): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Legal and Constitutional Affairs, the Education, Employment and Workplace Relations, the Environment and Communications and the Economics Legislation Committees, as listed at item 16 on today’s Order of Business, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

BILLS
Illegal Logging Prohibition Bill 2012
In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Bernardi) (17:21): The committee is considering the Illegal Logging Prohibition Bill 2012. The question is that amendment (1) on sheet 7202 be agreed to.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:21): Just before question time, the minister was indicating that he would not be supporting the inclusion of sustainability in the objects clause.

I am very disappointed in that. The government was being consistent totally with what the Labor Party said it would do—and that was to provide for a transition to sustainability ‘in the long term trade in timber and wood products from sustainably managed forests’—and now the government has abandoned that.

I was very disappointed to hear Senator Colbeck saying that the inclusion of sustainability was somehow an attack on the logging industry. The logging industry are saying all the time that what they do is sustainable. It is questionable, of course, and we would argue that it is not sustainable. But, nevertheless, they would say that their principle is to behave in a sustainable manner and to manage forests in a sustainable way. However, I accept the fact that both the coalition and the government are refusing to include sustainability in this bill about preventing illegal logging.

But before we move on I ask the government: given that it is the government’s intention, as it says, to be able to transition within five years, and to meet the government’s policy objective, can the minister explain to me how that is going to happen if sustainability is not in the objects clause?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:23): I thank Senator Milne for her question and her comments. At the outset I indicate to the chamber that we are clearly of the view that this legislation, as drafted, does in fact comply with both our 2007 and our 2010 election commitments. I will quote them.

Labor will encourage sourcing of forest products from sustainable forest practices and seek to ban the sale of illegally logged timber imports.

The bill will send the right message to sophisticated criminal networks. It delivers on our 2007 and 2010 election commitments,
and as such we will not be supporting the Greens amendment, as indicated.

The TEMPORARY CHAIRMAN: The question is that amendment (1) on sheet 7202 be agreed to.

Question negativ

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:24): I move Greens amendment (4) on sheet 7202, standing in my name:

(4) Clause 7, page 5 (line 5), at the end of the definition of "illegally logged", add "including, but not limited to, laws about the following matters:

(a) rights to harvest timber within legally gazetted boundaries;

(b) amounts payable in relation to rights to harvest and timber, including duties related to the harvest of timber;

(c) harvesting timber, including environmental and forest legislation including forest management and biodiversity conservation where it is directly related to harvesting timber;

(d) legal rights of third parties in relation to land use and tenure that are affected by harvesting timber;

(e) customs and other tax duties in relation to the timber product sector;

(f) trade in timber products."

This is a very important aspect of the bill. It goes to the definition of ‘illegal logging’. If this is going to be an effective piece of legislation, our definition of ‘illegal logging’ has to be consistent with that of other people around the world; otherwise, we are just going to end up with leakage. So, if the EU says a product is not suitable for their market because they regard it as being illegally logged, and we on the other hand say, ‘No, actually our definition is different,’ we are then going to have material sent here that would not comply in the EU.

The current definition lacks clarity and certainty. It simply says: "illegally logged, in relation to timber, means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.

This is quite different; it is very vague. The EU has much more specific definitional requirements. The Greens amendment seeks to ensure that the definition of ‘illegally logged’ is consistent with the EU definition. That is why at the end of the definition of ‘illegally logged’ we want to include—and it would include but not be limited to—laws about the following matters: rights to harvest timber within legally gazetted boundaries; amounts payable in relation to rights to harvesting timber, including duties relating to the harvest of the timber; harvesting timber, including environmental and forest legislation including forest management and biodiversity conservation where it is directly related to harvesting timber; legal rights of third parties in relation to land use and tenure that are affected by harvesting timber; customs and other tax duties in relation to the timber product sector; and trade in timber products. That is exactly consistent with the EU.

Also, the legal rights of third parties in relation to land use and tenure are critical because we find in many of the areas where timber is being illegally logged the rights of indigenous people, in particular, are abused as licences are granted over areas to which they have actual traditional rights. They are thrown off the land and the timber is harvested for the profit of the company that has the licence, whether or not that has been legally granted.

So, to just say that ‘illegally logged’ means ‘harvested in contravention of laws in force in the place’ is way too vague. I reject the government’s reasoning here: that by becoming more prescriptive in the definition you might result in some elements of applicable legislation being overlooked or
excluded through omission. That is one way of looking at it. On the other hand, when you go so vague it is going to be difficult to prove that something is illegally logged. So, I ask why the minister did not make it consistent with the EU definition. The EU have had this definition for some time. What is wrong with the EU definition and why would we not have adopted a definition consistent with it?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:28): The government did go through a process of considering all representations that were made around the question of a stricter definition. I understand there are a number of systems in place around the world, and the EU is one, but there are others. After consultation, particularly through the Senate committees, we believe we have a very clear definition in the bill. It says:

*illegally logged*, in relation to timber, means harvested in contravention of laws in force in the place (whether or not in Australia) where the timber was harvested.

The definition was supported by the two Senate committees that considered the bill, who noted:

... a prescriptive definition of illegally logged may have unintended consequences, or may result in some elements of applicable legislation being overlooked or excluded through omission.

The government is of the view that we have the balance right, and we will not be able to support the Greens amendments.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:29): By accepting such a vague definition we are going to end up with no cases actually ever able to be proven, because the laws in force in the place where the timber was harvested will be determined entirely by the level of corruption, or otherwise, in the administration concerned. It is as simple as that.

Are you going to tell me that in certain areas—in certain parts of Indonesia, for example—people are not going to hand out licences which will be consistent with the law of the place but nevertheless will be based on a corrupt regime? I still have not had an answer, and perhaps the minister can inform me why we would not go with the EU definition. What is wrong with going with a more specific definition that actually lays it out?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:30): The definition is a clear definition within the bill. In relation to timber, it means harvested in contravention of the laws in force in the place, whether or not in Australia, where the timber was harvested. This has been through two Senate committee inquiries that considered the bill and noted—and this is the challenge for us all—that:

... a prescriptive definition of illegally logged may have unintended consequences, or may result in some elements of applicable legislation being overlooked or excluded through omission.

So you can end up being far too prescriptive, which means that you find gaps, omissions and holes and you then have to backfill those and you end up with a very long, convoluted definition.

My view—and I think the Senate committee reports hold the same view—is that a clear, simple definition covers all of the issues that we have referred to. Over the next two years we will develop the regulations. Parts of the drafts are already out for discussion with the various stakeholders to ensure that the circumstances in which you describe do not occur. No-one
wants to see illegally logged timber from any
country get into this country. It is imperative
that we have a system in place—the due
diligence process—that ensures that.

Senator MILNE (Tasmania—Leader of
the Australian Greens) (17:31): I would just
ask the minister to tell me what is wrong
with the EU definition.

Senator LUDWIG (Queensland—
Minister for Agriculture, Fisheries and
Forestry and Minister Assisting on
Queensland Floods Recovery) (17:32): That
is a matter for the EU. I am sure when you
are in parliament with the EU you can ask
them that question. What I am keen on doing
is ensuring that the legislation for this
country is relevant, simple, and concise and
meets the expectations of stakeholders and is
workable.

Senator MILNE (Tasmania—Leader of
the Australian Greens) (17:32): I hope that,
when it is virtually impossible to bring a
case, this will be reviewed. I have yet to see
from the government or anyone else what is
wrong with the EU definition. Nobody has
actually been able to come up with that.
They have been working with this for a
while. However, I hear you saying that you
are not going to accept a more defined and
prescribed definition of illegally logged—and
so be it.

Senator COLBECK (Tasmania) (17:33): I indicate that the opposition will not be
supporting this particular amendment. It
gives a clear demonstration of the problem
that the government has got itself into with
this bill, whereby the regulations are not
fully available yet and so nobody really
understands the fundamentals of how a
breach of the act might occur. Hence we see
the Greens again trying to expand the
operations of the legislation versus what
might occur in the regulations—which the
minister has said are supposed to be
available shortly and some of which are
already available.

The fundamental difference between the
European system, the FLEGT system, and
what is being proposed here in Australia is
that the European system is in fact a
voluntary process, where countries make
country-to-nation arrangements that deal with
the specifics of the relationships between the
two countries. This is a catch-all piece of
legislation that deals with everything in one
hit. So there is a good reason to have a
difference in the way that the definitions are
put together in this context, because we are
dealing with a number of pieces of
legislation and a number of arrangements in
a number of countries. For example, the land
tenure issues in an individual country will be
very different in one place to another place.
In the EU circumstance, given that it is a
voluntary process and those arrangements
are dealt with under the umbrella of the
FLEGT system on a country-to-country basis,
there is a very good reason to have a process
where you might be more specific in the way
that you deal with it.

In this circumstance, the government is
again reinforcing the reasons that the
colalition is concerned about the way that this
bill is being brought on. The fact is that we
wanted the opportunity to be able to use the
Senate process to scrutinise the regulations
prior to the bill being enacted, so that we
could make sure that these sorts of problems
did not occur and we could cover off with
them as part of the Senate process. Whether
or not that occurs, I am not sure. I am not
whether the minister is going to have them
ready by 24 December—which was his
commitment to Mr Abbott in the letter he
wrote to him. I would hope that would be the
case. One of the things that the coalition
wanted to see was that the Senate had the
opportunity to look at the regulations prior to
the bill being enacted and the high-level
effects coming into effect under the legislation. But, in this context, the opposition will not be supporting this particular amendment, amendment (4) on sheet 7202.

Question negatived.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:36): by leave—I move Greens amendments (3) and (9) to (18) on sheet 7202:

(3) Clause 7, page 4 (line 24), at the end of the definition of due diligence requirements, add:

; and (c) for supplying timber products—has the meaning given by section 18E.

(9) Clause 13, page 9 (line 12), before "A", insert "(1)".

(10) Clause 13, page 9 (after line 21), at the end of the clause, add:

(2) The form of declaration prescribed by the regulations must require the person to include the following information:

(a) the name of the person importing the timber product;

(b) the name of the person who supplied the product to the person importing the product;

(c) the botanical name and the common name for the timber used in the product;

(d) the cost of the product to the person importing the product, in Australian dollars;

(e) the country or countries of origin of the product;

(f) the region or forest coupe, or any other information that identifies the site, where the timber for the product was logged;

(g) details of the logging permit, logging approval or harvest concession in relation to the timber for the product, issued by the country or countries of origin;

(h) the name and voyage number of the vessel on which the product is being imported;

(i) the number of the shipping container in which the product is being imported;

(j) any consignment identifier, bill of lading number or invoice number in relation to the product;

(k) a description of the product;

(l) the type of product being imported and the trade name, if any, of the product;

(m) if the product is comprised of more than one kind of timber or is comprised of timber and one or more other materials—the kinds of timber and other materials that the product is comprised of;

(n) the customs tariff classification to which the product belongs;

(o) the quantity of product covered by the declaration;

(p) the due diligence system, and any components of the system, in the country of origin used to verify that the timber for the product has not been illegally logged;

(q) an assessment of the level of risk that the timber for the product has been illegally logged, as either a low, medium or high risk;

(r) any other information prescribed by the regulations.

(3) A declaration made by a person in accordance with this section must be published on the internet within 7 days of the Customs Minister receiving it.

(11) Clause 14, page 9 (lines 29 and 30), omit "may include requirements in relation to one or more of the following", substitute "must include requirements in relation to the following".

(12) Clause 14, page 10 (lines 1 to 9), omit paragraph (3)(a), substitute:

(a) gathering information for the purposes of assessing that risk;

(13) Clause 14, page 10 (line 18), at the end of paragraph (3)(i), add ", including statements of compliance".

(14) Clause 14, page 10 (lines 20 to 29), omit subclauses (5) and (6), substitute:

(5) The regulations must provide that evidence of compliance with the laws, rules or processes under laws, including certification schemes, in force in a State or Territory or another country may be taken into account as part of the evidence
demonstrating compliance with due diligence requirements for importing regulated timber products.

(15) Clause 18, page 14 (lines 3 and 4), omit "may include requirements in relation to one or more of the following", substitute "must include requirements in relation to the following".

(16) Clause 18, page 14 (lines 5 to 13), omit paragraph (3)(a), substitute:

(a) gathering information for the purposes of assessing that risk;

(17) Clause 18, page 14 (line 20), at the end of paragraph (3)(h), add ", including statements of compliance".

(18) Clause 18, page 14 (lines 22 to 29), omit subclauses (5) and (6), substitute:

(5) The regulations must provide that evidence of compliance with the laws, rules or processes under laws, including certification schemes, in force in a State or Territory may be taken into account as part of the evidence demonstrating compliance with due diligence requirements for processing raw logs.

These amendments relate to due diligence and the declaration form that is required in relation to the import of timber in a determination of whether or not that timber has been illegally logged.

This is a critical provision as far as the Greens are concerned, because the current provisions relating to the declaration form are very unclear. When the officials from the Department of Agriculture, Fisheries and Forestry were in a working group meeting in August 2011 they proposed, without prejudice, a declaration form that was modelled on the Lacey Act.

It required information regarding the species and genus of the timber, the country of origin, the value of the import and other information critical to satisfying due diligence. But it is not clear what the declaration form in the current bill is going to be. It appears to be primarily a declaration of legality.

Whilst we support a declaration of legality, it is not clear what other information is going to be on that form. I am asking for the minister to be very specific about this level of information, because one of the very key things for the Greens is that you must be able to trace the timber in any timber product back to the coupe. If you cannot do that then you are never going to prove that it has been illegally logged. I make that point very strongly.

Most of the areas in the world from which you secure timber are going to have legal operations as well as illegal operations. Unless you can trace the actual timber back to the coupe, you might as well give up on this; it is just a piece of window dressing unless we can do that. The Greens are saying the form should include the following:

(a) the name of the person importing the timber product;

(b) the name of the person who supplied the product to the person importing the product;

(c) the botanical name and the common name for the timber used in the product;

(d) the cost of the product to the person importing the product, in Australian dollars;

(e) the country or countries of origin of the product;

And I say 'countries of origin' because timber is often logged in one country and sent to another country, where it is made into a product and then sold into a third country. So timber illegally logged in Indonesia could find its way through Singapore or into China and back into Australia as a piece of furniture or some other product. Unless you have the country or countries of origin, then it would be just a piece of furniture 'made in China' and the actual origin of the timber would not be known. The form should also include:
(f) the region or forest coupe, or any other information that identifies the site, where the timber for the product was logged;

As I indicated in my second reading speech, this is absolutely critical. I go back to 'forestry law 41' in Indonesia, which was a forestry law that protected forests. The mining industry in Australia got it overturned.

If you go down to the coupe level, that will tell you who has the licence to log. If it is illegal, that is one thing; but you also need to be able to know whether a deal was done, with local government or the national government or whatever, in order to give a licence to somebody. That would be consistent with the law but nevertheless would be illegal, because it was delivered in relation to bribery or because it actually sold off land that did not belong to the person involved in the first place. So you need to be able to go to the corruption as well as to the notion that it was illegal. They are the two things and that is why you have to be able to go back to the coupe.

The point is that with DNA testing, you can do this. One of the brilliant things about science now is that, if you go to the coupe level, you can actually do DNA testing. You can cut down a tree in the particular coupe and you can do the DNA testing. If it turns up in some piece of furniture, you can determine exactly where it came from, providing you do the original work in the first place. This is the issue for me. The form should also include:

(g) details of the logging permit, logging approval or harvest concession in relation to the timber for the product, issued by the country or countries of origin;

(h) the name and voyage number of the vessel on which the product is being imported;

(i) the number of the shipping container in which the product is being imported;

(j) any consignment identifier, …

(k) a description of the product;

(l) the type of product being imported and the trade name, …

(m) if the product is comprised of more than one kind of timber or is comprised of timber and one or more other materials—the kinds of timber and other materials that the product is comprised of;

(n) the customs tariff classification to which the product belongs;

(o) the quantity of product covered by the declaration;

(p) the due diligence system, and any components of the system, in the country of origin used to verify that the timber for the product has not been illegally logged;

(q) an assessment of the level of risk that the timber for the product has been illegally logged, as either a low, medium or high risk;

(r) any other information prescribed by the regulations.

That is the kind of brief you need if you are going to get serious about tracking products or illegal timber that comes into Australia. If you do not do that—and you just go with what appears we are going with, which is basically a certification system, just saying that due diligence could be satisfied by reliance on certification schemes or on the laws of the country in force at the time—then the standard being imposed on importers is a negligent standard. It requires that importers make informed decisions regarding the nature of the evidence that must be provided in order to reasonably assure legality. Allowing existing schemes to replace the obligations on importers, in my view, runs contrary to the bill.

So, from my point of view, we need to be very specific, and I would like the minister to stand up and tell us now: what is actually going to be on the declaration form? Will it go down to the forest coupe level? Will it have DNA identification? If no, why not?
Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:43): So as not to disappoint Senator Milne, I will be direct: it will not go down to the coupe level. Sometimes I think there are two debates going on. It is a due diligence process. What we want to ensure is, ultimately, that the industry is not so burdened by regulation that it cannot operate, even where it is positively seeking to import timber of any description from well-known sources. What we do want them to do, which is outlined in the bill, is to prohibit the importation of timber products—that is the first overarching thing we are doing by passing this bill. The second is allowing a process to run its course for the next two years, where the due diligence can be worked through with industry so as to achieve the outcome.

If you go to the second reading speech, the outcome is about the following:

Our own research and the work of the European Union indicate that the best way to minimise trade in illegally harvested product is to implement a due diligence framework. Importers and processors will be required to undertake a process of due diligence on those products to mitigate the risk that the timber has been illegally logged. The level of culpability for these products is negligence which differs from the standard subjective fault elements of intention, knowledge or recklessness. Negligence is an objective fault element which looks to the standard of care that a reasonable person would exercise …

It is important to ensure that the trade in timber products can continue and that the importers at the border—not those all the way down the supply chain—can provide a due diligence to the regulator to ensure that the timber is not illegally logged. There is also a compliance framework in place. There has to be a compliance framework so that we can then assess how it is running.

The third issue which I would bring to your attention is the system that you are suggesting is a prescriptive one which would, quite frankly, not work. It would mean that the burden on each importer to have all of that detail would effectively halt the trade. It is not the intention of this legislation to do that.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:46): I would like to ask the minister if, under what he proposes, a piece of furniture comes into this country from the Congo, how would he know whether it was illegally logged or not?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:46): Without naming or indicating countries, it is about the due diligence process. The importer will be required to undertake a due diligence to their satisfaction that it is not illegally logged timber. The compliance system in place will ensure whether or not the due diligence has been undertaken. The system is not new or novel. It works in a range of industries, and it works very effectively in a range of industries. It was one that the Senate committee looked at and adopted. It is one that I have been persuaded would operate fairly and effectively to ensure that we would do two things: we would minimise the risk of illegally logged timber entering Australia but still allow the trade to continue—that is, the trade in legally logged timber—without tying it up in that much red tape that it would prohibit the industry from operating.

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:47): Basically, you are saying that all an importer has to say is that, as far as they are concerned, they believe that it came from a legally logged coupe. Whether or not somebody bribed...
someone to give them a licence does not come into it. Even so, for example in the Karijini National Park in West Sumatra, we know that there is illegal logging going on. If you were an importer, how would you know otherwise if they say: ‘Oh, no, it didn't come from there. It came from logging outside the park'? How is that importer going to know the difference?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:48):

Again, if you look at the way the legislation is constructed, it states:

Timber products, for which due diligence will be required, will be prescribed by regulations that will be developed … The government will use— if you logically work through how due diligence works—

a number of inputs when finalising timber products to be prescribed by regulations including an economic assessment of the range of product types, value and volume of timber annually imported into Australia.

Importers of regulated timber products and processors of domestically grown raw logs will be required to undertake due diligence …

They will find that they have to comply with the framework on what they have to do to satisfy themselves that they have undertaken that due diligence. Undertaking that work will be based on a risk management approach. That risk management approach will assess various risks and take into account the issues that you have raised to ensure that the due diligence is well done, accurate and provides the regulator with sufficient information to also look at it. It will also be an area where the compliance program in place can test these due diligence statements as well.

It is important not to have a system that simply halts trade at the border of both illegally logged timber and legally logged timber. It is important that we do have a system. This system is one that has been recognised by the European Union. It is a system that is risk based. If you look at the majority of systems that we are putting in place today, they are risk based. They are not interventionist models. They are not prescriptive models. They work on the basis of a compliance framework finalising both the risk based system plus a compliance system to ensure that we minimise the risk of illegally logged timber. Would you then guarantee forever that you will not get illegally logged timber into Australia? It is about minimising the risk. There will always be some people who will take the risk. What we want to ensure is that they get caught.

Senator XENOPHON (South Australia) (17:50): I have a number of questions for the government that relate to Senator Milne's amendment. The minister says the bill is about minimising the risk of illegally logged timber. I will ask some general questions, if I may, before I go to the specific aspects of Senator Milne's amendment. Firstly, what is the government's best estimate of the amount of illegally logged timber that is coming into Australia at this time? Secondly, the government says that this bill is about a framework to minimise risk of illegally logged timber. I will ask some general questions, if I may, before I go to the specific aspects of Senator Milne's amendment. Firstly, what is the government's best estimate of the amount of illegally logged timber that is coming into Australia at this time? Secondly, the government says that this bill is about a framework to minimise risk of illegally logged timber coming into this country. This is an issue in terms of not just deforestation and environmental damage but also costing Australian jobs. What does the government say should be the target? What is its goal, aspiration or policy aim? To what extent does the government say that this bill will reduce the level of illegally logged timber, and what is its broad policy aim for the next five to 10 years, for instance?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on...
Broadly, if you look at the global trade, it is sometimes very hard to be accurate by individual countries. If you had a sense of that then you might have a different approach. You can do an assessment but it is very hard, until you put a framework in place, to look at the particular size and nature of illegally logged timber. The broad assessment would be that it is about $400 million, if we are to use a figure, but again I would not say with any degree of accuracy that that is the number. The legislation will look to ensure that we minimise it—

Senator Xenophon interjecting—

Senator Ludwig: Yes, that is in Australia. The global figure is much bigger; it is about $60 billion. It is worthwhile to reiterate the three steps to the due diligence process. It is about identifying and gathering information to enable the risk of procuring illegally logged timber to be assessed, then assessing and identifying the risk of timber being illegally logged based on this information, and then mitigating this risk depending on the level identified. I always talk about a framework, so firstly you have the due diligence process in place, which is about identifying, gathering, and assessing and then having a compliance framework to ensure that the risk is minimised. We do not talk about a zero tolerance because it is a risk based framework. The aim is always for a zero tolerance but the risk based system will provide that the compliance framework is in place to ensure that illegally logged timber coming into Australia is minimised.

Senator Xenophon (South Australia) (17:54): Further to that, can the minister advise where that figure of $400 million comes from? If the global trade in illegal logging is worth $60 billion, is that $400 million a ballpark figure? Does the government consider it could be greater than that? Let us assume that it is $400 million: if there is a framework, as the minister has outlined, to minimise the risk of illegally logged timber coming to Australia, can the minister advise what the government says would be the likely outcome of this bill? What is intended to be the policy outcome? Is it going to be $50 million or $100 million in three or four years' time? Will it be a more gradual process than that? That is quite important.

I should also say at this stage that earlier today I made reference to Clare Rewcastle Brown, who has been very active with Radio Free Sarawak, who has been outspoken on illegal logging, who cannot get back into the country of her birth, Malaysia, because of the matters she has raised both in her blog and on her program. I made references to publicly available information such as found in Wikipedia, but I should also point out that I have had conversations with Clare Rewcastle Brown earlier this year that I found very enlightening in terms of the work she does.

Going back to that figure of $400 million, does the government concede it could be greater than that? But assuming it is $400 million, what does the government hope the effect of this bill will be in approximate dollar terms in reducing the level of illegal logging coming into the country?

Senator Ludwig (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:56): If you put it into perspective, Australian imports about $4.4 billion of timber and wood products, excluding furniture, annually. Australia's proportion of illegally sourced timber products has been estimated to be about nine per cent—and it is an estimation of total imports—or $400 million, as I said. If you go to the revised EM, there
are two reports that are noted on page 44. One is Poyry’s 2010 report, *Legal Forest Products Assurance—a risk assessment framework assessing the legality of timber and wood products imported into Australia*, and that is where the figures are obtained. It might provide some assistance.

As to the impact, it is about adding to the global stock of countries that are working to end the trade of illegally logged timber. In doing that, it is not only about what will happen in Australia but also about joining with the EU as it moves to operate in March 2013. It is about joining with the Lacey Act in the US. It is joining with Australian efforts to combat illegally logged timber and, ultimately, it is about bringing an end to the trade of illegally logged timber. That clearly is the long-term goal. What we expect to achieve in the short to medium term is difficult to quantify. However, it would certainly be a matter of looking five years hence—should the legislation pass and the review is undertaken—and expecting to see a significant reduction from the estimate of nine per cent that is currently there.

Senator XENOPHON (South Australia) (17:58): I do want to get to Senator Milne’s specific amendment in a minute, but these are preparatory matters that from my point of view are essential to lay the groundwork for the context of Senator Milne’s amendment. What does the government say in relation to the comparison between this bill and the EU laws that will be in place by March 2013 and the Lacey Act in the US? Does the government say that this bill is more stringent or less stringent than the legislation in the European Union or, indeed, in the United States? What are the key differences between those pieces of legislation? I know that the Gibson guitar case has been referred to in the United States as to how that law has operated there.

In terms of being able to measure the success or otherwise of this piece of legislation, what auditing, what benchmarking, what analysis and what approach will be taken to measure this? If we pass a piece of legislation, and there is no way of knowing how effective it will be or not, you will have criticism from both sides of the fence on this—from the Australian Greens, who say that it is nowhere near stringent enough, and from the opposition, who say that it is tying up businesses in red tape. I am just trying to establish how we are going to measure the effectiveness of this piece of legislation. What auditing processes will there be to measure it? Or is it, to quote a former US defence secretary, a known unknown or an unknown unknown?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:00): Far be it for me to quote ex-US defence secretaries. The important thing to look at, if you reflect on what you said, is that there is one extreme element that says that I have not gone far enough. That is not in this chamber. There is another extreme element that says that we should do nothing. I actually think that on the basis of that I have probably got the balance right. What we as a government have done is looked at the experience under the Lacey Act and drawn on the EU experience to make legislation that is both relevant and practical to Australia, that does not impede to such an extent that it does not operate, that means that at the border the importers can meet the diligence requirements and that the importers can meet the objects of the act to ensure that we do minimise the risk of importing illegally logged timber.

In respect of your auditing question: there will be audits. The way it will operate is that the regulator will do audits of the importers,
of all of the relevant paper warfare that they do to ensure compliance with the legislation. That is how it works. That will be based on risk, using a risk matrix to determine where the risks lie and making sure that the audits target risk. Otherwise you will end up with a model that simply checks everything. If you check everything, you will be wedded to a paper warfare that does not actually combat illegally logged timber. It will just be producing ticks on sheets of paper. This matrix, a proper auditing process that targets risk, is about targeting where your high risks are and auditing those. Of course, the way audits work is that if there are issues that arise then usually there are more audits for those areas to ensure compliance. You do not simply audit it once, find a problem and move on. The risk matrix system usually encourages that you go back and continue to check those to make sure that they do comply.

Senator XENOPHON (South Australia) (18:02): I have just a couple more questions, if I may, and I will get to Senator Milne's amendments in a moment. Is the minister saying that the risk matrix that he refers to will be similar to the risk matrix we have, for instance, for biosecurity? Will it be one in 100 or one in 200? Will it be determined by intelligence as to where the source of the timber may be? Also, will details be made publicly available as to the number of the resources and the number of audits that take place? They are just some preliminary questions.

As to the specific amendments proposed by Senator Milne, is the minister saying that any of the parts of the information requested by the Australian Greens in this amendment—such as details of the volume permit, the name and voyage number of the vessel, any consignment identifier, a description of the product or the Customs tariff classification to which a product belongs—are in themselves unreasonable in the context of what is being proposed? I realise that Senator Milne's amendments are quite prescriptive, but is the government saying that what is being sought by Senator Milne through her amendments is in itself unreasonable or onerous, or is it saying that it proposes, at least in broad terms, to cover the matters raised by these amendments in the regulations?

Further to that—I do not want to throw in too many questions, but I am conscious that these are Senator Milne's amendments—does the minister concede that the matters sought by Senator Milne would actually close the loop in trying to determine whether a product is illegally logged or not? I am trying to understand the context of the effectiveness of this legislation without it having an undue regulatory burden but with it also being effective in terms of its intent.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:05): The easiest way to explain it without doing injustice to Senator Milne is that Senator Milne's model is an interventionist, prescriptive model. The model that is before the Senate today is a due diligence model. They are different, so they are like comparing oranges and applies, to give an analogy from our agriculture minister. Senator Milne's prescription would not operate in a risk framework system. Why? It is because if you adopted an interventionist, prescriptive model then you would have a whole different type of legislative underpinning for it. If you then tried to stick it into a risk based model like this one, it would sit there with a range of onerous requirements that could never be met by importers for legally logged timber, let alone illegally logged timber, and the system would not operate.
The way that this matrix system works is the same way it works for Customs, the same way it works for business and the same way it works for a range of other industries that manage risks. It is about identifying those risks, gathering the information about those risks and having a compliance framework to deal with those risks. You are effectively asking me to compare two different systems. I have rejected the earlier system, which was a prescriptive system, as being unworkable. I think the Senate committee also adopted that, or maybe it was around the other way. Maybe the Senate suggested that a risk based system was far more user-friendly, far more able to be operated and would also achieve the aim, which is critically important—that is, minimising the importation of illegally logged timber.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:07): The minister has just completely undermined himself. Anyone who has dealt with the Rural and Regional Affairs and Transport Committee knows that the committee has very little confidence in the import risk assessment matrix when it comes to biosecurity. We have been through it a thousand times. You say that you identify the risk and it is all managed, and everything. Our experience is—and Senator Boswell will confirm this as well—that the risk assessment has been absolutely hopeless. We all know that.

On that, Minister, I do not know if you heard Background Briefing over the weekend. I was completely horrified to hear about the level of illegal import of birds into Australia. The fact is there was an aviary full of diseased birds and when the vet informed the owner of the aviary that the birds were diseased and that the disease could only have come in on an illegally imported bird, the aviary owner sold all the birds in the aviary all over Australia—presumably spreading that disease all over Australia. No action could be taken because the disease was not on the list of prohibited diseases in Australia. That is how the import risk assessment works for biosecurity. We have seen it.

If you tell me that this is going to be an import risk assessment of whether timber has been illegally logged then I can tell you now there will be zero prosecutions under this. What assessment are you going to make of the level of risk that timber coming from Indonesia has been illegally logged? What level of risk are you going to give timber coming from PNG having been illegally logged? What is the level of risk from the Congo? There is no way that you could import those things without saying that there would be a high level of risk.

Now that the DNA technology is available, you can trace where timber comes from. That is how they traced back the floorboards in the stadium at the London Olympics to timber logged out of Tasmania's forests. That is how they did it. That is how we can do it. If you are serious about illegally logged timber, that is what you would be doing—going to DNA testing not to a matrix of risk. There is so much corruption in these countries in handing out logging licences that they may well comply with the law, but the fact that they have been illegally allocated in the first place cannot be covered in your so-called risk matrix.

I will be fascinated after a short period of time to see whether there have been any prosecutions. Frankly, how is an importer of a lounge suite going to make an assessment about whether the structural timber in that lounge suite has been illegally logged? How are they possibly going to do that? I am intrigued as to how you can apply a risk matrix to that. Minister, I would like to specifically know: now that the technology exists, why would you not include DNA testing and coupe identification? In that way
you would have an absolutely foolproof system—you would not be able to deny where the tree came from in the first place.

It seems to me that, if you are not going to go this way, we are going to end up with window-dressing around illegal imports of timber. When and if you try to prosecute an importer saying that they have imported illegal timber, they will simply say, 'When we did the risk analysis we determined that there was a low level of risk that it would be illegal.' How are you ever going to prove it is not, anyway? It seems to me that what we are seeing now with the refusal to do this is we will get a piece of legislation but it will not deal with the kinds of serious undertakings to stop the importation of illegal timber that you say you are trying to stop. I want to know why you think an import risk assessment matrix is superior to DNA testing at the coupe level, whereby you can take a sample of any product, any time, anywhere and away you go.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:11): For the due diligence, say, it does not rule out that the importer may utilise that type of technology. It is not technology specific. The difficulty always is that if you pick a particular technology—and you would be familiar with telephone interception legislation—over time you can get caught and find that it has been overtaken by new and different types. That is why it is a framework based on due diligence provided by the importer and audited by the regulator. If the importer wants to use that type of technology, it does not rule it out and it can be utilised to substantiate their due diligence. It is important to recognise here that it is not a requirement that everyone adopt a particular type of technology because it will not suit all circumstances.

Again, the importer of commercial quantities of furniture will have to go through a process of due diligence. On the risk matrix, I think you misunderstand how a risk matrix operates. It is the same one we use in policing. It is the same one we use in business. We utilise the same risk matrix. Again, you confuse an IRA with a risk matrix. They are two different things. I cannot help with why you confuse that, but you do. It is important to recognise that risks identified are the important part. You identify high risk, you identify moderate risk or you identify low risk, and your effort is in the high-risk area.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:13): I reject the notion. The minister says, 'An importer could use that technology.' They cannot use that technology unless there is a record of a sample being taken at the point at which the coupe is identified. Otherwise, yes, you could get a DNA test that would tell you something about that piece of furniture, but it does not tell you where it came from if you do not have an original sample to measure it from. That is the whole point: to give yourself a benchmark against which any derived product can be measured.

It is quite clear that the government is going to go down this path which I think will be ineffective. The technology already exists to do a much better job in terms of due diligence, but it is obvious that the government is not going to support that happening.

I think we are going to end up with a piece of legislation where the due diligence and the declaration form are superseded and we are going to have a below-average kind of system. It would have helped us a great deal if we could have seen the form that we are going to use before debating this here, rather than just having a vague reference to it.
Senator XENOPHON (South Australia) (18:14): Further to Senator Milne's statement and line of questioning, can the minister indicate whether the DNA technology that can be used could form part of the risk matrix? In other words, could there be a requirement that there be DNA taken at the source of the logging and in the finished product in Australia? Is that something the minister would consider likely or unlikely? Does the minister concede that it would be a gold standard in ruling out whether a particular product was coming into Australia from a source of illegal logging?

My other question relates to matters I raised this morning regarding the serious allegations made by Clare Rewcastle Brown of corruption in the state government of Sarawak, led by Chief Minister Abdul Taib Mahmud. How does the government of Australia propose to engage? We are not talking about a rogue operator, where you can get the cooperation of another government; these are serious allegations of state based corruption, as Senator Milne has pointed out. The allegations are online that a former aide, who was an informant for the Sarawak Report and Radio Free Sarawak, was found dead in a Los Angeles hotel room with a plastic bag around his head in September 2011, just over a year ago. How do we engage with that, and do you concede the issue of DNA testing is the gold standard to determine risk?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:17): I will separate the two concepts. One is the due diligence that is required by the importer and one is the risk matrix. They are distinct and different. When you talk about DNA as being part of the risk matrix you have fallen into error. It is not part of the risk matrix. It is for the importer to demonstrate whether or not it is legal timber, through due diligence. They may utilise that DNA testing, but they may also utilise a whole range of other legitimate ways to demonstrate that it is not illegally logged timber.

Secondly, regarding the risk of corruption more broadly, the Australian government works through a number of multilateral forums, including the United Nation's Commission on Crime Prevention and Criminal Justice, to combat illicit timber and forest products trafficking in the Asia-Pacific region. In 2010 the Attorney-General's Department and AUSTRAC delivered workshops on environmental crimes and money laundering which were attended by a number of Asia-Pacific nations. That is, broadly, the work that the Australian government does in these regions.

Specifically, the way this legislation will operate is that it will require due diligence by an importer to meet all of the requirements within the legislation. The auditing and the compliance system in place—in other words, the third part—will identify where there has been problems in the due diligence process. That is the answer to the two parts to the second question, which related to the international work that the government is doing in those fora and to how the compliance system will work on the ground.

Senator XENOPHON (South Australia) (18:19): That brings us to a specific issue, to see how this works in practice. Has the Australian government made any representations to the federal government of Malaysia in relation to the many allegations of gross endemic corruption and violence involving the state government of Sarawak? There is a perception that the government of Australia may feel constrained in representations that it makes, in part by virtue of the free trade agreement. It also—and this is an issue that has been raised—
may feel constrained to raise these uncomfortable matters with the federal government of Malaysia as a result of the so-called 'people-swap deal' on which this government has had numerous negotiations.

What is occurring in Sarawak is of grave concern. I have spoken to Clare Rewcastle Brown and she has expressed those concerns in the strongest possible terms. Have any representations been made to the government of Malaysia given our close relationship and friendship with the people of Malaysia? There are concerns that in the context of illegal logging there may be gross and systemic corruption at a state government level—has that ever been raised with the government of Malaysia?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:21): Much of that will fall outside of my portfolio, but I will take it on notice and see if I can provide a response. The EM itself explains the range of bilateral cooperation that this department has—Australia has signed bilateral agreements with China, Indonesia and PNG which include cooperation arrangements for combating illegal logging and promoting sustainable forest management. The government is seeking to strengthen the current level of cooperation with Indonesia to combat illegal logging, and has arrangements in place to work with Malaysia in this policy area. It has engaged in discussions to formalise cooperation with Vietnam and New Zealand on similar issues.

So work is being undertaken on that and also on ensuring those relationships to combat illegally logged timber are strengthened. But I do want to take the specific issue on notice. I think it would be an error for me to venture there without getting advice.

Senator XENOPHON (South Australia) (18:22): I do not want to hold up Senator Milne in relation to this but, finally, I was in Malaysia over the weekend. I met last Friday, at length, with the opposition leader, Anwar Ibrahim. There are real and serious concerns in that nation—in terms of those who could be facing elections at any time between now and towards the middle of next year—about irregularities in the electoral rolls and widespread electoral fraud, and that the elections could well be stolen. I am concerned about how the Australian government feels about how robust any system put in place with Malaysia would be where independent groups such as Bersih, the movement for clean and fair elections in Malaysia, have raised very serious concerns. These bilateral arrangements will only be as good as the willingness of both parties to enforce them and, given what Anwar Ibrahim himself told me just three days ago of his grave fears about the true will of the Malaysian people being reflected at the next election, it makes me worry about collateral issues such as illegal logging and the fulsome cooperation of the Malaysian government in respect of that.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:24): I just want to know from the minister: will due diligence be satisfied by certification schemes? Will you take that as saying, 'That's due diligence; we're now satisfied because it has certification that the timber has not been illegally logged'? Will that be enough for your form?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:24): The importer can use a certification scheme as part of due diligence or in satisfaction of due diligence. But, again, they are audited and looked at to see whether or not they are a
true reflection of what occurs. So, again, it is an area where, at face value, you would say it would satisfy due diligence. That is why you have an auditing and compliance system in place—to ensure that it is a legitimate certification, that certified documents are used, that the chain is there and that all of the requirements are met. It is not about us projecting into other countries to examine their systems. It is about ensuring the importer at the border has undertaken the requisite due diligence for the timber to be allowed to be imported into Australia.

In dealing with Senator Xenophon's broad question, again, I will narrow it to this: it is about ensuring we have a due diligence process in place to deal with the importation of illegally logged timber at the border. That is the nub of the issue. As to what happens in particular countries, I am sure you can ask the Minister for Foreign Affairs about our broad engagement with a range of countries across the globe. But the interest here is about minimising the importation of illegally logged timber, utilising a risk framework with due diligence placed on the importer—that is, the Australian importer—to ensure that they have taken the necessary steps to ensure that the timber is not illegally logged.

Senator MILNE (Tasmania—Leader of the Australian Greens) (18:26): I just ask for clarification from the minister: I did ask whether due diligence could be satisfied by certification schemes. I understand that it could be part of what might be a due diligence test. What I am asking is: will the minister rule out that certification will replace other obligations, if you like, that may be on the form?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:27): It forms part of the due diligence process; it does not replace it. There is third-party certification by the FSC, the PEFC and the national certification scheme in Indonesia, the SVLK, which is being developed to meet EU requirements. They are all certification schemes. Should an importer utilise those, they will form part of their due diligence. It is not a case of ticking one box; it does not mean having one box ticked. It is due diligence.

Senator BOSWELL (Queensland) (18:28): I would like to ask a question, following Senator Milne's question, about due diligence and certifying bodies. There are two, as far as I am aware. The Forest Stewardship Council and its ruling general assembly includes Greenpeace; the Wilderness Society; the Australian Conservation Foundation; Friends of the Earth; the World Wildlife fund, WWF; and other environmental non-government organisations, ENGOs. What place will those certifying bodies have in the legislation? How will they be written into legislation?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:29): They are not written into the legislation as such. An importer could use them as part of their overall due diligence process. It is not the case that they play a role in the legislation. It is a matter for the importer to determine how they will meet that requirement. So they could either use FSC as a way of meeting their due diligence requirements or use a range of other measures to meet the due diligence requirements.

Sitting suspended from 18:30 to 19:30

Senator COLBECK (Tasmania) (19:30): I indicate that the opposition will not be supporting these amendments. As the Minister for Agriculture, Fisheries and Forestry said—and I am trying desperately
not to verbal him—these amendments effectively could shut the trade down, because they are all about Greens tape. They are about not utilising the process that was discussed during the Senate inquiry. They are about making the process so difficult and so complicated that it is effectively impossible to carry out trade.

For the information of the chamber I can indicate that the draft statement of compliance, or due diligence declaration, includes: the vessel name, the voyage number, the container number, the consignment identifier, a description of the product, some information about the origin or the country of harvest, the name and address of the timber or wood product supplier, the name and address of the importer, the quantity of the product, the value of the product and the due diligence system used to verify the legality of the product.

It is important to understand that a due diligence system, whether or not it be a certification scheme, is not just about ticking a box or having a certification scheme. It is about, if you have a certification scheme, complying with that, your audits saying you are complying with that, and there being processes that you undertake to verify what you are saying within your certification scheme. That could include FSC certification or PEFC certification. As I said in my contribution on the second reading, PEFC are putting into place as part of their certification systems a due diligence stream. As I understand it, at this point in time FSC have not announced whether or not they are going to do that. If they decide not to do that, it would be a fairly significant deficiency in their scheme. Quite frankly, I do not see how they can afford not to have a due diligence stream within their certification system if they are going to be serious players in the market in respect of supply chain certification. One of the important elements of any certification scheme is the chain of custody certification.

To reinforce my concerns about the potential costs of what the Greens are proposing—and it is clearly about imposing costs on timber traders and importers; they know what they are doing, which is trying to impose additional costs on the industry—I have an example of a business that has looked at one product line in a process of working out how it will comply with what is being proposed at this point in time. This business is looking at a fairly simple complex-wood product which is a three-ply. Across this business there are over 1,500 import consignments a year with an average of 42 individual product lines in each consignment. That is a total of 63,000 separate due diligence declarations that this business will have to fill out. Complying with the draft due diligence declaration took this business about 1.5 hours. The business says it can bring this time down with systems that will be put in place, but that is not the real issue. If you consider those 63,000 declarations at 1½ hours each and even consider that this can be taken down to half an hour each, that is still a significant workload being imposed. Just imagine what it would be like if the list that the Greens want to impose is put in place, rather than a systems based approach, which is what the committee recommended.

The real problem is that even though it is a relatively simple product, a three-ply product, and despite the fact that the supplier has full chain of custody certification from FSC for the mill and for one of the four concessions it controls, the business was still unable to identify the core of the veneer in terms of species or the concessions from which the logs were sourced. What Senator Milne is trying to impose again reinforces the concerns that the opposition has. It is
about businesses having the systems in place to be able to comply with the legislation and giving them the time to do that. Even with full chain of custody certification from the Forest Stewardship Council, this business still cannot identify the core material for the plywood. That basically shuts that product out of the Australian market under the Greens proposal. It reinforces the opposition's concerns about ensuring that the systems are put in place to allow the compliance to occur. I do not think I need to say any more on this at this point in time. I have reinforced the concerns that we have and the proposition that we put to the government when Mr Abbott wrote to the Prime Minister earlier in the year. I have also indicated that we will not be supporting the Greens amendments.

**The TEMPORARY CHAIRMAN (Senator Moore):** The question is that Greens amendments (3) and (9) to (18) be agreed to.

The committee divided [19:41]

The TEMPORARY CHAIRMAN—Senator Moore

Ayes.................10
Noes.................29
Majority..........19

AYES

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

NOES

Back, CJ
Brown, CL
Carr, KJ
Conroy, SM
Edwards, S
Fawcett, DJ
Gallacher, AM
Ludwig, JW

Madigan, JJ
Moore, CM
Polley, H (teller)
Russon, A
Stephens, U
Thistlethwaite, M
Williams, JR

McKenzie, B
Nash, F
Pratt, LC
Smith, D
Sterle, G
Thorp, LE

Question negatived.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (19:44): by leave—I move amendments (2), (5), (7), (8) and (19) together:

(2) Clause 6, page 3 (lines 10 to 14), omit all the words from and including "This Act" to and including "processed.", substitute:

This Act prohibits the importation of illegally logged timber, the processing of illegally logged raw logs and the supply of regulated timber products.

This Act also requires importers of regulated timber products, processors of raw logs and suppliers of timber products to conduct due diligence in order to reduce the risk that illegally logged timber is imported, processed or supplied.

(5) Clause 7, page 6 (after line 1), after the definition of premises, insert:

processed timber product means a thing that is, is made from or includes, a raw log that has been processed.

(7) Clause 7, page 6 (after line 5), after the definition of Secretary, insert:

supply has the meaning given by section 7A.

(8) Page 6 (after line 8), after clause 7, insert:

7A Supplying timber products

(1) A supply of a timber product includes a supply of the product by way of sale, exchange, gift, lease, loan, hire or hire purchase.

(2) For the purposes of subsection (1), it is irrelevant whether the supply is:

(a) for consideration; or

(b) a wholesale or retail supply.
Note: Offences under this Act relating to supplying timber products do not apply in relation to second hand products.

(19) Page 14 (after line 29), after Part 3, insert:

Part 3A—Supplying illegally logged timber

Division 1—Supplying illegally logged timber

18A Supplying illegally logged timber

(1) A person commits an offence if:
(a) the person supplies a thing; and
(b) the person is a constitutional corporation, or the person supplies the thing:
   (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
   (ii) in a Territory; or
   (iii) on behalf of a constitutional corporation; or
   (iv) to a constitutional corporation; or
   (v) on behalf of the Commonwealth or a Commonwealth authority; or
   (vi) to the Commonwealth or a Commonwealth authority; and
(c) the thing is, is made from, or includes, illegally logged timber; and
(d) the thing is not prescribed by the regulations for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

(2) Subsection (1) does not apply if the timber product is a second hand product at the time of the supply.

18B Supplying illegally logged timber in regulated timber products

(1) A person commits an offence if:
(a) the person supplies a thing; and
(b) the person is a constitutional corporation, or the person supplies the thing:
   (i) in the course of, or for the purposes of, trade and commerce with other countries, or among the States or between a State and a Territory; or
   (ii) in a Territory; or

(iii) on behalf of a constitutional corporation; or
(iv) to a constitutional corporation; or
(v) on behalf of the Commonwealth or a Commonwealth authority; or
(vi) to the Commonwealth or a Commonwealth authority; and
(c) the thing is, is made from, or includes, illegally logged timber; and
(d) the thing is a regulated timber product; and
(e) the thing is not prescribed by the regulations for the purposes of this paragraph.

Penalty: 5 years imprisonment or 500 penalty units, or both.

(2) The fault element for paragraph (1)(c) is negligence.

(3) Subsection (1) does not apply if the timber product is a second hand product at the time of the supply.

18C Forfeiture

(1) A court may order all or any part of a thing to be forfeited to the Commonwealth if:
(a) the court convicts a person of an offence against section 18A or 18B in respect of the thing or part; and
(b) the thing or part is the property of the person.

(2) The person is entitled to be heard in relation to the order.

(3) The thing or part may be dealt with or disposed of in any manner that the Secretary thinks appropriate, but only after:
(a) if the periods provided for lodging appeals against the order and the conviction have ended without such an appeal having been lodged—the end of those periods; or
(b) if one or more such appeals have been lodged—the appeals lapse or are finally determined.

Division 2—Suppliers' due diligence

18D Supplying a timber product

A person commits an offence if:
(a) the person supplies a thing; and
...will increase the speed with which supply chains respond to the new legislation and provide surety to those further down the supply chain, including consumers. So this is really about saying, ‘Wherever you are in the supply chain of timber products, you need to get from your supplier an assurance so that you can then in turn assure the people to whom you are selling that the timber product is in fact not illegally sourced.’

The EU timber regulation has an obligation of traceability as a core element within its framework. Article 5 of that requires traders to keep records of all timber and wood products purchased and sold and make this available to authorities upon request so that illegal timber may be tracked within the market. This is an important enforcement tool, especially when considering the challenges of enforcing the central criminal offence of illegal timber importation.

I have to say that it has been pretty clear to me that this supply chain issue is rather crucial. That came home to me especially in relation to the example of not a timber product but tantalum from the Congo. It gets illegally shipped out of the Congo, flown into Belgium and transported to Russia, and so you lose track of where it actually came from. It ends up in mobile phones around the world. The mobile phone producers say that all the products in their phones are sustainable. Yet if you go back through the supply chain it all gets very murky once that tantalum arrives through the Belgian ports. So this issue of obligation of traceability is really important.

I recognise that the minister has resisted all calls to require mandatory labelling on the basis that it would be too onerous, despite the Labor Party election policy from 2007 clearly stating a commitment to requiring labelling at point of sale. In the absence of...
such a requirement for labelling, the Greens propose that there be a requirement for all traders in the supply chain to confirm the legality of the products they are trading in.

The amendments we are discussing are to insert a new part into the new bill, following part 3—Processing, titled 'Supplying'. The intent is to ensure that each subsequent purchaser or handler of imported timber or processed timber up to the point of retail sale must be provided with a copy of the declaration form, and due diligence documentation must be provided upon request. This really goes to the issue of the supply chain, to make sure that, right up and down the supply chain, people are basically second-checking what has come to them before they pass it on to the next person, so that, right up the supply chain, people are asking questions. I think that is an appropriate way to go, and that is why I think it is important that we get the same sort of commitment that has come through the EU timber regulation which has an obligation of traceability, and I do not see that in the current bill. That is why I have moved these amendments.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (19:48): We do fall on different sides of the fence on this particular issue. The government's view is that if you get it right at the border then the subsequent supply chain right down to the retailer is unnecessary. It is unnecessary for a couple of reasons. Firstly, the importer will have the opportunity of doing due diligence. We will hold the importer accountable for that due diligence. We will have a compliance framework on the importer at that point. As to the remaining supply chain, as you move down from the wholesaler and retailer, all the way down, say, to the hardware store at Cunnamulla, you would find that, if you started to put requirements on them, they would be second-best; they would not even have the same knowledge that the importer would have at the border. In fact, you would then be adding a compliance system plus a process onto—to use again the example of the retail outlet—the Cunnamulla hardware store.

This would be an unnecessary trade restraint and it certainly would be a burden on costs, because then you would be requiring them to do due diligence where that small hardware store in Cunnamulla would not have the ability to do that. A Bunnings, and a range of other large retailers, may be able to contemplate it. But it is about ensuring that there is appropriate legislation that is relevant and practical and able to be met at the border without providing unreasonable burdens along the supply chain and creating unfair outcomes for small, medium and large players or vertically integrated businesses, or small hardware stores at the end of the supply chain—which would not add one extra thing to the ability of the importer to do appropriate due diligence at the border and get it right there rather than have a second, third and fourth checker along the way. The auditor, the independent compliance, will do that work for us.

I would add, as to the issue around the EU: yes, they have fallen on the side of having a supply chain process. In my view, it will add costs to their supply chain but, if you look at their system, I think they would have debated this, as to whether or not they used this at the border. As you are well aware, the EU does not have borders in that sense, and therefore it is far more fluid. I think in those instances that is why they have fallen on the side of a broader system along the supply chain. We have a definite border. We have a definite place of importation. We know the importers. We know that we can
put compliance at that point. We know we can put an auditing process at that point. Therefore, the additional cost, burden and regulation would be an onerous impost, and, quite frankly, on that basis, as I have explained, an unnecessary impost, and I would be criticised roundly I suspect. The Senate committee supports me in this view. They came to the same concluded view.

Senator COLBECK (Tasmania) (19:51): The opposition will not be supporting this amendment. The minister is correct: the Senate committee did debate this particular matter, and quite frankly this is just another mechanism for environmental groups to put pressure at different points along the supply chain, and I do agree with the minister that it will just add green tape to the cost of doing business here in Australia and make Australian businesses less competitive, because of the additional impositions. Quite frankly, along with some of the other suggestions of the Greens, this is just as likely to actually halt the trade altogether. Although this might be what the Greens want to see occur, common sense indicates that if a piece of timber or a timber product is legal at the border it does not change its status as it works its way down the supply chain: it is a legal piece of timber. It is quite open for businesses up the supply chain as part of their chain of custody systems to actually request the certification, but that is a business decision for industry. It is not something for this place to impose on businesses.

As the minister has indicated, if a product is legal at the border, it is legal. There are opportunities at a business level to make those inquiries down the supply chain. That is what the process is about and that is what the certification at the border is for. But the opposition cannot support the imposition of layers and layers of green tape down the supply chain.

The TEMPORARY CHAIRMAN (19:53): The question is that the amendments moved by Senator Milne be agreed to.

Question negatived.

Senator MILNE (Tasmania—Leader of the Australian Greens) (19:53): I move Greens amendment (20) on sheet 7202:

Part 4A—Review of administrative decisions

82A Extended standing for judicial review

(1) This section extends (and does not limit) the meaning of the term person aggrieved in the Administrative Decisions (Judicial Review) Act 1977 for the purposes of the application of that Act in relation to:

(a) a decision made under this Act or the regulations; or

(b) a failure to make a decision under this Act or the regulations; or

(c) conduct engaged in for the purpose of making a decision under this Act or the regulations.

(2) An individual is taken to be a person aggrieved by the decision, failure or conduct if:

(a) the individual is an Australian citizen or ordinarily resident in Australia or an external Territory; and

(b) at any time in the 2 years immediately before the decision, failure or conduct, the individual has engaged in a series of activities in Australia or an external Territory for protection or conservation of, or research into, the environment, or relating to logging, illegally logged timber, or a related matter.

(3) An organisation or association (whether incorporated or not) is taken to be a person aggrieved by the decision, failure or conduct if:

(a) the organisation or association is incorporated, or was otherwise established, in Australia or an external Territory; and

(b) at any time in the 2 years immediately before the decision, failure or conduct, the organisation or association has engaged in a
series of activities in Australia or an external Territory for protection or conservation of, or research into, the environment, or relating to logging, illegally logged timber, or a related matter.

(4) A term (except person aggrieved) used in this section and in the Administrative Decisions (Judicial Review) Act 1977 has the same meaning in this section as it has in that Act.

82B Applications on behalf of unincorporated organisations

(1) A person acting on behalf of an unincorporated organisation that is a person aggrieved (for the purposes of the Administrative Decisions (Judicial Review) Act 1977) by:
(a) a decision made under this Act or the regulations; or
(b) a failure to make a decision under this Act or the regulations; or
(c) conduct engaged in for the purpose of making a decision under this Act or the regulations;
may apply under that Act for a review of the decision, failure or conduct.

(2) The Administrative Decisions (Judicial Review) Act 1977 applies in relation to the person as if he or she were a person aggrieved.

This amendment goes to the issue of standing. In line with best practice environmental legislation, broad standing should be made available to the public, including NGOs and timber industry competitors, to initiate action for civil breaches of the act.

There are compelling reasons for allowing public interest litigation under the bill. In 1995 the Australian Law Reform Commission considered standing law and concluded that:
Public interest litigation is an important mechanism for clarifying legal issues—or enforcing laws—to the benefit of the general community.
I would argue that this legislation is public interest legislation, and allowing public interest participation in the legislation, through standing, is not only appropriate but should be seen as a valuable measure to improve the act and achieve its objectives.

Some within the timber industry have raised concerns with open standing provisions in relation to this bill. A common argument against open standing is that it will open litigation floodgates. This argument was made in relation to the New South Wales Environment Planning and Assessment Act 1979. In 1990, former chief of the New South Wales Land and Environment Court Justice Jerrold Cripps noted that no such flood of litigation occurred and that the argument had been ‘wholly discredited’. In relation to the same act, Justice Murray Wilcox noted in 1987 that, because of cost provisions, litigation, even with open standing provisions, was not entered into ‘lightly or wantonly’, and that the actual litigation figures in New South Wales supported this.

Similar concerns regarding litigation floods were raised when the EPBC Act was passed. Section 487 allows any interested person to challenge decisions made under the act. In their first review of the act, the Senate Standing Committee on Environment, Communication and the Arts found that the level of litigation appeared to be ‘extremely low’. The signatories to the Common Platform also identified broad standing as a critical element to successful legislation.

This is why the Greens want standing provisions derived from those currently existing in the EPBC Act to be included in this legislation. It is nothing new. It is already there in the EPBC Act. If the minister is being open and honest with the Senate in saying that they want to make sure that the importation of illegal timber does not occur, why would he not allow standing for NGOs that want to take the matter to court, if
indeed they do? In actual terms it is going to cost them money to do so, so they are not going to do it in a wanton or frivolous manner, and in fact they have not done so. The EPBC Act has been law in Australia since 1996 and the level of litigation has been extremely low, so the same would apply.

So, I ask the Senate to support the idea that we give standing under the act, consistent with the EPBC Act and with best practice environmental legislation, to allow broad standing to the public, including NGOs and timber industry competitors, because there is nothing more frustrating than someone who is behaving ethically in the system to know that somebody else is not and is making claims that they cannot substantiate. The people who know that the truth is being stretched are more likely to be in the industry, in the business, and more likely to be better informed.

So, in the interests of competition in the business world and in the interests of the public good, why would you not allow broader standing consistent with the EPBC Act? That is what this amendment seeks to do.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (19:58): I thought long and hard about this amendment, but I landed on the other side of the fence again, unfortunately, for the following reasons. It is not environment legislation per se. I recognise that in environment legislation there are instances where there is open standing. In this instance, this contains very serious elements, or offences, that are criminal in nature. I have made it clear that where criminal elements are involved criminal offences should be prosecuted by the Commonwealth for breaches of the legislation. That is an important principle that I will not walk away from.

I do recognise the value in having open standing in various pieces of legislation, and, recognising the public interest litigation work done by that body, it is one area where I came to the view that it should not be included in this bill. It is also a case of dealing with—and I know that you dealt with this in part—vexatious claims that could be made and which could damage industry or business very easily and very quickly.

On those bases the government does not support the amendment that you have offered. However, I do think that it is a matter that should continue to be looked at and not simply rejected out of hand. I am open for it to be re-raised in the review period, because we will then have significant experience about how the legislation has operated and how the regulations have worked. I obviously cannot bind future governments, but I will make it plain at this point that, on balance, because of the nature of the offences—that they were criminal in nature—I landed fairly and squarely in the area of not having open standing in this particular bill. But the issues you raise are not lost on the government.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:01): I am very disappointed about that because the fact of the matter is that the people who are most likely to be tracking this are the NGOs, and they are the ones who have been campaigning for years to bring in legislation against the import of illegally logged forests around the region. It is going to be the NGOs who are the ones raising the issues, as Senator Xenophon raised earlier this evening, of the kind of corruption that is leading to murder and so on. Frequently letters are written to ministers all over the place and nothing is ever done about it. One
of the ways to bring it into the criminal justice system is through civil action and then ending up in more serious criminal jurisdictions.

The issue for me is that the people most likely to be doing the work on this are going to be in the realm of civil society, through the NGOs. They are the people who are going to be tracking what is going on in Indonesia, PNG, Malaysia, the Solomons, Fiji or wherever. They are the ones who are going to be taking on their governments in relation to the corruption in allocating licences and bending the rules and so on. So I am extremely disappointed, Minister.

I take your point that you will look at it over the next short while, but I note that already the government has rejected the inclusion of sustainability in the objects clause, rejected a tightening of the definition of illegal logging consistent with what the EU does, rejected due diligence when it comes to actually going to the coupe level—identifying where the timber is coming from at the coupe level—rejected traceability through the supply chain and now has also rejected broad standing in the courts in relation to civil society. It does not give me much hope about any real rigour being applied when it comes to a supposed commitment to ban the import of illegally logged timber.

However, that is the government's view. We will hear from Senator Colbeck in a minute. It was the coalition who introduced the very flawed EPBC Act, but even the coalition had as part of the EPBC the capacity for public-interest litigation and this important mechanism for broadening standing under the law. So I would hope that the coalition would at the very least recognise that this is consistent with EPBC and will support at least this amendment.

**Senator COLBECK** (Tasmania) (20:04): I am sorry to disappoint Senator Milne, but I will not be supporting this amendment, particularly given the activities of organisations such as Markets for Change—which I note the former leader of the Greens in the Senate, Bob Brown, was appointed to the board of today—who really do not care much about the impact that they have on Australian business in the campaigns that they run. Given, as Senator Milne has said, that it is most likely to be the environmental groups that are chasing this sort of stuff down—I understand industry has been told that in their consultations with the government as well—and given the activities of organisations like Greenpeace and Markets for Change, I am very reluctant to support any particular measure that gives them an additional weapon to use against industry. So I cannot support this amendment.

I am very cognisant of the comments that the minister has made. I think that his consideration of that is very important. It was an issue that we talked about during the committee stage and we decided that it should not be supported as part of that process. But I have to say that the activities of extreme environmental groups in recent times have brought me down much harder on the side of caution in giving them additional privileges over and above those that they already have under Australian law. In that context, the opposition will not be supporting this amendment.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (20:05): I find it interesting that Senator Colbeck should consider traceability as a 'weapon against industry'. I would have thought that if industry had nothing to hide, it would have no problem with traceability. I am delighted that Senator Brown has taken a position on the board of Markets for Change and that
former Greens leader in Tasmania, Pegg Putt, is the new CEO. They will pursue this issue vigorously and make sure that the markets are very well informed as to where the timber products come from—right down to the coupe level.

That is the point that is being made here. They will track it to the coupe. The flooring at the London Olympics was rejected because the claims being made about where that timber came from were wrong. If Senator Colbeck thinks that the best way to protect industry is to prevent traceability then all he is doing is propping up something that is unsustainable in the longer term. That is not going to work. Trying to hide from traceability is not going to work.

As I said, I am disappointed that the government is not taking this on board. The NGOs will continue to watch what is going on around the world. When I come to the next amendment on enforcement and compliance, I will discuss that a little further.

Senator COLBECK (Tasmania) (20:07): I just want to correct the record. Senator Milne indicated that we were talking about traceability. That is not what we are talking about. What we are talking about with this amendment is the access of environmental groups, the community more broadly and industry players to have standing in litigation; nothing to do with the traceability. It is about their capacity to participate in bringing action against a business who might be importing timber. So, Senator Milne, if you want to participate in the debate, do not mislead the Senate in respect of what I have said. We have talked about traceability, and I have put my discussion about traceability on the table quite clearly, and about the way that that should be managed. The coalition's view is very clear on that. We are not talking about traceability with this particular amendment; we are talking about standing in legal action. That is what I was talking about. I was not talking about traceability, and I stand by my remarks.

The TEMPORARY CHAIRMAN (Senator Moore) (20:08): Through the chair, of course, Senator Colbeck?

Senator COLBECK (Tasmania) (20:08): Yes, my apologies, Madam Chair; through you.

The TEMPORARY CHAIRMAN: The question is that amendment No. (20) be agreed to.

The committee divided. [20:12]

(Temporary Chairman—Senator Moore)

AYES

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

NOES

Back, CJ
Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Crossin, P
Faulkner, J
Feeney, D
Ludwig, JW
Madigan, JJ
Mason, B
McKenzie, B
Nash, F
Pratt, LC
Singh, LM
Stephens, U
Thorp, LE

Question negatived.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:14): by leave—I
move amendments (21), (22), (23) and (6) together:

(6) Clause 7, page 6 (after line 1), after the definition of premises, insert:

quarter has the meaning given by subsection 83(5).

(21) Clause 83, page 60 (line 4), omit subclause (1), substitute:

(1) The Secretary must publish the following information about the operation of this Act:

(a) an annual compliance audit for each financial year in relation to imported regulated timber products;

(b) aggregate data reports for each quarter in relation to imported regulated timber products;

(c) any other report or information prescribed by the regulations for the purposes of this paragraph.

(1A) The secretary may publish any other information about the operation of this Act that the Secretary considers relevant.

(22) Clause 83, page 60 (line 5), omit "Subsection (1) does not", substitute "Subsections (1) and (1A) do not".

(23) Clause 83, page 60 (after line 6), at the end of the clause, add:

(3) An annual compliance audit in relation to imported regulated timber products must include, but is not limited to, information about the following:

(a) the importers that have been audited;

(b) the imported regulated timber products that have been audited, including a breakdown by timber species;

(c) how many importations of such products have been audited, including a breakdown by country of origin;

(d) the level of risk associated with the products that have been audited;

(e) the level of accurate information provided on declarations made to the Customs Minister under section 13 relating to the products that have been audited;

(f) the level of accurate and comprehensive compliance with due diligence requirements for importing regulated timber products for the products that have been audited;

(g) non identifying information about any investigations that have been undertaken during the financial year in relation to such products;

(h) non identifying information about the outcome of any investigations completed during the financial year in relation to such products;

(i) non identifying information about the current status of any investigations that have not been completed by the end of the financial year.

(4) An aggregate data report for a quarter in relation to imported regulated timber products must include, but is not limited to, information about the following:

(a) the volume of the products imported in the quarter;

(b) a breakdown of the products imported in the quarter by:

(i) product type;

(ii) timber species;

(iii) country of origin;

(iv) country of processing.

(5) In this section:

quarter means a period of 3 months ending on 30 September, 31 December, 31 March or 30 June.

My series of amendments goes to the issue of enforcement and compliance. The government and the coalition have rejected all the amendments going to sustainability, definition of illegal logging, due diligence, traceability and now even the ability of the community to have standing in the courts. It really does come back to the government to explain how it is going to enforce the law and how it is going to seek compliance with the law, given the rejection of all the amendments which would have given more rigour to the bill.

The effectiveness of this legislation, as with any law, hinges upon its enforcement. Enforcing the act will undoubtedly prove challenging, given the inherent transborder
element of the key offence of the bill—that is, the prohibition of the importation of illegal timber products. It is therefore important that the government demonstrate its commitment to enforcement by producing quarterly reports of aggregated data and annual compliance audits. That is the purpose of these amendments. I am seeking from the government an indication of how this is going to essentially be resourced. Is the government going to resource this sufficiently so that we will get quarterly reports of the data and annual compliance audits? Can I have from the minister an indication of that?

I just mentioned a moment ago the challenging nature of inherent transborder elements and, in particular, I want to go to one species, which goes to the issue of DNA testing that I mentioned earlier. There is a particular type of timber known as merbau. It is a tree that is used throughout the region. When I say ‘throughout the region’, that ranges from Tanzania and Madagascar, east through India and Queensland to the Pacific island of Samoa. It is in the Philippines. It is right throughout the region. Because it is durable and termite resistant, it is a highly valued material for flooring and other uses. It is advertised extensively for decking, for example. As a result, it is being widely overused. Extensive logging of this tree is going on. It is endangered in many places in South-East Asia and almost extinct in others. Extensive amounts of this timber were purchased for the venue of the 2008 summer Olympics in China, which is the largest importer of the wood. As I said, it is used for flooring. It is used in the United States and European markets in spite of the ban on illegally logged timber.

As I said, a lot of this timber is being transported around the region. Greenpeace claims that at the current rate of logging the tree will be wiped out within 35 years. Because it is such a desirable timber in terms of the product, and because it goes across so many borders, it will be one species where it will be very interesting to see how the government goes to the issue of compliance. I would suggest that this is one species where, if the government were open to doing some work in terms of research, investigating the DNA and then using it for testing would be extremely useful. It is very hard to see, given the extensive range of this tree, how we are ever going to get to the point of knowing what country a product that comes into Australia to be used for decking or flooring comes from, let alone whether it was logged illegally or otherwise.

I would ask the government to give some consideration to a research project on this timber. I would also ask the government what level of resourcing it will put into compliance and enforcement with regard to quarterly reports of aggregated data and compliance auditing.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (20:20): This really goes back to what I said when the committee stage commenced: it is a case where there is a due diligence process in place. This framework legislation will provide for the due diligence, it will provide for how that will operate, and then it will provide for the auditing and the compliance framework within the legislation. That is the framework legislation. Much of the detail around how that will be made operational will be a matter for the department. The powers are clearly within the framework. The powers are quite extensive for the regulator to ensure that they have sufficient powers to aid in the compliance. It will ensure that they can obtain the necessary evidence and prosecute cases which are
brought to their attention or which they discover.

In addition to that, the compliance framework is also, as you would outline, one that, in terms of what information would be available, would be subject to commercial constraints and commercial sensitivities. I would expect—and this would be part of the ongoing development of the regulations—that things like the audit reports and that type of information which would be valuable to stakeholders other than commercial stakeholders who might be interested in commercial advantage. As to the broad information about how the department operates, my preference has always been—you can check my record on this—to err on the side of making whatever is available public on the web or in a format that is suitable for people to view.

However, I cannot commit to that at this point of time. It is a matter that should be properly developed with the stakeholders, with the regulator and then promulgated in the regulations. We then land in a place where the commercial-in-confidence matters are not disclosed but information should always be made available around the nature of the compliance framework and the nature of the audits for that information that helps stakeholders understand the process. Why do I fall on that side? Clearly, the strength of FOI legislation would also press me to that, but that is where I stand generally: open disclosure is far better than getting found out after the event.

More broadly, the government does hold information on behalf of the public and therefore the public should have access to it and it should be accessible in a reasonable way. But, in this instance, it is a matter on which we will need to have a conversation with the department on to put it in operation it through the regulations. We will also have a longer conversation with the stakeholders about the nature of the disclosures to ensure that the compliance framework works effectively.

Going back to the earlier issue, when the stakeholders, the NGOs, want to be able to provide information to the regulator about suspected breaches of the legislation, then in an easy way they can bring it to the attention of the regulator to undertake proper investigations of the importer and the due diligence statements that they have provided. With all of that, I again fall on the point of saying I understand the sentiments that you have expressed. I agree more broadly that open scrutiny is the way to go; however, at this juncture I cannot agree with your prescriptive amendment, but I do commit to ensuring that in the development of the regulations much of what you discussed will in fact be reflected in it.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:24): I did ask the minister what extra level of resourcing will go to enforcement and compliance. I am interested to know whether the department is going to put on additional people or whether there are additional responsibilities. Where is the enforcement and compliance going to be centred within government and where is the additional resourcing? I also asked the minister to consider a research project in terms of establishing the DNA and then DNA testing for a species like merbau, which is going to be an extremely vexed issue because it goes across so many boundaries and jurisdictions. It will be virtually impossible for any due diligence to say where it actually came from.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (20:25): I did not avoid the question—these are generally
budget decisions and I cannot commit us to what the resourcing will be or how that budget will unfold. I can say that DAFF does have a very strong prosecution section that deals with biosecurity and many breaches of legislation, as people would understand. It has good experience and has people who can investigate the nature of these offences. In respect of a research and development project, it is not something that I am going to commit to on the run. However, there are R&D corporations that could undertake work of that nature and there is a range of industry bodies that may also want to undertake this body of work. Within DAFF there is ABARES and there may also be opportunities for them to consider. We would not want to simply jump to conclusions. You might want them to scope out the nature of the requirement and whether or not that requirement adds value or adds to an outcome. We can do that through discussions with stakeholders during the development of regulations. I am happy to continue to discuss these issues with you but it is important that we rather undertake research that is beneficial to industry, that provides an outcome that is user friendly. Ultimately you will cut the costs of red tape and add to the compliance as well.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:26): I thank the minister and I will come back to him to have discussions about that matter because that is one species that I think is going to be particularly vexed in this conversation. It may be extremely beneficial to go there. As to the minister's claim that DAFF has a very strong prosecution unit, my experience of DAFF suggests to me that I would have zero confidence in that—I have to say, Minister: zero confidence. I heard the mention of your background briefing earlier. Where are the successful prosecutions of illegal imports and a whole range of biosecurity matters?

One example that I have specific experience of is the breach of the Financial Management Act in relation to a grant that was made to the forest industry under the Tasmanian Community Forest Agreement process. Money left the department with nobody signing off on it. The Auditor-General said it was a breach of the Financial Management Act and it was recommended to DAFF that they prosecute accordingly. The answer was: 'Senator, we lost the paperwork.'

Given that that is my experience, Minister, I have zero confidence in your belief that DAFF has a strong prosecution unit. If that is the best you can do in overseeing, compliance and enforcement of the importation of illegal timber products, then I am sorry because it takes me absolutely nowhere in my level of confidence. Madam Chair, I am disappointed. I will continue the conversation with the minister both through the budget process for the resourcing that will be necessary for enforcement and compliance and in relation to a research project on some of the species that might be particularly vexed concerning timber products. However, given the experience that most people have had with DAFF and its prosecutions, I do not think the level of confidence in this place will be particularly high.

Senator COLBECK (Tasmania) (20:29): The opposition will not be supporting these amendments, although I have to say that we do have some sympathy for the Greens' concerns in relation to where the provisions stand at the moment. In that context, the government has only got itself to blame, from my perspective, because we did, as I have said a number times throughout this process, ask that the regulations be available for consideration by this place in conjunction with the commencement of the offences under this legislation. We did talk about the process of visibility of the reports during the
committee stage. It was something that we gave some consideration to and, from recollection, we made some recommendations to the government about how that process might work, the cycle of reporting and the auditing of the process. As Senator Milne has said, it is important that people have confidence in the process and the system. My only hope is that that process is reflected in the regulations when we get to see them. I again express my concern that it does not look like Minister Ludwig will meet the commitment that he gave to Mr Abbott that the regulations would be available for discussion by 24 December. Having said that, I do not see any value in imposing in the umbrella legislation the process that the Greens are proposing as part of this amendment.

Question negatived.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:30): I move Australian Greens amendment (24) on sheet 7202:

(24) Page 60 (after line 15), after clause 84, insert:

84A Review of operation of regulations

(1) The Minister must cause a review to be undertaken of the first 2 years of the operation of the regulations made under this Act.

(2) The persons undertaking the review must give the Minister a written report of the review within 6 months after the end of 2 years after the commencement of the regulations.

(3) The Minister must cause a copy of the report of the review to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

Amendment (24) on sheet 7202 is the final amendment I move to this particular bill. It goes to the issue of a review of the operation of the regulations and it is basically a straightforward requirement for there to be a review of the first two years of the operation of the regulations, that the review is to be completed within six months of the end of the two-year period and that the review be tabled. It is to make sure that there is a timely review of the operation of the regulations under the act, that the persons undertaking the review give the minister a written report and that report be laid before each house of parliament within 14 sitting days of that house after it is received by the minister. This is so that, given that we are not seeing the regulations, we get to see a review of the regulations after the first two years of their operation under the act. Given the level of concern I have about how the regulations may operate, given that we have not seen them, I think it is critical that we have a timely review of those regulations.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (20:32): The government will not be supporting the amendment. I can add, though, that we are pretty close. Effectively, the government has proposed a five-year review. Given the way your amendment would operate, Senator Milne, we are only really arguing about one year, I think. It would have been one year earlier than our proposal. You are suggesting two plus two, making four years. We are suggesting five years on the basis that we have carefully considered it and that will allow sufficient time for the operation of the legislation. For those who want to make submissions, see how it has operated and continue to ensure its effectiveness, a five-year review is what I would call pretty standard in this type of legislation, particularly given the newness of it and how it will operate.

With those short words, I do not support the amendment but do say that the government has firmly committed to the five-year period and does recognise the need for a review of the legislation and how it
operates. This is not for the reasons that you have suggested, Senator Milne, but for the reasons that we will encounter issues as we work through—I have no doubt about that—and that we will want to address them. Many of those can be addressed by regulation as we proceed through, but the fundamental legislation, which is the framework legislation, will need to operate for that period to give it some certainty for industry.

Senator MILNE (Tasmania—Leader of the Australian Greens) (20:33): I am extremely disappointed, Minister. We do not have the regulations in front of us. We are told that five years hence we will get the review that I am moving for. I do accept that that will be after four years, because of the way that this is going to be implemented, but you are asking the parliament to vote on regulations it has not seen. Given the failure of the government to agree to tightening up the legislation, I go back to what I said at the beginning: the Greens have been strong advocates of banning the import of illegally logged timber products. This is a critical issue and it goes to trying to maintain biodiversity around the world, trying to maintain natural forests around the world and trying to maintain sustainability. Yet we are seeing legislation which will be umbrella legislation, if you like, and it runs every risk of being nothing more than greenwashing.

When push comes to shove, it is very hard to see, with the vague way that this legislation has been put before us and without the benefit of the regulations, that we will ever see a successful prosecution. This is especially so since you have now denied the right of the community to have standing in the courts and for NGOs and timber industry competitors to be able to initiate action for civil breaches of the act. With the level of corruption that goes with the illegal logging of timber, particularly in our region but in Africa as well, and with the species around our region, it is very hard to see that this is actually going to slow down the import of illegally logged timber. However, it is a step in the right direction. It is a start, but I am disappointed that it is going to be another five years before we have a chance to really review the effectiveness of the legislation.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Fawcett): The question now is that the bill stand as printed.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (20:37): I move:

That this bill be now read a third time.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): The question is that the Illegal Logging Prohibition Bill 2012 be read a third time.

The Senate divided. [20:42]

(The Acting Deputy President—Senator Fawcett)

Ayes ...................... 38
Noes ...................... 29
Majority................. 9

AYES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Ludlam, S
Lundy, KA
Marshall, GM

Bishop, TM
Cameron, DN
Carr, RJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludwig, JW
Madigan, JJ
McEwen, A
Monday, 19 November 2012

AYES
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ
Wright, PL
Xenophon, N

NOES
Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Cash, MC
Colbeck, R
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Joyce, B
Kroger, H
McKenzie, B
Parry, S
Ronaldson, M
Scullion, NG
Smith, D

PAIRS
Evans, C
Hogg, JJ
Urquhart, AE
Wong, P
Macdonald, ID
Cormann, M
Ryan, SM
Boswell, RLD

Question agreed to.
Bill read a third time.

Federal Circuit Court of Australia Legislation Amendment Bill 2012
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (20:45): Let me say at once: the opposition supports the Federal Circuit Court of Australia Legislation Amendment Bill 2012. I say that with great pleasure, for two reasons. First of all, and I do not want to be too political about a bill that we support, the history of this bill and of this issue is a masterclass in the policy confusion which has characterised the governments of former Prime Minister Kevin Rudd and Prime Minister Julia Gillard. That is because this bill is a comprehensive, complete and total policy somersault from a position that was maintained by the former Attorney-General and the former Prime Minister, and maintained into the life of the current Prime Minister, into the very opposite position to that which they initially maintained.

The second, and related, reason it is a great pleasure to support this bill is that it enacts a set of arrangements for the federal judiciary, which the respected legal journalist Chris Merritt flatteringly once described as 'the Brandis model'.

Senator Bob Carr interjecting—

Senator BRANDIS: I was quoting somebody else, Senator Carr; I am very abashed. Let me relate to the Senate the history of this legislation. Early in the life of the Rudd government a report was commissioned into the operation of the family law system, written by a consultant called Mr Des Semple. The Semple report was published on 20 November 2008. The principal recommendation of the Semple report was that the Federal Magistrates Court—a court which is the workhorse of the federal judiciary, and before which most federal litigation is conducted—should be abolished and collapsed into the Family Court of Australia, and that those federal magistrates who were not concerned with doing family law work should become special masters of the Federal Court of Australia.

For a very long while the Labor Party had a prejudice against the Federal Magistrates Court, something that its members have not been slow to realise. Perhaps it is because
this extremely effective and useful court was the brainchild of a former Attorney-General, the Hon. Philip Ruddock, and was created during the time of the Howard government.

When the Semple report was published I, on behalf of the opposition, warned that the elimination of the Federal Magistrates Court would be a very grave mistake, but the former Attorney-General the Hon. Robert McClelland maintained stubbornly that the Federal Magistrates Court should go, and that its family law jurisdiction, which was the lion’s share of its jurisdiction, should be absorbed by the Family Court of Australia and the balance of its jurisdiction should be absorbed by creating a new class of special masters of the Federal Court—something that the Federal Court did not want, by the way. I warned, in a speech I gave in the Senate on 13 May 2009, that this would be a mistake. I was roundly criticised by the government for the position the opposition took in seeking to preserve a lower-tier jurisdiction to deal with most of the smaller matters that the federal judiciary has to deal with.

Then came the decision of the High Court in Lane v Morrison, which struck down the then-existing military justice system. Again, I pointed out to the government that the best way to deal with this matter would be to have a military justice division of the Federal Court of Australia and the Federal Magistrates Court, but that this would require the Federal Magistrates Court to be retained. Eventually, on 24 May 2010, the government changed its position. It conceded that the coalition’s point that the Federal Magistrates Court should not be dismantled was right, but it accepted the coalition’s position only in part; it continued to envisage a significantly inferior role for the Federal Magistrates Court into the future.

At the 2010 election, on 13 August, Mr McClelland and I as, respectively, the Attorney-General and the shadow Attorney-General had our own debate. It was not one of those glamorous, high-profile leaders debates that the political leaders have, but it was a portfolio debate. It was hosted by Gilbert + Tobin Lawyers in their Sydney offices and covered extensively by the Australian Financial Review. In the course of that discussion I announced the coalition’s policy, which was not merely to retain the Federal Magistrates Court and treat it with the respect that it deserves but in fact to elevate its status more accurately so as to reflect the character of the work it did—by reconstituting it the ‘Federal Circuit Court of Australia’ and changing the designation and status of its members from magistrates to judges, so that they would effectively be a parallel jurisdiction to the state district courts or county courts. That was the policy that the coalition took to the 2010 election. It is a policy that comes to fruition this evening in this bill, which is precisely and in every respect the policy that the coalition urged upon the government in the previous parliament.

I think it is reasonably well known that I have a bit of time for Mr Robert McClelland. I do not think he deserved to be dismissed as the Attorney-General as a part of the Prime Minister’s payback in the internal Labor Party wars. But, nevertheless, notwithstanding my high personal regard for Mr Robert McClelland, he certainly did not get it right all the time when he was Attorney-General and he certainly made a mess of this matter.

The day after I announced the coalition’s policy to preserve the Federal Magistrates Court and elevate its status, by establishing it as the Federal Circuit Court of Australia, Mr McClelland issued a press release, on 17 August 2010. In fact, it was four days after
our debate. Beside a photograph of Mr McClelland, there is the headline 'Brandis demonstrates the coalition can't be trusted'. In his press release, Mr McClelland sets out all of the reasons why, in the view of the Gillard government, of which he was at that stage still a member, the coalition's proposal to retain the Federal Magistrates Court and elevate its status by constituting it as the Federal Circuit Court of Australia was a thoroughly bad and financially irresponsible idea. Yet that is the very idea, the very thing, that the government is legislating for tonight.

So the coalition welcome the late conversion of the government to abandoning its foolish proposal to do away with a tier of the federal judiciary first created during the time of the Howard government. We welcome the decision of the government to adopt lock, stock and barrel the opposition's policy by reconstituting it as the Federal Circuit Court of Australia. But we shake our heads in bewilderment as to why it has taken almost five years, from the time the Semple report was first commissioned, in early 2008, to November 2012, for the government to get this right and to adopt lock, stock and barrel the opposition proposal. They denounced it for almost five years.

I am pleased to say that, after Mr McClelland's dismissal from the office, the new Attorney-General, Ms Roxon, at last saw the error of the government's ways. On 29 May this year, she announced the adoption by the government of the opposition's position—that is, the retention of the lower tier level of the federal judiciary, unaffected by the various foolish proposals outlined in the Semple report, and its reconstitution as the Federal Circuit Court of Australia. After all of this trouble, all of this confusion, all of this uncertainty, with its devastating effect on the morale of the members of the court, who simply did not know where their future lay—many of them confided in me in the years that went by during which we had this dispute—eventually the government got it right.

But do you know, Mr Acting Deputy President, what is the really sad thing about the sorry history of this issue? The government's initial proposal to abolish the Federal Magistrates Court was said to be a cost-saving measure. Do you know how much Mr Semple estimated would be saved by abolishing the Federal Court of Australia and incorporating its functions into the Family Court and the Federal Court? Two million dollars a year. How many tens of millions, perhaps hundreds of millions, of dollars—in the costs to litigants of the delay, in money unnecessarily spent on lawyers, and in the systemic costs within the court system—have been incurred in the 4½ years since, as a result of this very foolish false economy? Had the government not eventually seen the wisdom of the opposition's position, it would have been the first time in our history that an entire tier of the federal judiciary had been abolished for no significant financial benefit but at enormous cost in terms of legal expenses and delays to both family law litigants and other litigants who appear before that court—which, as I said earlier in my speech and which I want to emphasise, has been the workhorse of the federal judiciary.

Let me conclude by saying, as I said at the start, that we in the opposition give credit where it is due. The process has been appalling and the decision making has been, until the last step, wrong-footed and erroneous. But after all of this delay and confusion, with the devastating impact on the morale of the 50 or so judicial officers who comprise the court, the government has at last got it right by adopting an opposition policy that it has been more than four years coming to the party to understand the wisdom of.
Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (20:59): I commend the bill to the Senate.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Fawcett) (20:59): As no amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in a committee of the whole.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (20:59): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

BUSINESS

Rearrangement

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (21:00): I move:
That intervening business be postponed until after consideration of government business order of the day No. 5, Dental Benefits Amendment Bill 2012.
Question agreed to.

BILLS

Dental Benefits Amendment Bill 2012

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.
(Quorum formed)

Senator FIERRAVANTI-WELLS (New South Wales) (21:02): I was speaking on the last occasion about Labor's proposal under its national partnership agreement for adult public dental services. Of course, we know it proposes funding of $1.3 billion for the states and territories for public dental services, but this will not commence until July 2014. The government has not said how it is going to pay for the measure, but many patients on the CDDS will lose access to treatment on 30 November and will have to wait 19 months to see if the government delivers on its promises and starts to provide more funding to the states.

There is no detail of how much funding will be provided by year, with the possibility that the bulk of the money will not be provided until the end of the six-year period which is in 2018. This is what is prompting headlines such as one in the Daily Telegraph of 11 October 2012: 'Two-year wait to get in the dentist's chair'. This is the human face of the government's decision in relation to what is going to happen in this area. There are more and more stories, like that of Mr and Mrs Rapisadra which was reported in the same article in the Daily Telegraph. There are already 650,000 people, 400,000 of them adults, on public dental waiting lists, according to the government. But the Minister for Health has said that Labor's plan will only provide 1.4 million additional services over six years. The scheme that is being abolished has provided approximately 20 million services, including seven million in the last financial year alone.

In 2008, Labor proposed the Commonwealth dental health program which it never delivered. The program promised one million services by providing funding to the states and territories. It was revealed in Senate estimates that the Commonwealth did not assess the capacity of the public dental workforce to provide the projected services and the number delivered may have been significantly less than promised—surprise, surprise. The number of services to be provided over the full six years under Labor's recent proposal is only 20 per cent of what the Chronic Disease Dental Scheme provided last year alone. Worse, there is no guarantee that there is capacity to deliver the proposed
services through the public system in terms of workforce or infrastructure. Of course, the lack of infrastructure, particularly in the public system, will impede capacity to deliver the projected number of services.

The $225 million measure to develop infrastructure will not be available prior to the commencement of the new initiative, because an invitation to apply for funding under the flexible grants program for dental infrastructure—that is, capital and workforce—will not commence until 2014, and projects are unlikely to be completed or provide tangible benefits until years later. Even if Labor deliver on the funding promised to the state and territory governments, the cutting of the CDDS and the delay in delivering the new commitment is likely to lead to a deterioration of waiting times for public dental patients. We are very concerned that many patients who are currently or who have been receiving treatment will be forced to forgo treatment during the gap period between the closure of the old scheme and the proposed commencement of the new one. Labor are creating a gap in treatment for patients. Had Labor not squandered so much money on pink batts and Julia Gillard memorial halls, they would not have to be making this sort of decision.

This is only one of a number of cuts to health by Labor. The Gillard government want to cut $1.6 billion from state hospitals over the next four years, and these cuts come as elective surgery waiting lists continue to grow.

As indicated, $1 billion will be cut from dental care by closing the coalition's scheme. The government's means-testing of the 30 per cent private health insurance rebate will mean a cut of $746 million to the rebate this financial year alone. Private health insurance funding will be cut by a further $700 million over four years as government funding is linked to the CPI rather than the average industry premium increase that is set each year. Of course, the 30 per cent rebate for the Lifetime Health Cover component of private health insurance will no longer be rebated and again there will be another cut, $386 million over four years. And, in my own area of mental health, the Better Access program will be cut by at least $550 million as the rebates are decreased and the number of referrals is reduced. As I indicated, the coalition is very concerned that many patients who had been receiving treatment will be forced to forgo treatment during the gap period between the closure of the old scheme and the proposed commencement of the government's measures.

This whole debacle just goes to show that for those opposite it is really just about politics. Two-thirds of the people who are going to be affected are people on concessions, the people on lowest incomes. Clearly if this government had not wasted so much it would not be needing to shut down the scheme. (Time expired)

Senator DI NATALE (Victoria) (21:09): I am very proud to rise to speak to the Dental Benefits Amendment Bill 2012 today. It is the first step in a major reform of dental health in this country. It represents a huge investment, one that will pay handsome dividends in the coming years. And it is an outcome in which the Greens played a critical role, a package that will make a real difference in the lives of most Australians. We are very lucky in this country to have a good healthcare system. Good health is a fundamental part of a happy and fulfilled life, and we can take comfort in the knowledge that we live in a country where if we get sick help will be available. There is room for improvement, we can do a lot better than we are currently doing in some areas of our healthcare sector, but we can take
comfort in the fact that we can get help with common illnesses when we need it and we can do that without the threat of bankruptcy or a threat to our financial security.

There is one exception to that, though, and that is if you have a problem with your mouth. For some reason we treat the mouth separately from the rest of the body, and there is no good medical reason for this. The mouth is connected to the same circulatory and nervous systems as every other part of the body. An oral infection can spread just as easily as any other kind of infection. The experience of pain is the same. Ultimately poor oral health is a medical issue. The fact that dental care is not part of Medicare is purely a historical accident. As a consequence we have seen decades of neglect in this area. The public health situation regarding oral health is an erosive one and in some areas it is actually getting worse. We have made some improvements in oral health: fluoridation—for example, better nutrition and technical progress in areas of dentistry mean that people do have more teeth now than they would have had during our grandparents' generation. That is all good news. The bad news is that the oral health of some young kids is actually getting worse and that the oral health of Australian adults is nowhere near as good as it should be for such a wealthy country.

The reason that Australia's oral health is so poor compared to that of similar countries is reasonably straightforward: people simply are not getting the care that they need. Only 39 per cent of Australians have favourable visiting patterns. What that means is that a little more than a third of the population go to a dentist as often as they should do to maintain good oral health. If you do not go to the dentist regularly, you are four times as likely to get an extraction as somebody who is getting regular treatment and you have got nearly four times the rate of tooth decay. You might have fewer teeth with fillings but that is only because you will have fewer teeth.

The lower your income the worse situation gets. By almost any measure of dental health, income is a great predictor of status—the number of decayed, missing or filled teeth doubles as you go from the highest income bracket to the lowest. If you are Indigenous the situation is even more dire, and unfortunately that is a recurring theme when it comes to health care in this country. By the time an Indigenous person is in their late teens they have eight times the level of decay and 11 times the incidence of periodontal disease compared to the non-Indigenous population. Older Australians and people living in rural and regional areas also suffer disproportionately. If you are in an aged-care facility there is a one in five chance that you are in pain or discomfort right now because of untreated dental issues. What this means for individuals is clear: about one in six people avoid foods due to dental problems and a similar number experience toothache. Of course, problems with the teeth do not stay in the mouth and there are serious complications that can occur when a chronic condition is left untreated. Oral health issues can translate into life-threatening infections. It is well documented that dental issues can complicate or exacerbate heart and lung disease, raise the risk of stroke and lead to low birth weight and premature births.

Untreated dental disease also has a huge social cost. Like any chronic disease, the impact on quality of life for an individual can be devastating. The pain and discomfort of untreated dental disease spreads to all aspects of life. It can lead to poorer nutrition and to interrupted sleep. It can affect, for example, a child's ability to study and to thrive at school. It leads to people becoming self-conscious about their appearance.
People avoid going out and socialising with others. People become depressed. Imagine going for a job interview and sitting in front of a prospective employer with your two front teeth missing. Imagine trying to find rental accommodation without being able to talk properly, or being too self-conscious to smile because of your poor oral health. How do you think it would affect your chances? Oral health is as much a social justice issue as a health issue.

I want to say a few words about the history of this important reform, because the Australian Greens have made dental health a matter of the highest priority. We recognise that there is nothing more important than the health of a nation. Getting dental care into Medicare is a long-term reform that will make a real difference to people's lives. That is why we made dental health a priority when we negotiated with the Labor Party over who would form government following the last election. Reform to Australia's oral health care sector was one of the key parts of the agreement we signed with the Labor Party and we made sure that there would be significant action in this area in order for them to gain our support. When I reflect on that historic agreement signed between the Labor Party and the Greens, and I reflect on some of the key achievements of this parliament, action on climate change—including a price on pollution and the huge investment in renewable energy—as well as getting dental care for kids into Medicare, I think they will be remembered as two of the most significant reforms that have occurred in the life of this parliament. They are a reflection of what can happen when people with different political viewpoints work together for a common cause and achieve good things. It is a testament to what power-sharing governments can achieve.

To advance the cause of dental reform, the Greens worked closely with the government to establish the National Advisory Council on Dental Health. The council was comprised of experts in a range of fields, a range of disciplines: we had health professionals, academics, people from the social services and people from government, all working together. They were given the task of sitting down and coming up with a blueprint for reform, and they were told to focus on some practical steps in the coming budget and beyond.

The final report does make very interesting reading. It is thorough and damning in its assessment of the state of oral health in this country. It also takes a long-range view of where we should be heading. Before setting out any clear options for reform, the council spelt out some long-term aims. That, of course, was sensible; there is no sense in taking the first step without having a very clear idea about what the final destination should be. The council agreed on the long-term goal of an integrated national oral health system that is part of the broader health system. They wanted one that provided equity of access to prevention, promotion and clinical treatment to all Australians.

So the first goal that the council identified was integrating the oral health system into the health system proper. They noted that ordinary people do not make a strong distinction between two kinds of medical issues. Toothache or earache—there is not much of a difference when you just want some relief. And separating these two aspects of health care has led to a real confusion in health policy that has lasted for decades. Just as oral health is linked to overall health, the two systems for caring for these parts of our body must also be integrated.
Improving equity of access was also a top priority, and the report made it very clear that there is a huge inequity in who gets adequate care at the moment. One of the things the report made very clear was that universality is what should underpin our system over the long term. That means that, no matter what our income or standing in society, we should all get access to a good standard of oral health care—and I will talk a little bit more about the principle of universality in a moment.

The council also made the point that looking after the oral health of kids is one of the best investments we could make in the nation's health. It is true that kids often do get to go to the dentist more frequently than adults, but recent declines in the oral health of kids do sound an alarm bell. Childhood dental health is a good predictor of adult oral health, and so sending children into adulthood with healthy teeth and good habits is sound public policy and a good long-term investment. Those of us in the public health community know that sending kids into adulthood with good habits is the most efficient way to influence their health as adults; it will pay huge dividends in the future.

Let us spend a moment reflecting on the details of this bill before the chamber. I think it represents an important part of the implementation of the reforms envisioned by the council. It is a result of the focus that the Greens have brought to bear on the issue. It is part of a broader dental reform initiative. The $4-billion-dollar reform package announced in August also includes $1.3 billion in new money for public dental services administered by the states, and they are services that many low-income Australians rely on. In many cases, they have been underfunded, and for far too long we have had an underinvestment in infrastructure and, as a result, we have unacceptably long waiting lists. The extra new money will fund the building of more infrastructure—chairs—and will employ more dentists and pay for hundreds of thousands of additional services. The reform package also includes $225 million in new money for grants to ensure that all Australians can benefit from this package. Where there are gaps in services, particularly in rural and remote regions, this money will be available to fund projects that address areas of particular need.

But the biggest part of the reform is a new Medicare entitlement for children: 3.4 million kids in families that receive the family tax benefit A will be entitled to Medicare-funded dentistry that covers all essential preventative and restorative dental care at the dentist of their choice. All kids from the age of two will be covered until they turn 18. Each child will be able to receive up to $1,000 in treatment in every two-year period. So for the first time Australian families will be able to take out their Medicare card and get dental treatment for their children, just like at the doctor.

This bill allows for the creation of the Child Dental Benefits Schedule and specifies eligibility. The government has undertaken to consult with the profession on the range of services included. All essential preventative treatment will be covered. The Greens also agree with the members of the Community Affairs Committee, which examined this bill, that under special circumstances children should have access to more complex procedures, when they are clinically necessary. We will do what we can to advance this as the schedule is developed and implemented. This focus on children is a good investment in the future dental health of the country. It establishes patterns that research indicates will pay off in adulthood.
Australia was once a leader in child oral health, but it has been slipping. The latest report on child dental health from the Australian Institute of Health and Welfare tells us that, in the last year, one in six children experienced pain or avoided some foods because of dental problems. Children whose parents reported difficulty paying a $150 dentist bill were more than twice as likely to have experienced problems as those whose parents did not. This just reinforces what we knew: the health of Australian children is suffering because of the cost barriers that result from this nonsensical exclusion from Medicare. This reform goes some way to closing that gap.

This reform has the backing of many experts. The Australian Medical Association, the Australian Dental Association, the Australian Health and Hospitals Association and the Australian Health Care Reform Alliance have all spoken out in support of this scheme. The Australian Council of Social Services recognises that it is a big step forward in healthcare equity and has praised the new reform package.

An amount of $2.7 billion is allocated for the first years of the Child Dental Benefits Schedule, and over $4 billion in new money has been set aside for these reforms. This initiative and others in the reform package come on the heels of over half a billion dollars allocated for dental health in the 2012-13 budget—money that was negotiated with the Greens. This is the biggest reform in dental health in the nation’s history, but it is just a beginning. The Greens take dental health seriously and will continue to work towards a universal Medicare funded dental scheme.

Part of the scheme does involve the closure of the Chronic Disease Dental Scheme, which was instituted by the Howard government and was aimed at providing treatment to a small number of patients suffering chronic diseases. The health minister described this as one of the worst pieces of public policy she has seen. While we do not agree with the extent of those statements, it is true to say that the scheme was hastily designed and did contain some significant inefficiencies. It was also inequitable. It was not means tested, meaning that sometimes people who were on extremely high incomes could get thousands of dollars in treatment while others who were concession card holders and had very poor oral health were not eligible for care. Nevertheless, the CDDS did provide some measure of publicly funded dental care and provided some treatment to people who otherwise would have struggled to get that treatment. We would have liked to have seen it continue on until the start of these new reforms. We kept the CDDS running for four years because we wanted to negotiate something more significant in its place—something that would be fairer and a better investment for the future and that we could build on over time.

As part of the reform package the $1.3 billion we have secured for services in the public system will go some way towards covering many of the people who were receiving treatment under the Chronic Disease Dental Scheme. They will now be eligible to receive treatment under the expanded services offered through the public system. As far as the Greens are concerned, the establishment of the Child Dental Benefits Schedule Medicare funded dentistry for children is just the first step. The Greens vision is for a universal dental scheme. Our plan, Denticare, is consistent with what the medical experts say: we need to have universality enshrined in oral health, just as we have it enshrined in general health care. We know that it is a popular initiative, and
most people understand it intuitively because they value their experience with Medicare. We also know that it is affordable. It is simply a matter of priorities.

Universal dental care may not happen quickly. It is true that for it to be brought in over time we need to start with those people who need our help most urgently. Children are an investment for the future, and that is why we begin with them. But we also know that low-income earners have a high burden of disease and need extra help. We are pleased that this initiative will make significant inroads into this problem. But over time we would like to see them become the next cohort who receive access to Medicare funded dentistry.

I am pleased that significant reform is being implemented. It is a huge start. It is the first step towards universal dental care and I commend it to the Senate.

Senator Faulkner (New South Wales) (21:29): I am very pleased to speak in support of the Dental Benefits Amendment Bill 2012, and I am particularly pleased that Senator Bob Carr is in the chamber tonight, given his longstanding interest in oral health and dental care.

I think it is fair to say that much has changed in Australia over the past couple of decades—certainly since I first became a senator in 1989. Australia is clearly a more egalitarian place than it was, with fewer class divides and significant progress made towards equality of opportunity for Australians. Education has become more accessible. Access to employment for migrants, women, the disabled and many other disenfranchised groups has improved. Indigenous Australians have more opportunities than they had before. There is more access to education, employment and many health services than we have seen in Australia previously. But oral health is one area where the social divide is unchanged. Dental health has the same correlation to a person's wealth and social standing as it did in 1989. It is true that some of the statistics in relation to dental health do really tell the tale. Tooth loss amongst those who earn less than $20,000 per annum is five times greater than for those who earn over $50,000 per annum.

It is a fact that the Commonwealth government has not done enough in the past period of time, the past 20 years, to close the gap on dental health. This bill, as part of a $4.1 billion investment in the dental health of Australians, is, I think, a very important and very significant step forward. This bill targets children's dental services. Studies have shown that children with increased decay in childhood do need much more intensive dental care later in their lives. This bill will provide $2.7 billion for around 3.4 million Australian children who will be eligible for subsidised dental care, and those benefits, as we have heard, will be provided to children aged from two years to 18 years.

From 1 January 2014 a child dental benefits schedule will see the Commonwealth take responsibility for funding basic dental care for children in families receiving tax benefit part A. Funding will target children from low- and middle-income families, children who are beneficiaries under Commonwealth welfare programs such as family tax benefit part A, Abstudy, disability support pension, youth allowance, double orphan pension, the Veteran's Children Education Scheme and the Military Rehabilitation and Compensation Act Education and Training Scheme. The child dental benefits schedule will mean that kids in eligible low- and middle-income families will be able to access dental services—including check-ups, fillings and extractions—to a benefit of $1,000 over a two-year period for those basic
dental services. This is a very important reform. It is going to make a big difference to the lives of many Australians.

As we saw from the minister's second reading speech, the larger package of the government's dental reforms includes $1.3 billion for additional services for low-income adults and $225 million for dental capital and infrastructure measures for regional and remote parts of Australia. As I was just discussing with Senator Carr, this is of particular importance because, as senators would be aware, there are still many rural and remote areas in Australia which do not have fluoride in town water.

I would say in concluding my remarks on this important legislation that, unfortunately, it is true that dental health in this country has been a luxury for the haves and a dream for the have-nots. So I am very pleased to speak in support of this important legislation which I believe will make that concern a thing of the past. This is an important bill, and I am very pleased to support it strongly.

Senator EDWARDS (South Australia) (21:37): I too rise tonight to speak on the Dental Benefits Amendments Bill 2012. This bill presents me with an opportunity to talk about the terrible decision Labor is making in closing the Chronic Disease Dental Scheme. It also gives me a chance to highlight the inferior dental healthcare outcomes people in rural Australia have, compared to their urban counterparts.

We on this side of the chamber know how important dental care is. It was Tony Abbott, when he was health minister, who established the Chronic Disease Dental Scheme. It has helped countless people with chronic diseases access dental care. These chronic diseases include: asthma, cancer, cardiovascular illness, diabetes, arthritis, mental illness, musculoskeletal conditions and stroke. I support investment in dental care for those who are suffering from chronic disease.

I also support investment in dental care for our children. We all know how important good dental care is, especially for our young, and ensuring that they establish good dental care early can help prevent more serious conditions later on in their lives. I know that people out there in rural South Australia need assistance. Any research you care to look at shows that people in the country have poorer dental health outcomes than their city cousins. My close friend is a dentist in the Clare Valley and he can attest to this anecdotally— and I am sure we could get him to write it down and prove it for us. And that is only 150 kilometres from the city, before you go out to the mining areas of South Australia, Western Australia and Queensland, where I am sure that the health outcomes are far less satisfactory than their city cousins. People living in rural areas stand alongside Indigenous Australians and low-income earners, who are regularly cited as having the worst oral health outcomes in Australia.

As with access to most services, rural Australians are at a disadvantage when it comes to oral health. The research shows that economic disadvantage and living in rural areas are two of the greatest risk factors for poor oral health in Australia—and I agree with you, Senator Di Natale, on those very matters. The Australian Dental Association states that in rural South Australia there are only 27 practicing dentists per 100,000 people, which is well below that found in Adelaide, where there are 66 per 100,000 residents. The problem is particularly clear on the York Peninsula and in the lower north of South Australia, where there are just over 22 dentists per 100,000 residents.

A report from the National Advisory Council on Dental Health shows that rural
residents have a higher incidence of unfavourable visiting patterns: 38 per cent compared to 27 per cent for the urban residents. It states that these visiting patterns increase the risk of poorer oral health in rural residents, compared to urban residents, which is supported by survey data. For example: 31.7 per cent of rural residents have untreated decay, compared with 24.8 per cent of urban residents; and 32.8 per cent of rural residents have moderate to severe periodontal disease, compared to 26.1 per cent of urban residents. Everywhere you look, the rural people of Australia are at a disadvantage. Of the total dentate population, 18.5 per cent of rural residents have fewer than 21 teeth, compared to 13.8 per cent of urban residents. There are a lot of figures in there. But it does point to a lack of focus on the rural areas of Australia.

I reiterate how important dental care is for our children, and establishing good dental hygiene from an early age is critical. I remember having to continually nag my four children to brush their teeth before bedtime. Obviously it was not a pleasant task for them—until they finally worked out that it was a good way to stall bedtime. Needless to say, they now have some nice pearly whites to go through life with.

However, not all children have such good teeth. A report released on 25 October by the Australian Institute of Health and Welfare, called Families and their oral health, showed that 16.7 per cent of children surveyed had experienced dental problems in the past year. In families where children had such dental problems, some 23.2 per cent of their parents reported similar dental problems over the same period. Children who experienced an oral health impact in the last 12 months were more likely than children who did not, and they are likely to be from the families who report difficulty in having to pay the $150 dental bill.

Clearly, we have some problems to address in this country when it comes to rural people and children's dental health. Those two areas are standing behind the door when it comes to this bill. This government is going to make matter worse by shutting down the Chronic Disease Dental Scheme—go figure!

This scheme operated by allowing someone with chronic disease to be referred by their GP to a dentist, where important work was undertaken by that dentist. The scheme has been used with incredible success; millions of Australians have accessed essential dental services because of it. The end of the Chronic Disease Dental Scheme would put the health of many older and low-income residents at risk. Eighty per cent of patients under the Chronic Disease Dental Scheme are concession card holders, and they are being left stranded by this government. The government has said it will replace the scheme with a more limited program, but that will not start for adults until July 2014, which is a 19 month wait, in anybody’s order.

Once again, Labor is going down the path of mismanaging a program. If you have serious dental treatment underway that will not be concluded by December this year, you lose out—either you pay or you do not finish your treatment. Those who can afford it or who can get family support for it will get the treatment to ease the pain and improve their health. For everyone else who cannot afford major dental treatment, this is a serious problem. The news is a little better for sick children who are using the scheme. They will have to wait only 13 months, until January 2014, when they will have their benefit cut from $4,250 to $1,000 over two years.

The coalition has repeatedly offered to work with the government to achieve
bipartisan reform of the scheme to ensure that it is sustainable and better provides for all Australians. The government is refusing these offers perhaps because it cares more about some political point-scoring than it does about the dental health of Australians. More likely, it is a case of looking a bit like a rabbit in the headlights in trying to achieve the Treasurer's rolled-gold promise of a budget surplus this year. The Gillard government has chosen to abruptly close the scheme on 30 November 2012, just weeks away, regardless of people having incomplete treatments and no alternative treatments likely for years. The government has offered an alternative that is little more than an election promise, with the following flaws. Under Labor, adults will have to wait until at least July 2014, and even then the public dental clinics could never match the prompt personal care of a local dentist. Under Labor, children with chronic disease will have their benefit cut from $4,250 to $1,000.

I would like to address some of the unfunded plans that Labor are promising to implement—just more unfunded plans with the promise in the never-never time of the future. This bill will replace the Medicare Teen Dental Plan with the Child Dental Benefits Schedule. It will change the current scheme where the age eligibility is 12 to 17 years to one that covers children from the ages of two to 18 years—on the surface, this would be a plus. I have four children and they are now all in their teenage years, and not too many of them had problems with their milk teeth. What you are seeing is a benefit. What you are being sold seems to be a wonderful thing. But very little dental work is done on children from the ages of two to 12. Again, it is the smoke and mirrors which we see so often from this Gillard Labor government regime. They will give you a little bit extra, but the reality is that it does not mean much at all. For all those supposed changes, there is still no schedule of services, fees or details of how this new $2.7 billion Child Dental Benefits Schedule will be funded. It is a bit like the NDIS, it is a bit like Gonski—again, we have no idea of how this is all going to be funded.

The scheme for adults will not commence until July 2014. There is only a 19-month wait, as I have already highlighted. The government has said that it will provide the states and territories with $1.3 billion for adult public dental services. This new system for adults will provide only 1.4 million additional services over six years. Labor has also announced $225 million for the development of dental infrastructure, capital and workforce measures through applications to the flexible grants program; but, of course, there is a wait. These grants will not be available until 2014. There is a theme here, isn't there? It is called the budget in May 2013—and that just happens to be an election year. The funding for all of these schemes has been rolled out to 2014, with the benefits not set to come through until some years after that.

Taken as a whole, this dental package comes with a $4.1 billion price tag and, at this stage, is unfunded. This is in stark contrast to the lived reality of the many people who have access to the Medicare Chronic Disease Dental Scheme, which provides them with $4,250 in Medicare dental benefits—

Debate interrupted.
and trepidation at the developing crisis in the Middle East. My fear and trepidation is shared by countless millions of peace-loving people around the world. My fear and trepidation is that many thousands of lives will be lost if Israel invades Gaza under the banner of deterrence. If operation Pillar of Defense leads to a ground war in Gaza, the consequences for all involved will be horrendous. Given the realignment of political forces in the Middle East, the geopolitical implications are immense and uncertain.

I condemn rocket attacks on Israel launched from Gaza. Launching rockets into Israel will not assist the legitimate rights of the Palestinian people to self-determination. Launching rockets at Israel will not promote the internationally recognised right of Palestine to national independence and sovereignty. Israel is entitled to exist in peace and security. For Israel to exist in peace and security, a pathway to peace must be built. Launching air attacks, followed by a ground attack on Gaza, is the antithesis to peace and security in Israel. Military action by one of the most powerful nations on earth against one of the weakest occupied territories on earth is a short-term act of aggression that will not produce the goal of a safe and secure Israel.

As a member of the UN Security Council, Australia has an obligation to act in an independent manner designed to bring peace and security to the whole of the Middle East. The Australian government must look beyond this current conflict and strive to bring about a pathway to peace. This requires an independent critical analysis of the issues required to bring about a lasting peace in the Middle East.

Many of the issues have been outlined by the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People. This UN committee, in its 2012 report, outlined political developments over the last 12 months as they related to Palestine's legitimate aspirations for statehood. The UN committee pointed to Israel's consistent refusal to freeze its illegal settlement activities, which continue to deepen mistrust, raise tension and jeopardise the two-state solution. The committee drew attention to Palestine's application for admission to United Nations membership, which remains pending in the Security Council since the Committee on the Admission of New Members was unable to make a unanimous recommendation to the council.

In a statement to the General Assembly on 27 September 2012, President Abbas said that Palestine had begun intensive consultations with various member states and regional organisations towards having the assembly adopt a resolution considering Palestine as a non-member state of the United Nations. In my view, the world is moving to accept Palestine as a non-member state of the United Nations and Australia should exercise leadership and support this position.

The committee outlined the intensification of Israel's illegal settlement activity in the West Bank, including East Jerusalem. The Palestine Central Bureau of Statistics reported in August 2012 that the number of settlers in the 144 settlements in the West Bank, including East Jerusalem, in 2011 was 536,932, an increase of almost 13,000 compared to 2010. The intensification of illegal settlement activity is the major barrier to a two-state solution and peace in the Middle East. This parliament should make it clear that Israel should stop illegal settlement activity in the West Bank and East Jerusalem.

According to the United Nations Office for the Coordination of Humanitarian
Affairs, at least 154 Palestinians were injured by Israeli settlers during the reporting period. At least 39 Israeli settlers were injured by Palestinians during the same period. In 2012, 13 Palestinians, including eight children, have been injured in hit-and-run incidents involving Israeli settler vehicles.

The UN office reports that inadequate law enforcement by Israel and a lack of accountability continue to be the key factors underpinning settler violence and deliberate provocations against the Palestinian civilian population. This included acts against Palestinian children, families and family homes, agricultural lands and orchards and the desecration of Muslim and Christian holy sites. Seventy-eight per cent of Palestinians living in East Jerusalem live below the poverty line. There is a chronic shortage of some 1,000 classrooms in East Jerusalem's education system. One-third of Palestinian land in East Jerusalem has been expropriated since 1967, on which thousands of apartments have been built by Israeli settlers. Israel's building of a separation wall has resulted in the closing of passage points and the implementation of a strict entry permit regime. This has effectively cut off East Jerusalem from the West Bank, exacerbating the economic and social conditions of its residents.

Israel has continued illegal construction of the wall in the occupied West Bank, including in and around occupied East Jerusalem. This is in defiance of the advisory opinion of the International Court of Justice of 9 July 2004. Israel carried out the demolition of at least 589 Palestinian-owned structures, 184 of which were residences, during the reporting period, displacing at least 879 people, including many children. Israeli occupying forces now continue to conduct routine military raids and arrests throughout the West Bank.

During the reporting period, five Palestinians were killed and over 2,400 injured by Israeli forces in the West Bank and East Jerusalem. According to the Office for the Coordination of Humanitarian Affairs, approximately 18 per cent of the West Bank has been designated by Israel, the occupying power, as a closed military zone for training or a firing zone. Approximately 5,000 Palestinians reside in these zones. In the Gaza Strip, and prior to operation Pillar of Defense, Israeli forces killed at least 77 Palestinians and injured more than 300 Palestinians.

Palestinians in the Gaza Strip suffer from food insecurity, due primarily to a lack of economic means rather than a food shortage. Forty-four per cent of the households are food insecure and 16 per cent are vulnerable to food insecurity. Restrictions on access to agricultural land and a fishing limit of three miles from the coast remain challenges. Palestinians in Gaza cannot, or will only with difficulty, access 17 per cent of the land, including 35 per cent of its agricultural land, because it is in a buffer zone or in the high-risk, access restricted area near the border fence with Israel.

I agree with Professor the Hon. Gareth Evans AC QC that Israel has a legitimate right to defend itself, but it also does have psychological needs: the terrible history of the Jewish people, which must be understood and somehow recognised if progress is to be made, and that Israelis are presently feeling more insecure than for a long time.

I commend the Gareth Evans speech of 1 November 2012 to the Australian Friends of Palestine Association as compulsory reading for all who want peace in the Middle East. I take the view that we must in this parliament stand up for peace, that we must ensure that the rights of Palestinians are protected and that aggression by Israel is not in the long-
The Hunger Project

Senator CASH (Western Australia) (22:00): I rise tonight to speak on The Hunger Project. Contrary to its name, The Hunger Project has nothing to do with food. In fact, it prides itself on never having fed a single person through a food handout. Unlike most other models of aid, it does not give out money either. In both the way it operates and the way it achieves its outcomes, The Hunger Project is the most unique and one of the most successful aid programs globally.

The Hunger Project achieves its outcomes through the application of three basic philosophies: (1) mobilising locals at grassroots level to take action on their needs and become self-reliant, (2) confidence and skills building of women to become leaders and equal partners to men in the development agenda, and (3) making local government accountable and deliver service to the community. Directors of The Hunger Project believe that aid or charity models which operate top-down or through handing out money or goods based on perceived need do not achieve optimal outcomes and are not a sustainable long-term strategy for reducing poverty and hunger.

As outlined in The Hunger Project literature, it is a global not-for-profit but it is not a charity. The traditional model of charity focuses on the donor-beneficiary relationship and deprives people of their human dignity, creating ongoing dependence. The following description captures the unique approach to building human capital:

The Hunger Project believes that people who live in hunger are not the problem but the solution. We see human beings who are resilient and enterprising and we work with them to unlock their capacity, creativity and leadership so they end their own hunger. We do not deliver food or services and we don't give money.

It is because of this philosophy that the outcomes of The Hunger Project are outstanding. The Hunger Project's strategies are working so effectively that it is achieving all of the Millennium Development Goals. These are the set of specific outcomes designed to end extreme poverty across the world that the leaders of the United Nations have made a commitment to achieve by 2015.

During its lifetime, The Hunger Project has touched the lives of more than 35 million people with development initiatives, operating in four regions: South-Asia, South America, Mexico and Africa. With just over 300 paid staff across the globe, The Hunger Project has trained a network of 380,000 volunteers, each of whom has made a personal commitment to the philosophes of the program. The Hunger Project is supported by a global community of investors who believe that there is more to life than the consumption of material goods, that each person has capacity to build and value to offer, and that finding and reaching out to new connections through partnerships makes life richer.

This belief was put to me by Perth volunteer and director Ailan Tran, with whom I recently met, and it captures The Hunger Project's approach, being that The Hunger Project is mobilising people living in poverty to take action for sustainable self-reliance and ultimately make them the authors of their own futures. This message of empowering people and giving them the capacity, skills and resources to take charge of their own futures resonates with me, because it aligns with the fundamental principles of the Liberal Party. These include belief in the innate worth of the individual, the right to be independent, the right to own property, the right to achieve and the need to
encourage initiative and personal responsibility—in a just and humane society where those who cannot provide for themselves can live in dignity.

Ms Tran told me about a recent trip she made to Bangladesh. In that country, The Hunger Project works with 80 of the local administrative and government units to help the people there become self-reliant. In Bangladesh, 30,000 people can be skilled and equipped to become self-reliant in a year for only $30,000. This is achieved through partnerships with existing NGOs and local government, and by engaging, mobilising and teaching people to build their own capacity and confidence and to take ownership of their own achievements.

What struck me most were Ms Tran's stories about the empowerment of women and the effect that this has had on the entire community. The Hunger Project has trained more than 5,500 women in Bangladesh over the past 10 years. Many were married as children and had experienced malnourishment their whole lives, even during pregnancy. Ms Tran told me that many of the women of in Bangladesh were effectively housebound, whether through local culture, early marriage, lack of education and opportunity, poverty, or a combination of all of these factors and others.

Once the women had received some training from The Hunger Project staff and volunteers, they began to feel more confident, and not just in their communities, where they were able to venture out from their homes and form support group relationships with other women. Ms Tran also told me that, once they had received training, the women had a renewed sense of spirit and purpose and were keen to further their work and skills and to collaborate on even more projects. In a place where women are quite often regarded as having fewer rights than men or have little to no value at all, gender equity is being encouraged and fostered in this way.

Also, rather than being threatened by their wives' empowerment, Bangladeshi men are instead embracing the fact that their partners are receiving education and training, and are learning skills that will help them to derive a second income and bring money into the household. As a result, their children can be healthier and can be educated. Ms Tran said that many of the men welcome the extra income because it reduces the burden on the male in the household and his shame at not being able to provide fully for his family. One of the men Ms Tran spoke to said that, because the women's status has improved, so had their marital relations. On many occasions, the entrepreneurial leadership of the women lifts the family out of poverty.

Another example Ms Tran gave me was about a group of women who had received Animator training. Afterwards, one of the women went around and knocked on the doors of all the families in the local community and asked the women to help her grow vegetables and food for their families. Each woman who agreed to take part saved a very small amount of money, which was pooled to purchase seeds to plant in the gardens of the participants. The women undertook extra free agricultural training provided by The Hunger Project, and over the course of the following two years they started producing surplus, which they sold to nearby villages.

Over time, the women generated enough income to establish community plots where they produce and sell crops for wholesale market—crops such as rhubarb, eggplant, gooseberries, rice, bitter melon, oil and seeds, among other things.
The upshot of this food production is that all of the women in the community have more nutritious food, which means they are better supported through pregnancy and breastfeeding, and the maternal health outcomes have improved.

These are but two examples of programs the Hunger Project runs in Bangladesh alone. Yet another is a self-help group where trained women leaders each look after a group of 25 women and they pool together small amounts of money from the poorest women in society in order to be able to offer small loans to start poultry farms, egg farms or fish farms. The women themselves have become a source of microcredit to each other. There has been a 100 per cent payback rate on these loans. The testimony given by one of these women was that, as a result of starting her egg farm, her husband stopped beating her in anger and frustration over their income and she can now send her daughter to school.

There are many other programs that the Hunger Project volunteers drive in the communities, such as the Youth Ending Hunger program. This is a leadership training program for young people that is run by volunteers and helps catalyse communities to take action to end poverty and hunger. One program that Ms Tran witnessed was a free remedial school that supports children who are struggling to keep up at school and is run by volunteers. Ms Tran met three teenage girls—Satni, Chitra and Julie—who tutor for two hours before school and two hours after school every day. These three young ladies are in high school themselves. Before they start their day tutoring, they are up at 4:30 am with their mothers helping to feed their animals and prepare morning meals, and helping their younger brothers and sisters to get ready for school. But for the girls, the higher motivation is evident. When Julie was asked why she gives her time to volunteer tutoring students, she said, 'We stand for a Bangladesh that is free of illiteracy.' Incredibly, there have been no dropouts from the school where the girls have been tutoring in the last decade.

Ms Tran also told me about several other projects she had witnessed as part of the Youth Ending Hunger initiative during her time in Bangladesh, including sustainable tree-planting initiatives, the establishment of a program for blood donations, building of community libraries and advocacy programs for ending child marriage.

The success of the Hunger Project can only be sustained through strong partnerships with the governments of these communities. The Hunger Project will only engage with national, state and, finally, local governments that are willing to try new methods and take on new programs for education of their citizens in order to change and build communities and improve outcomes. Once the neighbouring communities see the positive changes, they too are inclined to participate. So instead of a top-down, dictatorial donor/recipient relationship, it is a genuine partnership with both sides willing to participate.

Just two weeks ago, Ms Tran's fundraising group the Southern Lights Giving Circle raised $4,000 in their first fundraising event. This is on top of Ms Tran's personal commitment to raise several thousand dollars for the Hunger Project. The Hunger Project encourages the development of human capability, using a hand-up instead of a hand-out approach, and encourages people to learn, plan and build their own projects while taking ownership of the process and building their communities at the same time. I commend their work to the Senate.
Mekong River
World Toilet Day

Senator RHIANNON (New South Wales) (22:10): On 7 November, Laos and Thailand began construction of the Xayaburi dam across the Mekong River. If this dam is built, there will be tragic consequences for the Mekong River and its people. The Xayaburi dam would drive the construction of another 10 dams proposed for the mainstream of the Lower Mekong. These developments are very relevant to Australia. We are a major funder of the Mekong River Commission, MRC. Between 2008 and 2012, Australia funded the MRC to the tune of $17.3 million, and the Australian government took the lead in formulating a joint Mekong River Commission development partner statement in 2011. In response to my question on the concerns expressed by Cambodia and Vietnam about the Xayaburi dam, the minister stated:

The Australian Government will continue to engage with all MRC Member States in support of dam deliberation processes that are well-informed, transparent and allow for contestability. The Australian Government's aim is to support, and advocate for, robust deliberative processes in the countries and communities most affected. The Australian Government wants to ensure the benefits and costs are fully considered, and that as a result, informed decisions are taken by the governments of the Mekong Basin countries.

I hope that position still stands as Cambodia and Vietnam, despite claims by Laos that their concerns have been addressed, continue to insist that further studies are carried out on the project's transboundary impacts. Clearly, Australia should be working closely with Vietnam and Cambodia to ensure these studies are undertaken. This work is urgently needed.

If the Xayaburi dam is built, it will irreversibly alter the Mekong River's complex ecosystems, impacting on the food security of millions who live in the Mekong Basin. The project will directly affect the livelihood of 202,000 people living near the dam and 2,100 will have to be resettled. A review of the project's original environmental impact assessment revealed critical flaws in the understanding of the impacts of the project on the river's ecosystem and people. This EIA only examined impacts 10 kilometres downstream from the dam site, whereas scientists believe the impacts will extend hundreds of kilometres into neighbouring countries.

The Xayaburi dam, if built, will block fish migration routes for between 23 and 100 fish species to the Mekong's upper stretches, as far upstream as Chiang Saen in northern Thailand, an important spawning ground for the critically endangered Mekong giant catfish. The dam will destroy the river's complex ecosystems that serve as important fish habitats for local and migratory species. The dam will also block sediment flows in the Mekong River, affecting agriculture as far downstream as the Mekong Delta in Vietnam.

Despite the enormity of the proposed dam's impacts, Laos has still not met Cambodia and Vietnam's requests to study the dam's transboundary impacts. On 22 October, Vietnam's Minister of Natural Resources and Environment met the Laos Prime Minister and requested that all construction on the Xayaburi dam be stopped until necessary studies to assess the impacts of Mekong mainstream dams were first carried out.

Australia has a key role to play at this critical stage in the future of the Mekong. The Australian Greens urge the Australian government to remind the Laos government of its obligations under the 1995 Mekong agreement and of the need to gain agreement from neighbouring countries before moving forward.
to full construction of the Xayaburi dam. I urge the Minister for Foreign Affairs, Bob Carr, to acquaint himself with the letter sent today by the Save the Mekong Coalition to Mr Hans Guttman, the MRC CEO, and to MRC development partners. This letter is signed by non-government organisations, local people, academics, journalists, artists and ordinary people from within the Mekong countries and internationally. Save the Mekong calls for the Xayaburi Dam’s construction and power purchase agreement to be immediately suspended, as the dam does not fully comply with the 1995 Mekong agreement.

The coalition also calls on Laos and Thailand to publicly release the final design of the dam and have it undergo an independent technical expert review commissioned by the MRC, and for the MRC to immediately hold its first true regional public consultation in order to allow the public an opportunity to discuss the Xayaburi Dam and its impacts, whether the electricity from the dam is needed and if there are alternative energy technologies available. Through its role on the MRC and directly with the Mekong countries Australia has a critical role to play. In the context of the Asian century white paper this issue, of Australia playing a constructive role for the people and the environment of the Mekong, takes on even greater importance.

On another issue, today is World Toilet Day, a day set aside to recognise the importance of the humble toilet. This is something most of us take for granted here in Australia, but in many parts of the world a basic toilet facility is a luxury. World Toilet Day gives us an opportunity to remember that there is a global sanitation crisis affecting more than 2.5 billion people around the world. Back in March I acknowledged World Water Day in this Senate, celebrating the fact that the UN Millennium Development Goal target for drinking water had been met. Two billion people have gained access to clean drinking water since 1990, and that has done a lot of good in low-income countries. But things are not so good when we look at sanitation. Progress in this area has stalled. In my speech in March I noted that the Millennium Development Goal target for sanitation would not be met. The goal aimed to halve the proportion of people without access to adequate sanitation by 2015. According to the World Health Organisation’s and UNICEF’s Joint Monitoring Programme for Water Supply and Sanitation, the millennium development target will not be met until 2049, based on current rates of progress.

This will bring dire consequences for those who do not have access to toilet facilities. One of the most obvious problems is disease. Around 3,000 children die every day from water, sanitation and hygiene related causes, with diseases like diarrhoea, pneumonia, worms and trachoma rife in many low-income regions. These are diseases that are easily avoidable when basic sanitation standards are met. This year the international aid organisation WaterAid has drawn attention to specific dangers faced by women who do not have access to safe sanitation. I thank them for the good work they do in spotlighting issues like these.

Right now, more than one in three women in the world lack access to safe sanitation—that is 1.25 billion women. Over half a billion of these women have no choice but to go to the toilet out in the open. This is obviously something that brings significant shame and embarrassment which is, in itself, a serious problem that has a significant impact on their happiness and human dignity. It also puts
them at risk of disease, harassment and even attack.

Many women have shared their personal stories of long, dangerous journeys to find a suitable outdoor space to use as a toilet, searching for a place that is private but also safe. Eighteen-year-old Sandimhia Renato from Mozambique walks 15 minutes each day to find privacy in the bush outside her town. The trip takes her across a bridge—a precarious structure from which a number of people in her community have fallen to their death. She says:

I come here once a day, between 4 pm and 5 pm. At night it is very dangerous. People get killed. A woman and a boy were killed with knives. One woman I know of has been raped.

While whole communities are affected by a lack of toilets and amenities, women are most affected because of these external dangers and because of the specific sanitation needs that women have.

Representatives of Micah came to Canberra last year to talk about their water, sanitation and hygiene program, referred to as the WASH program. They brought with them a very large toilet—one of the most spectacular props parliament has ever seen. Micah are continuing their work with the Give Poverty the Flush campaign. The Greens support Micah's call for the Australian government to urgently increase its investment in water, sanitation and hygiene to $500 million annually by 2015. This is Australia's fair share of the cost of meeting the sanitation and water MDG target. Further, the Australian government should ensure at least half of this $500 million is directed to sanitation, because more people live without decent sanitation than without safe water. The key to achieving these objectives is a timetable commitment to increase the foreign aid budget to 0.7 per cent of gross national income by 2020. I congratulate Micah for all their work in this area.

Water Safety

Senator THISTLETHWAITE (New South Wales) (22:20): Last week I was saddened to learn of the tragic drowning death of a man at Little Bay, in Sydney's south-east. As a local to the area I am very aware of the dangers that await the thousands of visitors and locals that are drawn to our coastline each year. Be it on the beaches, in the surf or on the rock shelves, the Australian coast is a treacherous place that is often breathtaking one moment and life-taking the next.

On Sunday, 11 November, three men were fishing off the rocks at Little Bay when they were swept into the ocean by a large wave. A golfer at the nearby Coast Golf Club saw the incident and rang 000. Of the three men just one wore a life jacket, and it is no coincidence that man was able to save himself and one of his mates from certain death. The third angler, a 39-year-old from Warrawee, was not so lucky. It is common for people to talk about luck in moments of tragedy, but on this occasion bad luck should simply not have been allowed to come into play.

Since arriving in the Senate I have worked to raise awareness about the many ways in which people can run into trouble while enjoying our nation's coastline. One issue that I have devoted much of my time to has been improving safety around rock fishing. More than 150 people have drowned while rock fishing in New South Wales over the past 20 years, and many of those incidents could have been prevented with the right safety equipment. Anglers should wear correct clothing and footwear, and should always wear a life vest.
They should avoid fishing alone and even stay at home if the conditions are not right and the swell is too rough.

These are simple safety messages that have the potential to save lives, so I urge all rock fishers to heed these messages and, if they are able, to spread the word throughout the angling community.

On 12 October I was joined by the Minister for Foreign Affairs, Bob Carr, and the member for Moreton, Graham Perrett, to launch a national surf safety awareness campaign in Australia’s Chinese community. Surf Life Saving Australia’s 2011 drowning report shows that, of the people who drowned on our nation’s coastline in 2010-11, 35 per cent were from a non-English-speaking background and, of that 35 per cent, 85 per cent of those were from the Asian community and that in fact most of them were rock fishing. Representatives from Surf Life Saving Australia, the Australian National Sport Fishing Association and the Royal Life Saving Society have supported this campaign and were at the launch on 12 October. They also administer a couple of very informative websites on this subject, which provide information for people from a non-English-speaking background regarding safe fishing and beach going. Those websites are beachsafe.org.au and safefishing.com.au.

A lack of appropriate safety equipment was not the only force at play on Sunday, 11 November. When the three men were washed into the ocean at Little Bay they had minutes, perhaps seconds, in which to be rescued or to rescue themselves before they succumbed to the raging swell that was threatening to force them under and drive them against the rocks.

Lifesavers are desperately aware of the crucial nature of the first few minutes of any incident and are trained to react accordingly with a high degree of urgency. In this case, however, tragically, the channels of communication between emergency response teams and a breakdown in those communications meant that these men were left to fend for themselves and, in one case, unfortunately to drown without any hope of rescue. Member for Maroubra, Michael Daley, who spoke to witnesses of the incident, said a call was placed to triple-0 soon after the men were washed into the water, but the ambulance helicopter took 35 minutes to arrive at the scene. Mr Daley said onlookers were shocked to watch the man struggle in the water for 15 minutes before he lost consciousness and was washed back up onto the rocks.

As a long-time local of the area, Mr Daley was also appalled at the tragic lack of cooperation between emergency services in respect of this incident. He said:

Had emergency services contacted Maroubra Surf Club, South Maroubra Surf Club, or the Westpac Rescue Helicopter Service, this man might still be alive …

And further:

Either of the two surf clubs could’ve had jet skis or IRBs—

that is, inflatable rescue boats—

to Little Bay in minutes, or Randwick City Council lifeguards could’ve been there in five minutes on similar equipment.

There was also a state-of-the-art jet rescue boat in the water, literally some 800 metres away, 60 seconds away, from this man, performing training routines. But they were not notified by ambulance services under their protocol. I joined with Mr Daley last week to voice my disgust at the response to this incident. There was simply no good reason why so many alternatives and, in some respects, better placed emergency options that could have saved this man’s life were not alerted to this emergency and...
allowed to do what they are trained to do. In this case the protocol let down this man, his family and our community. ‘We have some of the best lifesavers in the world, so let’s use them,’ Michael Daley said last week, and I completely agree.

Efficient, effective management systems for emergency services are vital not just to ensure that surf lifesavers are notified quickly of any potential rescue but to allow paramedics and ambulance officers the best chance possible of saving lives. When it comes to rescue responses the chain of action means that those emergency teams further down the line have no chance of rescuing a victim if the first response team fails to notify them and fails to engage the most appropriate first contact. We have many heroes in emergency response, but they are all reliant on each other and, importantly, on the system in place that alerts them to the incident. If the chain of action is broken, the rescue will fail and deaths will occur. We need to get it right so that our emergency response teams can continue to show their skill, courage and effectiveness under deadly circumstances.

Following the Little Bay incident, the New South Wales Minister for Health, Jillian Skinner, has sought to overhaul the way the ambulance service deals with potential rescues and has asked the Chair of the State Emergency Management Committee, Mr Phil Koperberg, to oversee the implementation of new emergency response protocols for inshore water rescues. I also note that a coronial inquest into this tragic death will be undertaken. Incidents such as these and drownings such as these should never occur again. Unfortunately, a review and an inquest are far too late for this man’s family.

It was also revealed last week that this is not the first time that such an incident resulting from poor cooperation by emergency services in New South Wales has taken place. Just eight months ago, in the same area, not far from where this drowning occurred at Little Bay, another man was swept off the rocks and died after Ambulance New South Wales failed to notify nearby lifesavers of the incident. The skills of our lifesavers are second to none. They are admired the world over for their bravery and their professionalism in the face of extreme conditions. They have the expertise and the training to deal with situations involving difficult surf conditions and, in particular, rock-fishing accidents and people being swept into the ocean in difficult circumstances. But they need to be notified to ensure that their services can work. Lifesavers need to be alerted to these coastal incidents so that they can do what they are trained to do and work to save lives.

We need better coordination of our emergency services in New South Wales and I hope that the Koperberg review will ensure better communications and better outcomes when it comes to coordination of emergency services and that tragic incidents such as this never occur again. My sympathies go to the man and his family.

The DEPUTY PRESIDENT: Thank you, Senator Thistlethwaite, for a very poignant contribution.

Senate adjourned at 22:30

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]
Act Interpretation Act—
Statement pursuant to subsection 34C(7) relating to the delay in presentation of a report—

Statements pursuant to subsection 34C(6) relating to the extension of specified period for presentation of reports—


Royal Australian Navy Central Canteens Board (RANCCB)—Report for 2011 12.

Torres Strait Regional Authority—Report for 2011-12.

Airspace Act—Airspace Regulations—Instruments Nos OAR—
140/12—Determination of airspace and controlled aerodromes etc [F2012L02181].
141/12—Designation of air routes; Determination of conditions for use of air routes [F2012L02180].


Australian Research Council Act—
Approval of Proposals—Determinations Nos—
106—Discovery Early Career Researcher Award for funding commencing in 2013.
107—Linkage Infrastructure, Equipment and Facilities for funding commencing in 2013.
108—Discovery Indigenous for funding commencing on 2013.
109—Special Research Initiative for an Aboriginal and Torres Strait Islander Researchers' Network for funding commencing in 2012.
110—Discovery Projects for funding commencing in 2013.

Industrial Transformation Research Hubs Funding Rules for funding commencing in 2012 [F2012L02155].

Industrial Transformation Training Centres Funding Rules for funding commencing in 2013 [F2012L02156].

Broadcasting Services Act—
Broadcasting Services (Digital-Only Local Market Areas for Tasmania TV1) Determination (No. 3) 2012 [F2012L02140].

Variation to the Licence Area Plan for Remote and Regional Western Australia Analog Television – No. 1 of 2012 [F2012L02176].

Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos CASA—
341/12—Direction – flight time limitations for helicopter mustering operations [F2012L02139].
356/12—Instructions – use of Global Navigation Satellite System (GNSS) [F2012L02141].
364/12—Direction – number of cabin attendants (National Jet Systems) [F2012L02169].

Civil Aviation Safety Regulations—Instruments Nos CASA—
EX163/12—Exemption – recency requirements for night flying (Virgin Australia International Airlines Pty Ltd) [F2012L02146].
EX164/12—Exemption – use of radiocommunication systems in firefighting operations (Western Australia) [F2012L02174].


Commissioner of Taxation—Public Rulings—Class Rulings—
Erratum—CR 2012/38.


Goods and Services Tax Bulletins—Addenda—GSTB 2003/2 and GSTB 2006/1.


Taxation Determinations TD 2012/21 and TD 2012/22.

Taxation Ruling (old series)—Notice of Withdrawal—IT 2258.

Taxation Ruling—Erratum—TR 2010/1.

Competition and Consumer Act—Competition and Consumer (Tobacco) Amendment Information Standard 2012 (No. 1) [F2012L02145].

Consumer Protection Notice No. 5 of 2012—Imposition of permanent ban on small, high powered magnets [F2012L02171].

Corporations Act—ASIC Class Order [CO 12/1209] [F2012L02157].

Customs Act—Select Legislative Instrument 2012 No. 249—Customs Amendment Regulation 2012 (No. 8) [F2012L02159].

Environment Protection and Biodiversity Conservation Act—

Amendment of list of specimens taken to be suitable for live import—EPBC/s.303EC/SSLI/Amend/055 [F2012L02168].

Environment Protection and Biodiversity Conservation Declared State or Territory Declaration 2012 [F2012L02160].

Fisheries Management Act—Western Tuna and Billfish Fishery Management Plan 2005—Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2013 [F2012L02178].

Food Standards Australia New Zealand Act—Food Standards (Application A1038 – Irradiation of Persimmons) Variation [F2012L02175].

Higher Education Support Act—


12 of 2012—Australian Institute of Business Pty Ltd [F2012L02167].

Higher Education Provider Guidelines 2012 [F2012L02136].

Revocation of Approval as a VET Provider—Minister for Employment, Higher Education and Skills (SA) [F2012L02189].

VET Provider Approval No. 23 of 2012—Northern Rivers Conservatorium Arts Centre Inc [F2012L02177].

Insurance Contracts Act—Select Legislative Instrument 2012 No. 250—Insurance Contracts Amendment Regulation 2012 (No. 2) [F2012L02163].

Judiciary Act—Select Legislative Instrument 2012 No. 253—High Court Rules 2004 (Amendment) [F2012L02165].
Lands Acquisition Act—Statement describing property acquired by agreement for specified purposes under section 125.

Migration Act—Instrument IMMI 12/002—Class of persons [F2012L02162].

National Consumer Credit Protection Act—Select Legislative Instrument 2012 No. 201—National Consumer Credit Protection Amendment Regulation 2012 (No. 2) [F2012L01706]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 21 August 2012].

National Health Act—Instruments Nos PB—98 of 2012—National Health (Weighted average disclosed price – interim supplementary disclosure cycle) Amendment Determination 2012 (No. 2) [F2012L02147].

101 of 2012—National Health (Residential Medication Chart) Amendment Determination 2012 (No. 2) [F2012L02154].

102 of 2012—National Health (Remote Aboriginal Health Services Program) Special Arrangements Amendment Instrument 2012 (No. 3) [F2012L02153].

National Health (Immunisation Program – Designated Vaccines) Variation Determination 2012 (No. 2) [F2012L02185].


8 of 2012—Marine Orders Part 34 Amendment 2012 (No. 1) (Solid Bulk Cargoes) [F2012L02148].

9 of 2012—Marine Order 50, issue 6 (Special Purpose Ships) [F2012L02150].

Ozone Protection and Synthetic Greenhouse Gas Management Act—Exemptions Nos—S40E12554593—RDN Australia Pty Ltd as the trustee for The Tyson Family Trust, dated 2 April 2012.

S40E13490277—Qantas Airways Limited, dated 22 December 2011.

S40E16372769—Gulf Coast Aviation Pty Ltd, dated 18 January 2012.

S40E18019630—Jetstar Airways Pty Limited, dated 22 May 2012.

S40E18432800—Tiger Airways Australia Pty Limited, dated 13 January 2012.

S40E25120867—Virgin Australia Airlines Pty Ltd, dated 22 December 2011.

S40E39973402—China Southern West Australian Flying College Pty Ltd, dated 2 April 2012.

S40E45313089—Aeroparl Pty Ltd, dated 4 April 2012.

S40E55931279—John Holland Aviation Services Pty Ltd, dated 8 February 2012.

S40E57928118—Strategic Airlines Pty. Ltd., dated 14 February 2012.

S40E59464399—Virgin Australia International Airlines Pty Ltd, dated 13 January 2012.

S40E64753642—Kidde Aerospace & Defence Pty Ltd, dated 1 May 2012.

S40E72692497—Skywest Airlines (Australia) Pty Ltd, dated 10 January 2012.

S40E82049666—Fugro Spatial Solutions Pty Ltd, dated 26 July 2012.

S40E95079839—M & G Hoskins Sales Pty Ltd, dated 4 January 2012.

S40E98385375—Nitro Aviation Pty Ltd, dated 25 May 2012.

Patents Act—Select Legislative Instrument 2012 No. 221—Patents Amendment Regulation 2012 (No. 1) [F2012L01878]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].

Private Health Insurance Act—Private Health Insurance (Benefit Requirements) Amendment Rules 2012 (No. 8) [F2012L02151].

Private Health Insurance (Complying Product) Amendment Rules 2012 (No. 8) [F2012L02137].

Radiocommunications (Spectrum Access Charges – 800 MHz Band) Determination 2012 (No. 2) [F2012L02173].

Remuneration Tribunal Act—Select Legislative Instrument 2012 No. 252—Remuneration Tribunal (Members’ Fees and Allowances) Amendment Regulation 2012 (No. 1) [F2012L02164].

Social Security (Administration) Act—
Social Security (Administration) (Schooling Requirement) Amendment Determination 2012 (No. 1) [F2012L02182].


Superannuation Act 1976—
Superannuation (CSS) (Eligible Employees – Exclusion) Amendment Declaration 2012 (No. 2) [F2012L02144].

Superannuation (CSS) (Eligible Employees – Inclusion) Amendment Declaration 2012 (No. 2) [F2012L02138].

Superannuation Act 1990—Superannuation (PSS) Membership Inclusion Amendment Declaration 2012 (No. 2) [F2012L02143].

Sydney Airport Curfew Act—Dispensation Report 06/12.

Tertiary Education Quality and Standards Agency Act—Tertiary Education Quality and Standards Agency (Register) Guidelines Amendment 2012 [F2012L02152].

Therapeutic Goods Act—
Select Legislative Instrument 2012 No. 251—Therapeutic Goods Amendment Regulation 2012 (No. 3) [F2012L02161].


Governor-General’s Proclamation—Commencement of provisions of an Act—
QUESTIONS ON NOTICE

The following answers to questions were circulated:

National Disaster Relief and Recovery Arrangement
(Question No. 2009)

Senator McKenzie asked the Minister representing the Attorney-General, upon notice, on 13 August 2012:

(1) For what reasons were the following applications for $25,000 in clean up and recovery grants from the National Disaster Relief and Recovery Arrangement rejected:
   (a) the Joel Joel community, following the January 2011 floods, given it was the third flood in less than 12 months for the community that caused an estimated $3.7 million in damage, including 400 km of fencing destroyed and the loss of 1,500 sheep;
   (b) the Wangaratta community, following flooding that has had a significant impact on the local community; and
   (c) the Campaspe Shire community, following flooding that has had a significant impact on the local community.

(2) Were these communities provided feedback on why the applications were rejected; if so, when and how.

(3) Why has the Government not honoured the National Disaster Relief and Recovery Arrangement, established under the Council of Australian Governments to address these types of incidents.

(4) (a) What constitutes criteria for the activation of Category C under the National Disaster Relief and Recovery Arrangement for the nine Victorian local government areas still awaiting a response from the Minister following the 2011 flooding events; and
   (b) when will each of these communities be advised of the decision on their applications.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator’s question:

The Commonwealth has offered Category C clean-up and recovery grants of up to $10,000 for primary producers in the areas requested by the Victorian Government that were affected by the December 2011 storms and floods, February-March 2012 floods and June 2012 floods. The Prime Minister has written to the Victorian Government regarding this matter.

Round One Energy Efficiency Information Grants
(Question No. 2139)

Senator Abetz asked the Minister representing the Minister for Climate Change and Energy Efficiency, upon notice, on 6 September 2012:


(1) Can a detailed outline be provided of what information each of the ‘industry associations and non-profits’ provide to small and medium sized enterprises and community organisations in order to fulfil the requirements of the grant.

(2) What expertise does each recipient have enabling them to provide businesses and other organisations with energy efficiency information that will reduce energy costs; and how was that ascertained or assessed by the department.
(3) Can separate lists be provided of the: (a) industry associations; and (b) non-profit organisations that were awarded grants, outlining the basis on which these groups were chosen over other associations and non-profit groups.

(4) Was consideration given to the funding break-up for each of these groups (industry and non-profit); if so, how was it applied.

(5) Can a list be provided detailing, for each grant recipient, the names of each small and medium enterprise and community organisation that is being assisted by the provision of ‘tailored energy efficiency information’ as stipulated by the grant requirements.

(6) Is each grant recipient required to provide key performance indicators to the department demonstrating that they have been successful in reducing the energy costs of the small and medium enterprises and community organisations they are assisting; if so, how; if not, why not.

(7) How and on what basis does the department assess the effectiveness of the ‘tailored energy efficiency information’ that each grant recipient is providing, including an example of such an assessment.

(8) What: (a) understanding of business; (b) business connections; and (c) business memberships, are the recipients required to outline in their submissions in order to fulfill the brief provided by the department; if such information was not sought, why not.

(9) Will the second round of funding under the EEIG Program, scheduled for October 2012, go ahead, particularly given the recent Government announcement of a ‘razor gang’ on grants.

(10) Will the Program Guidelines and Application form for Round Two differ from those in Round One; if so: (a) how and on what basis will the changes be made; and (b) when will the Program Guidelines and Application forms for Round Two be finalised.

(11) Is the department engaging with stakeholders to develop a more effective program; if so, can a list of those stakeholders be provided.

(12) Was any consideration given to the Australian Greens and their stakeholders when compiling the final list of Round One grant recipients.

(13) Are local, state and federal government groups allowed to apply for the grants.

Senator Ludwig: The Minister for Climate Change and Energy Efficiency has provided the following answer to the honourable senator’s question:

Please refer to the answer provided I to Question No. 2140.

**Immigration and Citizenship**

(Question No. 2147)

Senator Humphries asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 10 September 2012:

(1) Has there been a reduction in the number of plants in departmental and agency offices; if so:
   (a) By what percentage;
   (b) On what date did it come into effect;
   (c) What was the reason for the reduction; and
   (d) How much will each department and agency save as a result?

(2) What is the budget for the facilities management branch (or equivalent) in the:
   (a) 2011-12; and
   (b) 2012-13 financial years?
(3) What is the name of the organisation contracted to supply plants to departmental and agency offices?

(4) If a reduction in the number of office plants has taken place, when was the contracted organisation first made aware of the decision?

(5) Were staff consulted regarding a possible reduction in plants prior to it taking place?

(6) Have any complaints been registered from staff in relation to reductions in office plants?

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator’s question:

The Department of Immigration and Citizenship (DIAC)

(1) There has been a reduction in the number of plants in the office of the Department of Immigration and Citizenship (DIAC).

(a) The number of plants has been reduced from 1 786 to 567 or by approximately 68% between April and August 2012.

(b) The reduction in the number of plants commenced in April 2012.

(c) Plants were removed from DIAC’s Belconnen offices as part of the office accommodation realignment exercise. Plants were also removed from DIAC’s Victorian office to reduce costs.

(d) As a result of the removal of plants, DIAC has reduced expenditure by approximately $6 565 per month or $78 780 per annum excluding GST.

(2) The DIAC budget for facilities management (includes lease management, rental costs, maintenance and associated staff costs):

(a) For 2011–12 was $89 476 303.

(b) For 2012–2013 is $93 502 652.

Please note: The annual budget for plants is managed at Branch or Division level and is not included in the budget for facilities management.

(3) DIAC manages indoor plants through our Office Services contract with Converga Pty Ltd.

(4) Converga was first notified of the decision to remove a number of indoor plants in the Belconnen precinct as part of the office accommodation realignment exercise on 22 February 2012.

(5) Staff in the Belconnen precinct were advised that plants would be removed as part of the office accommodation realignment exercise on 19 March 2012.

(6) A central register has not been maintained to specifically record complaints from staff regarding the removal of plants. A small number of staff comments have been received by the Property, Procurement and Contracts Branch and through the Secretary’s feedback inbox.

Migration Review Tribunal and the Refugee Review Tribunal (MRT/RRT)

(1) There has been no reduction in the number of plants in the MRT/RRT.

(a) n/a

(b) n/a

(c) n/a

(d) n/a

(2) The budget for facilities management in the Finance and Business Services Section for 2011-12 was $1.5 million. The budget for 2012—13 is $1.8 million.

(3) The name of the organisation contracted to supply plants to the MRT/RRT in Melbourne is Gerfran Pty Ltd trading as Green Design Indoor Plant Hire Pty Ltd.
Job Services Australia and Disability Employment Services

(Question No. 2156)

Senator Siewert asked the Minister representing the Minister for Indigenous Employment and Economic Development, upon notice, on 10 September 2012:

(1) Is the Minister aware that, as of March 2012, Job Services Australia and Disability Employment Services job seeker data shows 31,356 job seekers in remote regions of Australia; and that the Kimberley makes up 3,561 of these job seekers equating to the highest proportion of job seekers (41 per cent) in remote Western Australia.

(2) Is the Minister aware of the KALACC [Kimberley Aboriginal Law and Culture Centre] Cultural Economy Scoping Study 2010, funded by the department, and its proposal to generate 771 employment positions relating to Aboriginal culture.

(3) Is the Minister aware of the July 2012 Repatriation Employment Plan, that contains a proposal to generate 24 core repatriation employment roles, including 15 full-time positions.

(4) Given the extremely high rate of Aboriginal job seekers in the Kimberley, will the Government fund the Cultural Economy Scoping Study and the Repatriation Employment Plan.

Senator Wong: The Minister for Indigenous Employment and Economic Development has provided the following answer to the honourable senator's question:

(1) The Minister is aware of the job seeker data. The Government has responded to employment participation in remote regions of Australia, including the Kimberley, through the establishment of a new employment services program - the Remote Jobs and Communities Program (RJCP). The program replaces Job Services Australia (JSA), Disability Employment Services (DES), the Community Development Employment Projects (CDEP) program and the Indigenous Employment Program (IEP) in remote Australia.

(2) The Minister is aware of the Cultural Economy Scoping Study 2010 and has received information about the study from the Kimberley Aboriginal Law and Culture Centre (KALACC).

(3) The Minister is aware of the July 2012 Repatriation Employment Plan however also acknowledges that The Office for the Arts (Department of Regional Australia, Local Government, Arts and Sport) currently has responsibility for the Indigenous Repatriation Program. The Minister is advised that the WA State Manager of the Department of Education, Employment and Workplace Relations met with KALACC representatives on 24 September 2012 to discuss the plan.

(4) This is a matter for the Department of Education, Employment and Workplace Relations. The department, in consultation with the Department of Families, Housing, Community Services and Indigenous Affairs, continues to meet with KALACC and will consider the plan.

Regional Australia, Local Government, Arts and Sport

(Question No. 2173)

Senator Humphries asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:

(1) What is the net financial effect on the department's budget of:

(a) the original 1.5 per cent efficiency dividend;
(b) the additional 2.5 per cent efficiency dividend; and
(c) other savings measures as introduced in the 2012-13 Budget papers.

(2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.

(3) What percentage of total expenditure is represented by staff costs.

(4) Is a net reduction in:
   (a) staff; and
   (b) consultants and/or contractors, expected for the financial year; if so, can a quantitative total for each reduction be provided.

(5) How many:
   (a) voluntary redundancies; and
   (b) involuntary redundancies, are expected to be executed.

(6) What is the current distribution of full-time equivalent staff across classification bands.

**Senator Conroy:** The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator's question in regards to the 2012-13 financial year:

(1) (a) $1.20 million
    (b) $2.44 million
    (c) Nil

(2) The department's internal budget allocates departmental resources to align with identified priorities. The budget is developed in consultation with organisational managers and regular reviews identify opportunities for cost reform in departmental operations. Financial performance is monitored each month and reported to the senior executive.

(3) 66.7 per cent.

(4) (a) Some reduction is staffing, contractors and consultants will be required during 2012-13 to ensure the Department is appropriately structured to operate within the 2013-14 available budget. Details of the exact reductions required are being developed.

   (b) Some reduction is staffing, contractors and consultants will be required during 2012-13 to ensure the Department is appropriately structured to operate within the 2013-14 available budget. Details of the exact reductions that will be required are being developed.

(5) How many:
   (a) Nil
   (b) Nil

(6) The current distribution of full-time equivalent staff across classification bands:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>SES</td>
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<tr>
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</tr>
<tr>
<td>APS 1-6 equivalent</td>
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Regional Australia, Local Government, Arts and Sport
(Question No. 2174)

Senator Humphries asked the Minister representing the Minister for the Arts, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:
(1) What is the net financial effect on the department's budget of:
   (a) the original 1.5 per cent efficiency dividend;
   (b) the additional 2.5 per cent efficiency dividend; and
   (c) other savings measures as introduced in the 2012-13 Budget papers.
(2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.
(3) What percentage of total expenditure is represented by staff costs.
(4) Is a net reduction in:
   (a) staff; and
   (b) consultants and/or contractors, expected for the financial year; if so, can a quantitative total for each reduction be provided.
(5) How many:
   (a) voluntary redundancies; and
   (b) involuntary redundancies, are expected to be executed.
(6) What is the current distribution of full-time equivalent staff across classification bands.

Senator Lundy: The Minister for the Arts has provided the following answer to the honourable senator's question:

Please refer to the response provided in question 2173.

Sustainability, Environment, Water, Population and Communities
(Question No. 2183)

Senator Humphries asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:
(1) What is the net financial effect on the department’s budget of: (a) the original 1.5 per cent efficiency dividend; (b) the additional 2.5 per cent efficiency dividend; and (c) other savings measures as introduced in the 2012-13 Budget papers.
(2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.
(3) What percentage of total expenditure is represented by staff costs.
(4) Is a net reduction in: (a) staff; and (b) consultants and/or contractors, expected for the financial year; if so, can a quantitative total for each reduction be provided.
(5) How many: (a) voluntary redundancies; and (b) involuntary redundancies, are expected to be executed.
(6) What is the current distribution of full-time equivalent staff across classification bands.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:
(1) (a) The original 1.5 per cent efficiency dividend equates to a total of $6.8m in 2012-13; (b) The additional 2.5 per cent efficiency dividend equates to $10.4m in 2012-13; (c) the department did not have any additional departmental savings measures introduced in the 2012-13 Budget papers.

(2) As part of the normal ongoing budgetary practices, all areas of expenditure and processes are under continual review. This includes reviewing discretionary areas of expenditure, looking for process improvements through the use of technology, identifying key priority areas of business and lower priority functions that can be scaled back or ceased and identifying efficiencies through implementing broad structural/organisational changes, for example, by reducing the number of Deputy Secretaries from four to three.

The Executive has also commissioned a more detailed review of its cost base at an activity level to further develop the evidence base on which to make decisions on the allocation of departmental resources and priorities.

In addition to identification of costs savings and efficiencies the department also looks for ways to further improve productivity and increase performance, for example the department was one of the first agencies to be subject to a “Capability Review”, the outcome of which has resulted in a range of projects aimed at increasing the agencies capability and performance over the coming year. The outcomes of this project and other internal performance improvements will assist in delivering increased efficiencies in business outcomes.

(3) In 2012-13, 44 per cent of the departments total expense budget is allocated to employee expenses.

(4) Management of the department’s budget is undertaken on a holistic basis i.e. including all aspects of expenditure. With respect to staffing levels the department continually reviews its staffing levels to ensure that it is using its resources appropriately and efficiently. The department is closely managing its recruitment of staff to ensure staffing levels can be managed within budgetary constraints. The use of natural attrition and internal redeployment assist in meeting budgetary targets. The department’s ongoing employee initiated separation rate was 10.3 per cent as at 31 August 2012.

The department also continually examines all areas of discretionary spending, including consultants and contractors. Given the diversity of the department’s operations, it is not possible to identify a quantitative reduction for each of these specific items.

(5) As outlined above the department is tightly managing its recruitment processes to ensure that current staffing resources can be utilised in the most effective manner. Based on current planning and estimates a general redundancy program across the department is not planned for 2012-13. If specific roles are no longer required, the department will undertake all appropriate redeployment and/or redundancy processes in accordance with the agency’s enterprise agreement.

(6) The current distribution is detailed in the following table.

<table>
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<tr>
<th>APS Equivalent</th>
<th>Total</th>
<th>APS Equivalent</th>
<th>Total</th>
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<tr>
<td></td>
<td></td>
<td>Grand Total</td>
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</tbody>
</table>
Health and Ageing  
(Question Nos 2192, 2196 and 2205)

Senator Humphries asked the Minister representing the Minister for Health, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:

(1) What is the net financial effect on the department’s budget of: (a) the original 1.5 per cent efficiency dividend; (b) the additional 2.5 per cent efficiency dividend; and (c) other savings measures as introduced in the 2012-13 Budget papers.

(2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.

(3) What percentage of total expenditure is represented by staff costs.

(4) Is a net reduction in: (a) staff; and (b) consultants and/or contractors, expected for the financial year; if so, can a quantitative total for each reduction be provided.

(5) How many: (a) voluntary redundancies; and (b) involuntary redundancies, are expected to be executed.

(6) What is the current distribution of full-time equivalent staff across classification bands.

For further information visit the web site on:


Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator’s question:

(1) The total financial impact for the efficiency dividends on the Department of Health and Ageing operating appropriation for 2012-13 is $22.3 million. The dividend on the departmental capital budget for 2012-13 is $0.9 million.

(2) A program of reforms is being implemented which includes: consolidation of a range of grant programs into larger flexible funds; reform of grants procurement and program funding systems and processes; an enterprise data warehouse system; improving IT Governance; a number of business process improvement projects; establishing a portfolio shared services centre; and capturing administrative savings such as travel costs, recruitment advertising, printing and 'Whole of Government' procurement.

(3) Staff costs represented 74 percent of total expenditure in 2011-12.

(4)(a) No.

(b) The Department is currently reviewing its use of contractors and consultants.

(5)(a) While a small number of staff may leave the Department in 2012-13 with voluntary redundancies it is too early in the year to foretell exactly how many offers might be made or how many staff will elect to accept them.

(b) Nil.

(6) A table detailing staff numbers by classification as at 30 June 2012 is provided on page 315 of the Department's Annual Report 2011-12. These have not changed materially since.

Regional Australia, Local Government, Arts and Sport  
(Question No. 2215)

Senator Humphries asked the Minister for Sport, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:
(1) What is the net financial effect on the department’s budget of:
   (a) the original 1.5 per cent efficiency dividend;
   (b) the additional 2.5 per cent efficiency dividend; and
   (c) other savings measures as introduced in the 2012-13 Budget papers.
(2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.
(3) What percentage of total expenditure is represented by staff costs.
(4) Is a net reduction in:
   (a) staff; and
   (b) consultants and/or contractors, expected for the financial year; if so, can a quantitative total for each reduction be provided.
(5) How many:
   (a) voluntary redundancies; and
   (b) involuntary redundancies, are expected to be executed.
(6) What is the current distribution of full-time equivalent staff across classification bands.

Senator Lundy: The answer to the honourable senator’s question is as follows:
Please refer to the response provided to question 2173.

Sustainability, Environment, Water, Population and Communities: Biological Control Agents
(Question No. 2219)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 19 September 2012:
(1) Have appropriate biological control agents been identified and cultured to address the introduced scale insect at the root of the yellow crazy ant problem on Christmas Island.
(2) What processes are in place to approve the release of the biological control agents.
(3) What statutes or regulations will be required to approve the release of the biological control agents.
(4) How long will this approval process take.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:
(1) The research project between the Director of National Parks and La Trobe University investigating the feasibility of indirect biological control of yellow crazy ants has identified a potential parasitoid wasp as a likely natural enemy of the scale insect.
(2) It is premature to consider approvals and release processes while further research is undertaken to establish the efficacy and associated risks of importation and release of this potential agent.
(3) The Environment Protection and Biodiversity Conservation Act 1999 and the Quarantine Act 1908 are the primary relevant statutes.
(4) It is premature to speculate at this early stage.
Women's Suffrage Memorial
(Question No. 2225)

Senator Humphries asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government in the Senate, upon notice, on 28 September 2012:

With reference to the Women’s Suffrage memorial within the Old Parliament House Gardens and given that, on 14 March 2012, an internal application was received to extend the memorial timeline:
(a) Who was the internal applicant?
(b) What is the total cost of the proposed upgrade to include the milestones of the first female Deputy Prime Minister, Governor General and Prime Minister?
(c) Was the contract for the work open for tender; if not, why not.
(d) Can a list be provided of all upgrades to the memorial timeline since its establishment, including the date, cost and reason for each upgrade.

Senator Conroy: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

(a) The Estate Development and Renewal unit of the National Capital Authority (NCA) submitted an internal application to the works assessment area for consideration.
(b) During 2011-12, the cost of the timeline extension was $22,838 (incl. GST).
(c) No. To ensure consistency with the pre-existing mosaic artwork timeline, the contractor who built the original timeline in 2004, Urban Art Projects Pty Ltd was approached directly to fabricate the necessary components for installation.
(d) Procurement was consistent with Commonwealth Procurement Guidelines. See response to part b. The timeline has only been upgraded once since its original installation. The NCA was approached by the Museum of Australian Democracy in mid October 2011 to upgrade the timeline. The upgrade took place following NCA works approval being granted in March 2012.

Women's Suffrage Memorial
(Question No. 2226)

Senator Humphries asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government in the Senate, upon notice, on 28 September 2012:

With reference to the Women's Suffrage memorial within the Old Parliament House Gardens:
(a) What extension has there been to the Women's Suffrage memorial timeline commencement and conclusion dates.
(b) Who conducted the internal heritage assessment of the works?
(c) Was an external heritage assessment conducted; if not, why not.
(d) Has an external heritage assessment been conducted for previous works:
   (i) within the Old Parliament House Gardens; and
   (ii) in relation to the Women's Suffrage memorial timeline.

Senator Conroy: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:
(a) The fountain features a timeline recording women’s suffrage milestones back to 1902. In 2012, the fountain was extended to commemorate the Hon Julia Gillard MP as the first female Australian Deputy Prime Minister (2007) and Prime Minister of Australia (2010) and Her Excellency, Ms Quentin Bryce AC CVO as the first woman to become the Australian Governor-General (2008).

(b) The National Capital Authority’s Director, Development Assessment and Heritage.

(c) No, an internal self assessment process was undertaken in accordance with the requirements for Commonwealth Heritage places under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

(d) Yes.
   (i) The reconstruction of the Old Parliament House Gardens as a whole was referred to the former Australian Heritage Commission for heritage assessment.
   (ii) In 2004, Professor Ken Taylor AM Heritage and Landscape Planning Consultant conducted a heritage assessment on the mosaic fountain and timeline artwork.

Prime Minister and Cabinet: Stakeholder Consultations
(Question No. 2232)

Senator Bernardi asked the Minister representing the Prime Minister in the Senate, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister’s portfolio:

(1) Is information collected from stakeholders and the broader community; if so: (a) what forms or other methods are used to collect information; (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both; (c) do these forms request an estimate of the time taken to complete; if not, why not; and (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010: (a) how many stakeholder consultations have been conducted; and (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Chris Evans: The Prime Minister has provided the following answer to the honourable senator’s question:

Given the very broad nature of the question and the diverse range of information collected by Australian Government agencies, attempting to answer this question would cause an unreasonable diversion of resources.

Sustainability, Environment, Water, Population and Communities
(Question No. 2246)

Senator Bernardi asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(1) Is information collected from stakeholders and the broader community; if so:
   (a) what forms or other methods are used to collect information;
   (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both;
(c) do these forms request an estimate of the time taken to complete; if not, why not; and
(d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010:
(a) how many stakeholder consultations have been conducted; and
(b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) The portfolio collects information from stakeholders and the broader community.
(a) Information is collected using forms, both paper-based and electronic, and face to face interviews, formal advisory committees, stakeholder engagement programs, partnership arrangements with industry, public consultation periods, informal networks and meetings.
(b) The portfolio uses a large number of paper-based and electronic forms with the exact figure being unavailable.
(c) The review of Wetlands Australia magazine (published by the department) involved a survey of subscribers, authors and wetland NGOs and included an estimate of 10 minutes to complete the survey (eight multiple choice and two open questions). The Bureau of Meteorology conducts telephone and electronic-based surveys on public perceptions of weather and warnings. An indication about how long the survey would take is provided at the commencement of the phone call and in the opening paragraph of the electronic form. Generally, portfolio forms do not provide an estimate of the time taken to complete.
(d) For a current online survey regarding the Great Barrier Reef World Heritage Area Strategic Assessment, respondents have been asked how long it takes to complete the survey and this information will be available once the survey closes. However, generally speaking, the portfolio does not collect data on how long it takes to complete each form.

(2) (a) Regulatory initiatives since August 2010:
Murray Darling Basin Authority (MDBA)
The MDBA conducted 50 stakeholder consultations in relation to the Guide to the Proposed Basin Plan (August–December 2010) and 175 meetings were held during the 20-week consultation period on the Proposed Basin Plan — a draft for consultation (November 2011 to April 2012).

Commonwealth Environment Water Office (CEWO)
The CEWO released a Discussion paper – trading of Commonwealth environmental water for consultation between November 2011 and April 2012. The CEWO has been meeting with key stakeholder representatives in eight roundtable meetings as it seeks to finalise a position paper on trading.

Bureau of Meteorology (the Bureau)
The Bureau enters into a consultation process each time an amendment to the Water Regulations is considered. Persons named in the regulations are contacted directly in each consultation process. As the Regulations affects less than 250 organisations, the Bureau has worked directly with those organisations and consultation is ongoing. It is therefore not possible to specify a number of consultations.

Supervising Scientist Division (SSD)
The SSD conducts stakeholder consultation through the Alligator Rivers Region Advisory Committee (ARRAC) which meets twice a year.

Great Barrier Marine Park Authority (GBRMPA)
A regulatory initiative has commenced which seeks to address the misuse of public moorings. Consultation with the Tourism and Recreation Reef Advisory committee which provides expert advice on tourism and recreation matters has been undertaken. The Office of Best Practice Regulation assessed that a regulatory impact statement for the proposed amendment would not be required.

Targeted consultation was undertaken from 9 to 23 February 2012 on an Environmental Management Charge for the disposal of dredge spoil in the Great Barrier Reef Marine Park ranging between $5-15 per cubic metre.

Proposed Preliminary consultation with the Great Barrier Reef Marine Park Authority's Reef Advisory Committees, specifically the Ecosystem Reef Advisory Committee, has commenced on Amendments to Great Barrier Reef Marine Park Regulations 1983 to allow the inclusion of "assessment of heritage values" in the Great Barrier Reef Outlook Report.

Amendments to the Great Barrier Reef Marine Park Regulations 1983 were introduced in December 2011 to increase protection to dugong within the Bowling Green Bay Species Conservation (Dugong Protection) Special Management Area. The amendments were largely developed through the initiative of local fishers as part of the Burdekin Regional Management Project. These changes have been developed in consultation with, and supported by, Queensland Seafood Industry Association, Fisheries Queensland, and the Queensland Department of Environment and Resource Management.

Australian Antarctic Division (AAD)

Two stakeholder consultations have been conducted (from July-August 2011 and October-November 2011) regarding the Review of Heard Island and McDonald Island Marine Reserve Management Plan.

Three stakeholder consultations have been conducted (informal consultations during March-April 2011, and formal consultations during October-November 2011 and July-August 2012) regarding the Review of the Mawson's Huts Historic Site Management Plan.

Regulatory Reform Taskforce

The Regulatory Reform Taskforce conducted consultation for the Regulatory Proposal to Increase Protection for National Parks and the Environment Protection and Biodiversity Conservation Amendment Bill. Consultation included public consultation, workshops, and roundtables (ministerial or departmental) since August 2010.

Marine Division

The Fisheries Adjustment Assistance Package (FAAP) is not a regulatory initiative but supports the implementation of a regulatory initiative. In the development of the FAAP there have been 11 formal meetings with stakeholders (including industry and state government stakeholders). A consultation paper was also released for public comment.

One regulatory initiative has been conducted in relation to Fisheries Assessments since August 2010, consisting of an interim declaration issued under the EPBC Act which provided for consultation with declaration affected parties.

Seven stakeholder consultation processes have been completed for Commonwealth Marine Reserves.

Environment Quality Division

The Hazardous Waste Review process has involved a round of consultation, through the release of an issues paper for stakeholder comment.

Stakeholder engagement and consultation was adopted as part of developing the National Waste Policy and the product stewardship legislation. In total, the consultations comprised release of nine separate public consultation documents, over 75 public meetings and over 150 bilateral meetings with stakeholders.

The Department of Sustainability, Environment, Water, Population and Communities has carried out stakeholder engagement activities in the lead up to and following the implementation of the Equivalent
Carbon Price in relation to Synthetic Greenhouse Gasses on 1 July 2012 to 3 October 2012. These include:

- 16 Industry information sessions
- 27 meetings with industry
- five national conferences/events
- five activities associated with the distribution of material to stakeholder groups
- four articles published into industry publications
- 19 fact sheets have been developed
- two email alerts to industry notifying them of the changes following 1 July 2012
- ongoing and regular meetings with Australian Government, state and territory governments/bodies.

Parks Australia Division (including the Director of National Parks)

Since August 2010, four stakeholder consultations have been conducted related to the signature, ratification and implementation of the Nagoya Protocol on Access and Benefit-sharing, which will have a direct bearing on Part 8A of the EPBC regulations.

During the preparation of four management plans for Commonwealth reserves, Parks Australia held meetings and consulted with a range of stakeholders.

(b) There were complaints from stakeholders about the community engagement process on the Guide to the Proposed Basin Plan.

In relation to the consultation on an Environmental Management Charge for the disposal of dredge spoil in the Great Barrier Reef Marine Park, a total of 11 of the 63 submissions noted the consultation process to be unsatisfactory. The comments were received from stakeholders representing Port Authorities, the Queensland Government, the Queensland Resource Council, the tourism industry, non-government organisations, Local Marine Advisory Committees, Reef Advisory Committees and the general public.

The National Seafood Industry Association lodged a complaint with the department regarding the short timeframe in which they were given to submit a response to the discussion paper on the FAAP. The deadline for submissions was extended to allow five weeks for them to respond.

One comment about the consultation process regarding Fisheries Assessments not being 'sufficiently well advertised to the general public' was received verbally on 15 October 2012 by Ms Rebecca Hubbard, Marine Co-ordinator at Environment Tasmania.

A complaint from the Australian Land Based Anglers Association was received when comments were open for the Booderee National Park draft plan of management.

Complaints were also received from the Recreational Fishing Alliance of New South Wales and the Australian National Sportfishing Association after they were unable to prepare and send comments on the draft management plan for Booderee National Park within the 90 day public comment period.

Agriculture, Fisheries and Forestry: Stakeholder Consultations

(Question No. 2249)

Senator Bernardi asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 3 October 2012:

(1) Is information collected from stakeholders and the broader community; if so: (a) what forms or other methods are used to collect information; (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both; (c) do these forms request an estimate of the time taken to complete; if
not, why not; and (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010: (a) how many stakeholder consultations have been conducted; and (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Ludwig: The answer to the honourable senator's question is as follows:

Given the very broad nature of the question and the diverse range of information collected by the Department of Agriculture, Fisheries and Forestry, attempting to answer this question would cause an unreasonable diversion of resources.

Social Inclusion: Stakeholder Consultations
(Question No. 2258)

Senator Bernardi asked the Minister representing the Minister for Social Inclusion in the Senate, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(i) Is information collected from stakeholders and the broader community; if so: (a) what forms or other methods are used to collect information; (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both; (c) do these forms request an estimate of the time taken to complete; if not, why not; and (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010: (a) how many stakeholder consultations have been conducted; and (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Chris Evans: The Minister for Social Inclusion has provided the following answer to the honourable senator's question:

The Minister for Social Inclusion is in the Prime Minister and Cabinet Portfolio. Please refer to the Prime Minister's response to Senate Question Number 2232.

Human Services: Stakeholder Consultations
(Question No. 2263)

Senator Bernardi asked the Minister for Human Services, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(i) Is information collected from stakeholders and the broader community; if so: (a) what forms or other methods are used to collect information; (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both; (c) do these forms request an estimate of the time taken to complete; if not, why not; and (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010: (a) how many stakeholder consultations have been conducted; and (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.
Senator Kim Carr: The answer to the honourable senator’s question is as follows:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister’s portfolio:

(1) (a) The Department of Human Services (the Department) has a number of channels which stakeholders and the broader community can access if they wish to provide suggestions, compliments or complaints. They can provide this feedback by:

- visiting the Department’s website at humanservices.gov.au and submitting feedback online;
- phoning the Centrelink Customer Relations Unit;
- phoning the Medicare Complaints and Feedback line;
- phoning the Service Feedback line;
- participating in customer surveys;
- talking directly with staff;
- completing a feedback brochure; and
- writing to the Department.

The Department also collects information from stakeholders and the broader community through regular reference group meetings, conducting research activities and engagement with community organisations and peak bodies. The Department does not use forms to collect information from stakeholders and the broader community.

   (b) Not applicable – the Department does not use forms to collect information from stakeholders and the broader community.

   (c) Not applicable - the Department does not use forms to collect information from stakeholders and the broader community.

(2) (a) None - the Department implements initiatives on behalf of a range of policy agencies. Policy agencies are responsible for stakeholder consultation on their initiatives.

   (b) Not applicable - the Department implements initiatives on behalf of a range of policy agencies. Policy agencies are responsible for stakeholder consultation on their initiatives.

Public Service and Integrity
(Question No. 2269)

Senator Bernardi asked the Minister representing the Minister for the Public Service and Integrity, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister’s portfolio:

(1) Is information collected from stakeholders and the broader community; if so: (a) what forms or other methods are used to collect information; (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both; (c) do these forms request an estimate of the time taken to complete; if not, why not; and (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010: (a) how many stakeholder consultations have been conducted; and (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.
**Senator Chris Evans:** The Minister for the Public Service and Integrity has provided the following answer to the honourable senator's question:
The Minister for the Public Service and Integrity is in the Prime Minister and Cabinet Portfolio. Please refer to the Prime Minister's response to Senate Question Number 2232.

**Finance and Deregulation: Financial Management and Accountability**
*(Question Nos 2280 to 2327)*

**Senator Sinodinos** asked the Minister for Finance and Deregulation, upon notice, on 4 October 2012:
In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:
1. What are the significant regulatory policy objectives each department, agency and authority is seeking to achieve through its regulatory agenda.
2. What regulatory processes and systems are in place to meet these objectives.
3. Is data available that demonstrates how regulations enacted by the Government since August 2010 have achieved these objectives; if so, can this data be provided.
4. What are the specific risks the current regulatory setting seeks to mitigate, and what methodology is used to assess these risks.
5. Is data available that demonstrates how these risks have been mitigated by recent regulations; if so, can this data be provided.
6. For each significant regulatory objective, is the relevant department, agency or authority aware of any information regarding how other countries pursue regulatory policies in meeting similar significant regulatory objectives; if so: (a) which country is best practice in terms of effectiveness and efficiency; and (b) how does Australia compare to this international best practice.
7. For each significant regulatory objective, how much additional regulatory cost does the current Commonwealth regulatory policy impose on the non-government sector relative to international best practice.

**Senator Wong:** The answer to the honourable Senator's question of all Ministers is as follows:
1) to (7) All agencies responsible for regulation which may have a significant impact on business are required to prepare an Annual Regulatory Plan (ARP) which provides information about recent and expected changes to Australian Government regulation. ARPs can be accessed via http://ris.finance.gov.au/2012/10/02/annual-regulatory-plans/.

* This response covers questions 2280-2327

**Cook Islands**
*(Question No. 2390)*

**Senator Ludlam** asked the Minister for Foreign Affairs, upon notice, on 19 October 2012:
1. What is Australia’s position, and what activities has Australia recently undertaken, regarding French Polynesia’s bid to be re-inscribed on the United Nations list of Non-Self-Governing Territories.
2. What occurred in relation to this issue at the 2012 Pacific Islands Forum in Rarotonga, Cook Islands.
3. Will Australia oppose international scrutiny of the self determination process at the Cook Islands meeting of the Melanesian Spearhead Group.
(4) Is the Government aware that in September 2012, the Final Communiqué of the 16th Summit of Heads of State or Government of the Non-Aligned Movement affirmed the inalienable right of the people of French Polynesia, Ma'ohi Nui, to self determination in accordance with Chapter XI of the Charter of the United Nations and the United Nations General Assembly resolution 1514 (XV).

Senator Bob Carr: The answer to the honourable senator’s question is as follows:
(1) Australia supports the principle of French Polynesia’s right to self-determination and also supports dialogue between France and French Polynesia on how best to realise that right. Australia joined other Forum countries in reaffirming this position at the Pacific Islands Forum Leaders’ Meeting in Rarotonga in August 2012.
(2) The Communiqué of the Pacific Islands Forum in Cook Islands in August 2012 stated that “Leaders reiterated their support for the principle of French Polynesia’s right to self-determination. Leaders noted the election of a new French government that opened fresh opportunities for a positive dialogue between French Polynesia and France on how best to realise French Polynesia’s right to self-determination. Leaders encouraged French Polynesia and France to intensify their dialogue in the coming months and agreed to consider developments at their 2013 meeting”.
(3) Australia is not a member of the Melanesian Spearhead Group and does not attend its meetings.
(4) Yes.