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SITTING DAYS—2012

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- BRISBANE 936AM
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FORTY-THIRD PARLIAMENT
FIRST SESSION—FIFTH PERIOD

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

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Senators Judith Anne Adams, Christopher John Back, Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, David Julian Fawcett, Mary Jo Fisher, Helen Evelyn Kroger, Scott Ludlam, Gavin Mark Marshall, Claire Mary Moore, Louise Clare Pratt, Ursula Mary Stephens and Mark Lionel Furner

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 Robert James Brown
Deputy 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 Judith Anne Adams and David Christopher Bushby
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert

Printed by authority 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 to be filled (vice H. Coonan, resigned 22.8.11), 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—A Thompson
## GILLARD MINISTRY

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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td>&quot;Minister Assisting the Prime Minister on Digital Productivity&quot;</td>
<td>Senator the Hon Stephen Conroy</td>
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<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<td>&quot;Minister Assisting the Prime Minister on Mental Health Reform&quot;</td>
<td>The Hon Mark Butler MP</td>
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<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>&quot;Minister Assisting the Prime Minister on the Centenary of ANZAC&quot;</td>
<td>The Hon Warren Snowdon MP</td>
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<td><strong>Cabinet Secretary</strong></td>
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<td>The Hon Wayne Swan MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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In addition, the Hon Philip Ruddock MP will act as Shadow Cabinet Secretary
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Thursday, 9 February 2012

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

BILLS

Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator EDWARDS (South Australia) (09:31): I continue from where I finished late last year on the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. The marine bioregional zones targeted in this bill and the subsequent declaration of the marine protected areas within them which will follow are provided for under the Environmental Protection and Biodiversity Conservation Act. The declaration of marine bioregional plans is deemed by the act not to be a legislative instrument, and thus they are shielded from parliamentary scrutiny. This bill seeks to make the bioregional plans disallowable instruments. This bill seeks to remove that absolute power from the minister. It gives parliament the opportunity to have a say when occasions dictate it to be necessary. This bill provides for far greater parliamentary sovereignty and allows both houses the right to say whether any new marine park declaration should happen, on its individual merits. The current lack of review available to the final declaration of bioregional plans is a clear example of the vesting of power within narrow confines. It rests solely with the minister and therefore provides the opportunity for an abuse of power.

Parliamentary scrutiny is something that is sorely needed in this parliament after last year’s gags on gags that we saw through the carbon tax debate and truncated debates generally. It was a year where legislation—like that which referred to the carbon tax and that which we are now seeing for the minerals resource rent tax—which people do not want and which the government do not have a mandate for was forced through parliament. Yet again it is the coalition who are trying to restore proper process and scrutiny to the parliament.

This bill is not about whether the government's declaration on marine protected areas goes ahead but whether parliament has the right to have its say and do the job we are elected to do, which is represent the millions of Australians who voted us here. It is a job which the coalition takes seriously. Unlike Labor, we will actually listen to the millions of Australians we represent. Overwhelmingly, support for parliamentary review of the marine bioregional planning process was evident in submissions to the Senate Environment and Communications Legislation Committee inquiry. I would like to quote from the Abalone Industry Association of South Australia:

It is a real slap in the face to the good work done by our Government Fisheries Managers and Industry. We are very uncomfortable with the fact that the final decision of adopting the bioregional plans rests with the Minister for Environment only. We would prefer to have a far more rigorous and robust process through the parliament that doesn’t have the potential to be clouded by extreme green views.

The coalition is not an anti-marine-protected-areas party. We understand that we need them to protect and maintain biologically and culturally significant marine areas. The previous coalition government began the
process of establishing marine protected areas around Australia's coastline. In 2006 the coalition announced the establishment of 11 marine protected areas along Australia's south-east coast. These 11 marine protected areas were created only after careful consideration and consultation with the recreational and commercial fishing sectors and other stakeholders.

Labor has continued the coalition's policy but it has failed to adopt a balanced approach to the marine protected areas. Labor has also failed to engage in appropriate consultation with the fishing industry and the wider community. The Labor government has continued to disregard and ignore the fishing industry, and its disastrous attempts to effectively engage with the fishing industry over marine parks have been embarrassing to say the least. Taking away further funding from the national peak body, Recfish, is proof that Labor would sooner tax and spend rather than govern in the interests of all Australians. All the fishermen in Queensland might like to bear that in mind when they go to the polls next month, on 24 March.

Many communities that rely on fishing are directly threatened by Labor's inability to consult on whether a region should be declared a marine protected area. Labor has failed to consult with both the commercial fishing industry and recreational fishers on major changes affecting them, a failure which threatens the jobs and livelihoods of many small businesses in coastal communities. Doesn't this sound all too familiar—the Labor government yet again failing to consult stakeholders on the policies it is forcing on the Australian people? Just like the carbon tax, the mining tax and the Murray-Darling Basin Plan, which is in its second reincarnation, poor consultation is the hallmark of this government.

Why does the government not value the input of its key stakeholders? Having spent many hours on the road on the live cattle inquiry following the live cattle ban in June, I found many of those stakeholders wondering why this government does not include them in the decision-making process affecting so many people's lives in Northern Australia. Why does it not discuss its proposed changes to this policy and legislation with the people who will be directly affected—the fishermen, the recreational fishers and the commercial fishers of Australia? In these commercial and recreational fishing sectors, those businesses and communities reliant on this whole-of-business approach to these regions up and down the coast of Australia have all raised serious and ongoing concerns about the consultation process implemented by Labor. Australians are raising their arms up, worried about the fact that they are not getting a say. Rather than seek genuine input on marine bioregional planning decisions, Labor has used the process for declaring marine protected areas to tell stakeholders what will happen. It has just used the process of declaring marine protected areas to tell them.

Unsurprisingly, recreational and commercial fishers, as well as the many related businesses and communities that rely on fishing, have raised substantial concerns about Labor's mishandling of marine protected areas. Appropriate and effective consultation is needed if marine protected areas are to balance environmental concerns with the need to promote jobs and to sustain communities that rely on commercial and recreational fishing. It is not a difficult task and it is not an unreasonable request: step outside of Canberra and talk with the recreational and commercial fishers and the myriad related businesses, small businesses and communities and ask them what they think. When they respond, however, you
have to listen, something which this Gillard Labor government has failed to do time and time again. Labor does not listen. This is evidenced through its inability to listen to the Australian people on the carbon tax, to small miners on the mining tax and to Northern Australian cattle producers on the live cattle ban. Labor just does not understand the real world or the realities of running and maintaining a business.

The 2011-12 federal budget, delivered by the Labor-Greens alliance, resulted in no new initiatives for fisheries despite the industry being worth billions of dollars and providing a healthy and sustainable source of protein critical to meeting the future global food security challenges. This is yet another example of the Greens dictating policy to a desperate, ineffective Labor government looking to save itself. Labor does not even have enough courage to challenge the Greens and other radical environmental groups who want to lock up much of coastal Australia in marine parks. Many communities will face enormous economic and social losses unless there is proper and effective consultation on the potential marine protected areas. Only proper and effective consultation will ensure that the future of marine protected areas balances preservation of the environment with economic growth and strong coastal and, might I say, happy communities.

The coalition is committed to balance and fairness to marine conservation and this bill ensures that there will always be the scrutiny that Australians expect from proper and effective democracies. The work that Senator Boswell and Senator Colbeck are doing here in promoting this bill is testimony to their experience and the work they did in the previous Howard government to ensure that equity is maintained. The coalition supports proper community and industry consultation regarding any proposed marine protected areas. Imagine if the government had gone to the last election spruiking this consultation lock out. Imagine if the Bligh government in Queensland used locking up these areas as an election promise.

Labor has failed to tackle illegal foreign fishing in Australia's fishing zones, slashing funding for Southern Ocean patrols. Is it because it cannot carry out the patrols of the Southern Ocean to prevent fish poaching in Australian waters because all the maritime and aerial resources are being used to find boats penetrating our northern waters as a result of Labor's failed asylum seeker policy? Labor has also failed to meet its own time frames for declaring marine protected areas. Time frames have been altered due to Labor's inability to adequately consult within unrealistic schedules that were politically, rather than practically, motivated. Once again, the Green tail is wagging the Labor dog.

Labor has also failed to rule out large no-take zones within the marine protected areas currently being established across Australia. The fear of no-take zones has caused great uncertainty for businesses directly and indirectly reliant on access to fishing resources. As it did with the cattlemen of Northern Australia, this Labor government is undermining the essential ingredient in business security. Businesses must always have security. It is the very foundation in which they raise capital and it is the very foundation in which their banks expect them to be able to repay that capital which is borrowed. Labor has also caused great uncertainty amongst stakeholders who will be adversely impacted by potential loss of access to resources within declared marine parks. The bankers to fishing businesses, as I earlier referred to, would be reviewing this bill and would likely say, 'Hooray! Some checks and balances are to be parachuted into this ongoing debate.' Everybody in this business sector will look at this legislation...
and say, 'Will we have security in our business?'

The lock-up mentality of Labor and the Greens completely ignores the fact that Australia's recreational and commercial fishers are dedicated to sustainability. As a farmer myself, I say that you know that your future is predicated on your environmental sustainability. Locking up marine areas without proper consultation or scientific assessment and throwing away the keys is neither responsible nor practical. Labor's biggest contribution to fisheries so far has been to bungle the marine bioregional plans process, leaving fishing communities waiting months to see even one of the draft maps for the four marine reserve networks proposed. The parallels between this and the Murray-Darling Basin Plan process mean that the two are eerily similar. Labor fails yet again to properly consult and include the community in its plans for them. We need a full socioeconomic impact assessment that identifies the true loss of value to the community as a result of the loss of access to marine parks by the commercial and amateur fishers of Australia. Any assessment should be publicly released prior to the release of a declaration of any parks. Further, a comprehensive fishing gear risk assessment should be conducted for each of the proposed marine parks before the parks are declared. This fishing gear risk assessment should not unfairly target selective fishing activities, such as trawling, from any new reserves, given that there are sustainable trawl fisheries operating successfully in marine parks in Australia.

Labor have failed to consult, have failed to include adequate community and industry concerns, have failed to consider commercial and recreational fishers and have failed again to uphold proper parliamentary scrutiny. Yet again Labor is opposing a bill that would deliver greater scrutiny to this parliament.

The hypocrisy is rank. On the one hand you have the Prime Minister saying, 'Let's draw back the curtains and let the sun shine in; let our parliament be more open than it has ever been before,' and on the other hand you have Labor voting against letting the sun shine down on the parliament so that there is adequate scrutiny of marine park areas in Australia. So let the sun shine in; let the disinfectant be thorough. I ask that everybody get behind this bill and support it in the interests of all Australians.

Senator FISHER (South Australia) (09:48): It is with pleasure that I rise to support Senator Colbeck's bill, the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. In following my colleague Senator Edwards, I note that, as with many areas of our coast, there stands to be particular impact on our home state of South Australia, and more particularly the waters off it and therefore the livelihoods of the communities in our home state of South Australia.

The coalition, as others have outlined, has a proud history of protecting our marine environment—in particular the marine areas which so many of our communities rely upon for their livelihood. The coalition continues to support a balanced approach to biomarine conservation. It was the former Howard government, as others have noted, that established 11 marine protected areas in what is known as the south-east zone. But we consider that on that occasion not only adequate but very good and extensive consultation was undertaken with recreational and community groups, environmental groups and commercial fishing organisations and that we struck a balance between protecting marine biodiversity and minimising the impact on fishers, local communities and local economies. That stands in stark contrast to the complete lack of balance and
lack of transparency being demonstrated by the Gillard government in their flawed attempts to establish bioregional plans, or what can commonly be called marine parks.

This bill is not about stopping the declaration of bioregional plans or stopping the creation of marine parks, but it is about giving the two houses of this parliament the final say over the process. It still allows for the minister of the day—in this case a Labor government minister—to propose, area by area, marine park by marine park. It still allows that minister to seek the advice of his department and to consult with stakeholders impacted by establishing a marine park. But it also makes a declaration of a bioregional plan a disallowable instrument, which means that, bioregional plan by bioregional plan, it is open to this parliament to seek to disallow the proposed plan if members of this place consider, having heard from our local communities, that a particular declaration has knobs on it.

I travelled to Kangaroo Island in my home state last year and met with local fishermen and local government members, and they raised concerns about both federal and state plans for bioregions and the consultation—or rather, as they saw it, lack of it—that had been undertaken. They talked about a lack of scientific basis, particularly for decisions being made around areas to be declared under state arrangements. The creation of a marine park necessarily relies, or should rely, on a whole lot of evidence. In this particular case, the local communities on Kangaroo Island were questioning, and properly so, the scientific basis upon which certain declarations were proposed to be made. Their livelihoods are under threat, as are the livelihoods of many affected by the proposed bioregional plans across the country.

A lack of consultation about marine sanctuaries can cause a groundswell or a backlash against those seen to be proposing them. For example, there was a community meeting in my home state of South Australia last year, in Burnside in Adelaide, which attracted about 1,000 people to the local town hall to protest about what they saw as the lack of consultation and their lack of say about the development of marine sanctuaries in South Australia. The build-up of pressure leading up to and following that meeting was so great that, last November, the newly installed South Australian Premier, Jay Weatherill, saw fit to announce a postponement, an announcement for which I would not criticise him, of the release of draft plans, conceding that many groups felt they had not been consulted. So even a Labor Premier in my home state is able to recognise the lack of consultation on issues such as these—a lack that is addressed by this bill—and the way in which bioregional plans can strike at the heart of people's livelihoods. They need to be able to have their say about the impact these measures will have on them, and in many instances thus far they have not.

The first area to have a draft plan released was the south-west bioregion, extending from the eastern tip of Kangaroo Island in South Australia to Shark Bay on the Western Australian coast. That is 1.3 million square kilometres in total, and that sounds a lot, but the total area proposed to be put under the ambit of bioregional plans is, as Senator Colbeck has said, just over seven square kilometres—sorry, just over seven million square kilometres—of Commonwealth waters. I was about to say that is a truckload of water; I am glad I corrected my figures! That is a lot of water and we are talking about a lot of potential restrictions over that water for areas that are declared to be under a bioregional plan and a marine park. We are talking about areas that can have later designated within them areas of sanctuary zones, recreation-only zones or so-called
special purpose zones. That means there can be areas that are closed to everything but a few activities. There can be areas where commercial and recreational fishing will be excluded and areas where particular types of equipment and fishing practices will be restricted. So this is a big deal and Labor is fluffing it—what a surprise!

A majority of the submissions to the Senate inquiry into this bill raised concerns about the lack of consultation with the government's progression of its planned marine protected areas. For example, in his submission, made on behalf of the South Australian Marine Parks Management Alliance, Mr Gary Morgan stated:

It is a reflection of the level of concern among the industry that, in my 30+ years experience in both Government and fishing industry roles (including as Director of Fisheries in South Australia, 1997-2000), I have never known an issue to create such anxiety and uncertainty in the industry and this is the only time I can ever remember that ALL sectors of the industry have come together to address what they see as a major threat to their livelihoods.

People in our communities say this is a big deal. Mr Morgan's submission also noted:

In SA, there has been a focus on ‘percentages’ of sanctuary areas, rather than such a orderly, science-based approach, there has been no rigorous threat identification or assessment (particularly from fishing activities) and the process is clearly not science-based

The Abalone Industry Association of South Australia said in its submission:

Our industry is very concerned about the political lobbying being undertaken by Green Groups at the moment blurring the line of using sanctuary zones (no take) as a fisheries management tool and using examples to support their cause from countries where there is no fisheries management.

We consider the abalone industry in South Australia to be a very well managed industry. It contributes over $300 million to our local economy and sustains more than 300 jobs in the local community. The issues at stake around bioregional plans are a big deal and they strike at the heart of the livelihood of the communities who rely on the subject waters for their commercial and recreational activities. Those communities deserve to be consulted. The Labor government has failed to do so adequately and so this bill, appropriately—and unfortunately—seeks to pull the Gillard Labor government up. It does not pull the government up short but simply pulls them up and requires their proposed bioregional plans to be subject to a mechanism that allows parliament to say, 'Not on this occasion; not in this area,' but also allows parliament to say, 'Having considered this particular proposal, we think it is the right thing to do.' I hope that this place sees fit to support Senator Colbeck's bill.

Senator WATERS (Queensland) (09:59): Happy new year to you, Mr Acting Deputy President, and all of my fellow senators. I am very pleased to start the new parliamentary year by speaking about the importance of looking after our precious marine environment. As a very proud Queenslander, I will focus on the amazing region in our north-east, the Coral Sea, which is currently awaiting protection. I will also talk about the great benefits that decent protection has brought to the Great Barrier Reef.

The Coral Sea is absolutely unique. It has 18 coral reef systems and a chain of undersea volcanoes which stretch 1,300 kilometres, with canyons of up to five kilometres deep. It is recognised as a global biodiversity hot spot. It has ocean giants such as sharks, tuna, marlin, swordfish and sailfish in massive abundance. It has 28 different species of dolphins and whales. It has six of the world's seven species of marine turtle. It has soft corals and large sea fans and spectacular sponge gardens. It is home to many species of coral, fish and invertebrates which are not
found anywhere else on this planet. Clearly, it is a national heritage treasure. But it is not only that; it is also of significant historical importance to Australia. It was, of course, the scene of the 1942 Battle of the Coral Sea. I took the opportunity to mention this fact to President Obama on his visit, and he said that he would love to come and have a look at the Coral Sea. I certainly hope he does so. The 70th anniversary of the battle will be in May this year, and what an opportunity it will be to protect this underwater paradise. It is perfect timing.

The Coral Sea was declared a conservation zone a few years ago when the government went through its marine bioregional planning processes, and the draft bioregional plan for the Coral Sea was released in November last year. The Greens welcomed the proposed ban on oil and gas mining and seabed trawling and gillnet fishing throughout the Coral Sea, but it is proposed to protect only half of the Coral Sea. This is a huge missed opportunity to create the world's largest marine national park. The proposed plan for a multi-use marine reserve simply does not go far enough and is piecemeal. Only two reefs of the specific 25 reefs in the Coral Sea will receive full protection, and that just does not seem enough to me. Instead of treating the region like a Swiss cheese and having different use zones, it would be much easier for the government to manage and monitor an entirely protected region. Nearly 70 per cent of Queenslanders support turning the entire area into a fully protected marine national park. The proposed plan for a multi-use marine reserve simply does not go far enough and is piecemeal.

Making this area the world's largest marine national park is not just about protecting our environment; it is also critical for the long-term sustainability of our fisheries. There is no better example of the protection of our fisheries than the fantastic outcomes we have seen in the green zones in the Great Barrier Reef. Quite a bit of research has been done on the effectiveness of the green zones, and most recently some research by the US National Academy of Sciences in conjunction with the Australian Institute of Marine Science, AIMS, as well as James Cook University has found that the green zones—surprise, surprise!—really do work. According to this research:

... the network of marine reserves on the GBR has brought major, sustained ecological benefits, including enhanced populations of target fish, sharks, and even corals, the foundation of the coral reef ecosystem.

So this body of research has found that there have been rapid increases of fish inside the no-take reserves in both reef and non-reef habitats. This is very important for both our fishers and our tourism operators. The protected fish inside those no-take areas are bigger, so they will contribute many more larvae to the whole ecosystem. Therefore, the benefits of these no-take areas are expected to extend outside the no-take boundaries and to replenish the surrounding areas, which are open to fishing. It is a simple thing: protecting the fish breeding grounds gives you more and bigger fish. The green zones are also benefiting the overall health and resilience of the ecosystem. For example, the researchers found that there are less frequent outbreaks of crown-of-thorns
starfish on no-take reefs. Much to my horror, a recent briefing from AIMS says that crown-of-thorns starfish are still a massive issue in the GBR and that we are losing the battle. This is just one way that we can try to tackle that continuing problem. In short, we know that no-take areas can play a crucial role as recharge zones for sea-life populations, thereby ensuring the long-term sustainability of our environment and recreational and commercial fishing as well as the local tourism industry.

I take issue with something that Senator Edwards raised on behalf of the opposition. He was waxing lyrical about the Liberals being on the side of the fishers. Frankly, I thought that was a bit rich. I moved a motion late last year calling for the suspension of dredging in Gladstone harbour and, in fact, up and down the reef, where we have seen massive impacts on local fish populations. We have seen fish with red spot disease, which has now spread to sharks and crabs. We are seeing absolute devastation in Gladstone harbour. It is so serious that the fishing industry was shut down for about three weeks last year. It has now been reopened, but the local fishermen are still saying that they do not want to catch the fish there. The fish are still sick, and the bottom has dropped out of the local industry there. No-one will buy the fish because, of course, they are not prepared to sell diseased fish.

Where are the Nationals and the Liberals on this issue? I hear that Senator Boswell is agitating for better compensation for those local fishers, and that is fantastic. We certainly support that—we think it is ridiculous that one industry, the coal seam gas industry, has been allowed to dredge the harbour beyond recognition and the fishermen have been left to suffer. We are all for proper compensation for the fishers, but that is not the whole story. Is Senator Boswell going to allow the dredging to continue?

What about the next fishing community when five other ports are opened up for coal and coal seam gas export? I am afraid it is a bit rich for the Liberals and the Nats to claim that they are somehow the great champions of the fishing industry, when they have been prepared to abandon Gladstone harbour and do nothing to stop this massive dredging program for coal and coal seam gas export.

The Greens do not support the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. We fully support marine protected areas. They are good for fishing, they are good for tourism, they are good for our economy and they are good for the future of our grandkids.

Senator BOYCE (Queensland) (10:07): I think we need to be a little clearer on what the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 is all about. It is not about opposing marine parks in any shape or form. It is about giving this parliament the right to oversight, to debate and to discuss where marine reserves are to happen, because, as Senator Waters has just pointed out, it is quite possible for interested groups or self-interested groups to skew the discussions and deliberations of the minister at any time during this debate. A pious motion from the Senate around dredging in Gladstone Harbour is not a useful thing. I was trying to think of how useless it was, but I cannot quite think of a polite comparison and so I shan't. It would not be useful in assisting either the environmental concerns in Gladstone Harbour or the fishing industry in Gladstone, which certainly have some serious problems. A motion from the Senate does nothing. It is the Queensland state government that needs to get its act together and do something there.
A minister for the environment who alone can make the decision about where marine parks go is not good for democracy or for Australia. We have already seen that there are conservation groups, fringe environmental groups—we could even include the fishing industry and other stakeholders—who, if they can get the ear of the minister or are in the right electorate at the right time, may skew the way the development of marine conservation proceeds in Australia. In fact, the Gillard and Rudd governments have in some ways simply continued the coalition's program, which was designed to protect and conserve our extraordinary marine resources in a balanced way. They have failed, of course, to continue the implementation correctly. Why should we be surprised by that? It happens in almost every area that the Rudd and Gillard governments touch. They have failed completely to continue appropriate consultation with the fishing industry or with the wider community. They have not adopted a balanced approach and they give preference to the views of NGOs and others at the expense of not just the fishing industry but also local tourism industries and other groups.

We can draw an adequate comparison between the fishing industry and fishermen and the agribusiness industry and farmers. These people are not there to destroy their livelihoods; they are great conservationists; they are great preservers; they want sustainable industries. They are not about destroying wherever they go. Consulting them and listening to the broad range of evidence that is available on marine regions are far more important than having the minister simply do what he likes when he likes. The idea of this bill we are putting forward today is not about destroying marine areas or destroying biodiversity; it is about having a sensible, balanced approach that reinstates parliamentary scrutiny to an area of just over seven million square kilometres of Commonwealth waters. What we seek to do here is to make the declaration of marine bioregional plans disallowable instruments, not a legislative instrument that is completely shielded from parliamentary scrutiny with the stroke of a pen. The minister can have a massive impact on Australia's territorial waters and all the people who make a living from them or the resources in those areas.

Senator Waters liked telling us how the fish improved in no-take areas. Yes, the coalition supports that idea. We completely support the idea that with a balanced approach you will have no-take areas, you will have recreational areas and you will have areas for the fishing industry within marine parks. We have no problem whatsoever with this approach to balancing conservation with the marine industry, but we cannot achieve that if the only person making the decision is the minister and he or she is doing that without any oversight by this parliament. All we are seeking to do is to take the absolute power away from the minister to give parliament the opportunity to have a say about what should be included in a marine bioregional plan and what should not. It gives parliament far greater sovereignty and it gives both Houses the chance to have a say on the individual merits of each marine bioregional plan. There is no problem in my view with that being done and I have no idea why anyone would want to oppose that being done. In fact, I would have thought that it would be something that would be supported in this House particularly by the Greens and the Independents, because, given the record of this government on consultation, there is every reason to think that we will get ad hoc decisions designed to assist whatever group the government is trying to cosy up to at the time. The coalition has a very proud track record and a great commitment in the area of marine protected areas. It was the Howard
government in 1998 that secured agreement with the state governments to commit to establishing a national representative system of marine protected areas. It was the Howard government that made a further, international commitment to establish such a representative network by 2012 at the World Summit on Sustainable Development 2002. And again, in 2005-06, it was the Howard government that initiated the investigation and subsequent implementation of the south-east marine reserve network, the fifth of the five bioregions that are likely to be covered by these marine bioregional plans. We are not anti marine parks, but we think there is a right way and a wrong way to go about developing such reserves—and we already have evidence of the wrong way being done now.

Every interest group and every stakeholder have claimed that there has not been adequate consultation. There have not been appropriate levels of consultation with local communities or with affected commercial industries or with the marine recreation industries. Even environmental groups have said to our shadow minister and to others that they feel left out by the federal government when it comes to genuine consultation. And, if your livelihood depends on whether the fishing industry is going to be there in three years or five years, if whether the bank will lend you the money to buy a new boat is reliant on what the minister's whim of the day is, you are in a very difficult position. There has been incredible anxiety and uncertainty created in the fishing industry by this government's approach to developing marine bioregional plans.

Coastal communities are certainly aware that if they do not get a say in this, if there is not a way to ensure that their views can be aired and discussed and debated in this place, then on the basis of the track record of this government it will only be the fringe green groups that will actually get heard, not the people who use and manage and conserve our fisheries on a daily basis.

Industry is really nervous, and that is not just the commercial fishing industry, although I would point out that it is Australia's sixth-largest primary producer. Recreational fishing might be something that some of us do—very unsuccessfully in my case—just once or twice a year, but for thousands of Australians it is actually a job, and off those jobs hang many other jobs. There are resources that you need to get together a fishing boat, and many businesses are involved, not only with the boat itself but with the gear, the technology, the electronics that are used on the boat. Those are all industries that need a commercial fishing industry to survive. So we have to talk about not only the recreational fishing industry as a multibillion-dollar industry but also the very large commercial fishing sector that, as I said, is the sixth-largest primary producing sector in Australia.

Not only is it the lack of consultation that makes people nervous; not only is it the track record of this government that makes people in the industry nervous; but it is the fact that the government cannot even meet its own time frames for declaring marine parks that makes people nervous. So once again we have an implementation issue, which I suppose should not surprise us with this government, but it does nothing at all to assist businesses trying to function and to plan for the future in this area.

In the lead-up to the 2010 election, Labor promised to release draft maps for the south-western bioregion by mid-December. Then the minister said they would probably do them by late January or early February. We still have not seen those draft maps. It is no different to any other promise that Labor make during an election. It may not, in its
consequences for the entire economy, be as serious as: 'We won't put a price on carbon. We won't introduce a carbon tax.' But for the people whose livelihoods depend on it, the fact that this government cannot meet its election promises in this area is just as bad, and the consequences are just as dire, as that broken carbon tax promise.

Labor also promised to release a displaced effort policy in the lead-up to releasing the first draft maps, but that did not arrive in the time frame promised either. So we have a group who are intimately involved with our fishing stocks and our marine parks who are saying, 'What is going on here?' And, if it is only the minister, through a legislative instrument, who can decide where a marine bioregional plan is established, these groups have no avenue for airing their concerns in a democratic way. They are forced to protest; probably some of them will be forced out of business. It is all very well for this government to say, 'We'll just sort out what we are doing when we get around to it.' But it has to keep in mind that a fishing boat, for example, is an investment that you would keep for 20 years or more. You are not going to go and buy one when this minister could decide, based on the whim of whichever stakeholder group the Labor government next wants to please, to undertake work that could simply ruin your industry.

I know that the fringe environmental groups like to claim that our fisheries are in disarray, but that is completely wrong. They are among the best managed and healthiest in terms of stock numbers of any country in the world. You have to take into consideration that amongst them is the same group that wants the whole Coral Sea locked up. Those groups peddle mistruths and misinformation in the name of so-called conservation. But it is the practitioners, the people whose lives and livelihoods depend on healthy fish stocks and a healthy marine environment, who are the real custodians and the people who should be listened to by this government—not just the commercial fishermen but the tourism industry, the hospitality industry and the many other ancillary industries I mentioned that hang off commercial and recreational fishing.

There are a huge number of people who, at the stroke of the minister's pen, can lose their livelihoods and be disenfranchised. Why would there be any opposition to this parliament being the place where these matters are decided? Parliamentarians can air the views of the many stakeholder groups, and the claims of various groups can be properly assessed by parliamentary committees. That would mean a sensible, balanced decision could be made based on what is best for the environment and what is best for industry, rather than the minister simply deciding what suits him best.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (10:24): I rise to support the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 and to express some real concerns about the current system. How could you leave seven million square kilometres in the hands of one minister, whether that minister be a man or a woman?

Senator Farrell: He's a very good minister.

Senator WILLIAMS: I will take that interjection. Let us look back at the decisions of the Minister for Agriculture, Fisheries and Forestry. Perhaps we will go to the live-cattle-export issue. We saw the Four Corners story and we supported the abolition of Australian exports of live cattle to those abattoirs which were clearly doing the wrong thing. Then the minister put a total ban on the export of live cattle. What a financial mess this has been for the graziers in the Top
End of our nation. This is a clear example of one minister with too much power doing something very wrong. Once the cattle got over 350 kilograms live weight, they were not suitable to send to Indonesia. So, as the delays went on, what could the people do with their cattle?

I live at Inverell, a lovely town in northern New South Wales, where we are fortunate to have an abattoir. Those Top End graziers were forced to send cattle from the top of Western Australia thousands of kilometres by road to Inverell. That is a classic example of a minister making a very bad decision. What Minister Ludwig should have done was to get a copy of that film, hop straight on a plane to Jakarta, meet with the Indonesian agriculture minister and say: 'Look at this. We have a problem. We do not accept animals being treated like this.' I agree with that proposal totally, as someone who has done my own butchering on the farm for many years. Whether it be beef cattle, sheep or pigs, I am no stranger to a butcher's knife. I would never, ever condone animals being treated like that.

To come back to our argument about ministerial power: it is seven million square kilometres. Like it or not, the Greens carry a lot of weight in this Gillard-led Labor government. We know we have to preserve our fish stocks. We know we cannot just go out and net the fish stocks. It is all about sustainability for the future. We know that in 1998 the Howard government led in the right direction on this very important issue, the conservation and retention of fish stocks in our marine areas. But there were consultations. The government worked with the industries and the people, whether they were local fishermen who just wanted to go and wet a line on the weekend or professional fishermen. To leave this in the hands of a minister and take it away from the parliament is wrong, by all democratic beliefs.

How could you trust a minister? I could give you other examples. I have talked about the cattle industry and what a shambles it was.

Senator Farrell: He's a very trustworthy minister.

Senator WILLIAMS: Trustworthy or not, the decision that Minister Ludwig made on the export of live cattle to Indonesia was a disgrace.

Senator McEwen: I think we're talking about bioregional plans.

Senator WILLIAMS: I am giving an example of ministerial powers and how the Labor government made a terrible decision. It was a financial disaster for industries throughout Northern Australia. You want us to sit back and say: 'Leave it to the environment minister. That minister will make the determination of where the marine parks are, what will happen, what will be closed down, who will be compensated.' We know about compensation. My colleague Senator Boyce mentioned professional fishermen investing in a boat. If they are shut out of the industry, who compensates them for the purchase of the boat? Will that happen, or will the minister say: 'No. Enough is enough; we're wiping it out?'

Life is about fairness and, if the government take away your livelihood, they should compensate you. But in the current situation, when a minister takes away the livelihood of fishermen, are they compensated? These questions need to be answered. If it were left to the parliament to make this decision, these debates could be had and the questions could be put. Hopefully we would get some answers. But the current plan is totally unacceptable. Our bill is aimed at taking the power from the minister and giving it back to where it belongs, the parliament. I commend Senator Colbeck for his work on this issue and others who are passionate about this issue, such as my colleague Senator Boswell.
Our bill represents what Australian people would expect—that both houses of parliament make the decision on any new marine park declarations. That is the clear point here. The House of Representatives commences the legislation process on most occasions but not always. When it comes to the Senate we have the opportunity to amend, to debate or even to vote down or reject legislation.

I could talk about many ministerial decisions being made in this current government. It comes back to simply a lack of trust. That is the problem we have with this government, and the Australian people have the same problem. They do not trust the government. They do not trust the government on its commitment to introducing carbon taxes, on its commitment to keeping food, grocery prices, fuel prices and the cost of living low and on all the promises we got from the former Prime Minister, Mr Rudd, prior to the 2007 election; hence, Senator Colbeck’s bill is a most important piece of legislation to return the power to the parliament and not leave it in the hands of just one minister. Why should we trust this government to get anything right? Just think back to Fuelwatch and GroceryWatch. I mention live exports of cattle, home insulation or the Building the Education Revolution, the mounting national debt of the government, asylum seekers and our border protection, yet you expect us to trust an environment minister where the Greens would really use their power to influence that minister.

One of my pet hates is the locking up of land and simply leaving it. The National Parks Association have been pushing this year after year. We saw the shutting-up of the red gum forests down near Deniliquin in the middle of a state forest and in Victoria. It is amazing when you go down there, as I did some two years ago to look through that red gum forest where 900 hectares were burnt. That multiplied by 2½ is 2,400 acres. Red gum will not take fire at all. You see the Pilliga and the regeneration of ironbark and box trees and various other types of trees. What happened there was that that country was locked up. It comes back to management of the environment. That country used to be grazed to keep the fuel levels down. Now that it has been locked up, you cannot graze there.

The influence of the Greens is clear when it comes to the new Victorian state government, which will not allow grazing in the alpine regions to reduce the amount of fuel on the ground. I get back to the argument of ministerial decisions. Once you have more than five tonnes per hectare of fuel on the ground—grasses, twigs, six millimetres of dome or less, 30- or 40-kilometre wind, a 40-degree day—a fire is basically impossible to control. It comes back to environmental management. People just think of preservation—lock it up and leave it—and then we destroy it through fire.

We get back to the argument here of ministerial decision. It was Minister Burke who overruled the decision of the Victorian government. I think that is wrong, because under the Constitution the management of land is clearly in the hands of the Crown or the states, but Minister Burke made that decision. He did not have a debate in this parliament. There was no decision about that at all. When fire destroys those areas again, hopefully we will not see the loss of life like we did in the Black Saturday bushfires a couple of years ago. It will happen again. Fires will occur again. We have had the wet seasons now and the grass is growing. We all know that it will dry out. It will get hot again, even though this summer has been so extremely cool. We have seen a minister's power to threaten the environment with Minister Burke in the alpine regions. They
say you are not allowed to have hard-hooved animals in those areas. It is all right to have thousands of deer, thousands of brumbies, hundreds of thousands of wild goats and tens of thousands of wild pigs—they are all hard-hooved animals—but you cannot run cattle up there because they might eat the grass down; you have to just let it burn.

I make the point that this is a minister's decision and, to me, it is too powerful. There is too much responsibility in the hands of one person; likewise with the marine parks. Senator Colbeck's private member's bill should be supported because it gives the power back to the parliament, back to the elected people, to make a decision. The fear, of course, is the current make-up of the parliament in both houses of this country where you have the Independents and the Greens flexing their muscles—the tail wagging the dog of the Labor Party—whether it be on carbon taxes or other broken promises on deliveries that we are now seeing.

This is the worst time to have this power in the hands of one person. If you had a clear government, then you would not have to kowtow to minority groups who are pressured by those out there who simply believe locking up everything is the way ahead. What are we going to do when we lock up all our marine parks? Are we just going to import our prawns from Thailand? We talk about food security for the future. We are the first to say there must be management and you cannot basically rape the oceans of fish and expect them to survive. That cannot happen.

In my lifetime I have seen reductions in fish in many areas. When I was a kid hanging a line over the jetty at Port Lincoln in about 1967 a huge amount of tommy rough would grab hold of your line. You probably would not see that today. For sure we have reduced fish numbers in areas around the world, but it is about balanced management. It is about the needs of mankind and looking after the environment and conserving the stocks we have. No doubt Senator Conroy would agree with me on this issue, as he does on most issues.

I support this proposal by Senator Colbeck because it returns the power to the parliament, to those who are elected to these places to represent the people in their electorates and not to give this enormous power to a minister who will probably get a backroom bribe from a minority group to do as they want or there will be trouble. We have already seen that with the carbon tax. We have seen Mr Windsor's demands in his agreement with Prime Minister Gillard. One of his demands was, 'You will form a multiparty climate change committee or else.' That was Mr Windsor's drive. He probably drove it more than the Greens. That is the problem we have. I urge support for Senator Colbeck's proposal.

Senator McKENZIE (Victoria) (10:37): I rise to speak in support of Senator Colbeck's Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. The bill reinstates parliamentary scrutiny of just over seven million square kilometres of Commonwealth waters. The bill seeks to make bioregional plans a disallowable instrument. The waters adjacent to Victoria, my home state, are included in the south-east marine region, which extends from waters offshore of southern New South Wales to eastern South Australia. It also includes waters adjacent to Senator Colbeck's home state of Tasmania and Macquarie Island.

The coalition has a strong track record of supporting marine conservation. The coalition supports a balanced approach. Throughout the history of the development of marine
protected areas the coalition has been at the forefront of developing workable plans at a local and national level. It was a coalition government in 1998 that secured agreement with the state governments to commit to establishing a national representative system of marine protected areas. It was a coalition government that made a further international commitment to establish such a representative network by 2012 at the World Summit on Sustainable Development in 2002. And it was a coalition government that in 2005 and 2006 initiated the investigation and subsequent implementation of the south-east marine reserves network, the fifth of the five bioregions I mentioned in my introductory remarks.

I make these points to highlight that the coalition is far from being anti-marine park. We believe there is a right way and a wrong way to go about the development and maintenance of such reserves. It is a balanced approach. We obviously need to consider industry. The south-east trawlers association, in my home state, has made numerous representations about the size of the marine park we have down in Victoria, which is the size of our entire state. Those in the industry in Victoria are the last people that want to see a reduction in fish stocks.

Similarly, a balanced approach needs to take into account recreational fishers—not only the impact of recreational fishing but our desire as a parliament and as leaders in our nation to promote healthy lifestyles and people getting out and about in the natural environment. A balanced approach also needs to take into consideration ecological systems and the environment itself, including fish stocks. Also, particularly from a regional perspective, we need to consider local economies, and a balanced approach to these sorts of discussions also needs to take into account the socioeconomic impacts on regional towns and communities.

I have seen the impact of overfishing through my travels in Canada in 2000. I spent a lot of time in Newfoundland, an area of Canada that is renowned for having destocked a complete species of fish. I saw the impact that has had on the local economy in terms of having to completely reconfigure how they live and work in that province and in that nation.

The coalition, and obviously the Nationals within the coalition, strongly support a balanced approach to marine parks and marine sustainability. The development of the south-east network reinforced to me that the successful implementation of a marine networks plan would not eventuate without genuine, detailed, open consultation with each and every stakeholder who felt they had a claim or a vested interest. That goes not only to the heart of the successful implementation of these sorts of things but also to the notions of inclusion and involvement in the democratic processes of our nation.

The overwhelming measure of success for anything like this is that the consultation with stakeholders is actually enacted. There were 20 recommendations made on boundaries and zoning within the south-east network. The result is that, whilst the network is larger and more representative of the region than was the original proposal, it also has far less impact on the fishing industry. So it is really a win-win scenario for Victorians.

Unfortunately, current developments with regard to the remaining four marine biogeographical plans are not as positive. The core issue that other speakers have mentioned, and which I will go to in my comments, is that this bill goes to the fact that the minister has complete discretion and Labor ministers are not handling the great responsibilities before them in a manner that is giving stakeholders of any persuasion, at any end of the spectrum, confidence in the marine
bioregional planning process or indeed any planning process currently before us.

The Rudd and Gillard Labor governments have not adopted a balanced approach to marine protected areas and they have not engaged in appropriate levels of consultation with local communities, with affected commercial industries or with marine recreational interests. Environmental groups have said that they also have felt left out by the federal government when it comes to genuine consultation. This approach taken by Labor has created incredible anxiety and uncertainty in the fishing industry right around our nation. Coastal communities are wise to the fact that this Labor government's track record is that it will only hear from fringe green groups rather than the people who actually use, manage, live in and work in our fisheries on a daily basis. It is not just in this area, as I mentioned earlier. Just look at the track record of unilateral decisions by Labor ministers. My colleague Senator Williams spoke so knowingly about the decisions by the Minister for Agriculture, Fisheries and Forestry around live cattle exports. The flip-flopping that went on there, with the TV program, the conversations with green groups, the conversations with other people and the ministerial decision-making process have led to a lot of uncertainty within that industry and within those communities. Similarly, there was the minister's approach to consultation on the Murray-Darling Basin, particularly in the first iteration. There is their ability to impact and their being beholden to, if you like, a certain end of the spectrum and how that is playing out in local communities in relation to uncertainty.

Again, on a particular issue concerning the granddaughter of a high country cattleman, there was a decision by Minister Burke to override the state government and ban grazing of cattle in the high country. Particularly when you look at the number of sambar deer and brumbies that are up there, and the number of cattle that are going in, it just does not make sense. So we are seeing ministers not making decisions on a scientific basis or not taking all the information and all the impacts of their decisions into account. That is something that the coalition is concerned about, and I think it is something that all those who are interested in the good governance of our great nation need to be concerned about.

We now have to take the minister at face value when he says that he has all the information required, and there is no ability for the parliament to scrutinise the decision or for both ends of the spectrum to examine the minister's decisions and feed into that. I think it cuts both ways, and this is where I am really surprised at the Greens' perspective on this particular bill before us. What happens when we do not have a minister who is beholden to environmental interests, who is not captured by the Greens but rather by the other extreme? Surely we need a balanced approach, and that is what this bill attempts to deliver: a mechanism to protect the environment from extremism.

The commercial fishing industry is Australia's sixth largest primary producer. In my home state about 721,000 Victorians enjoy recreational fishing. I am not one of them. I have never had much success with dropping in a line, despite living not far from beautiful Inverloch, but I know plenty of people who are mad keen fishermen. There are about 850 commercial fishery access licences in Victoria, and these operations land about $120 million worth of fresh seafood at Victorian ports each year. As Senator Williams said, we want to be able to manage these fisheries appropriately so that Australians can have access to high-quality food that is managed in a sustainable and appropriate way. Obviously this is what
bioregional plans seek to do. What we do not want is unilateral decision making by ministers that are captured by those at either end of spectrums and philosophies.

When is the Gillard Labor government going to get it into its head that a nation that cannot feed itself is at the mercy of others whose interest in us may not be as benign as getting a good price for its exports and whose quality controls on their food production may be not be of a standard that Australians expect? I thank Senator Waters for the comments she made during her contribution about the Greens being very keen for and supportive of compensation measures for the industry regarding any adverse impacts—particularly as it is obviously a philosophy of the Greens to have some conversation about compensation measures for communities right throughout the Murray-Darling Basin for whom there will be a socioeconomic impact because of the 7,600 gigs they want to take out that system and the flow-on effects of that policy. I really look forward to sitting down with Senator Waters and discussing what sorts of compensation measures the Greens would be interested in supporting, given that the 7,600 gigs they want to take out of those communities will absolutely devastate regional communities right throughout the basin and the economic basis on which they have been built. I will put a call in, I guess.

The coalition believes there is a need for conservation of our important marine biology, but future decisions on marine protected areas should consider peer-reviewed scientific evidence on threats to biodiversity before great swathes of ocean are locked up for all eternity. This bill is the opportunity for parliament to add a vital democratic check to the process, a process that has the potential to adversely affect the livelihood and future of millions of Australians. So I support this bill. The declaration of bioregional plans in marine protected areas has significant environmental and socioeconomic consequences right throughout these communities that reside along our coast and indeed for our markets, our fishmongers and our small businesses in our capital cities and right throughout our nation. They should be given a chance to have their say in both houses of parliament on any decisions that will adversely affect them. It is therefore inappropriate for these declarations to be made without the opportunity for review. As a conservative, I abhor concentrated power—hence, I am a senator—and I look forward to supporting this bill and I thank Senator Colbeck for bringing it before the Senate.

Senator RONALDSON (Victoria) (10:51): I am very pleased to rise and support my colleague Senator Colbeck and others who have spoken in relation to this matter, including Senator Boswell, in whom there is some considerable passion. Today I want to put on the record some of the background to the coalition's approach to this. I know that Senator Colbeck and others have already said it but I want to repeat that we support a balanced approach to marine conservation. It was our policy in the 2010 election, and we stand by that. But what is at the nub of this bill, which is being driven by Senator Colbeck, is the lack of consultation with those who have a legitimate interest in current marine parks or in the declaration of further marine parks. I am sure that many honourable members will remember the debacle of the mako shark issue, where fishers throughout the country rose up against a decision to ban the fishing of mako sharks. There was no consultation. At Torquay in the seat of Corangamite there were some 700 people at a public meeting complaining about mako shark fishing being banned. Of course, the local member was nowhere to be seen, but that is not unusual
when it comes to the member for Corangamite; he would never dare to be seen when there are issues.

At the heart of this conservation debate is a lack of acknowledgement that the real conservationists in this country are the fishers, shooters and others. Anyone who knows anything about these areas and who speaks to and has grown up with the fishers and the shooters knows they are the true conservationists. These are the people whose sporting and recreational avenues are determined by the amount of fish and other species that are available to be taken. They actually own the conservation of this and have done for decades. Look at organisations such as Field and Game. Look at other fishing organisations. They are about conservation. For quite obvious reasons they want to preserve the species that they are shooting and hunting—if they are not there then their sport goes. They are the true conservationists in this country. They are never given appropriate credit for it, and they should be.

What these people want is consultation. The past process with marine parks has been completely bastardised by this lack of appropriate consultation. These people know when they enter these discussions that the decisions have virtually been made. They know that when they enter these discussions their voice will be heard but almost certainly will not be acted upon; and, on occasions, they cannot even get it heard. This bill is about enabling this parliament, when there has been that lack of consultation, to take on behalf of those people the right to make a decision about whether there has been appropriate consultation and whether, indeed, we should move to address it if there has not been.

I will very quickly read from the bills digest:

This Bill seeks to amend the Environment Protection Biodiversity Conservation Act 1999 (EPBC Act) to require that declarations of new Bioregional Plans and Commonwealth Reserves be disallowable by either chamber of Parliament.

Currently, Bioregional Plans are not legislative instruments and are not subject to parliamentary disallowance. The effect of this amendment would mean that they would continue not to be legislative instruments. However, they would be disallowable under Part 5 of the Legislative Instruments Act 2003 as modified by section 46B of the Acts Interpretation Act 1901. Commonwealth Reserves are legislative instruments which are not currently disallowable.

If these people—this nation's true conservationists—are not being appropriately consulted then they should be. That is why I fully support Senator Colbeck's bill and fully support the comments made by others, including Senator Boswell.

The interesting part of this whole debate on marine parks is that we get the most extraordinary comments from some of those on the other side. Senator Marshall, who has been in his office listening, is down here immediately to make some comments. I think he knows what I am going to talk about. There are, of course, some on the other side who believe that we will have increased marine national parks through global warming. They might not be declared at this stage, but the member for Corangamite thinks that global warming will inundate massive areas of his home electorate. This is part of his defence of the carbon tax. It beggars belief that this man is actually allowed to be a federal member of parliament. On 17 August 2011—

Senator Marshall: Tell us about your candidate!

Senator RONALDSON: When the preselection is settled, I would be happy to
talk to you about it. I am sure you and I will talk about it ad nauseam at airport lounges when we discuss what is likely to happen to the man whom you are so passionately defending—which I can never really understand, I have to say. Anyway. I am sure it is a faction based thing, because you have absolutely nothing in common. I have some regard for your intellect, for starters! That is the one clear difference between the two of you. But anyway. As I say, if you want to talk about preselection candidates, I am happy to engage in that later on.

Interestingly, Mr Cheeseman gave a speech on 9 September 2009 in relation to rising sea levels but posted on his website in March 2010 the speech that he was not allowed to give. Presumably he would request that the rising sea be made a marine park. He posted this speech on his website. It was not the speech that he actually gave. It said:

The Great Ocean Road Mr Speaker, an icon of Australia and the engine room of our local tourism economy, will be largely destroyed. It will be breached in place after place, if sea level rise is as expected. Huge swathes of the Bellarine Peninsula will be inundated. Current areas of the mainland will be cut off and become islands. Queenscliffe will become an island. The area from Barwon Heads to Breamlea will become an island.

What drives this man? This is all in defence of Labor's toxic carbon tax. I want to talk about that carbon tax and, indeed, rising sea levels and the requirement, presumably from the Labor Party's point of view, for more marine parks to take in this massive inundation of what is currently land. I presume that will form part of the discussions in relation to the act at some stage further down the track. What was very interesting indeed was to look at the view of the people of Geelong in a recent survey of some 800 people. In that survey the people of Geelong made it quite clear that they do not and will not accept Labor's toxic carbon tax.

This was the outcome of their voting intention in relation to the carbon tax. I should throw this in because it is probably of some interest to honourable senators as well. The question was: is the federal government doing a good job? What do my colleagues think? Would 10, 15 or 20 per cent be the 'strongly agree' figure? No, it was not; 1.6 per cent of people in Geelong strongly agree that the Labor government is doing a good job. Neither agree nor disagree: 29.5 per cent; disagree: 29.9 per cent; strongly disagree: 25.1 per cent of people in the Geelong region. In relation to the carbon tax, the question was: do you support or reject the general concept of a carbon tax? Support: 22.9 per cent; reject: 53.5 per cent of the 800 people surveyed.

Senator Birmingham: They deserve a say.

Senator RONALDSON: They deserve a say, as Senator Birmingham said, as do those who will be potentially impacted upon by marine parks. That is why this parliament, as a result of this bill, must maintain the ability to represent their interests.

The local member for Corangamite thinks that we are going to be inundated. I notice that last year he commissioned a report into sea levels. Again, it was doom and gloom. It is almost approaching religious fervour, I have to say. I presume he is out there building the boat as we speak to at least get some people from Corangamite onto the boat when it all floods. I have not yet seen the report. Maybe it has been released. If it has been, I apologise to the member for Corangamite. But apparently he commissioned a report and gave some interim findings in September last year, but I do not think the report has been
released. If it has been, again I will humbly apologise to the honourable member.

I have been talking at length about the matter before the chamber today and I will continue to do so. We have an incredibly proud history in relation to legislative protection of the environment in this country. In fact, in any reasonable assessment of who drove strong environmental protection measures in this country, it has indeed been the coalition parties. We are as committed to that today as we were when we first started this process, and we are committed to returning balance and fairness to marine conservation. Like anything else in this country, if you do not approach an issue such as this on the basis of balance and fairness, then there will never be appropriate outcomes. When these issues are hijacked by fringe groups, often associated with the Australian Greens or under the banner of the Australian Greens—but they are fringe groups nonetheless—and they take ownership of these issues, then we get the sorts of outcomes that I know others opposite sitting in the chamber today know are not appropriate outcomes. There is the great state of Tasmania, where Senator Colbeck and Labor senators come from, and I hope that they are also committed to fairness and balance in relation to these debates. On that basis, they should be supporting this bill.

One of our greatest responsibilities in this country is to make sure that those who have a voice are able to have that voice heard. One of the great challenges in this country is to ensure that, in relation to this particular area, it is not the radical green fringe groups who drive the debate but the honest Australian men and women who are pursuing their recreational interests. They need to have the opportunity for some input into this decision-making process. They should not be confronted with a fait accompli when they go through the consultation process. That is their complaint: they arrive and the decision has already been made; their view on these matters is not wanted and most certainly not listened to. What causes me enormous concern about this is that at the moment we have a government that is completely paralysed. The only consultation that is taking place is consultation between the factions about who is going to lead the country. So we have people involved in marine parks out there looking for the opportunity to have some input and appropriate consultation, but the only consultation this government is involved in at the moment is, indeed, who is going to lead the party.

We know that one of those opposite is actively involved in those discussions—a very significant player; a man of incredible power in this country. But I say to him and others opposite: let us stop worrying about who is going to be the Prime Minister and let us start worrying about the sorts of issues that have been raised by Senator Colbeck in relation to the lack of consultation. We see what has happened recently with the loss of manufacturing jobs. We see the risk to Alcoa workers in places like Geelong and we see two members down there refuse to do anything to support them because they know, and I know, and everyone in this chamber knows, that this toxic carbon tax is going to kill manufacturing jobs in places like Geelong. Where are the absentee members in defence of those workers? What the Alcoa workers want and what every other manufacturing worker in this country wants is for Mr Rudd and Prime Minister Gillard to stop worrying about their own jobs and start worrying about the manufacturing jobs. That is what the Australian people want, that is what the Australian people demand and that is what the Australian people deserve. Do not worry about the Prime Minister's job; worry about the jobs of average working Australians, many of whom fish, many of
whom shoot and many of whom want to have their voices heard in relation to these marine parks.

That is the great challenge for those opposite. Their great challenge is to stop talking about those things in which the Australian public has no interest, like the job of the Prime Minister, and start worrying about the jobs of these manufacturing workers. Start acknowledging once and for all that this toxic carbon tax is going to destroy this country. It is already under enormous pressure from the high dollar. There are a lot of external factors, which I acknowledge have an influence in this, but the one thing, the one pivotal government decision which can turn around perceptions in head offices around the world, including the Alcoa head office, is to drop this carbon tax. If the Labor Party and the Prime Minister sent out a clear message that this carbon tax is going to go because it will destroy jobs then we will start to see investment again. We will start to see the Alcos of this world say there is some hope for manufacturing in this country. At the moment they are not, and the boardrooms around the world are looking at what we are doing and they are saying: 'Have they completely and utterly lost their minds? Are they stark raving mad to introduce a tax ahead of the rest of the world which will destroy Australian jobs?'

Make no mistake about it: there is one party, one coalition in this country that is concerned about the jobs of blue-collar workers, and that is the coalition. We will fight to defend their jobs. We will fight to defend their right to pursue their recreational pursuits without unnecessary interference from government. We will defend their rights to fish and shoot. We will defend their rights to have consultation on marine parks. We will stand up for them, which I can tell you is a far cry from what is happening with the Australian Labor Party, this Prime Minister and Mr Rudd at the present time.

**Senator FERRAVANTI-WELLS** (New South Wales) (11:10): I too rise to support Senator Colbeck's bill, the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. In so doing, I ask myself why those opposite are so against this legislation. Why are they opposed to greater scrutiny of marine bioregional plans and the declaration of marine parks in Commonwealth waters?

Senator Colbeck's bill, which proposes an amendment to the Environment Protection and Biodiversity Conservation Act, will make bioregional plans disallowable instruments. The reason we are here debating this today is in direct response to what has been another bungle by the Australian Labor Party, this time in relation to the marine bioregional planning process to date.

Why should this surprise us? This government has had a litany of bungles. We have seen the pink batts—they cannot put fluffy stuff in people's roofs without people dying as a consequence. We have seen the bungling of the Julia Gillard memorial halls. Health has been one unmitigated disaster after another, which I have—

**Senator Polley:** A bit like when Tony Abbott was minister.

**Senator FERRAVANTI-WELLS:** No, that is not true, Senator Polley, and you know it. The research from the Australian Institute of Health and Welfare shows that that is not the case. You know it, and every time that you raise that you are lying to this chamber.

**The ACTING DEPUTY PRESIDENT (Senator Marshall):** Order! You will withdraw that, Senator Fieravanti-Wells.

**Senator FERRAVANTI-WELLS:** I will withdraw that. And every time—
The ACTING DEPUTY PRESIDENT: Senator Fierravanti-Wells!

Senator FIERRAVANTI-WELLS: I withdraw my comment.

The ACTING DEPUTY PRESIDENT: Yes. I also ask you to direct your comments through the chair.

Senator FIERRAVANTI-WELLS: Thank you, Mr Acting Deputy President. Every time those opposite raise that misrepresentation they know it is not true. I have repeatedly quoted chapter and verse in this chamber from the research from the Australian Institute of Health and Welfare.

Senator Polley interjecting—

Senator FIERRAVANTI-WELLS: You know it is not true, so do not keep repeating the same old drivel and babble, Senator Polley.

Now we shall return to the matter before us, which is the bungling of the marine bioregional planning process to date. Senator Colbeck's legislation introduces an amendment that is a simple step to allow scrutiny by both houses of parliament, and to allow the opportunity to disallow a bioregional plan that does not adopt a balanced approach to marine conservation. The effect of this amendment would be to protect stakeholders and communities against the potential for a minister to make a distorted decision. We have seen plenty of those in the history of the Rudd and Gillard governments, and this would be another opportunity where there would be no scrutiny.

We are talking about a very large area for these proposed marine bioregional plans; it is huge. It is more than seven million kilometres. Under the present arrangement the sole authority with the ability to sign off on these plans is the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, so long as he remains the minister. Of course, the reason for this angst and what has been clearly obvious from the many submissions that have been provided to the Senate committee inquiry in relation to this is precisely this lack of transparency and the consequences of this.

Now that we have this Greens-Australian Labor Party alliance, it is very clear who is pulling the strings in this process. It is very clear from the tenor of the Senate report that it is really the Greens pulling the strings here, and it was very clear from the report that was tabled that this is really about the Greens agenda. But I will come to the Greens agenda in a moment. One has only to look at the marine and coastal areas part of their policy released at the last federal election to see just how antifishing their manifesto is—and, of course, 'manifesto' is the appropriate word to use in relation to Greens policies because, as we heard from Senator Sinodinos and as we may hear again at other times, the Greens are the closest thing that we have in Australia to the remnants of the Communist Party. One has only to look at what they say in their manifesto about their antifishing stance. Their primary concern is purely in relation to conservation and protection. It is not about balancing the interests of conservation and the interests of the users such as the fishers. It is only one-sided, and it is there. It is reduction in fishing. It is reduction in habitat damage from commercial and recreational fishing and other marine activities. That is what the focus of the Greens agenda is here, and that is why the coalition is seeking this amendment, because this is what this is all about. This is all about another give to the Greens and another payback for the Greens-Australian Labor Party alliance.

I look now to the practical effect of this. At the last federal election, one of the most lasting images for me was the number of
bumper stickers, particularly in New South Wales, that said, 'I fish and I vote.' This was an issue that created angst up and down the coast in New South Wales—and I speak most particularly about New South Wales even though that angst was shared right around Australia. It was a huge issue last year. Let me just take two areas in particular. I will focus on two seats, Cowper and Paterson. The member for the federal seat of Cowper, Mr Hartsuyker, tabled a petition of 10,000 signatures on 23 May last year. This petition from concerned residents was about their real and heartfelt concerns over the government's plan to prevent commercial and recreational fishing in waters off the New South Wales North Coast. In tabling the petition, Mr Hartsuyker drew the attention of the other place to the devastating impact that a reduction in fishing will have on tourism and local economies. I would just like to refer to a couple of points that he made. One is that, if anyone had any doubts whatsoever about how important fishing is to the tourism industry, 55 per cent of the people who signed this petition were from outside his electorate. This was despite the fact that the petition was distributed only within the Cowper electorate. It goes to show just how important fishing is to the tourism industry. Of course, the last election was against the background, particularly in New South Wales, of the damage that recreational and commercial fishers have already sustained as a consequence of the New South Wales Labor deal with the Greens, which saw large areas of state marine parks made into no-go fishing zones. So naturally, again, the fishing industry—the recreational and commercial fishers—are justifiably concerned about the impact that this legislation will have on them.

I now move to another area, the federal seat of Paterson. Constituents in Mr Baldwin's electorate—he is the member for Paterson—have made contact with his office in relation to this. Senator Ronaldson was talking about meetings in Corangamite. The member for Paterson also had meetings with hundreds of angry fishermen, both commercial and recreational, regarding Labor's lack of consultation on the marine park process. Their concerns were very clear. For example, there were two meetings, at Forster and Shoal Bay, which were hosted by Mr Baldwin and Senator Colbeck, which more than 400 people attended, the majority of whom were furious over Labor's lack of consultation. So this is really about consultation.

I have also become aware that this matter will naturally result in financial and economic loss, and it will not be surprising if this whole process leads to some legal issues being raised regarding not only the lack of consultation but the effect on rights and the commercial consequences of this. It would not surprise me to see legal matters being raised and pursued against the Commonwealth to this effect.

Let us have a look at some of the issues that were raised in the submissions to the Senate committee inquiry. One was from the Australian Fishing Trade Association: AFTA asks that you also consider the social impacts, the health and wellbeing benefits of recreational fishing and the financial ramifications to the many small businesses that depend on the investment provided to their businesses by recreational fishers. Many regional and coastal towns are dependent on recreational fishers for their financial existence.

This is clearly not a matter that the Australian Labor Party or their Greens alliance partners are concerned about.

There are two other interesting points I would like to highlight from that submission. One was about the science surrounding bioregional planning. The submission made it very clear:
To date no briefing regarding the science being used with Bio Regional Planning has been transparently tabled to stakeholders. Thus no comment from stakeholders has been achieved. This vacuum of information has not been helpful in any understanding of current process, future process or past process.

What does that tell you? As usual, this is a government that, quite frankly, does not know what it is doing. That is not surprising: it does not really know what it is doing on a whole range of areas; why would it know what it is doing in relation to bioregional planning? The submission goes on to say:

No socio economic information regarding communities that may be affected by the Bio Regional Planning process has been made available to stakeholders. Surprise, surprise!

I go to another submission, by the Australia Marine Engine Council, which made some very interesting comments, most explicitly about the adverse financial implications of this legislation and its surrounding measures. As I said earlier, the total bioregional zones cover an area of seven million square kilometres. The total bioregional zones are equivalent to 92 per cent of Australia's landmass and the zones under current consideration are 70 per cent of the size of Australia. These implications were raised by the Australia Marine Engine Council:

- Australia has the third largest fishing zone in the world covering an area of about 9 million km².
- The commercial fishing industry is the nation's fifth largest primary industry with a value of $1.6 billion each year.
- Australia's catches are relatively small by world standards.
- The total catch in Australian waters is only a small fraction of the catch taken in other fishing nations.

The key financial implications that this and other submissions have raised as needing to be considered are the costs to commercial and recreational fishing. Fishing is the only activity banned in all marine parks. I repeat: fishing is the only activity banned in all marine parks. As the Marine Engine Council points out in its submission, boating is not banned; tourism is not banned; diving is not banned; snorkelling is not banned; human entry is not banned; walking on coral is not banned; anchoring on coral is not banned; commercial shipping is not banned; oil tankers are not banned or restricted in all marine parks.

As the submission points out:

Marine Park Authorities frequently use the term “fully protected” but marine parks do not fully protect marine life.

This ban on fishing is the only protection which the council argues is being afforded to marine reserves. What are the hidden costs to Australians? The submission goes on to talk about some of these hidden costs to Australians. It states:

- Bans on commercial fishing have a direct and measurable financial effect. Traditionally Commercial Fishers are compensated by a buyout of fishing licences and permits. Commercial fishermen then sell their boats and other assets or more commonly buy a licence in a different area, and so commercial fishing is frequently displaced rather than removed.

What, then, is the effect on the Australian consumer? The submission clearly points out:

Australian consumers however are not compensated and do not so readily 'move on'. Despite our huge coastline relative to our population, in 2007-2008 Australia became a net importer of fisheries products, both in terms of volume and in terms of value. Australia is now a net importer of seafood. We import more than we export.
What does that mean in practical terms to our consumers? It means that we are buying imported fish, sometimes, as this submission says, of debatable quality, and it talks about some of those varieties. What does all this come down to? It not only comes down to this government being averse to proper scrutiny by this parliament but also means that we will not and cannot have a balanced approach to marine conservation.

The coalition has a very good record in this area. In his speech, Senator Colbeck outlined the very good history that coalition governments have had in this area. The coalition started the process of establishing comprehensive marine bioregional plans, which include determination of marine protected areas around Australia's coastline. As part of that process, we engaged, and rightly so, in extensive and cooperative consultation before marine protected areas were declared. This consultation ensured that an appropriate balance was struck between protecting our marine biodiversity and minimising the social and economic impact on fishers, businesses and coastal communities, some of which I have raised in my speech today. Overall, it was a process that would achieve better outcomes for everyone. The final result would have been a greater protected area with less impact on industry. The history of the coalition government, including its record of consultation, is traversed also in the dissenting report of the coalition senators. In contrast, the Gillard government does not have a track record of effective consultation. For example, in my own shadow portfolio of mental health we have recently seen the government having to backflip in yet another area. They arbitrarily cut visits to psychologists for people with severe mental illness. There was no consultation whatsoever, and then the minister had to do a backflip. Minister Roxon did something similar with the social workers and the occupational therapists—going in there with no consultation and making the arbitrary decision, saying 'if this is what the Greens want, we will do it' and forgetting the impact on patients. In this case the impact on the recreational and commercial fishers is forgotten; but the coalition is committed to returning balance and fairness to marine conservation. (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (11:30): I rise to support the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011, which was introduced, Mr Deputy President, by our state colleague Senator the Hon. Richard Colbeck. I note that 75 percent of the Tasmanian Liberal Senate team is in the chamber to support Senator Colbeck's very well thought out legislation. There is no doubt that Senator Colbeck, in his role as the shadow spokesman on fisheries, has taken a very consultative approach to his portfolio. This approach is being hailed by both the professional and the amateur fishing sectors. The fishing sector tells me that this approach is in stark contrast to that which the ALP-Green alliance government is trying to inflict upon the people of Australia with its so-called marine bioregional plans. Senator Colbeck seeks to consult rather than to dictate to the fishing sector. That comes through loud and clear to me when I have discussions with the fishing sector. They tell me that he listens rather than hectors. This is another lesson that the Australian Labor Party and their Greens partners in the alliance might learn from Senator Colbeck.

The purpose of this legislation is to ensure that any marine protected areas or bioregional plans which have genuine and significant economic, environmental and social impacts be instruments reviewable by this parliament. Labor has deliberately sought to ensure that any decision they make
is beyond the reach of the parliament. They want it to be the case that, simply by the signature of the minister, these so-called plans and protected areas come into force without their being subject to review by the parliament. What arrogance this is—what hubris! Why are they doing this? They are doing it because the plan and the protected areas are to be dictated to them by the Australian Greens. We all know that this is just another example of the green tail wagging the Labor dog. You can have these marine protected areas if you apply common sense. The coalition accepts and acknowledges that it makes sense. Indeed, in his second reading speech introducing the bill, Senator Colebeck set out in very great detail the coalition's proud history of marine protection. The vital ingredient that stood out in Senator Colbeck's recounting of the coalition's history in this area, in contrast to the propositions of the ALP on marine protection, was balance. The coalition had balance, which Labor of its own accord—let alone with the influence that the Australian Greens have on everything this government seeks to do—is simply unable to achieve.

There is a marine park in the south-east area of Australia around Tasmania. I recall it well because I was the federal Minister for Fisheries, Forestry and Conservation at the time of its establishment, and I remember the consultations I had with Senator Colbeck and other members of the Tasmanian Liberal Senate team as we developed that protected area. I was very pleased that at the end of the day we had the sign-off of the conservation movement, the recreational fishers and the professional fishers—we got the balance right. It took time and it took consultation; it also meant applying the science. I pay great tribute to TAFI, the Tasmanian Aquaculture and Fisheries Institute, which is so ably led by Professor Colin Buxton, for their wonderful work in getting the science in amongst the environmental mantra. When you get that balance right, you can in fact satisfy everybody. I recall some of the battles we had, which were necessary because otherwise the fishing industry and recreational fishing would have been hurt badly. Let us underestimate neither the importance of fishing, both professional and recreational, to the communities all around our coastlines nor indeed the importance of fishing as a social and recreational activity—the opportunities to bond with family and friends—to people who live in the cities and suburbs who are willing to travel great distances to enjoy the great Australian outdoors. It is a great Australian pastime, and it should not be hindered by artificial marine parks which serve no genuine environmental purpose and in fact cause great economic damage.

I still remember that certain people were suggesting that the zoned-off areas in the Tasmanian marine park be close to shore and that fishermen only be allowed to catch fish 200 kilometres, or whatever it was, offshore. The very sensible suggestion was made: why would you want the fishermen to have to burn fossil fuels to get 200 kilometres out; why do you not have the biomarine protected area at the 200-kilometre zone and allow the fishers to fish in the area that is closer to shore? It makes economic sense for exactly the same environmental outcome. They are the sorts of things we were able to achieve. Indeed, in one of the areas just off the east coast of Tasmania, there was to be a protected area in which recreational fishers had a longstanding tradition of conducting competitions. When I asked about the purpose of the marine protected area in this particular case, we were told it was for its benthic values. That was a term I learned at the time. I did not know what it meant, but it is the sea floor. I said, 'If we are concerned about the benthic values, the sea floor values, what is the matter with recreational fishing
boats floating across the top trawling for fish if their hooks et cetera do not even touch the bottom of the sea floor?" We were able to make that compromise to allow recreational fishing to continue.

It is that sort of balance and consultation that Senator Colbeck brings to this place with his bill. It is worth while doing and doing properly. But the problem is that if you give in to the Green mantra you do not want to consult. That is why the government does not want consultation and does not want parliamentary review, because the extreme nature of the way the Australian Greens are dictating policy to this Labor government would be exposed.

Senator Siewert interjecting—

Senator ABETZ: We finally have a Greens senator expressing some interest in this bill by coming into the chamber, which I welcome. It is very interesting that wild sea fisheries have to be sustainable and, of course, in being sustainable there is a limit to the catch. So what does one do? It would make sense, would it not, to start engaging in fish farming? Fish farming is an activity that we do in Tasmania exceptionally well. It is world renowned, a growth industry, a value-add industry, a job-creating industry and an export-earning-dollars industry. It is great for our economy. Fish is an essential ingredient for a human balanced diet and the scientific evidence is there, that if you can eat more fish the healthier you will be. But there is pressure on wild sea fisheries; so, if the human race wants to eat more fish, we have to start farming them.

But what do the Australian Greens do in my home state of Tasmania? They seek to oppose every new fish farm and the extension of every fish farm. This is the closed-for-business approach of the Australian Greens. Sure, on their salaries as senators or whatever else they might do, they might be able to afford a higher price for fish, but there are many people in the community that do want to consume fish. They know that there is a limit in the wild seas and that is why fish farming is so important—something we do so exceptionally well in Tasmania but something that the Australian Greens in Tasmania utterly oppose. The hapless government of Ms Giddings is paralysed to do anything about it and, as a result, the closed sign is up all over Tasmania, not only in the forestry area but also in the fisheries area and in the property development area. Those of us who live in Tasmania know the consequences of having a Greens-Labor alliance government stifling everything, and that has now been translated into Canberra as well, courtesy of the 2010 election and the dastardly deals that Ms Gillard did with the Australian Greens and some Independents.

Part of that deal was to ensure the supremacy of parliament. It was to ensure openness, accountability and transparency. If the Greens believe in all those values they wrote into their agreement—as did the Independents in the other place—with Ms Gillard, I simply ask: where is the openness? Where is the transparency? Where is the accountability in relation to marine parks? Why do you want to put it beyond the reach of this parliament to investigate and vote upon?

If you are so confident that these marine parks are so good and wonderful, surely the logic and the scientific rigour of their assessments would convince every parliamentarian that they were a good thing—good for the community, good for the long-term wild sea fisheries et cetera. But, no, Labor and the Greens know that the task they have embarked upon is such that they do not want that sort of transparency or accountability, because they are scared of what it would reveal about their extreme agenda. Make no mistake: we are not just talking about lines
on maps in relation to these marine parks; we are talking about the livelihoods of regional communities, we are talking about the livelihoods of small businesses and we are talking about the recreational activities of literally hundreds of thousands of Australians all around the country. What we as a community can do and without doubt need to do is to live in harmony with nature, and we can do that. But one of the great problems that the Australian Greens have is they do not actually know where humankind fits in with nature. It is okay for seals to eat fish and for killer whales to eat seals, according to the Greens, but it seems that humankind is not allowed to catch fish for sustenance. That seems to be something that is very difficult for the Greens. They do not actually know where humankind fits into the scheme of things. That is their great dilemma. They nearly think that every human activity must of its nature be bad—and as a result they do not like fishing, they do not like forestry, they do not like plantations, and so the list goes on. In their comfort zones that is fine. But a lot of people actually do need the economic activity that is generated from fishing.

What we have shown is that we can have the economic activity combined with proper conservation for the maintenance of the species, and as a result we can enjoy the fruits of creation and enjoy that of which we are the stewards. We are not the preservers; we are the stewards. As we know, we cannot lock things up and expect them to be maintained exactly as they were at a given point in time, because things will change. In the forests there will be forest fires, or weeds or pigs or cats will get into them, so we need to manage them. It is the same with our seas, and if we manage them properly we can have them there for their rich biodiversity, and maintain it, and we can also have the richness that the seas provide to us in food, economic activity and recreational activity.

There is nothing wrong with that; these are all good, wholesome things. Indeed, fish are very good for you in our diet. We should be eating more of it—all the health specialists tell us that. I thought the Greens were into alternative and preventative health, and can I say I am too. But one of the things you need for that is a bit of fish in your diet from time to time. Well, how do you do that if you want to close down the wild sea fisheries and you do not want to expand fish farms or to have fish farming? Where are we going to get our fish from? That is another one of the dilemmas the Greens have not answered.

I know there are some decent souls in this government but they are frustrated that they are locked into the alliance with the Australian Greens. They should be taking stock of what this alliance means for them and their long-term supporters. The agenda of the Australian Greens, as reflected in the government’s approach to this matter, is one that denies decent, hard workers from earning a living and does not allow recreational activity, which is very important. That is why balance, the word I started off with, is so important. It is balance that Senator Colbeck is seeking to reintroduce into this debate with his well-thought-out bill, which is the result of the consultations he has undertaken. It is a bill based on common sense, not on the government Labor-Green alliance approach, which is built on hectoring people and is the know-all, arrogant approach: ‘We don’t need the voice of the parliament and the input of the parliament in these matters. We will just make the decision and everybody else can go jump and live with the consequences of it.’

The bill that Senator Colbeck has worked on now for some time is an important bill that really does highlight and contrast the different approach that the coalition will take to government. That approach will be one of consulting and of getting the balance right,
not of making policy at the behest of extreme environmental groups and at the behest of the Australian Greens. The sad thing is that I am sure the Labor voters and the coalition voters in this country are of a like mind on these issues. So we have to ask: how is it that, when 80 or 90 per cent of people are of a particular mind on an issue, the Greens seem to be able to dictate the policy? That is the matter of concern here, and that is something that we as the coalition are seeking to redress by this excellent bill.

Senator MASON (Queensland) (11:50): The coalition supports the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 introduced by Senator Colbeck, our spokesman on agriculture and fisheries. In the very short time remaining for debate on this bill now, can I congratulate Senator Colbeck for the great work he has done in initiating this bill. He has spoken to all the stakeholders, which is in contrast of course to the government approach. I congratulate Senator Colbeck for travelling hither and thither throughout Australia and addressing this issue, which is critical for our marine resources. He has done a job that the government should perhaps have spent more time on, so I want to congratulate him on behalf of the coalition.

The DEPUTY PRESIDENT: Order! The time allotted for this debate has expired.

PETITIONS
The Clerk: Petitions have been lodged for presentation as follows:

Marriage
To the Honourable the President and Members of the Senate in Parliament assembled:

Noting the following:

- that marriage is currently defined in the Marriage Act (1961) as being ‘... the union of a man and a woman to the exclusion of all others, voluntarily entered into for life,’ each element of which is essential to the integrity of marriage and each of which was inserted into the Marriage Act on a bipartisan basis in 2004;
- that marriage is one of the great institutions on which our society is built;
- that marriage provides for a stable family and is the umbrella under which children are nurtured and grow; and
- that marriage is worthy of protection and support;

We, the undersigned petitioners, call on the Senate to support the definition of marriage as currently contained within the Marriage Act (1961) by Senator Parry (from 56 citizens).

Petition received.

NOTICES
Presentation
Senator Williams To move—
That the Senate—
(a) condemns as a form of protest the destruction or desecration on Australian soil of the Australian National Flag, the Australian Aboriginal Flag, or the Torres Strait Islander Flag; and
(b) urges all people to show respect for these flags.

Senator Marshall To move—
That the time for the presentation of the report of the Education, Employment and Workplace Relations References Committee on higher education and skills training for agriculture and agribusiness be extended to 8 June 2012.

Senators Moore, Siewert and Humphries To move—
That the Senate—
(a) recognises the 4th anniversary of the apology to the Stolen Generations on 13 February 2012;
(b) affirms the sentiment expressed by the Senate on 13 February 2008 as a significant step to build a new relationship between Indigenous and non Indigenous Australians and recognise the suffering caused by past injustices;
(c) expresses its support for members of the Stolen Generations and for the activities happening across Australia on 13 February to mark the anniversary of the apology; and

(d) notes the new special collection that will be established in the Parliamentary Library of historical documents presented by the National Sorry Day Committee, which document our nation’s shared journey toward reconciliation and the ongoing process of healing and justice for members of the Stolen Generations.

BUSINESS

Rearrangement

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (11:51): I move:

That government business be interrupted at 1 pm to allow consideration of the following government business orders of the day till not later than 2 pm today:

Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011


Question agreed to.

Senator FARRELL: I move:

That the order of general business for consideration today be as follows:

(a) general business notice of motion No. 640 standing in the name of Senator Cash relating to reflections on members of Parliament; and

(b) orders of the day relating to government documents.

Question agreed to.

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (11:52): by leave—I move:

That leave of absence be granted to Senator Urquhart for today, for personal reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Waters for today, proposing a reference to the Rural and Regional Affairs and Transport References Committee, postponed till 27 February 2012.

MOTIONS

Beetson, Mr Arthur, AO

Senator RHIANNON (New South Wales) (11:53): I, and also on behalf of Senators Arbib and Joyce, move:

That the Senate—

(a) notes:

(i) the sad passing of Arthur Beetson who died on 1 December 2011 at age 66, and

(ii) the extraordinary contribution that Arthur Beetson made to rugby league and to Australian sporting life as a player and coach, including:

(A) having represented Australia on 47 occasions,

(B) in 1973 becoming the first Indigenous player to captain Australia in any sport,

(C) being awarded an Order of Australia in 1987 in recognition of service to the sport of rugby league,

(D) being inducted into the Australian Rugby League Hall of Fame in 2003,

(E) being named in the front-row in the rugby league ‘Team of the Century’, and

(F) becoming the seventh post-war ‘Immortal’ of the game; and

(iii) the powerful and tireless leadership that he showed to his sport, as a mentor to young people and to the Indigenous community;

(b) extends the deepest sympathy of all members of the Senate to the family and friends of Arthur Beetson; and

(c) calls on all members of the Senate to support initiatives to pay tribute to the
contribution and achievements of Arthur Beetson to his sport and to Australian public life, such as the establishment of the Arthur Beetson scholarship for young Indigenous Australians.

Question agreed to.

COMMITTEES
Gambling Reform Committee

Reference

Senator XENOPHON (South Australia) (11:54): I, and also on behalf of Senators Crossin, Back, Di Natale and Madigan, move:

That the following matter be referred to the Joint Select Committee on Gambling Reform for inquiry and report:

The prevention and treatment of problem gambling, with particular reference to:

(a) measures to prevent problem gambling, including:
   (i) use and display of responsible gambling messages,
   (ii) use, access and effectiveness of other information on risky or problem gambling, including campaigns, and
   (iii) ease of access to assistance for problem gambling;
(b) measures which can encourage risky gambling behaviour, including:
   (i) marketing strategies, and
   (ii) use of inducements/incentives to gamble;
   (c) early intervention strategies and training of staff;
   (d) methods currently used to treat problem gamblers and the level of knowledge and use of them, including:
   (i) counselling, including issues for counsellors,
   (ii) education, and
   (iii) self-exclusion;
   (e) data collection and evaluation issues;
   (f) gambling policy research and evaluation; and
   (g) other related matters.

Question agreed to.

BILLS

Environment Protection and Biodiversity Conservation Amendment (Monitoring of Whaling) Bill 2012

First Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:56): I move:

That the following bill be introduced: A Bill for an Act to amend the Environment Protection and Biodiversity Conservation Act 1999 to require the monitoring of whaling activities by foreign whaling vessels.

Question agreed to.

Senator BOB BROWN: I thank the Senate, present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:57): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum and have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Once again this summer, the Japanese Government sent a whaling fleet to the Southern Ocean to hunt minke and fin whales for meat in an apparent breach of the International Convention for the Regulation of Whaling.

While the Australian Government has a case pending in the International Court of Justice to examine Japan’s alleged breach of the convention, Japan continues to pursue its so-called “scientific whaling” hunt.
But this year, the whalers went further than they had in past summers, entering Australia’s Whale Sanctuary, its territorial waters and World Heritage Area off Macquarie Island.

The whale sanctuary was created under the Environment Protection and Biodiversity Conservation Act 1999 and prohibits all whaling activities in the waters up to 200 miles off the shore of Australia and its external territories.

The Australian Government was left sitting on its hands while the Japanese whaling vessels were in our waters, especially as it refused to despatch the Ocean Protector customs vessel which is tasked with the monitoring of illegal fishing in the Southern Ocean.

The presence of any whaling vessel in our whale sanctuary should be protested strongly and actively monitored to ensure the vessel does not attempt to illegally take whales and to emphasise Australia’s strong opposition to the practice.

To this end, I am introducing the Environment Protection and Biodiversity Conservation Amendment (Monitoring of Whaling) Bill 2012 (the Bill) to create an obligation on the Australian Government to monitor foreign whaling vessels that enter our whale sanctuary.

The Bill inserts the new section 236A―Monitoring foreign whaling vessels‖ into the Environment Protection and Biodiversity Conservation Act 1999.

It requires the government to send a Commonwealth vessel to monitor any foreign whaling vessel that enters or nears the whale sanctuary.

The Environment Minister must then publicly release the observations of this vessel within 30 days of that monitoring beginning and within 30 days after its completion.

A foreign vessel is already defined in the Act and for the purposes of this Bill a Commonwealth vessel includes any vessel that is owned, possessed or controlled by the Commonwealth or one of its agencies, excluding those used by the defence forces.

Australians expect their government to act strongly in response to illegal whaling. This Bill will ensure that other countries are left with no illusions about our commitment to ending commercial whaling across the globe.

I commend the Bill to the Senate.

Debate adjourned.

**MOTIONS**

**Syria**

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:57): I move:

That the Senate—
(a) condemns the appalling human rights abuses and escalating violence in Syria, that has seen thousands of innocent civilians killed; and
(b) calls on President Assad to step down, to finally put an end to the intolerable bloodshed of the Syrian people.

Question agreed to.

**Russia**

Senator McEWEN (South Australia—Government Whip in the Senate) (11:58): At the request of Senators Pratt and Hanson-Young, I move:

That the Senate expresses grave concern:
(a) regarding discriminatory legislation against lesbian, bi, gay and transgender people currently before the Legislative Assembly of Saint Petersburg in Russia; and
(b) that these proposed laws undermine the human rights of lesbian, bi, gay and transgender people and breach human rights treaty obligations to which Russia is signatory.

Question agreed to.

**COMMITTEES**

**Australia’s Food Processing Sector Committee**

**Meeting**

Senator COLBECK (Tasmania) (11:58): I move:

That the Select Committee on Australia’s Food Processing Sector be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the
Senator McEWEN (South Australia—Government Whip in the Senate) (11:59): At the request of Senator Bishop I move:

That the Economics 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, 9 February 2012, from 3.30 pm.

**MOTIONS**

**Forestry**

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:59): This motion calls on the Prime Minister to ensure the forest agreement in Tasmania, which she signed up to on 7 August, be carried through. I move:

That the Minister for Agriculture, Fisheries and Forestry, on the next day of sitting, report to the Senate on the failure of the Prime Minister (Ms Gillard) to uphold the Tasmanian Forests Intergovernmental Agreement between the Commonwealth of Australia and the State of Tasmania, in particular clauses 25 to 27 which stipulated immediate protection of 430 000 hectares of high conservation value forests where logging, including clear-felling and burning of ancient forests and wildlife habitat, is continuing.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Bob Brown be agreed to.

The Senate divided. [12:04]

(The Deputy President—Senator Parry)

Ayes ................. 9
Noes ................. 38
Majority ............ 29

AYES

Brown, RJ              Di Natale, R
Hanson-Young, SC       Ludlam, S
Milne, C               Rhiannon, L
Siewert, R (teller)    Waters, LJ
Wright, PL
that the majority of Australians (71 per cent) believe agriculture and related industries contribute to the Australian way of life and our identity as a nation,

(vi) the importance of the contribution Australian farmers make to the maintenance of our cultural and environmental heritage; and

(vii) that the Australian Year of the Farmer recognises those who make a significant contribution to our economic, social and environmental prosperity; and

(c) calls on the Government to support and provide funding for the initiatives of the Australian Year of the Farmer 2012 [http://www.yearofthefarmer.com.au].

Question agreed to.

Mining

Senator CORMANN (Western Australia) (12:09): I move:

(1) That the Senate:

(a) notes the Government has not complied with:

(i) the order of the Senate, made on 1 November 2011, ordering the production of information relating to the cost of measures attached to the mining tax over the current forward estimates, and

(ii) a number of other outstanding orders in relation to mining tax revenue estimates and related assumptions;

(b) notes the Government has not taken any action to meet its commitment to have the Information Commissioner arbitrate on any Government refusal to release information sought by the Senate; and

(c) affirms the importance of receiving the information about mining tax revenue assumptions and the costings of all the related measures promptly to facilitate proper scrutiny by the Senate of the proposed mining tax and all the related measures.

(2) That the orders of the day for the following bills may not be called on until the orders of the Senate have been complied with and the Senate has passed a resolution agreeing that the bills may be listed for debate:
The question is that Notice of Motion No. 615 standing in the name of Senator Cormann be agreed to.

Senate divided [12:13]

[The Deputy President—Senator Parry]

Ayes..........................32
Noes..........................36
Majority......................4

AYES

Abetz, E
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Heffernan, W
Johnston, D
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M

AYES

Scullion, NG
Williams, JR

NOES

Arbib, MV
Bishop, TM
Brown, RJ
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludwig, JW
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Wong, P

NOES

Bilyk, CL
Brown, CL
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Ludlam, S
Marshall, GM
McLuas, J
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Waters, LJ
Wright, PL

PAIRS

Adams, J
Back, CJ
Joyce, B
Nash, F

Question negatived.

Senator CORMANN (Western Australia) (12:16): Mr Deputy President, I seek leave to make a brief statement.

Leave granted.

Senator CORMANN: Today is the day the Greens have joined Labor’s mining tax cover-up. Today is the day the Greens have put themselves right in front of Treasurer Swan and have protected him from releasing information which the Senate has insisted for the last 18 months needed to be provided so the Senate would be in a position to properly scrutinise the credibility of the mining tax revenue estimates and to properly scrutinise the credibility of the costings of all of the...
promises Labor has attached to the mining tax.

The government, of course, continues to refuse to release of the mining tax revenue assumptions. Why is that, Mr Deputy President? The reason for that is that the government clearly has something to hide.

**The DEPUTY PRESIDENT:** Order! Senator Cormann, this is moving beyond a statement and into debate. You did seek leave to make a statement, so I would ask you to consider making a statement to the Senate.

**Senator CORMANN:** Thank you, Mr Deputy President. I will continue with my statement. The government clearly know that their mining tax revenue assumptions are dodgy. They clearly know that if their mining tax revenue assumptions were publicly released then they would not stand up to scrutiny. This is, of course, why the government continue to persist with their refusal to release that information.

I remind the Senate in my brief statement of what the Greens said in relation to this about six months ago. Senator Bob Brown was quoted as saying that the lack of information on the mining tax was increasingly unsatisfactory and:

The time is coming where the Senate is going to have to flex its muscle. If the information is really commercial in-confidence, the Senate committee could meet in-camera, but what the Treasury is in fact saying is that bureaucrats are allowed to have crucial information but parliamentarians, who are being asked to vote on the relevant laws, are not. It is illogical and unacceptable.

**Senator McEwen:** Mr Deputy President, I rise on a point of order. Senator Cormann is not making a statement; he is debating an issue. I ask you to bring him back to making a statement.

**The DEPUTY PRESIDENT:** Thank you, Senator McEwen. Senator Cormann, I draw your attention to the fact that you have sought leave to make a statement to the Senate and not to debate the matter.

**Senator CORMANN:** In the fullness of time I would be interested in a ruling on what the definition of a statement to the Senate is.

**Honourable senators interjecting—**

**The DEPUTY PRESIDENT:** Order! Could I advise all senators that the Procedures Committee has made a determination in relation to that and I advise senators to read the determination in relation to this item of business each time it occurs on every day of the sitting week. Senator Cormann, I believe your time has expired.

**Senator Cormann:** Mr Deputy President, I rise on a point of order. The clock in fact kept running while you were making your ruling and when I was not on my feet making a statement.

**The DEPUTY PRESIDENT:** I am advised that there were only two or three seconds left, Senator Cormann.

**Senator Cormann interjecting—**

**The DEPUTY PRESIDENT:** Senator Cormann, it would assist the Senate if that concluded your statement.

**Communist Party of Australia**

**Senator BERNARDI** (South Australia) (12:19): I move:

That the Senate agrees with Senator Rhiannon who was reported in the official notes of an October 2000 SEARCH Foundation seminar commemorating the 80th anniversary of the foundation of the Communist Party of Australia (CPA) as arguing ‘that the Green’s Party is closest to the best of the CPA’s politics and methods’.

**The DEPUTY PRESIDENT:** The question is that notice of motion No. 637, standing in the name of Senator Bernardi, be agreed to.

The Senate Divided. [12:24]
(The Deputy President—Senator Parry)

Ayes....................30
Noes....................36
Majority..............6

AYES

Abetz, E
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Eggleston, A
Fieravanti-Wells, C
Fisher, M
Humphries, G
Kroger, H (teller)
McDigan, JJ
McKenzie, B
Payne, MA
Ryan, SM
Sinodinos, A

Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Edwards, S
Fawcett, DJ
Fifield, MP
Heffernan, W
Johnston, D
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Scullion, NG
Williams, JR

NOES

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, RJ
Carr, KJ
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Waters, LJ
Wright, PL

Bilby, CL
Cameron, DN
Collins, JMA
Crossin, P
Faulkner, J
Hanson-Young, SC
Ludwig, JW
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Wong, P
Xenophon, N

PAIRS

Adams, J
Back, CJ
Cormann, M
Joyce, B
Nash, F

Hogg, JJ
Evans, C
Farrell, D
Urquhart, AE
Lundy, KA

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:26): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator BOB BROWN: I thank the Senate. The motion we have just dealt with is one aimed at a particular senator—in this case, Senator Rhiannon—and we are seeing a number of these motions which are aimed at the person rather than at a relevant contemporary debate. We do not resile from any of our backgrounds. If you want to discuss my Presbyterianism, I am happy to discuss it. If you want to discuss Senator Rhiannon's connections with communists past, she is happy to discuss that. The motion seems to come from the first line of the first platform of the first Greens party in Australia, which is that of the Sydney Greens dated 15 October 1984 and says:


Senator Bernardi, who was just so recently wanting to help Islamophobic builders come from Holland to Australia, has little to talk about in these matters—

Senator Kroger: Mr Deputy President, I rise on a point of order. You ruled previously on the need for Senators to make a statement and not argue the point. I think Senator Brown should be observing your ruling. I think it should be brought to his attention that part of a statement is not just taking a spray at your colleagues.

The DEPUTY PRESIDENT: Thank you, Senator Kroger. Senator Brown, before you continue, I advise you that you had sought leave to make a statement. Could you
continue making a statement and not a debating point.

Senator BOB BROWN: If Senator Kroger is not the point, I wonder what is.

To finalise that, the motion from the opposition is a bit cute coming from the strongest supporters in this chamber of the Communist Party of China, corrupted, which has got democrats, socialists and good hearted people breaking rocks in the Gobi Desert. They ought to look at their own record.

Senator Kroger: Mr Deputy President, I rise on a point of order. I see no relevance to the motion that was before the chair. This is clearly not a statement, and I ask you to draw the senator's attention to that.

The DEPUTY PRESIDENT: It is not a technical point of order. Senator Brown, you have 20 seconds left. I draw your attention to the fact that you had sought leave to make a statement and not to debate the matter.

Senator BOB BROWN: The point here is that I think the opposition ought to lift their game. The Australian people will want them to do that, and lift their sights. They want to debate the economy. Let's debate the economy instead of this very tawdry personal politics they are engaged in this chamber. (Time expired)

The DEPUTY PRESIDENT: Before I recognise Senator Bernardi, I advise senators of the ruling of the Procedure Committee. It was adopted by the Senate chamber. It was the second report of 2011. In part it reads: Standing order 66(3) provides that a formal motion shall be put and determined without amendment or debate ... In particular, the number of statements being made by leave in relation to complex motions leads to a de facto debate on those motions, contrary to standing order 66. This is because senators, instead of making statements, assert views in the nature of debate by mounting arguments and responding to positions expressed by others.

This was adopted by the Senate. It was adopted without debate or quarrel. I ask senators to observe the Procedure Committee report that was adopted.

Senator Faulkner: Mr Deputy President, I rise on a point of order going to the nature of the ruling that you make. I appreciate you reading out the report of the Procedure Committee. It is important for the Senate to understand that this relates to statements that are made at the time of discovery of formal business and when we are dealing with general business notices of motion. It has become the practice of the Senate for senators, either concerned about a motion or moving a motion, to seek leave to make a statement. The clarification of this relating to statements in the Senate in discovery of formal business is a critical element of the ruling that you made. Perhaps it ought to be reinforced for the benefit of senators.

Senator BERNARDI (South Australia) (12:32): I seek leave to make a brief statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator BERNARDI: I feel I must briefly clarify for the benefit of the Senate that the purpose of this motion is simply to find a point of agreement between the Liberal coalition and the Greens party, who are in bed with the government. I find it difficult to be accused of petty personal politics when I am simply seeking to agree with some comments that Senator Lee Rhiannon had made. I find it appalling that Senator Bob Brown is prepared to have a go at me in this place when he has just voted against the sentiments of his own party. Indeed, Senator Rhiannon has voted against the sentiments that she shared with the SEARCH Foundation seminar some 10 years ago, when she was a member of the Greens party. This is factual. We are entitled to
congratulate senators for belling the cat or telling the truth, and I have simply tried to do that.

**Competition Policy**

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (12:33): I move:

That the Senate—

(a) notes—

(i) the failure of the Government to adopt the recommendations of the Economics References Committee, which were supported by members of four political parties and Senator Xenophon, for reinstating specific legislative provisions on price discrimination, tightening legislation to inhibit firms achieving market power through takeovers and calling on the Australian Competition and Consumer Commission (ACCC) to conduct further study into the increasing shares of the grocery market being taken by the generic products of the major supermarket chains,

(ii) the Government's refusal to contemplate improvements to the current competition laws on the basis that these laws have not been adequately tested in the courts,

(iii) that Coles has announced large cuts in the prices of some fruit and vegetables, and

(iv) that bodies such as Ausveg, the National Farmers Federation, the Tasmanian Farmers and Graziers Association and the Council of Small Business of Australia have expressed concern about the impact on farmers and small retailers if these price cuts are sustained; and

(b) calls on the Government to:

(i) direct the Productivity Commission to report on the effectiveness of competition policy in the grocery retailing sector,

(ii) direct the ACCC to update its 2008 report on competition in the grocery industry, with particular reference to the market power of the two largest retail chains, the impact of their increasing use of generic product lines and the impact of large cuts in the price of specific food items on the viability of Australian farmers,

(iii) direct the ACCC to examine and report on the extent to which the cuts in fruit and vegetable prices initiated by Coles in early 2012 are affecting the prices of other goods sold by the major supermarket chains, their profits, the prices they pay their suppliers and the farmgate prices received by Australian farmers, and

(iv) ensure that the ACCC is encouraged and adequately funded to bring matters before the courts that would lead to the current competition laws being adequately tested.
Question negatived.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (12:41): Mr Deputy President, I seek leave to make a brief statement.

The DEPUTY PRESIDENT: Is leave granted? Leave is granted for two minutes.

Senator WILLIAMS: The coalition stands by the recommendations made by the Senate Economic References Committee in its dairy pricing inquiry. The problem with this motion that we have just voted on is that it does not accurately reflect the recommendations of the committee. The motion notes that the four political parties supported the reinstating provisions on price discrimination, but this is not the case. This recommendation was included in additional comments to the report which was also supported by me. I support changes to competition law to reintroduce restrictions on price discrimination, but I do not support motions which contain basic factual errors.

The motion calls on the government to do a range of things, but none of these were specific recommendations of the dairy pricing inquiry. Some of these ideas in the motion put up by Senator Milne have merit, such as calling for Productivity Commission and ACCC reviews, but it is unclear why the motion does not then simply call on the government to implement the simple and detailed recommendations of the dairy pricing inquiry. These include an independent review of the Competition and Consumer Act, improving transparency on milk-pricing contracts and for the Australian Competition and Consumer Commission to provide more public information about its investigations.

The coalition is committed to undertaking a comprehensive and independent root-and-branch review of the Competition and Consumer Act. Indeed, this was a commitment announced by the shadow Treasurer, Joe Hockey, over 18 months ago. The government has dragged its feet on this issue. Through its actions the government has demonstrated that it has no interest in helping small business compete and get ahead, reducing red tape for business or providing greater protection for consumers.

Senator XENOPHON (South Australia) (12:43): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Is leave granted? Leave is granted for two minutes.

Senator XENOPHON: I supported this motion and I am grateful for the comments of both Senator Williams and Senator Heffernan in additional comments to both the first and second dairy inquiry reports. I supported this motion because I believe that time is running out for our farmers, that more and more of them are facing increased pressures due to the lack of competition in the grocery sector and that we have failed to fundamentally deal with the fact that we have two gorillas in the room, Coles and Woolworths, that control close to 80 per cent of the dry grocery market and something like 50 per cent of the fruit and vegetable market. That is why I believe this motion has considerable merit. We are running out of time for our farmers. This is meant to be the year of the farmer, but I fear this could be the year of the foreclosure for more and more farmers who have had difficulty in dealing with a very uncompetitive situation in our grocery sector.
Register of the National Estate

Senator WRIGHT (South Australia) (12:44): I move:

That the Senate—

(a) notes that:

(i) the Register of the National Estate (RNE) is a list of more than 13,000 natural, Indigenous and historic heritage places throughout Australia, created in 1975 and currently maintained by the Australian Heritage Council, and

(ii) as of 19 February 2012, all references to the RNE will be removed from the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) and the Australian Heritage Council Act 2003;

(b) recognises that:

(i) Australia’s historic heritage makes a critical contribution to our national identity, community and economy,

(ii) the RNE was frozen on 1 January 2007, and a 5 year transition period was given for the Commonwealth, states and territories to assess and enter eligible places within their respective jurisdictions onto the appropriate heritage registers, and

(iii) if the transition process is not completed by 19 February 2012, thousands of heritage places will potentially be left without legislative protection; and

(c) calls on the Government to:

(i) extend the 5 year transition period for phasing out the RNE as a statutory list by a further 12 months, from 19 February 2012 to 19 February 2013, as recommended by the Hawke Review of the EPBC Act, and

(ii) collaborate with the states and territories to ensure that the transition process is completed within that 12 month period.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Wright be agreed to.

The Senate divided. [12:45]

(The Deputy President—Senator Parry)

Ayes ................. 10

Noes .................. 39

Majority ............... 29

AYES

Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Arbib, MV
Bishop, TM
Brown, CL
Carr, KJ
Collins, JMA
Edwards, S
Farrell, D
Feeney, D
Fisher, M
Gallacher, AM
Ludwig, JW
Madigan, JJ
Mason, B
McKenzie, B
Moore, CM
Polley, H
Scullion, NG
Singh, LM
Sterle, G
Wong, P

Bilyk, CL
Boyce, SK
Cameron, DN
Colbeck, R
Conroy, SM
Eggleston, A
Faulkner, J
Fiifiield, MP
Furner, ML
Kroger, H (teller)
Lundy, KA
Marshall, GM
McEwen, A
McLucas, J
Parry, S
Pratt, LC
Sherry, NJ
Stephens, U
Thistlethwaite, M

Question negatived.

DOCUMENTS

Gambling

Order for the Production of Documents

Senator DI NATALE (Victoria) (12:49): I, and also on behalf of Senator Xenophon, move:

That there be laid on the table by 27 February 2012 by the Minister representing the Minister for Families, Community Services and Indigenous Affairs (Senator Evans) any advice or documentation received by the Government regarding the cost of implementing $1 bet limits on poker machines, particularly in relation to the $1.5 billion figure referred to by the Minister in public comments.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator ARBIB: The government is, of course, happy to release departmental advice on the costs of the $1 maximum bets on poker machines when the appropriate review and consultations have been undertaken. Senator Xenophon has also written to the minister and submitted a freedom of information request to the Department of Families, Housing, Community Services and Indigenous Affairs for the same material. These requests are being processed, and the department's independent FOI process has begun. As the advice includes materials from third parties, with possible commercial-in-confidence implications, they will also need to be consulted. It is right and proper that this consultation is conducted.

Senator XENOPHON (South Australia) (12:50): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: I note the minister's comments. I did put in a freedom of information request to the minister for details of what documents there are and on what basis the government says it will cost $1.5 billion to have machines made $1-bet capable. I find it extraordinary that the minister says, 'Well, you're going through the FOI process; we don't need to do this.' I think this is a better process. The parliament and the Senate ought to order the production of documents. The coalition know my views, and we have yet to hear from them what they say about this particular motion. I understand they are opposing it at this stage, and I hope they can reconsider. I have consistently supported the opposition when they have sought production of documents on the minerals resource rent tax, for instance. I think it is the right thing to do in the order of transparency.

I think Senator Di Natale will make reference to the fact that in Victoria there has already been a change of machines from $10 to $5 per bet, and that was done with a minimum of fuss and a minimum of cost. So this order for the production of documents, I believe, has some urgency to it. It is important that we find out, in terms of the upcoming debate on poker machines, what the actual costs will be. I suspect the figure has been plucked out of thin air—or hot air—and I do not see what the problem is in providing these documents as a matter of urgency.

Senator DI NATALE (Victoria) (12:51): I also seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator DI NATALE: Given what we have just heard from the senator, I am not surprised that the government is reluctant to release details of the costings, particularly if those costings were made on the basis of third parties such as the poker machine industry. We know that $1 bet limits are the simplest, cheapest and most effective way of achieving poker machine reform. We also know that in Victoria, where a bet limit was introduced reducing the limit from $10 to $5, it was done with a minimum of fuss and with no outcry from the industry and no complaints—it was done very, very quietly. We also know that the proposal to reduce poker machine bet limits to $1 was costed independently by groups such as the Australia Institute and a number of academics at in the order of $200 million.
That is wildly different to the government's costing of $1.5 billion.

This is important because the government has indicated that, when it comes to $1 bet limits, the only barrier to their implementation was cost—not support in the parliament; cost. Given that cost is a major barrier, according to the government, to implement the most effective, simplest and, in our view, cheapest way to achieve reform in this area—reform that is supported by over 60 per cent of the Australian community—why shouldn't the Australian people get to see the basis on which that $1.5 billion figure was made? Why shouldn't this parliament get the opportunity to see on what basis those costings were made? If the senator is correct and those costings were made on the basis of third-party advice—that is, advice from the poker machine industry—I can understand why they would like to keep those costings under wraps.

The DEPUTY PRESIDENT: The question is that notice of motion No. 636, standing in the names of Senators Di Natale and Xenophon, be agreed to.

The Senate divided. [12:55]

(The Deputy President—Senator Parry)

Ayes....................11
Noes.....................32
Majority................21

AYES

Brown, RJ
Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Xenophon, N

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Arbib, MV
Bishop, TM
Cameron, DN
Colbeck, R
Eggleston, A

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Farrell, D

Faulkner, J
Fifield, MP
Furner, ML
Kroger, H (teller)
Lundy, KA
McEwen, A
Moore, CM
Polley, H
Sherry, NJ
Stephens, U
Thistlethwaite, M

Feeney, D
Fisher, M
Gallacher, AM
Ludwig, JW
Marshall, GM
McLucas, J
Parry, S
Pratt, LC
Singh, LM
Sterle, G
Wong, P

Question negatived.

Sri Lanka

Senator RHIANNON (New South Wales) (12:57): I move:
That the Senate—
(a) notes:
(i) that the final report of Sri Lanka’s Lesson Learnt and Reconciliation Commission (LLRC) was released publicly on 16 December 2011,
(ii) the Minister for Foreign Affairs (Mr Rudd) stated that the Government would wait until the LLRC reported before taking any further action regarding allegations of war crimes committed during the final stages of the Sri Lankan civil war,
(iii) the Australian Government is yet to respond to the LLRC’s final report,
(iv) Alistair Burt MP, the United Kingdom minister with responsibility for Sri Lanka has said that ‘The British Government is, on the whole, disappointed by the report’s findings and recommendations on accountability’,
(v) the Canadian Foreign Affairs Minister, John Baird has said:
‘(I) Canada remains concerned that the report does not fully address the grave accusations of serious human rights violations that occurred toward the end of the conflict.
(II) Canada continues to call for an independent investigation into the credible and serious allegations raised by the UN [United Nations] Secretary-General’s Panel that
international humanitarian law and human rights were violated by both sides in the conflict.

(III) the government of Sri Lanka must demonstrate the principles of freedom, democracy, human rights and the rule of law,

(vi) the Tamil National Alliance, the democratically elected representative voice for the Tamil people in Sri Lanka has called on the international community to institute measures that will advance accountability and encourage reconciliation in Sri Lanka, in keeping with the recommendations of the UN Secretary-General's Panel of Experts,

(vii) the report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka has said ‘the LLRC fails to satisfy key international standards of independence and impartiality, as it is compromised by its composition and deep-seated conflicts of interests of some of its members’, and

(viii) Human Rights Watch, Amnesty International and the International Crisis Group have said the LLRC does not adequately address the issue of alleged war crimes and crimes against humanity committed during the final phases of the conflict between the government and the Liberation Tigers of Tamil Eelam;

(b) expresses disappointment that the Federal Government has not issued a public response to the LLRC final report; and

(c) calls on the Government to:

(i) acknowledge that the LLRC fails to adequately address the issue of war crimes and crimes against humanity committed during the Sri Lankan conflict, and

(ii) support calls for the UN Secretary-General and the UN Security Council to establish an independent international mechanism to investigate the issue of war crimes and crimes against humanity committed in Sri Lanka, as recommended by the report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka.

The DEPUTY PRESIDENT: The question is that the motion be agreed to.

The Senate divided. [12:59]

(The Deputy President—Senator Parry)

Ayes ......................11
Noes ......................30
Majority .................19

AYES
Brown, RJ
Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Xenophon, N

NOES
Arbib, MV
Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Colbeck, R
Eggleston, A
Farrell, D
Faulkner, J
Feeney, D
Fifield, MP
Fisher, M
Furner, ML
Gallacher, AM
Gallacher, AM
Ludlam, S
Milne, C
Siewert, R (teller)
Wright, PL

COMMITTEES
Publications Joint Committee
Report
Senator McEWEN (South Australia—Government Whip in the Senate) (13:01): On behalf of Senator Carol Brown, I present the 13th report of the Publications Joint Committee.

Ordered that the report be adopted.

BUDGET
Consideration by Estimates Committees
Senator McEWEN (South Australia—Government Whip in the Senate) (13:01): I present additional information received by committees relating to the following estimates hearings:
Budget estimates 2010-11 (Supplementary)—
Legal and Constitutional Affairs Legislation Committee—Additional information received between 2 March 2011 and 7 February 2012—
Attorney-General’s portfolio.
Immigration and Citizenship portfolio.
Budget estimates 2011-12—
Legal and Constitutional Affairs Legislation Committee—Additional information received between 2 March 2011 and 7 February 2012—
Attorney-General’s portfolio.
Immigration and Citizenship portfolio.

Committees

Legal and Constitutional Affairs Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (13:02): On behalf of the Chair of the Senate Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I present the report of the committee on the provisions of the Classification (Publications, Films and Computer Games) Amendment (Online Games) Bill 2011 [Provisions]—Report, dated February 2012, together with submissions received by the committee.

Ordered that the report be printed.

Regulations and Ordinances Committee

Delegated Legislation Monitor

Senator McEWEN (South Australia—Government Whip in the Senate) (13:02): On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, Senator Furner, I present the Delegated Legislation Monitor for 2011.

Rural Affairs and Transport Legislation Committee

Rural Affairs and Transport References Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Pratt) (13:02): The president has received letters from a party leader
Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:03): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Substitute members:

Senator Colbeck to replace Senator Nash for the consideration of the 2011-12 additional estimates on 13 February 2012

Senator Williams to replace Senator Nash for the consideration of the 2011-12 additional estimates on 14 February 2012

Rural and Regional Affairs and Transport References Committee—

Appointed—Substitute members:

Senator Williams to replace Senator Nash on 9 February 2012 for the committee’s inquiry into the Foreign Investment Review Board national interest test

Senator McKenzie to replace Senator Nash on 17 February 2012, from 9 am to 2 pm; and Senator Humphries to replace Senator Nash on 17 February 2012, from 2 pm to 5.45 pm for the committee’s inquiry into the Foreign Investment Review Board national interest test

Participating member: Senator Nash.

Question agreed to.

First Reading

Bills received from the House of Representatives.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:03): I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Second Reading

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:04): I 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—

TELECOMMUNICATIONS UNIVERSAL SERVICE MANAGEMENT AGENCY BILL 2011

The Telecommunications Universal Service Management Agency Bill 2011 is the cornerstone of a package that I am introducing today to achieve continuity of key telecommunications safeguards in the transition to the National Broadband Network. The other bills in the package are the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 and the Telecommunications (Industry Levy Bill) 2011.

The regulatory arrangements for the universal service obligation (commonly known as the USO) were designed for a market where there was a vertically integrated operator of a national telecommunications network. Implementation of the Government's National Broadband Network policy will result in a fundamental change to the structure of the Australian telecommunications
market as Telstra's near ubiquitous national copper fixed line network is progressively decommissioned as NBN Co rolls out its next generation fibre network.

We are moving to an environment where all retail service providers will be able to offer high quality voice and high-speed broadband services nationally using the National Broadband Network. It is appropriate that as we move to this new environment the model for delivering universal service and other public policy telecommunications outcomes be reformed to facilitate the competitive supply of universal service and other public policy telecommunications outcomes. A regime that enables competitive supply arrangements will be of benefit to consumers and industry as it promotes more innovative, effective and efficient service delivery arrangements.

On 23 June 2011, the Government announced that it had entered into an agreement with Telstra to deliver universal service and other public interest services. As part of the reforms embodied in that agreement, the Government will establish a new agency, the Telecommunications Universal Service Management Agency to be known as TUSMA, which will manage the Telstra agreement and other contracts and grants (including the two existing contracts for the provision of the National Relay Service). TUSMA's remit is to ensure that all Australians continue to have reasonable access to universal service and other public interest telecommunications services.

The establishment of a statutory agency dedicated to the implementation and effective administration of telecommunications service agreements will promote high quality and efficient contract and grant management to maximise the benefit for consumers and manage risks appropriately, within a transparent and accountable legislative framework.

The Telecommunications Universal Service Management Agency Bill establishes TUSMA and sets out the governance structure of the agency, including its functions and powers in contracting for public policy outcomes. It creates a rigorous transparency and accountability framework for TUSMA's activities, and also establishes arrangements for the collection of levies from the industry.

The Bill provides that TUSMA will be established as a statutory agency under the Financial Management and Accountability Act 1997, and its CEO and staff will be employed under the Public Service Act 1999. The day to day administration of TUSMA will be the responsibility of the CEO, but decisions that affect industry and consumers will be made by a Chair and other appointed members who together will have the right mix of skills and experience to fulfil TUSMA's statutory objectives.

TUSMA will, on behalf of the Commonwealth, be able to enter into and manage contracts or make and manage grants for financial assistance. These contracts and grants must address clear policy objectives based on the current legislated objectives for the standard telephone service and payphone components of the USO, the National Relay Service and the emergency call service, and also cover the provision of programs to support the continuity of supply of carriage services during the transition to the NBN. TUSMA will be required in performing its functions and exercising its powers to take all reasonable steps to ensure that the policy objectives are achieved.

The Bill provides for the Minister, by legislative instrument, to make standards, rules or benchmarks for the universal service components of the agreement with Telstra, and for future contracts and grants. Service providers with whom TUSMA has a contract will be required to comply with standards, rules or benchmarks.

The Bill includes transitional provisions to ensure that TUSMA is responsible and accountable for managing the Telstra agreement and the existing National Relay Service agreements.

TUSMA's reporting obligations will be extensive – not only will TUSMA be subject to existing reporting requirements under the FMA Act, but it will have additional obligations including maintaining public registers of grants and contracts and obligations to report annually to the Government and the Parliament on the performance of contracts and grants. The transparency and accountability provisions are
important protections that will enable scrutiny and evaluation of TUSMA’s performance.

The Government will commit base funding to TUSMA of $50 million over the two financial years 2012-13 and 2013-14, and $100 million per annum after that.

TUSMA’s residual funding requirements will be met through a consolidated industry levy scheme which, from 1 July 2012, will replace the current USO and National Relay Service levies and also cover future funding for TUSMA’s other responsibilities.

The accompanying Telecommunications (Industry Levy) Bill 2011 imposes an obligation on industry carriers to pay the levy. The Telecommunications Universal Service Management Agency Bill covers arrangements for collecting the levy and determining liability.

The amount each telecommunications carrier has to pay towards the levy will be based, as is currently the case for the USO and NRS levies, on its eligible revenue as assessed by the Australian Communications and Media Authority. The Australian Communications and Media Authority will remain responsible for collecting the levy and determining who must pay.

Transitional mechanisms are set out in the accompanying USO Reform Bill. The Government also made a commitment, when it announced the TUSMA arrangements in June this year, to review the levy arrangements and the need for any additional Budget funding, over and above the Government’s committed base funding, during the course of the first two financial years of TUSMA’s operation.

The Bill also provides for a review before 1 January 2018 of the Act, any legislative instruments made under the Act, and associated provisions of the Telecommunications Act 1997.

This is an important package of legislation. Together, the three Bills will provide certainty for all Australians that telecommunications consumer safeguards will continue to be delivered in the transition to the National Broadband Network, under transparent and accountable arrangements. The Telecommunications Universal Service Management Agency Bill 2011 contains the key measures in these reforms, by establishing an independent body that will transition the industry from regulated obligations to a more flexible service provider model that will promote greater efficiency, transparency and competition in public policy delivery.

**TELECOMMUNICATIONS LEGISLATION AMENDMENT (UNIVERSAL SERVICE REFORM) BILL 2011**

The Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 forms part of a package of legislation that I am introducing today to achieve continuity of key telecommunications safeguards in the transition to the National Broadband Network (NBN). The other bills in the package are the Telecommunications Universal Service Management Agency Bill 2011 and the Telecommunications (Industry Levy) Bill 2011.

This Bill plays an important supporting role to the overall reforms for the delivery of telecommunications safeguards, which are largely set out in the Telecommunications Universal Service Management Agency Bill 2011. TUSMA will focus on managing the delivery of key telecommunications services under contracts or grants that the community expects will continue to be delivered effectively and efficiently. TUSMA will be accountable to the industry and to Government through extensive reporting arrangements. The residual costs of TUSMA that are not met from Budget funding will be met through a new Industry Levy Scheme based on current USO levy arrangements. The new levy will be imposed by the Telecommunications (Industry Levy) Bill.

TUSMA is expected to be operational by 1 July 2012 so it can take over responsibility for the Commonwealth’s agreement with Telstra to deliver universal service outcomes and other public interest services. The Government intends that there be an approximately two year period for concurrent operation of contract and regulatory requirements before phasing out USO regulation. Over time, the current regulated obligations to provide voice services and payphones will transition to a model that is similar to the current arrangements for the provision of the National Relay Service, in that the Commonwealth
This Bill amends the universal service regime in the Telecommunications (Consumer Protection and Service Standards) Act 1999 so that within two years of commencement of TUSMA operations, the Minister must consider whether it is appropriate to remove the current regulated USO on Telstra to make the standard telephone service and payphones reasonably accessible, and shift to a fully contractual model for provision of universal service outcomes.

The Government recognises the importance placed by many in the community on having access to basic voice services and payphones. Therefore the Bill provides that between 18 months and two years after the establishment of TUSMA, the Minister will be required to consider if Telstra:

- has met relevant contractual and regulated obligations during the initial transitional period, and
- will be likely to substantially comply with its ongoing contractual requirements for provision of standard telephone services and payphones.

The Minister will be required to separately consider the removal of the standard telephone service and payphone elements of current USO regulation. Each of these decisions will be subject to Parliamentary scrutiny and disallowance. In considering whether to lift USO regulation, the Minister will be required to obtain advice from both the TUSMA and from the communications regulator, the Australian Communications and Media Authority, as to Telstra's record of compliance with its contractual and regulatory obligations for the standard telephone service and for payphones. The Minister will also be able to consider any other relevant matters.

If the Minister considers that there are satisfactory contractual arrangements in place in relation to payphones, Telstra's regulated obligations for payphones can then be removed across Australia. If the Minister considers that there are satisfactory contractual arrangements in place for the standard telephone service, Telstra's regulated USO obligations to supply the standard telephone service will be progressively removed in fibre areas as Telstra migrates customers from the Telstra copper network to the NBN fibre network in accordance with a final Migration Plan that has been approved by the ACCC. In areas where fibre is not being rolled out, and Telstra is not required to structurally separate, Telstra's regulated obligations to supply the standard telephone service will be removed. Linking the removal of USO regulation for the standard telephone service to the progressive NBN roll out in fibre areas and the migration of customers from Telstra's copper network to the NBN fibre network is consistent with the requirement that the package of Bills not commence operation unless Telstra is legally committed to implement structural separation.

If the conditions for regulatory removal are not met initially, the Bill provides the Minister with the power to defer consideration of whether regulation should be removed for an additional period of 18 months, with up to two such deferral declarations able to be made.

Removal of USO regulation in relation to the standard telephone service will not change the important safeguards (such as the Customer Service Guarantee) that apply to Telstra and all other providers of a standard telephone service.

The Bill makes a range of other transitional and consequential amendments to the Telecommunications Act 1997 and the Telecommunications (Consumer Protection and Service Standards) Act 1999. The Bill also makes transitional amendments to provide for the phasing out of the USO and NRS Levies (respectively) after 30 June 2012 given the transition to a new Telecommunications Industry Levy Scheme. This Bill also includes consequential amendments to ensure that the ACMA, as the communications regulator, has the ability to effectively enforce the new levy arrangements. The details for the assessment and collection of the new Industry Levy are included in the Telecommunications Universal Service Management Agency Bill 2011.

This is an important package of legislation. Together, the three Bills will provide certainty for all Australians that telecommunications consumer safeguards will continue to be delivered in the...
transition to the National Broadband Network, under transparent and accountable arrangements. The Telecommunications Legislation Amendment (Universal Service Reform) Bill makes necessary transitional changes to support the establishment of an independent body that will take the industry away from regulated obligations to a more flexible service provider model that will promote greater efficiency, transparency and competition in public policy delivery.

TELECOMMUNICATIONS (INDUSTRY LEVY) BILL 2011

The Telecommunications (Industry Levy) Bill 2011 is one of three bills that together will reform the delivery of universal service and other public interest services. The other bills in the package are the Telecommunications Universal Service Management Agency Bill 2011 and the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011.

The Telecommunications (Industry Levy) Bill 2011 works with the provisions in the Telecommunications Universal Service Management Agency Bill 2011, which set out a scheme for determining who must pay the levy, and for administering and enforcing that scheme. Under the Industry Levy Bill, if a person has a levy amount for an eligible levy period because of section 99 of the Telecommunications Universal Service Management Agency Bill, then levy is imposed on that amount and a person is liable to pay the levy.

The persons who will have a levy amount are defined in the Telecommunications Universal Service Management Agency Bill, and are telecommunications carriers or, if the Minister has made a legislative instrument to that effect, carriage service providers. Under the Telecommunications Universal Service Management Agency Bill 2011, there is also provision for the Minister to exempt particular persons from being considered liable to pay levy.

The Minister for Broadband, Communications and the Digital Economy recently established a $25 million eligible revenue threshold for levy contributions, and it is the Government's policy that this important red tape reform will continue under the new legislative arrangements.

Debate adjourned.

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) AND OTHER LEGISLATION AMENDMENT BILL 2012

First Reading

Bill received from the House of Representatives.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:05): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Second Reading

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:05): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) AND OTHER LEGISLATION AMENDMENT BILL 2012

This bill represents the next stage in the government's reforms to the parliamentary entitlements framework. The reforms to the framework are aimed at ensuring that members of Parliament are supported by an effective, efficient and transparent system of remuneration and entitlements.

On 15 December 2011, I announced that the government had accepted the recommendations of the independent Remuneration Tribunal (the Tribunal) in relation to the Life Gold Pass. The Tribunal recommended in the initial report of its
review into parliamentarians' remuneration released last December, that the Life Gold Pass scheme be closed prospectively and that the entitlement of existing Life Gold Pass holders be reduced now from 25 to 10 domestic trips per financial year.

In its report, the Committee for the Review of Parliamentary Entitlements (the Belcher Committee) indicated that current Life Gold Pass holders should be permitted to retain a reduced entitlement to travel on the basis that former and current Senators and Members entered the Parliament with the understanding that post-retirement travel formed part of their benefits. The Belcher Committee also recommended that the current entitlement of Life Gold Pass be reduced from 25 to 10 domestic return trips per financial year.

The Life Gold Pass has a long history. The provision of travel benefits to sitting and retired Senators and Members, through issue of a Life Gold Pass, commenced on a limited basis in 1918 in the form of a Life Railway Pass and this was extended to include unlimited air travel in 1959. In 1973, an executive decision extended Life Gold Pass benefits to spouses and widows of Life Gold Pass holders.

In 2002, legislation was enacted to limit the number of return domestic trips available to Life Gold Pass holders, their spouses and widows. However, limiting the number of trips provided for all entitlees has not prevented ongoing criticism of the Life Gold Pass scheme on the grounds that its provisions exceed community standards.

Schedule 1 of this bill proposes to close the Life Gold Pass scheme prospectively so that a member who enters, or re-enters, the Parliament from the commencement of the bill will not be able to accrue an entitlement to a Life Gold Pass.

Sitting Senators and Members will remain eligible to accrue an entitlement to a Life Gold Pass where they serve the remainder of their relevant qualifying period prior to leaving the Parliament. A sitting Senator or Member who ceases to be a member of their house, and who becomes a member of the other chamber within three months will be regarded as having had continuous service in the Parliament and will continue to be eligible for a Life Gold Pass.

In line with the recommendations of the Tribunal and the Belcher Committee, the bill proposes to amend the Life Gold Pass Act to reduce the travel entitlement of existing Life Gold Pass holders, who have never held office as Prime Minister, and their spouses or de facto partners, from 25 to 10 domestic return trips per financial year from the 2012-13 financial year.

In my announcement of 15 December 2011, I acknowledged that some former members use the Life Gold Pass travel entitlement for the benefit of the community. However, I also acknowledged that there has been inappropriate use of the entitlement. The proposed reduction in the entitlement will constrain inappropriate use.

As the Tribunal recommended that the entitlement for Life Gold Pass travel be reduced now, the bill includes a transitional provision which limits the number of domestic return trips for the remainder of 2011-12 to a maximum of two. The transitional provision will apply from the later of the day on which the bill receives the Royal Assent or 1 April 2012.

The closure of the Life Gold Pass scheme to new members and the reduced entitlement will contribute to a more transparent and, in the end, a more simplified parliamentary entitlements framework.

Further, the Bill proposes changes to the Remuneration Tribunal Act 1973 and to the Parliamentary Contributory Superannuation Act 1948 (1948 Act) to allow the Tribunal to limit windfall gains flowing to superannuation benefits for current and former parliamentarians from increases in additional office salaries.

Ministers of State and parliamentary office holders receive additional salaries as a percentage of parliamentary base salary. Any increase in the parliamentary base salary determined by the Tribunal, would flow to Ministers of State and parliamentary office holders.

Additional pensions paid to members of the superannuation scheme under the 1948 Act are linked to the additional salaries paid to parliamentary office holders and Ministers of State. Accordingly, any increase in additional
salaries would create a windfall gain in relation to the superannuation benefits for current and retired Ministers or parliamentary office holders who are members of the 1948 scheme.

In its initial report, the Tribunal requested that the Parliament grant the Tribunal power to determine portions of additional salaries paid to Ministers of State and parliamentary office holders that would not be included in calculating superannuation benefits paid to members of the 1948 Act scheme.

This is consistent with provisions in the Remuneration and Other Legislation Amendment Act 2011 which allow the Tribunal to determine a portion of any increase in parliamentary base salary which does not flow to the superannuation benefits of current and retired members of the 1948 scheme.

I announced on 15 December 2011 that the government would implement this recommendation of the independent Remuneration Tribunal. Schedule 2 of this Bill proposes the necessary amendments to the Remuneration Tribunal Act 1973, with consequential amendments to the Parliamentary Contributory Superannuation Act 1948, to implement the Tribunal's recommendation.

Debate adjourned.

**Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011**

**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) (13:06): The opposition supports the Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011. We continue to support the measures being implemented in response to the 2009 Montara oil leak and the subsequent commission of inquiry. Incidents of this nature are always complex, and, as a result, the response should be multifaceted. Several related measures have been brought before the parliament as the government, the opposition, state governments and industry have worked through the details of the national response and how best to implement a suite of measures to safeguard the oil and gas industry, the people who work within it and the environment in which it operates. The provisions of this bill are the next step to ensuring that Australia's regulatory regime is as robust as possible, with a clear view to taking all appropriate precautionary measures to prevent the recurrence of a similar incident. The purpose of the bill is to amend the Offshore Petroleum and Greenhouse Gas Storage Act 2006 to enable the National Offshore Petroleum Safety and Environmental Management Authority, known by the acronym NOPSEMA, to issue a direction to a petroleum titleholder in the event of a significant offshore petroleum incident occurring within the title area, which has caused or may cause an escape of petroleum. The direction would require the titleholder to take an action in relation to the escape or possible escape of petroleum and its effects. It may apply either within or outside the titleholder's areas. The direction may among other things require the titleholder to take action to prevent or eliminate the escape of petroleum or the potential escape of petroleum and/or to mitigate, manage or remediate the effects of an escape of petroleum.

The proposed amendment will help ensure the Commonwealth has the full capacity to provide for the remediation of the effects of all escapes of petroleum in the event of an oil spill. This issue has been the subject of an intensive and extended consultation with industry and its representative bodies as part of the Montara investigation. As I have indicated, there is full bipartisan support for the government's response to this incident.
Indeed, there is a public expectation that the parliament will take all appropriate and necessary steps to preserve the balance between the important economic benefits of the oil and gas exploration and extraction industry and the protection of workers and the environment.

 Aryustralians generally view the expansion of the gas industry positively or at the very least consider it a benign development. However, the Montara incident—the first incident of its type in Australia for 25 years—as well as the disaster in the Gulf of Mexico have changed the way offshore oil and gas exploration and development is viewed in this country. The industry is now subject to a higher level of public scrutiny and concern, but this intensified scrutiny is not something the industry or the government should shy away from. It represents an opportunity to improve an industry that is fundamental to the energy and resources sector. Just as people are more aware of the nature of the oil and gas exploration and extraction industries, they are also increasingly aware of the scale of the projects, the level of investment they attract, the economic benefits and the job opportunities which they create. Thousands of jobs and billions of dollars of investment are at stake.

In the wake of the Montara and Gulf of Mexico spills there is a compelling need for improvements to the regulation and oversight of the offshore oil and gas industries, both here and globally. People must have confidence that the authorities responsible for the oil and gas sector are able to perform. Offshore exploration and drilling are essential to Australia's economic growth and energy security. A solid and comprehensive national framework for regulation and response is a necessary component. As I have made clear, the coalition supports the government in ensuring that a robust and reliable set of measures is put in place to regulate the offshore oil and gas sector. The objective is not to shackle the sector with unnecessary regulatory burdens, but to ensure that it can grow and develop in a way that does not harm the workers in the industry or the environment. The coalition has taken a cooperative and constructive approach to this issue, as we do to all issues, and supports the government on this measure.

Senator Lundy (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:11): I would like to thank all senators for their contribution to this debate and commend the bill to the House.

Question agreed to.

Bill read a second time.

Third Reading

The Acting Deputy President (Senator Pratt) (13:11): 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 committee of the whole.

Senator Lundy (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:11): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Customs Amendment (New Zealand Rules of Origin) Bill 2011

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
The opposition supports the Customs Amendment (New Zealand Rules of Origin) Bill 2011. Australia's economic relationship with New Zealand is the deepest that we have with any country. Prime Minister Key, on his recent visit, made the point that more than half of direct foreign investment in New Zealand, around $50 billion, comes from Australia. Last year, Australian exports from New Zealand totalled just over $8 billion, which is not far from the $9 billion Australia exported to the United States.

The cornerstone of our trade and economic relationship is the Australia-New Zealand Closer Economic Relations Trade Agreement, which came into effect on 1 January 1983—one of the fruits of the Fraser government. The agreement is a comprehensive and wide-ranging agreement that provides New Zealand and Australia with liberal access to each other's goods, services and investment markets. The objectives of the agreement are to strengthen the broad relationship between Australia and New Zealand, to develop closer economic relations between the member states through a mutually beneficial expansion of free trade between New Zealand and Australia, to eliminate barriers to trade between Australia and New Zealand in a gradual and progressive manner under an agreed timetable and with a minimum of disruption, and to develop trade between Australia and New Zealand under conditions of fair competition.

On 1 January 2007 the agreement's rules of origin provision underwent significant change to allow both the change in tariff classification method and the regional value content method to be used to establish whether goods are New Zealand originating goods. As part of the 2007 amendments to the agreement, both parties also agreed to perform a review of the new rules of origin within three years of their taking effect. This review commenced in late 2008 and was completed in March 2010. It resulted in amendments to the text of article 3—that is, the article dealing with the rules of origin—and the related product-specific rules in annexure G to the agreement. The modifications to the agreement will reduce the administrative burden on business and increase the eligibility for duty-free entry of goods into both markets. The amendments will also provide greater consistency between the rules of origin in the agreement and those in other free trade agreements entered into by Australia. The purpose of the bill is to amend the Customs Act 1901 to implement amendments to the rules of origin requirements under the Australia-New Zealand Closer Economic Relations Trade Agreement and amend definitions within the act. The requirements are outlined in article 3 and annex G to the agreement. The amendments to the Customs Act implement the amendments to article 3 of the agreement. The amendments to the Customs (New Zealand Rules of Origin) Regulations 2006 will implement the amendments to annex G of the agreement.

The bill will amend division 1E of part VIII of the Customs Act to insert a new definition of 'aquaculture'; amend the definition of 'manufacture'; amend the definition of 'produce'; amend the provisions dealing with 'wholly obtained goods'; amend the provisions relating to eligibility based on the last process of manufacture; insert a new section to provide that goods are not New Zealand originating goods merely because of certain identified operations; and make consequential amendments to the verification powers in division 4D of part VI of the Customs Act.

The relationship between Australia and New Zealand is underpinned by the free movement of people between the two countries, by regular contact at the political level, by close defence ties and by a range of
economic and diplomatic agreements. I wish the Senate to acknowledge the fact that former coalition Prime Minister John Howard and foreign minister Alexander Downer were pivotal in advancing the economic and cultural relationship with New Zealand, and this legislation reflects a process which was initiated by the Howard government. The coalition supports the bill.

Senator XENOPHON (South Australia) (13:16): It is almost 30 years since Australia and New Zealand first brought together the closer economic relationship through ANZCERTA. Amongst a number of objectives it had the admirable goal of developing trade between New Zealand and Australia, and not just developing trade but doing so under conditions of fair competition. I think Senator Brandis has fairly outlined the historical basis of that. This bill, the Customs Amendment (New Zealand Rules of Origin) Bill 2011, does make some important definitional changes. For example, it tightens the definition of manufacturing, it clarifies what it means for something to be wholly produced in New Zealand and it clarifies that something cannot be considered of New Zealand origin simply because it has been packaged or labelled in New Zealand. Also, in the field of aquaculture, it makes it very clear that, if fish comes out of New Zealand waters and is processed in New Zealand, that clearly comes within the definitional criteria for the exemption of duties. I am grateful to the minister's office and to the department for providing clarification earlier today on some concerns I had. However, it is now timely to consider the CER more broadly: how it can be made to operate more fairly and, importantly, really work for the interests of Australian consumers.

The CER is said to be one of the world's most comprehensive, effective and multilaterally compatible free trade agreements. Its scope is huge, covering nearly all trans-Tasman trade in goods, including agricultural products and services. However, its scope is so huge, so broad, that it goes beyond encouraging trade and beyond encouraging a closer economic relationship; it goes to preventing Australia taking action in its own right on issues that affect ordinary Australians—and I see this as a fundamental issue of sovereignty. In fact, it reduces Australia's ability to make laws on food labelling.

While the CER rightly reduces trade barriers, it creates barriers of another kind: it creates barriers to consumers getting the information they deserve. Consumers have a right to know what country their food is coming from. The CER creates a barrier to this as it restricts the ability of the Australian government to make sure that manufacturers properly label their products so that Australians know where their food is coming from. This is a barrier to consumers.

Let me give an example. In 2009, Senator Bob Brown, Senator Barnaby Joyce and I introduced legislation to require truth in labelling of palm oil. Palm oil is often labelled as a 'vegetable oil' in products. I wanted to ensure that consumers had accurate information to make an informed choice about whether or not they wanted to purchase or consume a product and whether it was sustainably produced palm oil, which Malaysia, I acknowledge, is doing more and more of. However, as part of the CER, under the Australia-New Zealand food treaty Australia cannot introduce amendments to food laws without effective consultation with New Zealand. I believe that is wrong. I am all for encouraging trade between Australia and New Zealand, but I am not for trading out our national sovereignty on an issue such as food labelling. Why should Australia needs permission from New Zealand to let Australians know what is in their food and where it came from?
I believe the current food-labelling laws in this country are woefully inadequate. They are bad for consumers and bad for our primary producers. If a product is only partly Australian, or partly from New Zealand for that matter, I believe the label should say so. Every time a food product is labelled as 'made in Australia' when in fact it is made largely of foreign ingredients, that is actually costing Australian farmers their jobs and misleading consumers. I do not see why having a closer economic relationship with New Zealand should mean that Australia cannot unilaterally legislate for its food labels to be accurate. I do not see why the closer economic relationship with New Zealand should create an obstacle to Australian consumers being fully informed about the food they consume. I do not see why it should create an obstacle to Australians making fully informed choices about the products they buy and consume.

I do not want this to be misinterpreted as being against the CER with New Zealand. I strongly support it. But I believe that in this fundamental aspect it has simply gone too far or goes beyond the original intent of the CER. I support the encouraging of trade with our closest friend and ally, New Zealand. I cannot support having unfair obstacles in front of Australian consumers. For this reason I say now is the time to revisit the CER and ensure that it truly encourages free trade and fair trade between Australia and New Zealand, but not at the expense of Australian consumers getting the truth in labelling of the food they consume.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (13:21): I thank the two senators for their contribution to the debate on this bill and I commend it to the Senate.
are devalued, the economy which gets
underqualified workers and our higher
education system itself, whose domestic and
international reputation becomes tarnished.
In an equation where resources, participation
and standards are all variables, the coalition
considers standards to be non-negotiable. If
we cannot at least maintain the current
standards and quality, nothing else—no other
achievement, no other goal reached—really
matters. We simply cannot compromise the
edge that our higher education system gives
us in educating our own workforce here in
Australia. We cannot compromise the desira-
bility of Australia as a top destination for
hundreds of thousands of international
students.

While my remarks related to universities,
they are just as applicable to vocational
education and training. Vocational education
and training is another industry undergoing
significant expansion and change. Trade
to guaranteeing the future
prosperity of our country, including to ensure
that we can take full advantage of the
demand from our natural resources. Last but
not least, VET is a very important export
industry, generating billions of dollars in
annual income as our providers provide
skills and education for hundreds of thou-
sands of students, mostly from Asia. That is
why it is essential that our VET system
continues to deliver quality service, both for
domestic and for international students.

For this reason the coalition, this time last
year, supported the creation of a national
regulator for the VET sector, just as earlier
the coalition supported the creation of
TEQSA, the Tertiary Education Quality and
Standards Agency. If anything, the VET
sector is much more in need of a national
regulator than our universities, which, in
general, both manage themselves well and
are well managed under existing institutional
arrangements. The VET sector, however, has
been much in the news over the past few
years—sadly, in some cases, not for the right
reasons, ranging from a spate of collapses of
VET institutions to many worrying reports of
violence directed against overseas students
undertaking VET courses in Australia.

The federal government was slow to act
on these issues and, when it did, it did so in a
haphazard manner, characteristic of the
government's general approach to post-
secondary education. The coalition is, in
principle, in favour of measures that seek to
ensure that our VET sector is more transpar-
ent and accountable and functions in
accordance with high standards of quality.
However, we continue to look closely at
specific proposals put forward by the
government, because we know that good
intentions are one thing but good policy and
good implementation are quite another. As
far as this Labor government is concerned,
the twain shall rarely meet.

The recent creation of a national VET
regulator and the Tertiary Education Quality
and Standards Agency requires an update to
the legislation to enable effective informa-
tion and disclosure provisions. The bill
currently before the Senate will amend the
Higher Education Support Act 2003 to
provide that the minister retains the power to
decide an application for approval as a
higher education provider, although the
required time frame may have expired;
require VET providers to notify the minister
in writing of events which may affect their
ability to comply with quality and accounta-
bility requirements; provide for the authoris-
aton of certain uses and disclosures of
information; allow the secretary to revoke or
vary any determination made to pay an
advance to a VET provider in certain circum-
stances; clarify that a VET provider must
provide statistical and other information,
although an approved form of provision has
not been specified; and make administrative

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CHAMBER
arrangements relating to the assessment of an individual's Higher Education Loan Program debt.

All this is well and good in principle, and the coalition will not oppose this bill. However, we have concerns about the lack of important detail in this legislation that have not so far been assuaged by the government. In particular, we note the amendment clause 25(2) which imposes an obligation on VET providers to notify the minister in writing of certain events that may significantly affect their ability to continue as an approved VET provider. While we accept that there are similar requirements, for example, within the context of the aged-care industry and the bill does mirror a clause in the National VET Regulator Bill, we seek an assurance that in the first instance the department would work cooperatively with the provider to address any areas of noncompliance. In addition, I note that the bill does not specify the preferred documentation the department may seek from providers when the department requests statistical data. This may impose unnecessary administrative requirements on providers. While the coalition is all in favour of strengthening quality and standards, we do not want to see education providers strangled by red tape. Education is far too important economically for Australia. We cannot afford to take another hit to our longstanding and otherwise good international reputation as a provider of very high quality educational services.

As I know you are aware, Madam Acting Deputy President, education is Australia's fourth largest export after iron and coal and only last year was pushed from its traditional third position by the rise in the price of gold. It is also Australia's largest export services industry. A quarter of a million overseas students who attend Australia's schools, VET institutions and universities inject billions of dollars into the Australian economy as well as billions directly into the educational institutions that they attend, thus cross-subsidising the teaching, the infrastructure and learning opportunities for our domestic students. In addition to economic benefits, there are also many intangible and sometimes immeasurable benefits as overseas students build often lifelong friendships and connections with their Australian colleagues, add to the international reservoir of goodwill towards our country and, in some cases, stay here in Australia to become residents and ultimately citizens, enriching Australia with their knowledge, expertise and hard work.

Australia has for years, if not for decades, been considered a world-class education provider for international students. Considering our small population, we have managed to attract more overseas students per capita than just about any of our overseas competitors. We have built a solid reputation as a welcoming destination offering a great lifestyle as well as excellent quality education services for overseas students. But it is fair to say that over the last few years our reputation and our position as the world leader in international education have been under threat from a range of factors.

While we cannot control the international economic situation or the growth in overseas competition to our educational providers or, indeed, even the value of the Australian dollar, which all impact on our competitiveness as a post-secondary education provider, we certainly are duty-bound to do everything that is in our control in order to rebuild our somewhat frayed reputation and to show the world that Australia remains an attractive destination for international students, offering them quality as well as a friendly educational experience. We certainly hope that this bill will contribute towards that end and we will watch its implementation very carefully to ensure that it does just that.
Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (13:33): I rise to speak in support of the Higher Education Support Amendment (VET FEE-HELP and Other Measures) 2011 [2012]. To begin, I will deal with some of the aspects of this bill and then I will speak further about what we are doing in higher education and education generally. I will also speak on the consequences of what we know to be the policy of the coalition with respect to education. After all, where is the $70 billion in savings the coalition are promising to come up with and where is that coming from? And how would that affect the capacity of Australia to have an appropriately qualified workforce across the broad domain our economy requires?

This legislation incorporates amendments to implement the 2011-12 budget measures and also update maximum payments paid to provide for increases in enrolments in Commonwealth tertiary supported places and indexation. The bill has three main aspects. The first aspect of the bill provides for a reduction in the HECS-HELP discount applied to upfront student contribution payments of $500 or more than 20 per cent to 10 per cent. The second aspect deals with an increase in funding for the overenrolment of Commonwealth supported places that occurred in 2011. The overenrolment in places is allowed for under the cap on funding for places over agreed targets. The cap on overenrolment was raised from five to 10 per cent in funding terms for 2010-11 as part of the introduction of the recommendations of the Bradley review to create a demand driven funding system for higher education from 2012.

From 2012, the cap on funding for undergraduate Commonwealth supported places has been removed for public universities and other tertiary education providers, and that will have some implications for funding. Funding will be based on student demand, and that makes this one of the most important significant changes to higher education in this country for a very long time. I believe it will open up the system and allow more young people, mature people and older people the opportunity to go to university to get the VET training they want and that our society needs.

The final aspect of this bill deals with the Commonwealth supported places at overseas campuses. It gets rid of the ambiguity in the current legislation about its application to Australian citizens at overseas campuses of Australian higher education providers. It clarifies that Australian citizens will have access to HECS-HELP, FEE-HELP and VET FEE-HELP schemes only when they are enrolled on Australian campuses of an Australian provider.

The coalition really have nothing to be proud of when it comes to their record on higher education when they were in office. With respect to their performance, their funding for higher education was $8 billion in 2007. Their enrolments were about 400,000 university places around the country in 2008, 20 per cent fewer than will be the case in 2012. The funding of the Australian Labor government will increase from the measly $8 billion that the coalition put into the scheme to $13 billion this year. Enrolments this year will rise to over half a million places. That will give people the opportunity to achieve their full potential, exercise their skills, talents and ability, and go on to tertiary institutions. In my home state of Tasmania the University of Tasmania is now offering 13 per cent more places than in previous years. Many people in Tasmania are going to university or getting other post-secondary training for the first time. Some people have parents who did not have the opportunity to even finish high school—and the idea of going to university
was fanciful under a coalition government. It was the opening up of the higher education system by the Whitlam government in the 1970s that gave so many people in this place and elsewhere the opportunity to go to university. This government is now massively expanding its funding in this regard.

The coalition went to the last election proposing to gut education in this country to the tune of $2.8 billion but they were forced to reveal their true intentions. Their idea in the higher education sector was to put in protocols and arrangements that linked funding to the imposition of Work Choices. They said, ‘We’ll fund you and, if you don’t put in place AWAs in the higher education sector, we’ll effectively decrease your funding.’ That was in their legislation, and we abolished it when we got into power because it was blatantly unfair. We want to have a tertiary sector that is demand driven by people aspiring to achieve their potential and go into higher education after completing high school.

The coalition want to have a tertiary scheme motivated by the imposition of Work Choices. This is not what this country needs. It is a class based attack on the university sector, a sector they have never comfortably supported, as shown through their speeches in this place on voluntary student unionism. As mentioned earlier, the coalition have failed to outline the cuts they would make and whether that would be to the new trades training centres—I have visited some of these new centres, and they are all keenly supported by the communities in which they are located—or to the Digital Education Revolution, of which the coalition have been critical. While the benefits of the NBN are recognised by some in the coalition, they cannot own up to that as their policy is to rip out the NBN if they were to get into government after the next election. And that would be a shame. The Tasmanian community would not accept that. As Senator Bushby, on the other side, would know, the NBN has been overwhelmingly supported in Tasmania, even by the Leader of the Opposition and Leader of the Liberal Party in Tasmania, Mr Hodgman.

We have heard in here time and time again the attacks on the BER. There is not one school in Tasmania that would ever put up its hand and say: ‘We didn't need this injection of funds. We didn't need these new classrooms, new library and new hall.’ But I have not seen one Liberal senator go to a school in Tasmania and say, ‘We believe this was a waste of money.’ They may do it in this chamber, they may try and spruik it through the media, but they do not have the fortitude to front up to these school communities. I have visited so many of these schools. The students, the teaching staff, the administrative staff, the parents and the entire community can see the benefits that the injection of BER funding has made not only to their schools but to their community.

What about the National Partnership Agreement on Low Socioeconomic Status School Communities et cetera? None of that was referred to. There has been criticism of the Gillard government but nothing about what the coalition would do. Given the mumblings we are hearing, there is little doubt that they would go back to the education aspirations of the Howard government, which were to impose Work Choices and the like, and link that to funding once again.

The legislation we are debating here today is to implement a demand driven funding system for undergraduate university places and places in other public and private education facilities to meet the education and training needs of our community and our economy. But, as always, what the opposition have demonstrated in this place is
always about opposition. There is nothing about policy and how they are going to drag back and fill this $70 billion black hole.

The demand driven system for these places was passed by the House of Representatives on 14 September last year. We are providing $3.97 billion of additional funds over six years from 2010 for the demand driven funding system that the Bradley review recommended. There is an additional $1.2 billion in the 2011-12 budget. How much would the coalition put in if they were on the treasury bench? We know they will impose funding cuts, as they have said, and they will be looking for savings in this sector.

The government have taken the view that we need to increase funding in this sector. The 2011-12 budget increased the regional loading for universities by $109.9 million over four years. The student learning entitlement, which restricts students to seven years of Commonwealth support for university study, has been abolished since 1 January 2012. That change was to get rid of university red tape and make it easier for students to navigate the system. It will also make it clear that, if students want to go to university or get trade training, they will be able to get there. Students at Australian facilities will have better access to quality services when they go back to campus this year as a result of our student services amendment bill. This is all part of our package with respect to improving higher education across the country.

We in the Gillard Labor government see the benefits of providing educational opportunities for our young people and for older and mature students. Those opposite oppose what we have done in this regard. They have posed and preened and uttered platitudes about their 'terrible days at university' in relation to our attempts to make sure students at university can get access to sporting and recreational activities, employment advice, legal aid, child care, financial advice and food services. For the first time we are enshrining the promotion and protection of free intellectual inquiry in learning, research and teaching through amendments to the Higher Education Support Act. The coalition, in their complete and utter denial of reality with respect to good public policy, oppose these types of arrangements. They think that the promotion and protection of free intellectual inquiry in learning is not a worthy and noble thing to aspire to and protect. Universities and other eligible higher education providers in receipt of funding will now have a policy that actually upholds free intellectual inquiry. It is important that we also have established the Tertiary Education Quality and Standards Agency. This will basically amalgamate the work done by nine agencies into one central agency and provide national consistency and efficiency in registration and quality assurance.

This bill is important because it provides funding and it gets rid of any ambiguity. It also makes it plain that our demand driven system is something that we believe in. We are very keen to implement the Bradley reforms, because we believe that every single child, regardless of whether they are born in the Torres Strait or in Tasmania, in Palm Beach or in Perth, should be able to aspire to university or TAFE training and should have the opportunity to advance while experiencing financial security for themselves and their families. With that we, the government, believe that we distinguish ourselves from the opposition. If there is one pillar in the Labor Party that we strongly believe in, it is the belief in equality of opportunity. Postsecondary education placement, a demand driven system and legislation such as the bill we are debating today give us that opportunity.
I will also go into a little bit of detail regarding the more flexible principal purpose requirement to get on the record what the government has done. The amendment adds to the current principal purpose provisions to allow the minister the discretion to approve a body corporate as a higher education or VET provider where the principal purpose of that body may not be education—and/or research, in the case of higher education providers—as long as its other purpose or purposes do not conflict with its principal purpose. There are certainly some industries and manufacturers that can readily demonstrate their ability to provide sound education and training. And the minister may suspend or revoke a body's approval as a higher education or VET provider if any of the body's other purposes conflict with its principal purpose or if the body no longer has education and/or research, in the case of higher education providers, as its principal purpose.

The loan may cover or partially cover the tuition costs of the VET course, a sensible addition. Students are required to repay their loan once their income exceeds the minimum repayment level of $44,911 for 2011—once again, a very sensible provision.

This bill is important because it provides for opportunities for all Australians for our young people to aspire to go on to university. In the case of my home state of Tasmania, where we still need to increase the retention of students in higher education, this bill will assist those families and individuals. I commend the legislation to the Senate. I think it is important reform and it is part of a whole matrix of reform that this government is committed to, making sure that young people across the length and breadth of the country can get the chance to participate in our economy and their community to the fullest extent to which they aspire. I commend the bill.

(Quorum formed)

Senator RHIANNON (New South Wales) (13:51): The Higher Education Support Amendment (VET FEE-HELP and Other Measures) Bill 2011 [2012] provides an insight into the failure of government policy in the vocational education and training sector. It is a failure to promote a skilled workforce and a failure of the current legislation. The opening up of VET has exposed the underbelly of the market. It has exposed problems that need to be patched up. This is why this bill is needed.

Under the current act, approval to be a VET provider is given in perpetuity and to top off the gravy train. This bill is needed; we acknowledge that. It goes some way to tightening up compliance and establishing some accountability to private VET providers. The expansion of competitive tendering and contestable funding for VET has brought with it a huge growth of private companies competing for domestic and lucrative full-fee-paying international students.

There are, as we know, unethical providers entering the marketplace, taking advantage of the money to be made. And we know the risks are considerable in this sector. The implication is that it is in taking VET into the marketplace that we will see an expansion in the skills base in this country, but that is certainly not always the outcome. In Victoria the extension of contestable funding saw enrolment in courses for fitness instructors jump 1,000 per cent in just two years. Then there has been the introduction of income-contingent loans for students. That saw the abolition of concession fees for diplomas and the introduction of full fees for domestic students, with significant increases in costs of courses. So it seems an absurdity that, to attract more students to fill skills shortages and power Australia's future economic health, a framework is built that compels students to pay more for their training, forces them to borrow money to pay
those increased costs and, in turn, allows further price rises by unscrupulous providers.

The Greens will support this bill. It puts some limited controls in place on a loose market regime that is causing such damage to vocational education. The Greens do welcome that the bill allows the Commonwealth to cancel or vary the payment of the student's debt to the provider via the VET FEE-HELP loan if the provider does not comply with any of the required guidelines or regulations, many of which relate to quality and accountability. It clarifies that a VET provider must provide statistical and other information to ensure compliance as requested by the minister. However, there are problems. The ability of the minister to approve a provider outside the required time frame is double edged because it allows inordinate delays in the process.

The government and the opposition have developed this brave new world of education and training where, despite the importance of VET as an investment in our future, governments treat it as a cost to be borne by students and as a profit to be reaped by the corporate sector. But—to repeat again—the Greens will support the bill, as it provides some safeguards to a problematic sector.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:56): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Sitting suspended from 13:56 to 14:00

QUESTIONS WITHOUT NOTICE

Government Advertising

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:00): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to the evaluation by the firm Hall and Partners Open Mind, relied upon in the ANAO audit of the multimillion-dollar carbon tax advertising campaign, which found that the effectiveness of the campaign was 'disappointing' and that: 'There was limited acceptance of key messages related to carbon pricing and household assistance.' Does the minister accept the findings of the independent evaluation upon which the ANAO report relied, that the $31½ million campaign is a disappointing failure?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:01): I am asked about the Audit Office report into the Clean Energy Future campaign. I am very pleased to respond on that report because that was a report that was invited by the Leader of the Opposition, who claimed the advertising was misleading, and the ANAO has confirmed a range of facts to which the Leader of the Opposition, Mr Abbott, pointed when he was asserting the campaign was misleading. The Audit Office
has confirmed that it is a fact that around 500 companies will be covered by the carbon price—

Senator Brandis: Mr President, I rise on a point of order. The minister is required to be directly relevant to the question. The question was about a consultant's report upon which the ANAO report relied and specific findings by the consultant—not about the findings of the ANAO itself on other matters.

Senator Arbib: Mr President, on the point of order, Senator Wong is being directly relevant to the question. Senator Brandis might not like the answer, but she is being directly relevant.

Honourable senators interjecting—

The PRESIDENT: Order! The minister has one minute 22 remaining. I believe the minister is addressing the question. I am listening to the minister's answer closely, and the minister needs to come to the matter.

Senator WONG: I could take Senator Conroy's interjection, which is probably somewhat more pithy.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:04): Mr President, I ask a supplementary question. Given that the minister has been prepared to inform the Senate of some of the conclusions of the ANAO report, can I ask the minister to direct her mind to that conclusion of the ANAO report—this is the ANAO report itself, not the consultant—which finds that the campaign:

… did not demonstrate consistent adherence to internal guidance, the FMA Act and FMA Regulations.

Minister, why was it necessary to breach the government's own guidelines? (Time expired)

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:04): First, it is the case that the report identifies some concerns with processes adopted by the Department of Climate Change and Energy Efficiency. This should not be confused with a conclusion that the campaign contained statements that were inaccurate. In fact, the report explicitly states:

While issues were identified with the sources cited by DCCEE for campaign statements, this did not mean that the statements themselves were wrong or could not be supported by other sources of information.

Isn't it interesting—the selective quoting of the opposition! I would remind those opposite: if you really care about transparency and you really care about making sure campaigns are accurate, one would not have ever got that impression from the way Senator Abetz and Howard government ministers used to run government advertising when they were in government.
Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:05): Mr President, I ask a further supplementary question. Given that the government’s own ANAO report finds that the campaign breached the government’s own guidelines under the FMA Act to produce what the consultants concluded was a disappointing and ineffective campaign, how much more taxpayers’ money will this government spend on its unlawful and ineffective advertising campaign?

Senator BRANDIS: No, it’s just a breach of the law!

Senator BRANDIS: Mr President, I raise a point of order.

Senator WONG: He knows that. He just said that in this Senate knowing that was correct. It says something about the honour of the man. Second, I would make this point: if those opposite want to talk about campaign advertising, perhaps they would like to look back to Work Choices.

Senator BRANDIS: Mr President, I raise a point of order.

Senator WONG: I know you do not want to talk about it, George.

Senator WONG: Mr President, I ask you to enforce your earlier rulings.

Senator BRANDIS: Mr President, you have ruled before that abuse of the opposition is not a directly relevant answer to a question about government policy. I ask you to enforce your earlier rulings.

Honourable senators interjecting—

The PRESIDENT: Order! There is no point of order, but comments should be directed to me in the chair.

Senator WONG: Mr President, what precious petals they are today! They do not like to be reminded of the hundreds of millions of dollars they spent telling Australians that reducing workers’ wages and conditions was great for them. They do not like to be reminded of spending taxpayers’ money to tell parents that it was great for them to have to go into work without notice, that it was great for them to have their wages and conditions reduced. The reality is—

Senator BRANDIS: Mr President, no part of this answer is directly relevant to anything other than the Howard government’s Work Choices advertising campaign. There are only six seconds to go. You ought to conclude that the minister has defied your ruling.

The PRESIDENT: The minister has six seconds remaining in which to address the question. Minister, I draw your attention to the question.

Senator WONG: In relation to the FMA system, as the senator would be aware, Finance sets the procurement guidelines—

(Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:09): I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from Cyprus led by His Excellency Mr Yiannakis Omirou, President of the House of Representatives. On behalf of all senators, I wish you a warm welcome to Australia and in particular to the Senate. With the concurrence of honourable senators, I ask the president to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Economy

Senator MARK BISHOP (Western Australia) (14:09): My question is to the Assistant Treasurer, Senator Arbib. Can the
Senator outline to the Senate the actions the government has taken to ensure the Australian economy remains strong and the envy of other nations? What measures has the government put in place to ensure the budget returns to surplus in 2012-13? Are there any alternative plans for the Australian economy that would put that return to surplus in jeopardy?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:10): I thank Senator Bishop for the question. The Treasurer today in the House outlined the crisis in Europe and talked about the increasing financial market volatility, which is undermining global confidence and weakening global growth prospects, with Europe now expected to fall into recession this year. This has obviously been reflected in the IMF's downgrades to global growth, which echoed our own midyear update last November. The fact is that no country is immune from the fallout from the troubles in Europe.

Australians have every reason to be confident in our strong fundamentals, which make us better placed than most advanced economies to deal with global instability. We have an economy that is growing. There is solid growth, with the economy expected to grow at trend this year, over three per cent. We have low unemployment—almost half the rate seen in Europe—at 5.2 per cent. In the United States, it is 8.3 per cent. We have contained inflation. The cash rate is at 4.25 per cent, well below the rate left by John Howard and the coalition. We have an unprecedented investment pipeline, with $455 billion in resources alone. We have very low debt, peaking at 8.9 per cent compared to 92.9 per cent for advanced economies. Also, we have a AAA credit rating from all three rating agencies for the first time in our country's history.

Because of this great strength, we are determined to ensure the budget gets back into surplus. We are working hard at it. We are holding real growth in spending to two per cent a year until the budget returns to surplus. At the same time, we are keeping taxation as a share of GDP below the level for 2007-08, when it was 23.5 per cent. We have provided savings to the budget over four years of $100 billion.

Senator MARK BISHOP (Western Australia) (14:12): Mr President, I ask a supplementary question. Can the minister outline to the Senate the efforts the government has made to protect jobs in the current economic climate? How many jobs have been created and how will the government continue to support workers? What is the government doing to support business, particularly small businesses, which help drive the economy and jobs overall?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:13): This is a Labor government that has put jobs at the forefront of its economic policy. When the global recession hit it was Labor who stood by workers to stimulate the economy. Infrastructure—that is what this government invested in. We have a record road budget. We have doubled the road budget. We are putting money into rail. It is something like 10 times the amount it was when we came into office. That is increasing the productive capacity of this country, keeping the construction sector going, keeping people employed, keeping apprentices employed. At the same time, we are working towards going back into the black next year, with a surplus.
Compare this to the coalition. I have to say, Peter Costello must be shaking his head after yesterday, with the Leader of the Opposition, Tony Abbott, walking away from a budget surplus.

The PRESIDENT: Refer to people from the other place by their correct title, Senator Arbib.

Senator MARK BISHOP (Western Australia) (14:14): Mr President, I ask a further supplementary question. Can the minister outline why it is important for the government to show fiscal discipline through the budget process? Is the minister aware of any threats to fiscal discipline and to plans to return the budget to surplus?

Honourable senators interjecting—

The PRESIDENT: When there is silence we will proceed.

Honourable senators interjecting—

The PRESIDENT: The time for debate is at the end of question time, not now. This is just using up valuable time on both sides. Senator Arbib.

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:14): Over the past four years we have made savings of $100 billion to the budget. On the other side we have a coalition that has walked away from budget surpluses; it has now walked away from getting the budget back in the black. Mr Abbott has now made known his point which we already knew because Andrew Robb, the shadow finance minister, has also made that claim. At the same time, the coalition has walked away from tax cuts. There will be no tax cuts under the coalition in its first term.

This is a coalition that has given up on good economic management. As I said, Peter Costello and John Howard would be ashamed. This is a Liberal Party that is no longer committed to keeping the economy in the black. This is the modern Liberal Party. They will walk into this chamber and they will vote against small business tax cuts when the MRRT bills come through. That is the Liberal Party. (Time expired)

Carbon Pricing

Senator BIRMINGHAM (South Australia) (14:16): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to the findings of the ANAO report into the administration of the National Greenhouse and Energy Reporting scheme and in particular to the findings that 75 per cent of emissions reported to the government by companies that are likely to be liable to pay the carbon tax contained errors, with 17 per cent of reports containing significant errors. What confidence can the public have that companies are able to accurately measure and report emissions on which, in less than five months time, they will begin to have to pay billions of dollars of tax? Is this not just further evidence that the government's entire carbon tax is built on false premises and very shaky foundations?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:17): I thank Senator Birmingham for his question. The National Greenhouse and Energy Reporting scheme, in relation to which the question was asked, is of course a scheme put in place by the Howard government in 2007, under the then minister, Mr Turnbull. Obviously, the government takes the integrity of carbon emissions data very seriously. I am advised that the department has been working with businesses to improve the reporting system which was put in place under the Howard government. I am also advised that the department has
accepted all the recommendations in the report and is putting in place measures to address the issues identified before the carbon price comes into effect.

**Senator Brandis:** You mean all those massive errors!

**Senator WONG:** Lord Brandis, if you want to talk about the errors you might want to wander down to the other place and have a chat to Mr Turnbull, because it was he who put the reporting system in place. I am not sure whether you two are actually speaking, because I recall that you used to support him and then you did not—but that is another point. From April of this year, the National Greenhouse and Energy Reporting scheme will be administered by the new, independent—

*Honourable senators interjecting—*

**The PRESIDENT:** Wait a minute, Senator Wong. I need to hear the answer, and it does not help to have interjections across the table from both sides.

*Honourable senators interjecting—*

**The PRESIDENT:** Senator Wong, ignore that interjection. Address your comments to the chair. It does not help question time.

**Senator WONG:** From April of this year, the National Greenhouse and Energy Reporting scheme will be administered by the new, independent Clean Energy Regulator, and the largest emitters will be required to audit their reports before they submit them each year. This will be a substantial improvement to the current reporting scheme. As I said, the department has already been clear that it has accepted all of the recommendations of the audit office report.

**Senator BIRMINGHAM** (South Australia) (14:19): Mr President, I ask a supplementary question. I refer again to the ANAO report, which found that departmental systems being run under your government contained ‘significant security vulnerabilities’ which could allow outside corruption of emissions data. I note the minister’s statement that the government has accepted all of the recommendations of the Audit Office, but will they all have been implemented before companies are expected to start paying billions of dollars in carbon tax?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:20): I am again asked about Howard government legislation and I again say that the department is already working with business to improve the reporting system put in place by the Howard government. I would remind those opposite that this legislation dates from the time when the opposition used to believe that a price on carbon was sensible. In fact, in introducing the very legislation about which we are talking the then minister said:

This bill is the first major step in establishing the Australian emissions trading scheme.

That was Mr Turnbull, on behalf of the Howard government, when introducing the scheme to which the honourable senator is referring. So, really, this is a piece of legislation introduced by those opposite when they used to believe in a price on carbon.

**Senator BIRMINGHAM** (South Australia) (14:21): Mr President, I ask a further supplementary question. Given the administrative failures of this government, within this portfolio, in programs like the home insulation scheme and the associated inspection program, the Green Loans scheme, the Solar Flagships program, with carbon tax advertising and now with the reporting of emissions data, what confidence can Australians have that hundreds of millions of dollars more will not be wasted
during a botched implementation of this, the world's biggest carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:21): We yet again have a range of false assertions in a question, including the last point in relation to the carbon price. It is quite extraordinary, isn't it, that we see people who used to come into this place arguing for a carbon price, who used to be sensible when it came to economic policy, now going down the populist route that Mr Abbott is taking. This is on a day when the Leader of the Opposition in the Senate has described the surplus as an extravagant promise. Senator Abetz today, as part of the opposition walking away from the surplus, described the surplus as an extravagant promise. How embarrassing. That just shows the extent to which the sensible economic thinkers on that side—there is at least one and he is sitting on the back bench—have lost all ability to influence coalition policy.

Senator Ian Macdonald: Mr President, I rise on a point of order. How long are you going to allow this incompetent minister to keep pretending to answer questions when she does not go anywhere near the subject of the questions she is asked? This is typical of this minister. She always spends the first half of any answer attacking the questioner, because she is simply incapable of answering any question. Mr President, I seek your help in making this chamber work and in making question time work by making sure government ministers actually address questions.

The PRESIDENT: There is no point of order.

Murray-Darling Basin

Senator HANSON-YOUNG (South Australia) (14:23): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. Since the Murray-Darling Basin draft plan was released in November, has the government obtained any legal advice as to whether this draft plan complies with the requirements of the Water Act?

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) (14:24): I am happy to seek some further information on that to give you a specific answer to that specific question.

Senator HANSON-YOUNG (South Australia) (14:24): Mr President, I ask a supplementary question. I am somewhat perplexed that on such a major issue which is meant to be on this government's reform agenda for 2012 you cannot give a straight yes or no as to whether legal advice has been obtained. Minister, given that you will be taking this question on notice, I ask you to look at whether legal advice has or has not been obtained, given the decreased amount of water that this draft plan requires to be returned to the river.

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) (14:25): This is a draft Basin Plan. It was released, as you know, on 28 November 2011 by the Chair of the Murray-Darling Basin Authority, the Hon. Craig Knowles. The authority is now undertaking public consultation on the draft Basin Plan over a 20-week period. The authority has been holding both public and targeted meetings with stakeholders in numerous towns and cities across the basin following the release of the draft plan.
The government's position has always been that the Basin Plan should have a sound scientific foundation and that economic and social considerations should also be taken into account. Late last year the authority released a review undertaken by the CSIRO of the science underpinning the draft Basin Plan. The authority also released a further report, *Socioeconomic analysis and the draft Basin Plan*, which brings together the socioeconomic work considered by the authority to date. *(Time expired)*

**Senator HANSON-YOUNG** (South Australia) (14:26): Mr President, I ask a further supplementary question. This is in relation to the Labor Premier in South Australia, who has flagged legal proceedings—a challenge in the High Court. Have this Labor federal government considered legal advice in relation to their Labor colleague's comments?

**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) (14:26): I will seek further information on that matter for you and next week in Senate estimates hopefully I will see you there and we will be able to share that information.

**Asylum Seekers**

**Senator CASH** (Western Australia) (14:26): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Ludwig. I refer to an article in today's *Daily Telegraph*—

*Honourable senators interjecting—*

**The PRESIDENT:** Wait a minute, Senator Cash. Order, on both sides! Senator Cash is entitled to be heard in silence, on both sides.

**Senator CASH:** I refer to an article in today's *Daily Telegraph* revealing that detention provider Serco secretly renegotiated its contract with the Department of Immigration and Citizenship before Christmas. Given that this contract is now valued at a staggering $1 billion, four times the original contract value of $280 million, can the minister please advise how much more Australian taxpayers will be forced to pay for Labor's border protection failures?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:27): I thank Senator Cash for her question. It is a shame, however, that she has to buy her information from the *Daily Telegraph* rather than read it in MYEFO. It does highlight one of the issues that the opposition suffer from—the inability to read MYEFO. These are not new costs. The value of these variations was in, as I indicated, MYEFO, so they do not have any new impact on the budget. If the opposition were really concerned about the cost of immigration detention facilities, they would stop the negativity and work with the government to re-establish offshore processing to provide a genuine deterrent to taking a dangerous boat journey to Australia rather than getting their newsflash from the *Daily Telegraph*.

The cheaper option and the government's preferred option is a successful Malaysia arrangement, but the opposition's negative politics have ended offshore processing. The increase in the detention services reflects the expansion of the detention network since the contracts were originally signed and the opening of 10 new facilities, including Curtin in WA, which you asked about yesterday, Inverbrackie and Pontville as well as the Darwin Airport Lodge. We also acknowledge that immigration detention is expensive just as it was for the previous
government. The costs that you found are now reflected, of course. The department currently has two contracts with Serco—one for immigration detention centres and one for immigration residential housing. So you have to take the two issues apart and, of course, there is also the immigration transit accommodation centre. *(Time expired)*

**Senator CASH** (Western Australia) (14:30): Mr President, I ask a supplementary question. I refer the minister to the comments made by an immigration spokesman regarding the reasons for the contract blow-out: 'It is being driven by a simple reason, the expansion in the number of centres in the network.' Given that the number of detention centres has increased to 20 under the Labor government, will the government finally admit that it has lost control of Australia's borders and that this cost blow-out that Australian taxpayers are paying for is a problem entirely of this government's own making?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:30): I thank Senator Cash for the invitation to point out for those opposite that the Malaysian arrangement would mean a solution to some of the issues that you raise. However, if those opposite were really concerned about the cost of immigration detention facilities then they would stop the negativity that they raise and work with this government to find their way clear to vote for the legislation to ensure that we can have a Malaysian arrangement in place. But rather than that, the cheaper option and the preferred government policy is to have a successful Malaysian arrangement. The increase in the detention centres which Senator Cash has highlighted in her question does reflect the expansion of the detention network since the contracts were originally signed, including the opening of 10 new facilities. *(Time expired)*

**Senator CASH** (Western Australia) (14:31): Mr President, I ask a further supplementary question. Given that the cost blow-out for the Serco contract is now in excess of $700 million, will the minister please advise the Senate how many schools, childcare centres and trade training centres could have been built, how many community projects could have been funded and how many hospital beds could have been provided to the people of Australia if it were not for Labor's utter incompetence when it comes to managing Australia's borders?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:32): I thank Senator Cash for that question because it highlights where the opposition are. When they were in government, they ripped a billion dollars out of the health system. Since we have been in government, we have made unprecedented investments in health, education and of course training. Whereas what you now complain about is your inability to be able to invest. Where are your policies on health?

**Senator Bernardi:** Mr President, I rise on a point of order. I am finding it very difficult to hear Minister Ludwig because Minister Wong is screaming very loudly into the minister's microphone. I would ask you to ask her to please desist.

**The PRESIDENT:** Senator Bernardi, I have already drawn to the attention of all honourable senators the fact that there is too much noise in this chamber, on a number of occasions during question time. It does not assist question time when people debate the matter across the chamber with each other. It
takes two to argue sometimes—most times it does; sometimes it might be just one. I can assure you I would be much happier if there was a little more quiet in the chamber so that the minister can be heard in silence. If people wish to debate the issue, it can be debated post question time.

Senator LUDWIG: It is clear that on 29 November 2011 contract variations, not new contracts, for these did appear on the AusTender website. This issue has been available for the opposition to look at since 2 December. They choose to raise it on the back of the Daily Telegraph argument. Of course, that reflects the speed of the opposition to get to the nub of the issue. The increase in the detention services does reflect—(Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:33): I draw to the attention of honourable senators the presence in the gallery of the Pacific Parliamentary Leadership Dialogue delegation from Bougainville, Kiribati, Papua New Guinea, Samoa and Vanuatu. On behalf of all senators, I wish you a warm welcome to Australia and in particular to the Senate. I note also the presence in the gallery of former Senator Kay Patterson, welcome back, and former member of the House of Representatives Duncan Kerr.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Broadband

Senator PRATT (Western Australia) (14:35): My question is to the 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: Can the minister please advise the Senate of statements of support for the $620 million satellite announcement that was made yesterday?

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) (14:36): I thank the senator for her ongoing interest in the NBN. Yesterday was another very important day in the rollout of the National Broadband Network and, more importantly, for those Australians who will rely on the satellites to provide a level of service and a price that is affordable. Whilst the National Party has rolled over to the Liberal Party in supporting a project that Senators Joyce and Nash once claimed as their own, I am happy to report that none other than the National Farmers Federation have recognised what this announcement means for regional and remote communities. Mr Jock Laurie, the NFF president, responded to our announcements by not only welcoming it but coming out and saying that it was very positive. He said:

We welcome the commitment from the Government, and their acknowledgement that those who live in rural, regional and remote areas should not be disadvantaged when it comes to telecommunications.

The NFF believe that one of the keys to their success has been their commitment to presenting innovative and forward-looking solutions, and the Gillard government strongly believe that the NBN is indeed an innovative and forward-looking solution for the nation. I said it yesterday and I will say it again today: there is only one party that is committed to delivering and guaranteeing the same price for the same service regardless of whether you live in the city or the bush. We share Mr Laurie's view: 'We're looking forward to the day when all Australians have equal access to telecommunications.'

Senator PRATT (Western Australia) (14:38): Mr President, I ask a supplementary question. Following on from this announcement and my question just now regarding the investment in these two new satellites, can
the minister please advise the Senate of any other views expressed regarding this investment?

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) (14:38): Sadly, it appears that support for equal access to telecommunications in this country is no longer a bipartisan position. The coalition has now abandoned regional Australia. In responding to yesterday’s announcement, Mr Turnbull suggested he would consider selling the satellites. Mr Turnbull also misled the Australian public by asserting that there was sufficient satellite capacity that we could either lease or upgrade. But NBN Co. is already using existing satellite capacity to provide an interim satellite service, an investment of $300 million through to 2015. This is only the first step, which is providing half the service speeds on the way to the reliable 12-meg down and one-meg up that everyone else in Australia will enjoy on the NBN. (Time expired)

Senator PRATT (Western Australia) (14:39): Mr President, I ask a further supplementary question. Can the minister further advise the Senate on any additional views expressed with regard to the NBN satellite announcement?

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) (14:39): There were some quite entertaining views yesterday. In fact, Mr Turnbull won the award, because he claimed that existing satellites can simply be upgraded. Mr Turnbull has no idea what he is talking about on this matter. It is not farcical enough that Mr Turnbull thinks that you can just upgrade a satellite. We also have the Nationals member for Cowper, Mr Hartsuyker, demonstrating that he does not understand what used to be the coalition policy, or what masquerades today as their policy. Mr Hartsuyker not only claimed that OPEL would have ensured that 98 per cent of Australians had access to speeds of up to 12 megabits, which is simply not true; he also claimed that OPEL included satellites—which it did not. Mr Hartsuyker would also do well to understand that the current coalition policy has denied regional Australians—(Time expired)

Aged Care

Senator FIERAVANTI-WELLS (New South Wales) (14:40): My question is to the Minister representing the Minister for Mental Health and Ageing, Senator Ludwig. I refer the minister to a statement made by the Prime Minister during the 2010 election, where she stated, 'If re-elected, further aged-care reform will be a second-term priority for my government.' I also refer the minister to a statement made on the same day by then Minister for Health and Ageing, Minister Roxon, that, 'We will respond quickly to the commission's recommendations.' Given that it has now been six months since the Prime Minister and Minister Butler publicly released the Productivity Commission report into caring for older Australians, how much longer will older Australians be forced to wait to get the government's response to the 58 recommendations?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:41): I thank Senator Fierravanti-Wells for her question. In relation to aged care, the Productivity Commission's Report on government services 2012 covering the

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The 2010-11 financial year was released on 31 January 2012. The report confirms the Australian government's ongoing commitment to reforms that will enable the Australian government to build a consistent and unified aged-care system that delivers high quality, accessible and affordable care. The Productivity Commission's final report dealing with caring for older Australians was released, as Senator Fierravanti-Wells indicated, on 8 August 2011. The Labor government is committed to promoting opportunities for positive and healthy ageing. The government recognises—which the opposition failed to do during their years in government—that the future of our aged-care system is on the minds of many Australians, and we are committed to starting aged-care reform in this term of government as part of a broader ageing agenda. The government will use the National Aged Care Alliance as its key partner for sourcing the view of the aged-care sector.

The government held a national conversation with consumers and carers on the aged-care reform through forums across this country, and the first conversation was held in Adelaide on Friday, 19 August last year. The Prime Minister did make it clear that this should be an open conversation, so those opposite should engage in that conversation just as the government will engage with the aged-care community more broadly. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:43): Mr President, I ask a supplementary question. I refer the minister to the fact that that under the Rudd-Gillard government there have been no less than 20 inquiries and reviews, including three by the Productivity Commission—each review having its own consultation process and all detailing the need for urgent aged-care reform. Given that the National Aged Care Alliance launched its blueprint and the sector is in crisis, how can this government justify further delay?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:44): I thank Senator Fierravanti-Wells for her first supplementary question. Let's be clear about this: what have the opposition done in their policy development in aged care? Let's look at what the government have done. We have spent more energy, more money, than the opposition and we have looked at how we can ensure aged care is gone through and assisted. We have said that we need to ensure that this reform is right. That is why the Prime Minister has made it clear that this should be an open conversation predicated on four principles. Every older Australian has earned the right to be able to access care and support that is appropriate to their needs. Those opposite want to complain about that. But these four principles are critical to the development of the policy and the reform agenda that is following. Older Australians deserve greater choice and control over their care arrangements. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:45): Mr President, I ask a further supplementary question. Given that it has now been 18 months since the Gillard government shunted off aged care for yet another inquiry to the Productivity Commission and that the long-awaited release of this report, over 18 months, has been used by this do-nothing government as a reason to further delay much-needed reform, why can't the minister advise the Senate when this urgent reform will start, or will this end up being yet another broken promise from Julia Gillard?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on
Queensland Floods Recovery) (14:46): I thank Senator Fierravanti-Wells for her second supplementary question. The only broken promise is from those opposite when they were in government. They failed to reform this area. They failed to provide any funding to this area which would ensure that older Australians would have a choice in aged-care facilities. Under this government there is more than $56 billion in government funding for aged care over the next four years; $38.8 billion in government funding for residential aged care over the next four years; and an estimated more than $12.9 billion in total revenue for the residential aged care industry this year from government and residents. But the reform is predicated on the four principles that I was enunciating. I would enjoin you to engage in the process, accept the four principles and work with this government to deliver for aged care in the aged-care sector. (Time expired)

Broadband

Senator MADIGAN (Victoria) (14:47): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister advise why fixed wireless towers for the delivery of NBN services are being erected in residential areas such as Buninyong in Victoria, which is approximately one hour from Melbourne, despite considerable community rejection, when the government's own media release yesterday stated that the same download speeds can be achieved from high-capacity satellites it will be using to provide NBN services to remote areas?

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) (14:48): I thank Senator Madigan for his ongoing interest in the National Broadband Network. The senator asks a very legitimate question. I indicate that when we announced the network we committed to connect 90 per cent of premises by fibre and to guarantee a 12-megabit download and a one-megabit upload by advanced wireless and satellite. We commissioned an implementation study from McKinsey's and KPMG, not engineers. That study advised that the most cost-effective deployment of the network to fulfil our commitments was to extend the fibre coverage from 90 to 93 per cent of premises. It further advised that four per cent of premises could cost-effectively be connected by wireless and three per cent by satellite. In short, we did exactly what those opposite assert we have not done. We commissioned independent experts to compare fibre, wireless and satellite to determine the most cost-effective way of meeting the goal of delivering the government's commitment.

Senator Birmingham: That's a bit of an exaggeration.

Senator CONROY: Sorry—McKinsey's know a bit more about it than you, Senator Birmingham. My apologies for accepting that interjection. On your question of why the satellite service—

Senator Birmingham interjecting—

Senator CONROY: I apologise that you cannot hear, Senator Madigan. On the issue of why people should take a wireless service rather than a satellite service, once the satellite is in the sky it is very hard to improve the service. You can tweak it a little bit and you can get software improvements, but it basically stays where it is at from the point of view of technology when it goes up, and it is up for 15 years. The wireless network will be able to be easily upgraded to greater speeds as the next generation of boxes that go on the towers are developed.
For residents to say 'I'd rather stick to satellite' would be to deny themselves the future upgrades of the wireless path. (Time expired)

Senator MADIGAN (Victoria) (14:50): Mr President, I ask a supplementary question. Would the minister accept that local communities should be given the option of accepting either a fixed wireless service or the current operational satellite service until the high-capacity satellites become available in 2015?

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) (14:50): That is a very genuine question, Senator Madigan. This is an issue that, as I think you know, we tossed up on a number of occasions. The fundamental principle of both satellite and wireless is that the more people who use it at the same time the slower the overall experience is regarding service delivery and speeds for every user. So, to add users reduces the overall capacity and speed for the existing users. When both satellite and wireless were designed, they had been configured for a set number of users. If we were to allow everybody around Buninyong or Ballarat who did not get access to either fibre or wireless in the short term to opt to use the satellite, then it would actually collapse the service. You would not get the speeds that are being promised. It is the same for wireless. If everybody jumped on wireless because they do not want to wait for the satellite or they do not want to wait till fibre is installed, it would destroy the service for the existing users. (Time expired)

Ministerial Arrangements

Senator COLBECK (Tasmania) (14:52): My question is to the Minister for Manufacturing, Senator Carr. I refer the minister to the Prime Minister's claims that her pre-Christmas reshuffle of the ministerial portfolios and responsibilities was in the national interest. Was the minister's demotion from cabinet to the outer ministry and the loss of the innovation portfolio in the national interest?

The PRESIDENT: Order! I need to draw to the attention of the chamber that I have inadvertently made a mistake. I did not realise that Senator Madigan had one supplementary question left. It was an error on my part. Sorry, Senator Madigan, I apologise for that.

Broadband

Senator MADIGAN (Victoria) (14:52): Mr President, I ask my further supplementary question. Can the Minister for Broadband, Communications and the Digital Economy, Senator Conroy, advise whether the fixed wireless network has been designed to be compatible with other wireless technologies such as the Victorian smart meters and other monitoring technologies that may arise in the future?

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) (14:53): Smart meters are one of an array of smart infrastructure that can be deployed over an IP network like the NBN. Whether the Victorian government or other providers choose to use the network is up to them. I would certainly welcome the Victorian government wanting to ensure that they could use smart meters across the National Broadband Network. I think that would be a very good outcome. In the same way, I am encouraging the smart grid project in Newcastle, and with the deployment of the fibre network in Newcastle over the next few
years I encourage them to work out a way to do it together. It would be a terrible waste of the country's resources if we had an entire rollout of smart meters that did not work closely with the rollout of the National Broadband Network. I would welcome any constructive discussions from anyone wanting to be involved in bringing their infrastructure and their use of it for use in the NBN.

Ministerial Arrangements

Senator COLBECK (Tasmania) (14:54): My question is to the Minister for Manufacturing, Senator Carr. I refer the minister to the Prime Minister's claims that her pre-Christmas reshuffle of ministerial portfolios and responsibilities was in the national interest. Was the minister's demotion from cabinet to the outer ministry and his loss of the innovation portfolio in the national interest?

The PRESIDENT (14:54): That question is not in order. I am not ruling on anything. From what I have heard from the questioner, the question is not in compliance with the standing orders. Does the questioner wish to rephrase the question? I have given questioners the opportunity—

Senator Abetz: If I may, Mr President, this minister accepted a ministry from the Prime Minister, that of manufacturing, which was outside of cabinet—

The PRESIDENT: Senator Abetz, I do not think you are on the air.

Senator Wong: Is this a point of order?

Senator Abetz: Yes, it is a point of order inviting the President to reconsider his ruling. It is clearly within the minister's province to answer a question relating to a ministry that he personally accepted at the Prime Minister's request. The Prime Minister requested him to take the position of manufacturing minister, a position outside of cabinet. She has asserted that that was in the national interest. We are asking the minister whether or not he shares the Prime Minister's view, having accepted the ministry. He takes responsibility for having accepted the ministry; he has to be able to answer whether his acceptance of that is in the national interest.

Senator Chris Evans: On the point of order, Mr President, the question clearly went to the actions and the views of the Prime Minister in an attempt to try and score some sort of cheap political point. If he wanted to ask about the actions of the Prime Minister then the question should have been directed to me as the minister representing the Prime Minister.

Mr President, you have been very generous in allowing the senator the chance to rephrase the question that the tactics committee handed him. I am surprised that he used it given how poor the question was and how low the motives behind it are. The appropriate point is, if you have been that generous then Senator Colbeck ought to rephrase the question if he is genuinely interested in manufacturing policy.

The PRESIDENT: The standing orders state quite clearly in 73(1):

The following rules shall apply to questions:

I will skip down the list:

questions shall not ask:

(h) for an expression of opinion;

And that is the only thing that I can see arising out of this question. I have given Senator Colbeck the opportunity to rephrase the question so that it can comply with the standing orders. I have always been very generous in giving some of the questioners in this place, on all sides of parliament, an opportunity.

Senator COLBECK (Tasmania) (14:58): Does the minister believe that the deliberate
downgrading of the manufacturing portfolio is in the national interest?

The PRESIDENT: That is in order.

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (14:58): I think this is an opportunity for me to express my views to the Senate on the value of manufacturing, surely a subject which all in this chamber would support. I have no doubt of that because of the overwhelming strength of public opinion for the policies that this government is pursuing with regard to the defence of the living standards of the one million Australians who work in manufacturing. Of course I take the view that it is an honour to serve those one million Australians, to ensure their prosperity and to ensure that they get a fair cut of the action in this society and get real opportunities not just for themselves but for their kids. I will maintain that commitment, as I have throughout my entire length of service in this Senate.

Senator COLBECK (Tasmania) (14:59): Mr President, I ask a supplementary question. Given the importance that the minister claims he places on manufacturing, is it not a fact that under his watch around 130,000 manufacturing jobs have been lost since mid-2008; that the green car innovation scream—sorry, scheme, but that is about all it put up; it hardly even put up a scream—was scrapped without notice to the car industry; and that the cash for clunkers scheme that he so passionately talked about was scrapped before it even started? Does the minister accept responsibility for any of these disasters in the Australian manufacturing industry?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (15:00): I thank Senator Colbeck for yet another Dorothy. The government's position is that we are standing shoulder to shoulder with manufacturing workers right across this country. We are in a situation where we have seen, as a direct result of the unprecedented rise in the value of the Australian dollar and the unprecedented level of competition from cheap imports, that working people in manufacturing are facing acute pressure. I would have thought that this Senate would come together to defend their interests, but unfortunately that is not the case. Your position in regard to the automotive industry, for instance, is to see the destruction of that industry and to see the destruction of 200,000 jobs for Australians that work in that industry and industries associated with it. That is a position that I reject, and it is a position that this government rejects. We have maintained our commitment to ensuring that working people in this country get a fair go, and we will do all we can to ensure that that happens. (Time expired)

Senator COLBECK (Tasmania) (15:01): Mr President, I ask a further supplementary question. I note that the only sector of manufacturing that this minister wants to talk about is the automotive sector. There are a lot of other people who work in other manufacturing sectors. Is it not a fact that this is the first time in 40 years that direct ministerial responsibility for manufacturing has not been in cabinet? How does that demonstrate the government's commitment to the manufacturing sector?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (15:02): Manufacturing employment was at 953,500 people in the December quarter of 2011, which is actually a net increase of 7,900 people. I will introduce one moment of fact there.

Opposition senators interjecting—

Senator CARR: You asked the question about the automotive industry and I respond-
ed. What I will always say in response to you is that we remain undaunted in our efforts to actually work to ensure the prosperity of the Australian people, and we remain committed to that task. We are unashamed in efforts that we have taken to defend working people, and it is a pity you did not show more interest in the prosperity of the people of this country.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Murray-Darling Basin

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) (15:03): I seek leave to incorporate answers to questions taken on notice from Senator Hanson-Young earlier today, 9 February, concerning the potential legal challenge to the Murray Darling Basin Plan.

Leave granted.

The answer read as follows—

The Department of Sustainability, Environment, Water, Population and Communities has not sought legal advice on the reported High Court challenge by South Australia to the Draft Murray Darling Basin Plan as the basis for this challenge has not yet been stated by South Australia.

Information about any legal advice Murray Darling Basin Authority has obtained on the consistency of the Draft Murray Darling Basin Plan with the Water Act should be obtained from Murray Darling Basin Authority.

Australian Federal Police

Asylum Seekers

Aviation

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:03): I seek leave to incorporate additional responses to questions from Senator Milne, Senator Cash and Senator Xenophon on Wednesday, 8 February and Tuesday, 7 February.

Leave granted.

Further information in response to questions from Senator Milne taken on notice by Senator Ludwig on Tuesday 7 February 2012

Did the Minister for Resources and Energy seek advice from the previous Attorney-General on the use of the Australian Federal Police to assist the energy sector and jurisdictional police to manage the increasing risk of disruptions by environmental protesters?

I’m advised that the Minister for Resources and Energy wrote to the previous Attorney-General on 10 Sept 2009 to seek advice on how resources in the Attorney-General’s portfolio could be used to manage unlawful protest activity in order to maintain peace and security.

The previous Attorney-General wrote back to the Minister for Resources and Energy on 6 November 2009 providing general advice on activities undertaken by the AFP and ASIO in monitoring issues-based groups, but not committing to specific action on this issue.

Both of these letters were previously released under FOI in January. It is not the intention of the Attorney-General to comment on AFP operational matters.

Is the information of private media monitoring contractors available through the FOI process?

I’m advised the AFP would evaluate material under the FOI Act prior to any release of the information.

Commercial in-confidence information may fall within the FOI exceptions and not be released; however each document would need to be assessed on its merits.

Further information in response to a question from Senator Cash taken on notice by
Senator Ludwig on Wednesday 8 February 2012

With respect to the second supplementary question "Given that this centre will soon open, can the minister please advise what work and consultation has been undertaken by the government with the local hospital and ambulance service at Northam to ensure the department's operations do not affect access to health services for the local community?" I am advised the following:

- Primary health services for detainees at the Yongah Hill Immigration Detention Centre at Northam will be provided on site by the Department of Immigration and Citizenship's contracted detention health services provider, International Health and Medical Services - IHMS.
- Where necessary, specialist medical services, such as dentists and psychiatrists, will be brought in as part of the Department's contract with IHMS.

Further information in response to questions from Senator Xenophon taken on notice by Senator Ludwig on Wednesday 8 February 2012

With respect to the first supplementary question, "has the department investigated whether this is an appropriate use of such authorities and would the Qantas Group be meeting its obligations under the Migration Act?"

- I have been advised that the Department of Immigration and Citizenship has not commenced a formal investigation into the use of Special Purpose Visas in this instance.

With respect to the second supplementary question, "Since the Fair Work Ombudsman investigation that commenced last year on the issue of foreign crews on Jetstar domestic leg flights, can the minister indicate whether the department has requested any information from the ombudsman and whether it has received any requests from the Qantas Group to issue other types of visas to cover cabin crew operating on these flights?"

- I have been advised that the Department has not sought information from the Fair Work Ombudsman in relation to their investigations. However, as noted in my answer yesterday, the Ombudsman's investigation is still ongoing.

BUDGET

Consideration by Estimates Committees

Senator CASH (Western Australia) (15:03): Pursuant to standing order 74(5), I ask the Minister representing the Minister for Immigration and Citizenship, Minister Ludwig, for an explanation as to why answers have not been provided to almost 100 questions on notice from the October 2011 Senate estimates.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:04): As I understand it, today we have been able to table an answer to Senator Abetz's question which was raised yesterday. In addition to that, I can say that the number of questions asked of the department at Senate estimates hearings has increased significantly over recent years, but the department has put significant effort into ensuring that all questions on notice have been answered prior to the next committee hearing.

At the supplementary hearing in October last year, the Department of Immigration and Citizenship received 423 questions on notice, including those taken on notice during the hearing and additional questions provided subsequently in writing. The department remains fully committed to providing responses to the questions on notice as soon as possible. All endeavours will continue to be made in this regard. However, many of the questions do seek detailed information on a number of complex and sensitive issues. Providing responses to all of these questions is also extremely resource-intensive and places a significant burden on the department.

The department has already provided the committee with responses to most of the 423
questions, which does demonstrate the commitment of the department to answering all questions on notice as quickly as possible. I will also pass this information, again, back to the department from this issue being raised by Senator Cash today. I will indicate that Senator Cash has raised the question of the department providing all of the remainder of the answers prior to supplementary estimates. However, I do reiterate what I said earlier, which is that these questions are complex, as I am advised, and the department says they also contain a range of sensitive issues, which you would not be surprised about given the portfolio. However, the department has continued to stand by the position that it will continue to work through all of those questions as soon as possible to provide the information to the Senate.

Senator CASH (Western Australia) (15:06): I move:

That the Senate take note of the minister's statement.

This is not the first time that I have had to stand in this place and raise the issue of the failure of the Minister for Immigration and Citizenship and his department to provide answers to questions that were placed on notice at an estimates hearing. This occurred last year. Exactly one year ago today, I stood in this place and asked for an explanation of why answers had not been provided to all of the 445 questions on notice from the Senate Standing Committee on Legal and Constitutional Affairs in the Immigration and Citizenship portfolio asked during the October 2010 supplementary budget estimates hearing. At the beginning of February 140 remained unanswered. Of those questions that I have received answers to, every single one was received outside of the deadline set by the Senate and was answered in an inefficient manner.

And here we are again today asking for the same explanation. We receive an explanation yet again from the minister as to why he and his department continue to fail to meet deadlines that are set not by those of us on this side of the chamber but by the relevant Senate committee. I am heartened that in Minister Ludwig's explanation to the Senate he said that the department and the minister will endeavour to provide all outstanding answers by the next Senate estimates hearing—because, as senators in this place know, the next Senate estimates hearing of the Legal and Constitutional Affairs Committee in the Immigration and Citizenship portfolio is on Monday. So, yes, it would actually be nice if the department could put its resources together and provide the Senate with the answers to the questions on notice.

Of the 271 questions put on notice by me—and the reason I have to put them on notice is that, during the estimates hearings, the department fails to provide adequate answers to questions—during the October 2011 supplementary budget estimates hearing, as at the beginning of February 140 remained unanswered. Of those questions that I have received answers to, every single one was received outside of the deadline set by the Senate and was answered in an inefficient manner.

I do note, however, that since I raised this issue with both ministers' offices earlier today there has been a flurry of answers being sent to my computer, so I can only assume that perhaps the answers have actually been sitting on the minister's desk all the time and the minister had simply not got his act together and provided them to us. I accept that the explanation given by Minister Ludwig today was in his role as the Minister representing the Minister for Immigration and Citizenship. The blame for the failure to provide answers to questions on notice needs to be levelled squarely at the minister for immigration, Minister Bowen, and his department.

The failure to provide answers represents yet another failure of the Gillard Labor
government not only to senators but to the Australian people in what we on this side consider an extremely important portfolio area. As I have said in this place before, and as Senator Abetz said yesterday, since the inception of the Commonwealth in 1901 the first responsibility of the Commonwealth government has been the security of the nation. You need to ensure the security of the nation’s borders. There is no higher priority for government, but it seems that those on that side of the chamber do not see immigration and citizenship and the protection of our borders as a priority at all. This is yet again highlighted not by a first failure to provide answers to questions asked during Senate estimates periods but by the continual failure by the minister and his department to meet deadlines that have been set by the Senate. The minister and his department were well aware that the time period for providing answers to these questions had expired.

Minister Bowen needs to understand a very crucial thing: every senator as an elected member of this Senate has fundamental constitutional and other rights conferred upon them which they are entitled to exercise in this chamber. One of those fundamental rights is that we are entitled to ask questions of the government and, in asking those questions, senators on this side, senators on the other side and senators from the minor parties are entitled to receive answers to those questions in a timely manner. It is an absolute indictment of the minister for immigration and of the minister’s department that, nine weeks after the due date for answers to these questions, answers are still outstanding.

Question agreed to.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Government Advertising
Carbon Pricing

Senator MASON (Queensland) (15:13):
I move:

That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Senators Brandis and Birmingham today relating to the carbon tax.

Surprise, surprise, shock horror! In trying to sell their great, big, new carbon tax to an unsuspecting and unwilling public, the government has failed to comply with its own financial management regulations. Do you believe that, Mr Deputy President? Well, they have. I understand that in one particular case tenders were open for 1½ hours. It does not sound to me like the Prime Minister’s much lauded, ‘Let the sun shine in,’ and, ‘Accountability is the foremost goal of this government,’ assurances have been met. Not a very good start, I would say.

The Auditor-General also found that the campaign has not been very effective. There would not be anyone in our nation who is surprised to hear that. It is like trying to sell a dog’s breakfast, yet it is a dog’s breakfast that the Prime Minister said would never be served up to the Australian public, and it has not been successful.

Apparently, as the newspapers tell us, the campaign thus far has cost about $20 million and there is about another $10 million to spend. As you know, Mr Deputy President, I like to be helpful. I suspect it might assist the government not to spend the final $10 million and instead to put it into trying to pay off the budget deficit. That is what I would be doing with the extra $10 million. Of course, none of this money—the $20 million or the $10 million following—comes any-
where near the cost to this country of the most expensive carbon tax in the world. The government's carbon tax will raise $7.7 billion in the first year, and that is at $23 per tonne of carbon. But, by 2014-15, it will cost $9.2 billion a year.

What do Labor love? Labour love three things: they love taxing, they love debt and they love the churn. You have heard me on debt before, Mr Deputy President. There has not been one federal Labor government since 1901 that has left government with more money in the kitty than there was when they came in. Since 1901, they have always put Australia further into debt. So Labor love taxing, they love debt and they love the churn. These are the three steps to social democracy. But social democracy has failed in western Europe, and it will fail in Australia.

Many mischievous arguments have been put in favour of the carbon tax. Perhaps the most mischievous—and the most pathetic—argument, which has been put by too many people in the Labor Party, including the minister and the Prime Minister, is this: irrespective of whether other countries introduce a price on carbon, it is in Australia's interest to have one. I say that again—this lot says that, irrespective of whether any other country on earth has a carbon tax, it is in our interest to have one. Who in this country except this lot believes that absolute rubbish? They believe that, even if no other country on earth prices carbon, it is in our interest to pay more money for energy and for our cost of living to go up. If it were such a sterling idea, don't you think that some other nation would have come up with this brilliant brainwave? They would all be running to do it before us. The United States, Canada, Brazil, Russia, India and China would all be running to do it before us; yet not one of them has done so. That is because they know that moving first in the world on carbon is a mistake. It is a mistake because it is against their national interest, just as it is against our national interest.

The greatest disgrace of this government is this: they want to be heroes overseas—to look good at the UN and elsewhere—and they are quite prepared to sell out Australia's national interest to do so. That makes me sick.

Senator SINGH (Tasmania) (15:18): Now that Senator Mason has taken his seat and stopped shouting through this chamber, as he has for the last five minutes, we can perhaps put some sense back into the debate and respond to some of the misleading statements he has just made, which are right in line with and follow on from the thinking of his leader, Mr Abbott, who has also been found to have misled the Australian people.

The ANAO report which has now been released has stated clearly that the government's advertisements were not misleading at all. Yet Mr Abbott has made a range of claims that they were inaccurate, and his allegations have now been found to be untrue. No wonder Senator Mason has to shout his way for five minutes through another diatribe of misleading information in this chamber—he is following his leader. Senator Mason loves misleading and lying to the Australian people on climate change, because we know that he does not believe in climate change. Senator Mason and his leader, Tony Abbott, are in denial of the fact that we need to act on climate change, which is exactly what the advertisements were all about.

Even though the ANAO report has identified that there were some concerns with the processes, we should not confuse this identification with a finding that the ads were inaccurate; as I said, the ANAO report found no such thing. The ads were not misleading, and I am startled by the
hypocrisy of the opposition's talk about misleading people through government advertisements. We know full well that when they were in government the ads they aired to the Australian people were misleading—in fact, they were a complete hoax. They told Australian working people that having their wages and conditions reduced by Work Choices was going to make them better off. That is what you call misleading, not the government's ads, which have now been cleared and found certainly not to be misleading or inaccurate by the ANAO report. Yet Tony Abbott has continually claimed that they were. The Work Choices ads of the former Howard government were misleading to working Australian families. They suggested that the wages and conditions of working Australian families were under threat and proposed Work Choices as a solution. How dare the opposition come into this place and say that our ads were misleading when they clearly were not. They are the misleading opposition, and their leader, Mr Abbott, should apologise to the public servants involved for saying that the government's ads were inaccurate when they were not.

Clearly the opposition have lost the plot and completely given up, as Mr Mason showed us during his five minutes of shouting and screaming. They are the ones who are misleading the Australian people. They have lost the plot and given up. They have given up and we have only to look at the economic management side of their responsibilities to see exactly how they have given up. When it comes to economic management they have no real policies; no real costings—and now they have walked away from the surplus that they once said they would try to deliver; no real savings; no real bottom budget line—in fact they have a budget black hole of $70 billion; and no real leadership. What we have seen from Senator Mason in his response today to taking note of answers is another example of how he is continuing Mr Abbott's misleading claims which have now been proven to be unfounded by the ANAO report, which found that the factual statements in the government's clean energy future advertising campaign of last year were supported by evidence that shows the opposition have been dishonest and discredits Abbott's scare campaign on carbon pricing. (Time expired)

Senator McKENZIE (Victoria) (15:23): I rise to take note of answers given by Senator Wong to questions asked by Senators Brandis and Birmingham. The clean energy future package is a grubby and expensive exercise of Labor spin. It is the carbon tax that is going to make things worse for Australian workers, but the government is so bound by its agreement with the Greens and Independents to retain power that it had to pull off the carbon tax at any cost. The shouting that Senator Singh referred to as coming from Senator Mason could be more accurately described as outrage on behalf of the Australian people, Australian workers and taxpayers as a result of this government's economic management.

Workers will pay with their jobs, especially workers in the regional areas. To add insult to injury, those same workers have paid through their taxes the $20 million it has taken to fund the advertising campaign mentioned in the report we have been speaking about. It is a double whack, from the front and the back. They were duded by a government that cannot use the resources of the media to get its message out. Its good news on carbon tax ended up being no news for the Australian media. A case of no news is good news, maybe. So aware of its own incompetence of getting the good news out, it designed a $12 million advertising campaign, which was increased by another $8 million. That is $20 million. Senator Cash
mentioned a lot of projects and programs that that $20 million could have been better spent on. Is it a reflection on the Minister for Climate Change and Energy Efficiency, Mr Combet, that he is unable to sell the government's message, which he could not get across to the media at no cost to the Australian taxpayer apart from his time, to tell us the benefits of the carbon tax? Minister Combet issued numerous media releases in July extolling the details of the price on carbon, but that obviously was not considered enough. In fact, ministers were out and about all around the countryside spruiking. Any media conference that Minister Combet calls is usually very well attended, so it is not as if he was talking to walls. Why did the media not cotton onto the great news of the carbon tax and sell it to the Australian people?

The Gillard government, which normally prides itself on its ability to spin a good story, used the excuse it had limited time to convince the Australian people of the benefits of the carbon tax—limited time on a policy initiative that was in committee for months to decide on. It ran a tender process for a $2.7 million contract for 36 hours and then wanted quotes updated in just 90 minutes. We wonder whether Minister Combet consulted with the Minister for Broadband, Communications and the Digital Economy, Senator Conroy, on the tender process. Glossy brochures and ads do not make good policy and there was a fraction too much fiction for the Auditor-General, Ian McPhee, who raised concerns in his report about key claims of the campaign that he was not able to find. I quote:

"... a clear line of sight between 52 statements presented as fact in the campaign and the sources cited in the matrix to support those statements. One instance may be considered careless, two reckless, but 52 indicates an endemic level of incompetence that washes through everything this government touches."

Senator Wong decided to bring WorkChoices into her answer, but there are so many instances of where this toxic tax will cause distress to Australian workers, including regional workers. In fact, it will be the regions that are affected the most.

Today in my home state of Victoria there are reports that Alcoa is to review the future of its Port Henry aluminium smelter at Geelong. The Prime Minister may think it is disgusting for Mr Abbott to scaremonger about jobs, but it was the Managing Director of Alcoa, Alan Cransberg, who confirmed that the carbon tax would increase pressure on his company. He is quoted on page 1 of the Australian as saying:

"Post July 1 we have obviously got another challenge to overcome and we're very keen on doing that."

The government may say the high dollar and low metal prices are affecting the company's decision processes, but as Victoria's largest consumer of electricity the Alcoa smelter is obviously going to be under increasing pressure come 1 July and is going to be looking at 600 jobs—that is, 600 regional Australians who will be affected by this government.

The first point of a good financial manager is that you have to comply with financial regulations and the ANAO report found seven breaches of the government's own Financial Management Act. The second point is that you ensure you get bang for your buck. Being strategic and prudent about the spend, using accurate data, is something this government needs to start doing. (Time expired)

Senator THISTLETHWAITE (New South Wales) (15:28): When Labor came to office in 2007 we promised the Australian people that we would restore confidence to government advertising in this country. We
pledged that government campaigns would be properly and independently reviewed, properly targeted, nonpolitical with the intention of informing the community about government policies and programs. We have delivered on that commitment. The proof is in the administration of government advertising arrangements audit process. It proves that we have delivered on this commitment. But the question must be asked: why did Labor have to pledge this to the Australian people in the lead-up to the 2007 election? Why was this reform of government advertising and oversight required here in Australia? The answer is quite simple: because the Australian public had lost confidence in government advertising during the years of the Howard government. For proof of that we need look no further than the government advertising associated with the goods and services tax campaign and, particularly, the Howard government's shonky advertising associated with WorkChoices, a $55 million waste of taxpayers' money. It was blatantly party political advertising used to soften up the public regarding the harshest elements of the total realisation of WorkChoices.

Not only was this advertising associated with WorkChoices blatantly party political; it was also wrong. Some of the information contained in those ads was completely wrong. There is no greater example of that than the fact that the ads associated with Australian workplace agreements claimed that workers could move onto Australian workplace agreements where they received 'fair' compensation from their employer. Having dealt with a number of Australian workplace agreements I can tell you, Mr Deputy President, that the compensation was not fair at all. In fact, in many respects there was no compensation for forcing young workers in particular onto agreements that stripped away weekend penalty rates, shift allowances and other important leave entitlements. But those ads also claimed that if people had questions about moving onto Australian workplace agreements they could seek advice from an organisation called the 'workplace authority'. Everyone scratched their head and thought: what on earth is the workplace authority? Then it was discovered that there was no workplace authority at all and that the closest thing may have been the Office of the Employment Advocate.

But the greatest example of the Howard government’s failure with respect to the Work Choices advertising campaign came in early August 2007, when the Howard government was actually forced to withdraw their own government advertising. Why? Because an actor who was playing a 'concerned father', concerned in this ad about the fact that his two sons might be forced onto Australian workplace agreements that cut conditions, had been accused by two young workers who had worked for him in his painting business of ripping them off. Life writ large in a Howard government ad! It said everything about Work Choices. Is there any wonder why that particular ad was withdrawn?

The government welcomes the ANAO report on its Clean Energy Future package. The report was tabled in parliament and it suggests that the government's transparency and accountability framework for campaign advertising is operating well. Again, we made the promise and we have delivered on that promise. The report finds:

Additional Treasury evidence supported the statement that more than 9 in 10 households (92 per cent) were estimated to receive some combination of assistance, lending support to the statement in the household mail-out.

That is, lending support to the statement that this household mail-out was true. The report also says:
The campaign did not contain any overt promotion of party political interests, party slogans or bias …

It is an independent report verifying that the government system of advertising is working. (Time expired)

Senator IAN MACDONALD (Queensland) (15:33): Senator Singh's contribution to this debate was typical of the deceitful and dishonest approach by the Australian Labor Party to most things these days. Senator Singh claimed that this report of the ANAO criticised Mr Abbott. I challenge her, by way of interjection, to identify for me in the ANAO report where that had occurred. She could not do it because it did not happen, and it is typical of the deceit and dishonesty of the ALP to continue to verbal the Auditor-General on that particular aspect. Indeed, the Auditor-General's report clearly shows that the Labor Party has been caught at it again.

I will give some advice to the Labor Party. You can spend as much money as you like—it will never be your own, of course; it will be the taxpayers' money, because one thing the Labor Party is good at is spending someone else's money. But let me give you this advice: it does not matter how much money you throw at spin and deceit, it does not work on the Australian people. The Australian people are not mugs, in spite of what the Labor Party think of them. They know that this carbon tax is an absolute crock. Most Australians know, without a very expensive advertising campaign, that the climate of the world is changing and most of them understand that it has been changing for eons—for millions and millions of years. As I have always said, of course the climate is changing, and all Australians know that it has. But is it the fault of humans that this is happening? That, to me, is a question on which leading scientists everywhere have different views.

On that point I just might mention that Mr Bill Kininmonth, who was a director of climate change in the Australian Bureau of Meteorology and is a very distinguished Australian and a very distinguished person in the meteorological and climate area, is a recent signatory along with a dozen other very senior scientists in challenging the view on the human impact on climate change. I will ask Senator Wong at estimates which of those scientists she considers are the flat-earthers, as she so rudely and inaccurately called them at an estimates committee hearing a few years ago. I would like her to repeat to Mr Kininmonth and to some of his colleagues from the Australian Bureau of Meteorology her claim that he is a flat-earther. Mr Kininmonth is a far better scientist than Senator Wong will ever be a politician or a minister.

The Australian public know that this is a crock. They know that you cannot fix the troubles of the world by dealing with Australia's less than 1.4 per cent of emissions when nobody else in the world is doing anything serious about it. We have seen in the last couple of days reports in the papers that Chinese and American airlines are saying to the Europeans: 'We're not paying your carbon tax, because it is all rubbish.' But the Australian airlines have to pay it. How can they remain competitive? You have to look no further than to the aluminium industry difficulties that are happening now. How can Australian manufacturing compete with Chinese, American or, indeed, European manufacturing when Australian manufacturing is taxed enormously whereas these countries have no, in the case of the United States and China, or very low, in the case of Europe, carbon taxes.

That is why the Auditor-General was correct when he said that, whatever was spent, this advertising was completely ineffective. You cannot sell to the Australian
people, people who are cleverer than the ALP gives them credit for, a proposition that they know is inherently wrong. There is nothing that the majority of Australians will accept out of the Labor Party's use of their money to try and brainwash them into a huge tax that is so typical of Labor. I commend the ANAO report and urge the government to do something about it. (Time expired)

Question agreed to.

MINISTERIAL STATEMENTS

Live Animal Exports

Defence Security Authority Vetting

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:39): I present two ministerial statements relating to:

- live animal exports, and
- Defence Security Authority vetting.

Senator JOHNSTON (Western Australia) (15:39): by leave—I move:

That the Senate take note of the Defence Security Authority vetting report.

This is a very, very important report. It is a report by the Inspector-General of Intelligence and Security commissioned by the Prime Minister. In March 2010, whistleblowers wrote to three government ministers through their local Labor member, the former member for Forde in Queensland. They set out a pattern of conduct in the granting and administration of security vetting that involved a number of things, including bullying and harassment. They also raised the issue of corrupted vetting practices.

Defence's response and the response of the members of parliament was to simply ignore them. But worse still the Defence report went on to treat them as if they were cranks in a most arrogant and offhand way. It was not until the Lateline program in May 2011 raised these issues that the whistleblowers were taken seriously and the Defence administrators and, indeed, those people higher up the chain were brought to any form of account to set out what had been going on. We now know that more than 20,000 security vettings have been compromised—that is, people who work in the Prime Minister's office, people who work with the Minister for Defence, people who guard bases. And let us not forget what happened with respect to the terrorism plot over Holsworthy. These compromised vettings include people who guard embassies, embassies that can be troubled in terms of their current and previous political histories. Defence Minister Smith says that he only heard about this in May 2011. I want him to clearly state that he did not have on his desk in any other shape or form any knowledge of this matter until that time. If he did, he is complicit in what is a shocking scandal of maladministration in a very important area that the public needs to have some confidence in as it goes to the government's credibility.

The Secretary of Defence, when this was raised with him in estimates, slapped it down, flicked it away and said that he was totally oblivious to the significance of the issue. He said on the record that a flaw in the data input did not necessarily lead to a flaw in the security clearance. We now know that the flaws in the clearances from Defence went all the way into the ASIO system. This department's maladministration not only corrupted its own processes but also, through the electronic transfer, corrupted the ASIO understanding and capacity to review who is who out there doing sensitive and important security based jobs. There are 5,000 top-secret security clearances that have been compromised. The simple question that we all must ask is: who is accountable? Who is responsible? There is nobody that this
government has pointed to as being responsible. It is always a review, adverse findings and 'we'll fix it now'. Nobody is accountable. This is an absolute disgrace.

These whistleblowers were treated with contempt. They have now received the Inspector-General's report. The first line of that report is that there should be an acknowledgement that what the whistleblowers said from day one was true and correct. We owe them a debt of gratitude. The parliament owes these three brave people a great debt of gratitude for coming forward in the circumstances. They were derided and treated as cranks. Indeed, when I first raised this issue in estimates I was told in no uncertain terms there were no workarounds; there were no compromised security vets. We now know that what I was told in estimates was completely and utterly wrong. If ever you want to see the smoking gun of a group of officials with no idea what had been going on, have a look at the questions and answers on this matter in the Senate estimates of last May. The evidence has been overwhelming that there has been endemic, entrenched maladministration.

But the point that I want to finish on is the inspector-general's report. It is damning, it is a scandal, it is a disgrace—but nobody is accountable. Not only have these three good citizens been treated appallingly but also nobody has been brought to account. This is the way this government bumbles and bumbles and incompetently manages very important and sensitive security matters in this country. It is an absolute art form in incompetence. Of course, the minister says, 'Oh no, I know I did not know anything about it,' yet three of his colleagues were told 12 months before. I was told at Senate estimates, 'Oh no, Senator, you've got that wrong.'

The Prime Minister was asked to commission this report because these three might have been in breach of the law disclosing what they disclosed. The inspector-general has the power of a royal commissioner. The Prime Minister had to convene this review and, as I say, it is damning. The Black report that we have had in Defence recently says there is a crisis in accountability in the Department of Defence. I must say I think it is going to improve with the new secretary and the CDF. But somebody, surely, must be accountable for this. This has cost a lot of money. People have been ignored in circumstances where alarm bells seriously should have gone off. This report makes fascinating reading as to a level of incompetence that is Olympic gold medal class.

I seriously cannot believe that this is not front-page news on most newspapers. There are 5,000 top secret security vets that have been compromised. Several thousand of them have been worked through, but we are two or three or four years away from resolving what has gone on here. It beggars belief, and the minister was on television last night saying, 'Look, people have made mistakes and we all bat on.' It is just appalling and it fits wholly and solely into the track record and the performance standards of this government. It is just a disgrace.

Question agreed to.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (15:48): by leave—I move:

That the Senate take note of the ministerial statement on live animal exports.

I remember 8 June quite vividly. It was one of those moments that had a significant effect not only on the Territory but also on the cattle industry and on regional and rural Australia. We will always remember where we were when we heard the message from the Prime Minister that the live cattle trade to Indonesia was being ceased. The only person
I saw nodding their head in support was the Chief Minister of the Northern Territory, Paul Henderson, as he stood next to the Prime Minister.

We have moved on since then and we should have learnt a lot from that since it was not only the cessation of the trade but also the cessation of business in Indonesia. I was in Indonesia a very short time later. It was very distressing to walk around the markets and speak to the people who did business with Australia. They were very charitable and kind to me personally, but they were really quite miffed and they were looking for some explanation about what they had done to so offend us. They thought that perhaps there was something they did not understand about our culture that made us respond in this way and, out of the blue, put our foot on the throat of a vital supply of food to the people of Indonesia.

It has impacted on not only the relationships we have with business and with the people of Indonesia but also, most importantly, the relationship we have with the government of Indonesia. The government of Indonesia have responded in a number of ways, and I think they have responded quite correctly, as would any nation that suddenly had their food security threatened. It does not matter what you think about live cattle or what you think about animal welfare. The simple issue, from the perspective of the Indonesian government, is that they had so many people relying on a source of protein that had for many years been a constant supply. The trade had built up over time and Indonesia and Indonesians relied on it seasonally for protein. They also relied on it for jobs and for part of their economy, but it was absolutely essential and they could rely on it. The relationship with Indonesia now is such that they can no longer rely on it and they have responded. They have said, 'We now need to be independent.' You cannot blame them. They have to feed their people. They need to be completely independent of others, particularly the unreliable source that Australia sadly has become. We have gone from being a completely reliable country to a sovereign risk as far as Indonesia is concerned.

You wonder whether we have really learnt anything from that. The government has been through a bit of a hard trot. Every now and again you do get a bit of a slapping in this game and you get it completely and utterly wrong. We have already discussed in this place just how badly the government got it wrong and the impacts on animal production in Australia and the impacts on our relationship with Indonesia.

The government then moved with all its wisdom to ensure that some of the animal welfare concerns extended to the Middle East. Of course, they are the sorts of things we should be doing. I accept the argument that this is not only about protecting animals but about protecting our industry, but you would have thought the government would have understood and learnt something from that. So, when we announced the supply chain assurance processes to go to the Middle East, one would have thought you would have ensured you did the only thing we did not do the first time around with the cattle debacle. The worst thing in Indonesia was that they were the last people to know. Nobody picked the phone up and rang Indonesia. So, in Minister Ludwig's office or in the Prime Minister's office, perhaps this is time for a 'note to self' on the fridge: 'Next time you are going to do something ugly with someone's trade, you should probably give them a ring.' It is pretty ABC stuff. But, sadly, that does not seem to have been the case.

When we were introducing the new supply chain assurance scheme, they did not
really talk to people in the Middle East about it. So they now have to suddenly do a bit of an emergency trade mission over there to ensure that people have some understanding. The DAFF Middle East importers document actually says that there is no requirement for governments to undertake any action to implement the new arrangement. I mean, talk about offensive! It is a complete fallacy that, in the absence of government-to-government communications, you can implement a comprehensive and complex supply chain assurance scheme. It is difficult enough dealing with it in our own country, let alone over in the Middle East. It is simply lunacy to imagine that a supply chain assurance scheme can be effectively rolled out without the assistance of government. This level of misunderstanding almost beggars belief.

I know that the Greens are very keen, as I am, on ensuring that we successfully roll out mechanisms to ensure that people can eat Australian animal protein in a manner that is consistent with Australian standards and the way we wish those animals to be treated. But we are never going to get there unless we have a decent relationship with the countries we trade with. What we generally call 'the Middle East' is dozens of countries with vastly different cultures and vastly different circumstances in terms of infrastructure. This infrastructure is, most of the time, essential to the principles of animal handling. We need animal yards, but some people do not even have them. There are very different circumstances.

But, in the rolling out of this, there has been an assumption that you can put one rigid system into place, almost overnight, and somehow it is going to be implemented by a whole range of different countries. What this sounds like to me is that we are setting industry up to fail. With all our knowledge of the appalling stuff we made of the live cattle trade and the absolutely appalling impact it had on the men and women whose lives and futures depend on the live cattle trade in Indonesia, even after that outrageous mistake this government made, how can they possibly stand in front of the Australian people and say that they are in any sense competent when, immediately after that, when they have to do the same thing again, the first thing they do is say: 'We don't really need to talk to the government we trade with; we're just going to make this a dictate and off we go.'

We know that the implementation of a through-chain supply assurance system is a very complex and difficult thing to do. But what this government has done is decide that there will be an arbitrary date at the end of the system. And the system does not end because it is finished; it does not end because the infrastructure is there; it does not end because we have completed the supply chain assurance. It ends simply because this government has been stupid enough to put an arbitrary date on it. They say, 'Here is the arbitrary date and, if you don't meet that date, it's all over.' I am not necessarily saying it should be endless. But given the complexity of the systems and the complexity of the cultures, given the disrespect from this government about their approach to the implementation of a series of standards from Australia into another country, given the lessons that should have been learnt through the appalling mistakes of the destruction of the live cattle trade from Northern Australia into Indonesia, one would have thought it would now be a case of 'forewarned is forearmed'.

But it is not so. Again, not only have we damaged our relationship with the government of Indonesia and the business people of Indonesia—that is the legacy—but we have moved to ensuring that the smarts of Senator Ludwig's department will be to say: 'We've done it to that country. We haven't
even fixed it yet. We're going to move on and destroy trade in another country by setting arbitrary limits.' They do not recognise the differences in culture and they do not engage with the other government about ensuring it understands and assists with the implementation of what is probably one of the most complex assurance systems you can design. This is setting the industry up for complete failure. (Time expired)

Senator RHIANNON (New South Wales) (15:58): I rise to speak to the ministerial statement on the live export trade. It is a brief statement and lacks the detail that I think the issue warrants, but it certainly has some informative issues that compound the concerns that so many Australians have with regard to how Australia is managing this issue. The delegation that the minister accompanied to the Middle East was actually made up of Australian industry representatives and exporters to these markets. When you consider that, in the second paragraph of the statement, the minister talks about the issue of international standards to ensure animals are being treated in line with animal welfare requirements, it is of concern that he took no people from the animal rights sector to the Middle East but just went with industry representatives. That speaks volumes, I think, about the mismanagement this government brings to this issue.

I also note that they did not take any union representatives. The Australian Meat Industry Employees Union have done a great deal of work in this, and I raise that because in the first paragraph of the minister's statement he talked about jobs, hardworking families and the importance of rural and regional communities. But, again, what we are seeing here is a failure to look at the benefits that can come from having more processing of the meat in Australia.

What is also worth looking at is what this delegation actually did on their visit. I understand they visited feedlots and abattoirs, but it does not say that the delegation actually saw the animals being slaughtered. So you have to ask the question: if this is about lifting the standards of how animal welfare issues are managed in Australia's export trade, how do you make a judgment on the level of cruelty if you do not see how the animals are slaughtered? So again we see a major flaw in the minister's statement, as well as in how the delegation's visit was conducted.

Overall, what this ministerial statement does is once again underline that the government has missed the opportunity to end the live export trade. This is how we could have dealt, in a responsible way, with the issue of the cruelty these animals suffer and also with boosting jobs, particularly in regional areas. We know that so many animals die when they are exported. They undergo extreme suffering, both in the transport to these countries and in the actual process of slaughter.

I think all members in this place, while we may have our disagreements, are aware of the huge public distress when the ABC screened the Four Corners program about the overseas live export trade. I continue to get hundreds of emails about this issue, and interestingly just after midnight on New Year's Day I got a number of emails saying, 'Please in 2012 make banning live exports a key issue for the parliament where you work.'

The Greens' response to this ministerial statement is that, in terms of the response from the government, in essence, all we got was the Export Supply Chain Assurance System. This is no way to implement safeguards that can guarantee the humane transport and slaughter of animals in overseas markets. However, as the ESCA is the best that we have got, the Greens will
I certainly track the system very closely and we will be working to ensure that the meagre set of regulations that the government is putting in place are absolutely thoroughly followed.

I would like to move on to the other issue that I raised, the economics of the live export trade. This is where there has been a great deal of misinformation, and once again we see that the government has not been facing up to how this issue plays out, particularly for regional communities. At the end of the day, in so many communities, particularly in Northern Australia, they have seen their abattoirs shut and hundreds of jobs have been lost in so many local centres.

For a government that makes out that it is a government of jobs, that it is a party about jobs for ordinary people, this is where they have failed enormously. Much of the politics around the live export industry relies on arguments that come from reports that are very loaded and, I would argue, quite misleading. In 2006, Hassall & Associates released *The live export industry: value, outlook and contribution to the economy*. This was commissioned by the meat and livestock association and LiveCorp and was released in July 2006. When you look at the modelling that the Hassall report has relied on, it is questionable as to where they have extrapolated their figures from.

The modelling in the Hassall report has an average salary of more than $76,000 per employee for people in this industry, whereas the ABS national input-output table for 2006-07 has $60,000 per full-time equivalent employee overall, and considerably less for the agricultural sector. Those figures are significant because when they are extrapolated we end up with a very inflated economic benefit from this industry that really does now need to be questioned.

Again, I urge members to look at some of the work that the AMIEU has undertaken.

_Senator Williams interjecting—_

**Senator RHIANNON:** I note that interjection at that point. It is a union that is working hard for its members and for regional Australia to create more jobs in an area where the government is failing enormously.

Studies conducted on behalf of the live export industry have as their foundation of premise that the live export trade operates in a different market or a different segment of the market to the meat processing industry. This whole narrative has been developed around the industry as a way to try and separate out this whole problem that regional Australia is faced with—that they have been losing out as the export industry has grown over the past decade. That whole premise is what we want to challenge.

Many of the predictions on stock price implications lack transparency and have questionable assumptions that are used to justify them. I believe that they have been created because those in the live export trade, who are obviously promoting this industry, would know that if the comparison were made with processing meat in this country then the so-called economic benefits of the live export trade would not stack up. So we have many fallacies here. Again I acknowledge that on this delegation it probably was not the key priority of the minister and he has presented it very much in terms of the animal welfare concerns. However, on that issue would I argue he failed because nobody from the animal welfare sector accompanied him on that delegation, and when it comes to the issue of jobs the fudge that has become part of how the Labor government handles this continues.

**Senator IAN MACDONALD** (Queensland) (16:07): All in Australia want to ensure that in our live cattle export
industry we put the wellbeing of animals to the forefront. We also want to make sure that Australia continues to provide employment in those areas in Australia that rely on the live cattle export. This attitude of the industry and, I think, all Australians is well exemplified in the passage quoted in the minister's ministerial statement from Mr Andrew Ogilvie, the President of the Cattle Council of Australia, when he said:

The CCA stands committed to working with Government and industry in assuring the welfare of Australian livestock, while maintaining a sustainable live export industry.

He said the export supply chain assurance system would assist in that.

It is an essential industry. It is very important to Northern Australia and to North Queensland, which I represent in this parliament and look after on behalf of the federal opposition. It is perhaps the biggest non-mining industry in the north, and that is why the north was so devastated by the stupidity of Senator Ludwig in succumbing to an issue brought by a very vocal minority group. I do not attribute any mischief to them; they believe what they say, and I accept that. I do not think they follow the whole issue. Unfortunately, a government that relies on a hotchpotch of Independents to keep it in power reacts badly to these day-long crises.

Senator Ludwig was completely incapable of dealing with the matter. He made the right decision, I might say, after seeing the Four Corners report: he put a temporary ban on. He was then pressured by the left of his party, the Greens and the animal welfare people, to make it a permanent ban and, in doing so, destroyed the livelihoods of many Australians, particularly those in Northern Australia.

There is not a lot of time, and I want to share the balance of the available time with my colleague from Western Australia Senator Eggleston, who also represents many of those working families in the Kimberley and the north of Western Australia who were devastated by the actions of the Gillard government. But I want to point out a couple of other issues in the limited time available to me. This statement is interesting. If you have a look at it, you see it is a statement by the 'Minister Assisting on Queensland Floods Recovery, Senator the Hon. Joe Ludwig', and nothing else. Perhaps I am the first one to break that Senator Ludwig has lost his portfolio of Agriculture, Fisheries and Forestry. One would have thought that, if he were still that minister—and who knows what happens in the Gillard government, where ministers and leaders change by the hour—a statement on live cattle export would be issued by the minister for agriculture, fisheries and forestry. I wonder what the Minister Assisting on Queensland Floods Recovery has to do with the live cattle export from, effectively, Northern Australia. That in itself is interesting.

I appreciate that the Queensland Premier, in the throes of an election campaign, always thinks she gets value from being involved in natural calamities like floods and cyclones. I notice our Queensland Premier is out doing what she did a year ago: fronting the TVs and sort of acting as an emergency services director, seeking to again this year, as she did last year, attract votes because she is an on-the-spot Premier. I might say to Premier Bligh: I think that, if Queenslanders admired you last year, you have woken up to how a lot of your actions are more directed to vote winning and getting in the way of the emergency services personnel, who really have better things to do than look after the Queensland Premier involving herself in what are really professional emergency services matters.

I am pleased to see that at least the Minister Assisting on Queensland Floods Recovery has issued a media release on this,
but I do question his competence in dealing with anything related to the live cattle export when we compare it with the fiasco that resulted from his last involvement in this area.

Senator EGGLESTON (Western Australia) (16:12): Like Senator Macdonald, I am somewhat intrigued by the title that Senator Ludwig now has as the Minister Assisting on Queensland Floods Recovery. I must say: if he is no longer the minister for agriculture, few tears will be shed in the Kimberley and Pilbara areas of Western Australia, where the consequences of the abrupt termination of the live cattle export trade to Indonesia had catastrophic economic effects and caused enormous hardship. It was not only in the Kimberley and Pilbara; it also did a lot of damage to our relationship with Indonesia because of the lack of consultation.

I gather Senator Ludwig has been on a trip, this time to the Middle East, to discuss live cattle exports there. The trade to the Middle East is worth $200 million per annum. There has been a deadline set for export accreditation by 29 February. If this is not met, the trade will grind to a halt. Surely, I ask the Senate, we could not be facing a repetition of the Indonesia fiasco when the trade was abruptly terminated. But there are four problems that I see in Senator Ludwig's supply chain assurance statement.

Firstly there is the absence of government-to-government discussions, which was a key failure in the government's dealings with Indonesia. Secondly, there is a very short time frame before this agreement is supposed to be in place. It is supposed to be in place by 29 February. It is very difficult to see that, given the complexities of dealing with people in the Middle East, that time frame will be met, so this live cattle export trade to the Middle East must also be in some jeopardy. Thirdly, the market systems are unregulated in the Middle East and the operators there are unlikely, I think, to agree to some of the Australian regulator's demands, such as the tabling of contract details and so on. They are more likely to just pull out of the trade and that will mean a loss of our market share.

As I said, the minister has set an arbitrary implementation date of 29 February—a bit imperious when dealing with people in the Middle East. Arabs, like the Indonesians, like to take time in making their business decisions. So we are left in a situation where we must wait and see what happens. I hope that we are not going to see a repetition of the disastrous consequences which followed the decision to cease the live cattle trade to Indonesia—consequences which in the Pilbara and the Kimberley in particular were very severe indeed. As I said earlier, the minister's decision, without consultation with the Indonesian government, did immense damage to our relationship with Indonesia, and that will take a very long time to repair.

Question agreed to.

COMMITTEES

Selection of Bills Committee

Report

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (16:16): On behalf of the Chair of the Selection of Bills Committee, I present the first report of 2012 for the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted,

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 1 of 2012

9 February 2012
1. The committee met in private session on Thursday, 9 February 2012 at 11.23 am.

2. The committee resolved to recommend—That—
   (a) the Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 27 February 2012 (see appendix 1 for a statement of reasons for referral);
   (b) the Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 22 March 2012 (see appendix 2 for a statement of reasons for referral);
   (c) the provisions of the Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 19 March 2012 (see appendix 3 for a statement of reasons for referral); and
   (d) the Telecommunications Amendment (Mobile Phone Towers) Bill 2011 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 9 May 2012 (see appendix 4 for a statement of reasons for referral).

3. The committee resolved to recommend—That the following bills not be referred to committees:
   • Australian Broadcasting Corporation Amendment (International Broadcasting Services) Bill 2011
   • Environment Protection and Biodiversity Conservation Amendment (Monitoring of Whaling) Bill 2012
   • National Health Amendment (Fifth Community Pharmacy Agreement Initiatives) Bill 2011
   • Public Accounts and Audit Committee Amendment (Ombudsman) Bill 2011.

4. The committee deferred consideration of the following bill to its next meeting:
   • Protecting Children from Junk Food Advertising (Broadcasting and Telecommunications Amendment) Bill 2011.

(Anne McEwen)
Chair
9 February 2012

Appendix 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012
Reasons for referral/principal issues for consideration:
To enable appropriate consideration of the Bill.
Possible submissions or evidence from:
Committee to which bill is to be referred:
Finance and Public Administration Legislation Committee
Possible hearing date(s):
Possible reporting date:
27 February 2012
(signed)
Senator McEwen
Whip / Selection of Bills Committee member

Appendix 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012
Reasons for referral/principal issues for consideration:
To investigate the merits of reforming this area of law, particularly in terms of analysing the practical policy outcomes of the current sentencing regime, human rights and natural
justice concerns and impact on the wider court system across Australia.

Possible submissions or evidence from:
- Human Rights Legal Centre
- Legal Aid Commissions across states and territories
- Mark Plunkett
- CDPP
- Law Council of Australia
- Rule of Law Institute of Australia
- Australia Lawyers Alliance
- Attorney-Generals Dept
- Centre for Policy Development
- DIAC
- Judicial Conference of Australia
- National Judicial College of Australia
- Judicial Colleges of states and territories
- Indonesian Consulate in Australia

Committee to which bill is to be referred:
- Legal and Constitutional Affairs Legislation Committee

Possible hearing date(s):
16 March 2012

Possible reporting date:
As determined by committee

Possible reporting date:
As determined by committee

Senator Siewert
Whip/ Selection of Bills Committee member

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**Appendix 3**

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012

Reasons for referral/principal issues for consideration:
Consideration of changes to income support payments.

Possible submissions or evidence from:
Committee to which bill is to be referred:

Senate Community Affairs Committee

Possible hearing date(s):
As determined by committee

Possible reporting date:
As determined by committee

Senator Fifield
Whip/ Selection of Bills Committee member

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**Appendix 4**

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of bill:
Telecommunications Amendment (Mobile Phone Towers) Bill 2011

Reasons for referral/principal issues for consideration:
To allow opportunity for detailed consideration of the Bill and to allow the Committee to hear from stakeholders and consider the practical implications of the Bill.

Possible submissions or evidence from:
The parties interested in this Bill will be similar to those providing submissions to the "Inquiry into the Telecommunications Amendment (Enhancing Community Consultation) Bill 2011, a Bill introduced into the House of Representatives by Mr Andrew Wilkie. A list of submitters can be found at http: / / www.aph.gov.au / house / committee/is/Telecommunications/ subs.htm

Committee to which bill is to be referred:
Environment and Communications Legislation Committee

Possible hearing date(s):
Not specified

Possible reporting date:
March / May 2012

Senator McEwen
Whip / Selection of Bills Committee member
Senator CAROL BROWN: I move:
That the report be adopted.
Question agreed to.

BUDGET

Proposed Additional Expenditure

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (16:17): I table particulars of proposed additional expenditure and seek leave to move a motion to refer the documents to legislative and general purpose standing committees.

Leave granted.

Senator CARR: I move:
That:
(a) the documents, together with the final budget outcome 2010-11 and the Issues from the advances under the annual Appropriation Acts for 2010-11, be referred to committees for examination and report; and
(b) consideration of the Issues from the advances under the annual Appropriation Acts in committee of the whole be made an order of the day for the day on which committees report on their examination of the additional estimates.

Question agreed to.

Portfolio Additional Estimates Statements

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (16:18): I table the portfolio additional estimates statements 2011-12 in accordance with the list circulated in the chamber.

The list read as follows—
Agriculture, Fisheries and Forestry portfolio
Attorney-General's portfolio
Broadband, Communications and the Digital Economy portfolio
Climate Change and Energy Efficiency portfolio
Defence portfolio (Department of Veterans' Affairs)
Education, Employment and Workplace Relations portfolio
Families, Housing, Community Services and Indigenous Affairs portfolio
Finance and Deregulation portfolio
Foreign Affairs and Trade portfolio
Health and Ageing portfolio
Human Services portfolio
Immigration and Citizenship portfolio
Infrastructure and Transport portfolio
Industry, Innovation, Science and Research portfolio
Prime Minister and Cabinet portfolio
Regional Australia, Local Government, Arts and Sport portfolio
Resources, Energy and Tourism portfolio
Sustainability, Environment, Water, Population and Communities portfolio
Treasury portfolio.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Moore) (16:18): I have received letters from a party leader requesting changes in the membership of committees.

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (16:18): by leave—I move:
That senators be discharged from and appointed to committees as follows:
Economics Legislation Committee—
Appointed—Substitute members:
Senator McEwen to replace Senator Urquhart from 9 am to 3 pm; and Senator Sherry to replace Senator Urquhart from 3 pm, for the consideration of the 2011-12 additional estimates on 15 February 2012.
Senator Sherry to replace Senator Urquhart for the consideration of the 2011-12 additional estimates on 16 February 2012

Senator McEwen to replace Senator Urquhart for the consideration of the 2011-12 additional estimates on 17 February 2012

Finance and Public Administration Legislation and References Committees—

Discharged—Senator Edwards

Appointed—

Senator Sinodinos

 Participating member: Senator Edwards

Legal and Constitutional Affairs Legislation Committee—

Appointed—

Substitute member: Senator Hanson-Young to replace Senator Wright for the committee’s inquiry into the Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012

 Participating member: Senator Wright

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Substitute member: Senator McEwen to replace Senator Urquhart for the consideration of the 2011-12 additional estimates on 13 February and 14 February 2012.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee

Australian Commission for Law Enforcement Integrity Committee

Foreign Affairs, Defence and Trade Joint Committee

Treaties Committee

Government Response to Report

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (16:18): I present six government responses to committee reports. In accordance with the usual practice, I seek leave to have the documents incorporated in Hansard.

Leave granted.

The reports read as follows—

SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

INQUIRY INTO DEFENCE’S REQUEST FOR TENDER FOR AVIATION CONTRACTS

GOVERNMENT RESPONSE

November 2011

RESPONSES TO RECOMMENDATIONS

Recommendation 1 paragraph 9.28

The committee recommends that Defence:

• requires the documentation of a dedicated probity plan for all future procurements of air sustainment services to the MEAO;

Response – Agreed.

A probity plan specific to future procurements of air sustainment services to the MEAO has been developed and is attached. A specific instruction will be issued to mandate the development of a probity plan based on this template for all future procurements of air sustainment services to the MEAO. The template probity plan can also be tailored for other procurements undertaken by HQJOC, as required.

More generally, the necessary Defence procurement policy and operational guidance framework for the creation of a probity plan already exists (see Defence Procurement Policy Manual, 1 July 2011 edition (DPPM) at Chapter 5.4 Request Documentation, paragraphs 62, 63 and 65).

• ensures probity plans for all future procurements of air sustainment services to the MEAO identify expressly and address the risks associated with:

  (i) proponent grievances and

  (ii) the small and highly competitive nature of the commercial air charter market;

Response – Agreed

The attached probity plan specifically addresses the two risks listed above.

• implements its proposed policy of appointing probity advisors to all complex and strategic procurements and monitors closely the
implementation progress and impact of this policy – in particular, ensures that a probity advisor is appointed to all future procurements of air sustainment services to the MEAO; and

Response – Agreed in principle

Probity advisers will be appointed where it is consistent with the existing Defence procurement policy and operational guidance. The DPPM, Chapter 3.13, paragraphs 14 to 29, provide for the appointment of probity advisers based upon the Department of Finance and Deregulation (Finance) policy that ‘the decision on whether to engage an external probity specialist should weigh the benefits of receiving advice independent of the process against the additional cost involved and include consideration of whether or not skills exist within the agency to fulfil the role’.

Based on past experience it is reasonable to assume that the future procurement of air sustainment services to the MEAO would meet the Finance policy requiring the appointment of a probity adviser, and the template Probity Plan referred to above is drafted on this basis.

- amends chapter 3.2 of the Defence Procurement Policy Manual on risk management in procurement to include references to probity risks. In particular, Defence should consider cross-referencing chapter 3.13 on ethics and probity in procurement.

Response - Agreed.

In the planned 1 December 2011 update of the DPPM, Defence will update Chapter 3.2 to expand the references to probity risk, and cross reference this chapter with Chapter 3.13 on ethics and probity in procurement. In addition, Defence will also release an updated chapter 3.13 as part of the planned 1 December 2011 update.

Recommendation 2 paragraph 10.9

The committee recommends that Defence reviews all Defence Instructions and related documents in respect of Reservists, full or part time, to ensure that real and potential conflicts of interest that might arise as a result of past, current or post separation employment are identified, reported and managed appropriately. In particular:

(a) Defence considers whether Defence Instructions DI(G) PERS 25-2 (Employment and voluntary activities of ADF members in off-duty hours) and DI(G) PERS 25-3 (Disclosure of interests of members of the ADF) should be extended to Reservists who are not engaged in continuous full-time service; or

(b) if there is no intention to extend the application of DI(G) PERS 25-2 and DI(G) PERS 25-3 to Reservists who are not engaged in continuous full-time service, Defence develops specific policies covering the civilian employment of, and the disclosure of conflicts of interests by, those personnel.

Response – Agreed.

Defence has incorporated DI(G) PER 25-3 into a revised version of DI(G) PERS 25-6 (Conflict of Interest and Declaration of Interest) which came into effect on 29 March 2011. The revised DI(G) PERS 25-6 applies to a “Defence Member” as defined in section 3 of the Defence Act. This definition of “Defence Member” includes Permanent members of the Navy, Army and Air Force, and members of the Reserves who (a) are rendering continuous full-time service or (b) are on duty in uniform.

DI(G) PERS 25-2 is currently under review and will be revised to include the definition of ‘Defence Member’ to align with the definition in DI(G) PERS 25-6.

As Defence has agreed to Recommendation 2(a) there is no requirement to develop the specific policies requested in Recommendation 2(b).

Recommendation 3 paragraph 10.21

The committee recommends that, prior to the re-tendering of any future contracts for the provision of air sustainment services to the MEAO, Defence ensures that:

(a) all Reserve personnel involved in the procurement complete a conflict of interest declaration; and

Response – Agreed.

This recommendation accords with usual Defence procurement practice as set out in the DPPM, Chapter 3.13. In addition, the attached
Probity Plan contains a specific requirement in this regard.

(b) commanding officers or supervisors in JMOVGP:

(i) make a risk-based assessment as to which other Reserve personnel must complete a conflict of interest declaration and which personnel do not;

(ii) in making a risk-based assessment, give consideration to identifying and obtaining conflict of interest declarations from Reservists who have associations with the commercial air charter industry. Such associations may include:

- present or previous civilian employment with air transport providers;
- financial interests in these companies or related companies; or
- professional or social relationships with members or employees of these companies; and

(iii) document their decisions whether or not to require these Reservists to complete a conflict of interest declaration.

Response – Agreed in principle.

Standard Defence probity arrangements provide that only those personnel who have a genuine 'need to know' have access to confidential tender information (eg. draft requirements, tenders, and evaluation material). This ensures that personnel who are not involved in the procurement do not access confidential information relating to the process or have an ability to influence the conduct of the process.

Further, if someone in the project team is approached by someone outside the project, an obligation to report such contact has been included in the attached Probity Plan.

Accordingly, it will be the responsibility of the project manager for a future procurement of air sustainment services to ensure that all relevant personnel complete conflict of interest declarations.

Recommendation 4 paragraph 10.22

The committee recommends Defence ensures that, in all future procurements of air sustainment services to the MEAO:

- All members of tender evaluation boards and working groups, and all persons involved in the development of requests, sign conflict of interest declarations. Such declarations:
  (a) should be signed prior to the commencement of the tender evaluation process or the development of the request (as applicable); and
  (b) include declarations about possible conflicts of interest arising from their employment, prior employment, financial interests in potential suppliers or relationships with persons who have interests in potential suppliers.

Response – Agreed.

This recommendation accords with Defence procurement policy and operational guidance which provides for the identification and management of conflicts of interest (see DPPM, Chapter 3.13). The probity plan templates available from the Commercial Policy and Practice Branch (CPP Branch), DMO Commercial Group, intranet site already contain a conflict of interest declaration proforma.

The timing for the completion of the conflict of interest declarations in certain circumstances is covered by the DPPM, Chapter 5.4 Request Documentation, paragraph 63, which states that 'If a probity plan is required, it should be developed and approved before commencement of the tender evaluation' at which point the conflict of interest requirements in the plan would apply (including any requirements regarding the timing for personnel to provide declarations).

In order to address the specific concerns of the Senate committee, a supplementary direction will be issued within JMOVGP that all future MEAO air sustainment procurement activities must have a probity plan approved at the beginning of the procurement process (i.e. not just before the commencement of the tender evaluation).

JMOVGP will also direct that conflict declarations are to be obtained at the beginning of the procurement process. This requirement will also apply to all persons involved in the development of request documentation.
• All members of tender evaluation boards and working groups receive specific briefings on conflicts of interest and other probity matters, prior to the commencement of tender evaluations.

Response – Agreed.

This recommendation accords with existing Defence procurement policy and practice (see DPPM, Chapter 3.13). The attached probity plan also expressly includes this requirement.

Recommendation 5 paragraph 11.20

The committee recommends that Defence:

• In line with the findings of the AFCD Review, considers strategies for the improved documentation of the business case for any future decisions to re-test the market for the provision of air sustainment services to the MEAO.

Response – Agreed.

The DMO Commercial Group or the Defence Support Group, Non-Equipment Procurement Centre of Excellence (NEP COE) will assist JMOVGP with the drafting of any future business case for future decisions to market test the provision of air sustainment services to the MEAO, including ensuring the business case is in accordance with existing policy.

• Reviews its procurement plan for the current MEAO contract, to ensure that sufficient lead time is provided for the making of any future decisions to re-test the market, and the planning and execution of a procurement process.

Response – Agreed.

This recommendation accords with usual Defence procurement practice. For example, DPPM, Chapter 5.0, provides guidance on the development of procurement plans. The DMO Commercial Group or the NEP COE will assist JMOVGP, where required.

• In all future procurements of air sustainment services to the MEAO:

  (a) continues to include in procurement strategies a requirement that members of the Air Transport Standing Offer Panel are given advance notice of any decisions to re-tender the contract, prior to the release of the RFT; and

  (b) ensures that such requirements are implemented.

Response – Agreed in principle.

Defence will ensure that notice is provided to all potential suppliers in accordance with Commonwealth procurement policy as set out in the Commonwealth Procurement Guidelines (CPGs). For instance, paragraph 5.2 of the CPGs requires that “All potential suppliers should have the same opportunities to compete for government business and must, subject to these CPGs, be treated equitably based on their legal, commercial, technical, and financial abilities.”

Advance notice of a future procurement of air sustainment services would be provided through Defence’s Annual Procurement Plan (APP) (where the procurement is conducted as an open approach to the market).

1 JMOVGP will ensure that, in any future re-tendering, the tender release and closing dates for the request for tender meet or exceed the minimum time limits set out in the CPGs (see paragraphs 8.56 - 8.62; see also DPPM, Chapter 5.5 Tender Advertising, Submission and Receipt, paragraphs 6 – 11).

The CPGs relevantly provide:

8.57 Agencies need to provide sufficient time for potential suppliers to prepare and lodge a submission in response to an approach to the market. Time Limits discussed in this section represent minimum periods and should not be treated as default time limits for potential suppliers to lodge submissions.”

8.61 Where an agency intends to specify conditions for participation that require potential suppliers to undertake a separate registration or pre-qualification procedure, the agency must state the time limit for responding to the registration or pre-qualification in the approach to the market. Any such conditions for participation must be published in sufficient time to enable all potential suppliers to complete the
registration and qualification procedures within
the time limit for the procurement.'

Any future procurement process for MEAO air
sustainment services will comply with the CPGs,
including ensuring that there is sufficient time to
enable tenderers to get aircraft onto the AO
certificate.

- Implements strategies to ensure that potential
tenderers have a clear and accurate
understanding of how Australian industry
participation is taken into account in the
evaluation of tender responses, as part of the
overall value for money assessment.

**Response – Agreed.**

This recommendation accords with existing
Defence procurement policy. Defence
implements the requirements of the Australian
Industry Participation (AIP) National Framework
via its Australian Industry Capability (AIC)
program. Defence procurement guidance on the
AIC program is set out in DPPM, Chapter 3.12.
Defence plans to update Chapter 3.12 in its 1
December update of the DPPM.

All relevant ASDEFCON templates include
clauses that explain how AIC is taken into
account in the evaluation of tender responses as
part of the overall value for money assessment.

- On the release of future requests for air
sustainment services to the MEAO,
implements the following actions to minimise
the risk for potential proponent grievances:

  (a) provides potential tenderers with an
explanation of the reasons for re-tendering the
contract and any changes to tender requirements
from the previous request;

**Response – Agreed.**

This recommendation accords with existing
Defence procurement policy and practice. For
instance, the covering letter that forms the first
part of the relevant ASDEFCON tendering and
contracting template prompts the user to provide
tenderers with appropriate background
information about the procurement. This could
include the reasons for re-tendering the contract
and any key changes to tender requirements from
the previous request.

(b) provides potential tenderers with an
explanation of how the evaluation criteria in the
request documentation will be assessed; and

**Response – Agreed in part.**

Standard Defence procurement practice is to
advise tenderers about the evaluation criteria and
the basic rules governing tendering evaluation. In
strategic and more complex procurements, the
relevant ASDEFCON templates provide greater
levels of specificity about how evaluation criteria
are assessed, (eg by advising tenderers about what
information will be used to assess which
criterion). Also, if evaluation criteria are
specifically ranked in terms of their relative
importance or otherwise weighted, Defence
procurement practice would require this order of
ranking/weighting to be provided to all tenderers.

However, the detailed evaluation methodology
which is used by tender evaluation teams to
evaluate tenders is set out in the tender evaluation
plan (TEP). In accordance with standard
Commonwealth practice, the TEP is an internal
document and is not normally provided to
tenderers.

(c) includes in the request documentation,
where applicable, an express statement of
Defence's:

   (i) preferred solution for meeting tender
requirements, including
technical specifications; and

**Response – Agreed in part.**

Defence procurements do not tend to mandate
a preferred solution as this can be seen by
potential tenderers as favouring a specific
tenderer and may stifle innovation and

otherwise limit the field of potential tenderers.
Instead, and consistent with paragraphs 8.46 to
8.51 of the CPGs, the Defence approach is to
analyse its requirements, undertake market
research, and use this information to develop
requirements/specifications which focus on the
expected outcome from the procurement rather
than specifying a particular way of meeting the
requirement.

If Defence has specific requirements or
technical specifications that must be met by
tenderers, then Defence policy requires that these
requirements and specifications be advised to tenderers. These would normally be included in the draft Statement of Work that is included as part of the request for tender.

(ii) intention to consider alternative solutions.

Response – Agreed.

This recommendation accords with existing Defence procurement practice and is reflected in standard Defence Conditions of Tender (for example, see ASDEFCON Complex Materiel Vol. 2, conditions of tender, clause 4.10).

- As a matter of priority in future tender processes for the provision of air sustainment services to the MEAO, takes action on the tender evaluation issues identified by the Deloitte, AGS and AFCD Reviews, as documented at paragraph 11.15 of this report.

Response – Agreed.

The issues identified at paragraph 11.15 of the Senate inquiry report are either generally consistent with existing Defence procurement policy and practice, or are being addressed for inclusion within that framework. For example, DPPM, Chapter 5.4 Request Documentation, and our ASDEFCON tendering and contracting templates, provide the guidance and framework respectively for drafting request documentation. The guidance and templates cover all CPGs requirements, including minimum content and format requirements, conditions for participation, essential requirements, evaluation criteria and technical specifications.

Another example is the current work within Defence to develop Tender Evaluation Better Practice Guides for the assistance of personnel undertaking procurements. Defence recently released the Better Practice Guide: Tender Evaluation in Simple Procurement, and a better practice guide for tender evaluation in more complex procurements is currently under development.

Recommendation 6 paragraph 12.10

The committee recommends that in all future procurements of air sustainment services to the MEAO, Defence develops and implements tender evaluation processes for assessing respondents' fitness and propriety to contract with the Commonwealth. Such evaluation processes should:

(a) identify criteria setting out requirements or indicators for being ‘fit and proper’ to contract with the Commonwealth;

(b) specify searches that may be conducted on tender respondents, their key personnel, proposed subcontractors and any associated companies (for example, parent or subsidiary companies)—including guidance on the scope of the searches;

(c) identify the possible implications of the findings of each of the specified searches; and

(d) enable the identification and assessment of potential risks arising from issues identified in these searches including:

(i) reputational damage to the Commonwealth, should it proceed to contract with the relevant tenderer; and

(ii) proponent grievances about the relevant tenderer's fitness and propriety to contract with the Commonwealth.

Response to (a) – (d) above – Agreed.

In the conditions of tender for all future MEAO air sustainment services procurements (and as reflected in the attached Probity Plan), Defence will reserve the right to undertake probity searches of tenderers and key personnel in order to assess the issues set out in the above recommendations.

This will require the tenderer, its proposed subcontractors, and their respective key personnel, to sign relevant consent forms — allowing the Commonwealth to seek such information.

The relevant clause for inclusion in the conditions of tender is as follows:

"The Commonwealth reserves the right to perform such security, probity or financial checks and procedures as it may consider necessary in relation to the tenderer and its subcontractors, their officers, employees, partners, associates or related entities (including consortium members and shareholders and their officers or employees if applicable). These checks may include (without limitation):

_________________________________________________________________

CHAMBER
- security and probity checks including criminal history checks; corporate history checks;
- media checks;
- litigation searches (past, present or pending);
- reference checks; and
- any other checks which the Commonwealth considers relevant.

Each Tenderer agrees to provide, at its cost, all reasonable assistance to the Commonwealth to facilitate these checks being carried out (including executing all necessary consent forms)."

It should also be noted that all the current ASDEFCON templates already contain clauses that seek a significant amount of information of this kind, including:

- the tenderer's proposed key personnel. The tenderers' responses to these questions should provide the necessary information to determine if one of a tenderer's proposed key personnel fails to meet the requirements of DI(G) PERS 25-6 (Conflict of Interest and Declaration of Interest);
- the tenderer's financial position; and
- a declaration from the tenderer that the information they have provided is accurate and not misleading.

Defence is currently developing a Tender Evaluation Better Practice Guide for complex procurements. This document will include detailed guidance on searches that may be conducted on tender respondents, their key personnel, proposed subcontractors and any associated companies, and implications of the findings.

**Recommendation 7 paragraph 12.16**

The committee recommends that Defence includes in all future tender evaluation documentation for the procurement of air sustainment services to the MEAO:

- specific provisions on conducting financial risk assessments of tender responses involving charter broker arrangements; and
- essential requirement that proposals involving any form of broker-based solution – including sub-contracting arrangements – must include the complete financial statements of the proposed air charter operator and any other proposed sub-contractors.

**Response – Agreed.**

The necessary Defence procurement policy and operational guidance framework already exists to implement these recommendations (see DPPM, Chapter 3.3 Financial Policy and Advice in the Procurement Process). Defence's existing probity and tender evaluation plan templates, and the ASDEFCON conditions of tender, permit financial statements to be obtained from tenderers and financial risk assessments to be undertaken. The Financial Investigation Service (FIS), DMO Commercial Group, is able to undertake financial assessments for procurement related matters.

The attached Probit Plan also requires suggested financial risk assessment to be undertaken as part of a future procurement process for air sustainment services to the MEAO, and requires the probity adviser to ensure these matters are considered as part of the tender evaluation.

**Request to Auditor-General paragraph 12.22**

The committee requests that the Auditor-General:

- Conduct a performance audit of the tender process in respect of RFT AO/014/09, with a focus on probity risk management. In particular, the audit should evaluate the following matters, with a view to identifying any further areas for future improvement:
  - Defence's governance arrangements for the identification and management of significant probity risks to the procurement process, including conflicts of interest, confidentiality and proponent grievances;
  - Defence's program of procurement governance and process reforms, including those outlined in its evidence to the committee; and
  - Any other matters considered relevant to probity risk management, or related governance matters, in respect of the procurement of air sustainment services to the MEAO.
- After sufficient time has elapsed, conduct a second review to examine Defence's
implementation of its program of procurement governance and process reforms. In particular the review should:

(a) evaluate the implementation progress and impact of the reforms outlined in Defence's evidence to the committee; and

(b) recommend, as necessary, any further reforms to probity risk management and other governance arrangements in respect of the procurement of air sustainment services to the MEAO.

**Response – Not applicable.**

This recommendation relates to the Auditor-General. Defence will provide all necessary support to the Auditor-General, as required.

**Recommendation 8 paragraph 12.23**

The committee recommends that Defence report back to the committee by 1 May 2012 on progress being made to implement the reforms it has announced including:

- the ongoing performance of the 2010 contract, including the cost per mission, the realisation of projected savings, the continuing need for the increased cargo volumetric requirements and the contractor's compliance with the tender requirements;

- progress on the establishment of the Centre of Excellence that is intended 'to support a more robust and consistent commercial approach to non-equipment procurement';

- the work of the newly created Non-Equipment Chief Procurement Officer; and

- the strategies for the recruitment and retention of suitably skilled procurement professionals.

**Response – Agreed**

Defence will report back to the committee as requested.

**Recommendation 9 paragraph 12.25**

Although the majority of recommendations apply to the procurement of air sustainment services to the MEAO, the committee recommends that Defence consider incorporating the principles and practices underpinning them as part of Defence wide non-equipment procurement policy.

**Response – Agreed.**

The majority of the principles and practices discussed in the recommendations are either consistent with existing Defence procurement policy, practice or templates (such as the DPPM or the ASDEFCON templates) or will soon be incorporated as a result of the DPPM 1 December 2011 update and the Tender Evaluation Better Practice Guides. These principles and practices apply to all Defence procurement as described in the DPPM.

In relation to training staff in the practical application of these principles and practices, for a number of years DMO, on behalf of Defence, has been working to improve the content of Defence procurement training courses. In June 2011, CPP Branch, DMO Commercial Group, finalised the design and content of the Simple Procurement Refresher course in consultation with representatives from Defence Education and Training Development (DETD). Delivery of this training course is expected to commence in October 2011. CPP Branch and DETD are also finalising the design of the Complex Procurement Refresher course. Improving Defence procurement training courses will lead to more highly skilled procurement professionals.

**Corrections to Senate Report**

1. Paragraph 3.7 of the Senate inquiry report states:

   'Preparation for re-tender

3.7 Defence commenced preparation for the re-tendering process in late 2009.

   Two key stages—which are discussed below—were the establishment of the Air Transport Standing Offer Panel in November 2009, and the preparation and approval of the procurement strategy. Headquarters, 1st Joint Movement Group (HQ 1JMOVGP), within the Joint Operations Command, was the area within Defence responsible for conducting the procurement. The Commanding Officer of 1 JMOVGP was Group Captain Robert Barnes. His superior officer was the Deputy Chief of the Joint Operations Command, Rear Admiral Ray Griggs.'

   This is not factually correct. The command relationship is between CO 1 HQJMOVGP (ie Group Captain Barnes) and CJOPS. In practical
terms, DCJOPS deals with day to day issues. While DCJOPS is a superior officer from a rank perspective, this is not in a direct line accountability sense. In addition, the paragraph implies that then RADM Griggs was GPCPT Barnes’ superior officer throughout the whole process. This is not the case as then RADM Griggs did not arrive in headquarters until May 2010. RADM Griggs did not take over as DCJOPS until July 2010 having spent the first 5 weeks as acting CJOPS. DCJOPS during November 2009 was AVM Greg Evans (although between November 2009 and July 2010 there were several DCJOPS primarily due to a run of ill health).

2. The Senate inquiry report refers in a number of places to 'Dr Raymond Bromwich'. Mr Bromwich does not hold a doctorate, and accordingly the report should be corrected so that he is referred to as 'Mr Raymond Bromwich'. The relevant references are as follows:

- page 23, footnote 104
- page 26, footnotes 119 & 120
- page 27, footnote 126
- page 57, paragraph 4.2 and footnotes 1,2 & 4
- page 58, footnotes 9 & 10
- page 59, footnotes 11 and 12 (twice)
- page 60, footnotes 17,18, 19, 20, 21 and 23
- page 71, footnotes 42 & 43
- page 75, paragraph 5.32 and footnotes 68 & 69
- page 115, footnote 16 Appendix 4
- Appendix 5 (14 July)

*Note: The Probity Plan for Projects is available from the Committee Secretariat.*

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**SENNSE FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE**

**PART II – INCIDENTS ONBOARD HMAS SUCCESS BETWEEN MARCH AND MAY 2009 AND SUBSEQUENT EVENTS**

**GOVERNMENT RESPONSE**

December 2011

**RESPONSES TO RECOMMENDATIONS**

Recommendation 1 paragraph 7.85

The Committee recommends that:

- IGADF examine the inquiry processes from the initiation of the E&D health check through to the legal advice (and its consequences) provided by Colonel Griffin and Defence Legal in order to identify real or potential systemic failures in the inquiry processes and consider the practical measures needed to minimise the risk of future mistakes;
- concurrently, the Fairness and Resolution Branch examine independently the same processes in order to identify real or potential systemic failures in the inquiry processes and consider the practical measures needed that would minimise the risk of future mistakes;
- at the same time, Defence Legal examine the legal advice, in respect of HMAS Success, provided by legal officers to the senior Navy officers at that time, especially on initiating inquiries and procedural fairness, with a view to identifying any weaknesses, inconsistencies or errors in, and the overall quality of, this advice;
- having carried out their respective examinations, the IGADF, the Fairness and Resolution Branch and Defence Legal jointly consider their findings and together identify what needs to be done to rectify problems; and
- by 1 December 2011, provide the committee with a report on their findings, the lessons to be learnt and their joint recommendations.

The Committee requests that the IGADF, the Fairness and Resolution Branch and Defence Legal keep a written record of the notes taken during their separate examinations and also a record of the discussions held between them when producing their joint findings. The purpose in having these notes retained, is to ensure that they would be available to the Committee should it resolve to consider matters further.

The Committee notes that for a number of years it has expressed concerns about the standard of investigations undertaken by the Australian Defence Force Investigative Service (ADFIS). The most recent revelation about significant deficiencies in this investigative service is most
disturbing. The Committee suggests to ADFIS that the shortcomings identified in the investigations that took place relating to incidents onboard HMAS Success in 2009 should not be treated as an 'aberration'. In the Committee's view, they should be considered in light of the committee's 2005 findings and ADFIS' continuing attempts to improve its investigations. It should be noted that the committee found in 2005 that the ADF had 'proven itself manifestly incapable of adequately performing its investigatory function'.

The Provost Marshal, through the Minister for Defence, has been providing the Senate Foreign Affairs, Defence and Trade Legislation Committee with periodic updates on the progress of reforms to the investigative service.

Response - Agreed In Part

The Government agrees with the intent of Recommendation 1, but there are practical considerations that apply to its implementation.

With specific reference to the sub-recommendation regarding IGADF, Mr Gyles is scheduled to deliver Part 3 of the HMAS Success Commission of Inquiry in the near future.

Part 3 is focused on examining Defence inquiry processes and the relationship of inquiries with administrative or disciplinary procedures.

As well, a number of broader cultural reviews are taking place in Defence, many of which may have implications for inquiry arrangements, complaint handling mechanisms and the roles that legal officers play in those processes. These reviews include the Inspector General of the Australian Defence Force's review into the management of incidents and complaints within Defence, again expected to be released in the near future.

As these reviews are Defence wide, they will clearly examine issues beyond HMAS Success. Consequently, the Government considers that any further specific HMAS Success focused review conducted in isolation from these broader efforts will be a duplication of those other reviews, be unlikely to significantly advance matters, and may complicate the current reviews underway. This broader focus (beyond HMAS Success) of the reviews should incorporate those matters at the heart of HMAS Success as well as other Defence related procedural strengths and weaknesses.

With specific reference to the sub-recommendation that Fairness and Resolution Branch (FRB) review the Equity and Diversity (E&D) Health Check and subsequent processes, the Government considers that the FRB is not an appropriate or competent authority to examine ADF inquiry processes and related legal advice: no valid construct (FRB or otherwise) exists in Defence for the HMAS Success related E&D health check. It was a Navy creation at the time.

As the subsequent inquiry processes that resulted from the 'health check' were under the Defence Inquiry Regulations, being an integral part of the Military Justice system, these do not fall within FRB expertise. FRB had no role to play in the technical detail of the Administrative Inquiries processes for the ADF or in their application as they applied to HMAS Success or more broadly.

With specific reference to Defence Legal and in particular the sub-recommendation that Defence Legal examine the legal advice, in respect of HMAS Success, provided by legal officers to the senior Navy officers at that time, especially on initiating inquiries and procedural fairness, with a view to identifying any weaknesses, inconsistencies or errors in, and the overall quality of this advice, Mr Gyles has already identified the weaknesses and deficiencies in the legal advice provided at Fleet Headquarters in relation to HMAS Success. Remedial actions are being considered as an element of those legal related recommendations of Parts 1 and 2 of the Commission of Inquiry Report. The Government considers that further examination of this legal advice is unlikely to realise any additional benefit.

Further, the Government asks the Committee to note that in implementing the Gyles recommendations, which included the comment that Navy Legal lacked candour in the manner in which it provided legal advice in the HMAS Success matter, and that Navy Legal needs a jolt, the CDF has already ordered a review of the command and control arrangements for all ADF legal officers. This will examine their structural
and organisational independence from command, particularly in the context of being free from perceptions of inappropriate command influence. This broader review will look at the potential systemic issues that led to the failings in the Fleet Legal legal advice and what, if any, structural and organisational changes may be needed to ensure, as far as possible, the independence of legal officers from command across the ADF.

With specific reference to the sub-recommendation that having carried out their respective examinations, the IGADF, the Fairness and Resolution Branch and Defence Legal jointly consider their findings and together identify what needs to be done to rectify problems; and by 1 December 2011, provide the committee with a report on their finding, the lessons to be learnt and their joint recommendations, as detailed above, the FRB does not have a role in the Administrative Inquiry process. Noting this, the forthcoming Part 3 COI report and broader cultural reviews being undertaken, the Government cannot commit to provide the Committee with a report by 1 December 2011.

Notwithstanding the comments made, the Government has indicated it agrees with the intent of Recommendation 1 and proposes to consider it following the receipt of Part 3 of Mr Gyles' report and in the context of the results arising from the various cultural reviews that are currently underway.

**Recommendation 2 Paragraph 9.10**

The Committee recommends that the Provost Marshal in his next update to the Senate Foreign Affairs, Defence and Trade Legislation Committee on progress in reforming ADFIS include the lessons learnt from the investigations into matters relating to HMAS Success. The Committee is not interested in individual performances but the systemic shortcomings that allowed the mistakes to occur and importantly to go undetected for some time.

**Response - Agreed**

The Government agrees with Recommendation 2 and the Provost Marshal Australian Defence Force will provide a formal response as an integral part of his Annual Report to CDF and subsequently will report to the Chair of the Senate Committee for Foreign Affairs, Defence and Trade.

**Government Response**

**Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity**

**Final Report**

**Inquiry into the Operation of the Law Enforcement Integrity Commissioner Act 2006**

The Government welcomes the Committee's Final Report, and recognises the Committee's contribution to the further development of the Law Enforcement Integrity Commissioner Act 2006 and the Commonwealth public sector integrity system generally.

The Government's approach to preventing corruption is based on the premise that no single body should be responsible. Instead, a strong constitutional foundation (the separation of powers and the rule of law) is enhanced by a range of bodies and government initiatives that promote accountability and transparency. The Commonwealth bodies involved in preventing corruption include:

- Australian Consumer and Competition Commissioner
- Australian Crime Commission
- Australian Commission for Law Enforcement Integrity
- Australian Federal Police
- Attorney-General's Department
- Australian National Audit Office
- Australian Public Service Commission
- Australian Securities and Investments Commission
- Australian Taxation Office
- Australian Transactions Reports and Analysis Centre
- Commonwealth Director of Public Prosecutions
- Commonwealth Ombudsman, and
- Office of the Australian Information Commissioner
This distribution of responsibility is a great strength in Australia's approach to corruption because it creates a strong system of checks and balances.

The Australian Commission for Law Enforcement Integrity's (ACLEI's) primary role is to investigate law enforcement-related corruption issues, giving priority to systemic and serious corruption. ACLEI also collects intelligence about corruption in support of the Integrity Commissioner's functions.

The Integrity Commissioner must consider the nature and scope of corruption revealed by investigations, and report annually on any patterns and trends concerning corruption in law enforcement agencies.

In its report the Committee has made a number of recommendations concerning the Law Enforcement Integrity Commissioner Act 2006 and the Commonwealth public sector integrity system generally.

In this context, the Government is pleased to respond to the Committee's recommendations.

Recommendation 1:
The committee recommends that the Law Enforcement Integrity Commissioner Act 2006 be amended so as to establish a 'second tier' to the Act. Agencies with a law enforcement function included in this second tier would be subject to limited ACLEI oversight, under which the head of an agency, or the minister responsible for the agency, may refer a corruption issue, on a voluntary basis, for consideration by the Integrity Commissioner. The Integrity Commissioner should also have the power to commence an investigation or inquiry into a corruption issue in a second tier agency on his or her own initiative.

Noted
The Government will consider whether it is appropriate to expand ACLEI's jurisdiction to include additional agencies that perform law enforcement functions.

The establishment of the Integrity Commissioner to investigate corruption in Commonwealth law enforcement agencies is still relatively recent. ACLEI's jurisdiction was extended beyond the Australian Crime Commission (ACC) and the Australian Federal Police (AFP) to include the Australian Customs and Border Protection Service (ACBPS) on 1 January 2011. Before considering the inclusion of new agencies within ACLEI's jurisdiction, the Government considers that it is appropriate to allow 12 to 18 months for ACLEI to consolidate its existing jurisdiction following the inclusion of ACBPS. That experience can then be used to properly inform any further expansion of ACLEI's functions.

All of the agencies nominated by the Committee for inclusion as tier two agencies are subject to the Public Service Act 1999 and as such are bound by the APS Values and Code of Conduct. These agencies also have existing internal and external corruption prevention and investigation measures.

Recommendation 2:
The committee recommends that ACLEI's second tier jurisdiction should initially comprise the Australian Taxation Office, the Australian Transaction Reports and Analysis Centre, CrimTrac, the Australian Quarantine and Inspection Service and the Department of Immigration and Citizenship.

Noted
See the response to Recommendation 1.

Recommendation 3:
The committee recommends that the operation of a second tier in the Law Enforcement Integrity Commissioner Act 2006 and the list of agencies prescribed in that tier be reviewed two years after initial establishment. This review should include consideration of whether any tier two agencies may more appropriately be subject to tier one prescription. Similar reviews should subsequently be conducted at two year intervals.

Noted
See the response to Recommendation 1.

Recommendation 4:
The committee recommends that the Law Enforcement Integrity Commissioner Act 2006 be amended so as to ensure that secrecy and confidentiality provisions pertaining to law enforcement agencies within ACLEI's jurisdiction do not prevent the Integrity Commissioner from
receiving information necessary to the investigation of a corruption issue.

**Agreed**
The Government agrees that secrecy and confidentiality provisions that apply to agencies within ACLEI's jurisdiction should not prevent ACLEI receiving necessary information. Secrecy provisions in the AFP and ACC legislation contain explicit exceptions to ensure relevant information can be made available to ACLEI.

The Crimes Legislation Amendment Act (No 2) 2011 authorises the disclosure of protected information under the Customs Administration Act 1985 for the purposes of the Law Enforcement Integrity Commissioner Act 2006.

**Recommendation 5:**
The committee recommends that the Law Enforcement Integrity Commissioner Act 2006 be amended so that the period of appointment of the Integrity Commissioner may be extended once, beyond the five year period of appointment, for a period of up to two years by the Governor-General on recommendation of the Minister, with the approval of the committee. Any such extension to the period of appointment should apply only to a serving Integrity Commissioner and should be approved no less than three months before the expiry of the current period of appointment.

**Agreed in part**
The Government will introduce amendments to the Law Enforcement Integrity Commissioner Act 2006 to enable the initial sum period of appointment of the Integrity Commissioner to be extended beyond five years, for a further period of up to two years.

As the position of Integrity Commissioner is a statutory appointment made by the Governor-General, it is a matter for the executive Government and it is not appropriate for it to be subject to approval by the Committee.

**Recommendation 6:**
The committee recommends that the Integrity Commissioner, the Commonwealth Ombudsman, the Public Service Commissioner, the Auditor-General and the Attorney-General's Department develop a more detailed and comprehensive definition of corruption for the purposes of the Law Enforcement Integrity Commissioner Act 2006. A proposed definition should be circulated for public consultation, including this committee, no later than November 2011.

**Agreed in principle**
The Government agrees that the definition of corruption must be clear and appropriate, noting that the definition has relevance beyond the Law Enforcement Integrity Commissioner Act 2006. The Government accordingly agrees that the Attorney-General's Department will work with relevant agencies to clarify the definition of corruption for the purposes of the Law Enforcement Integrity Commissioner Act 2006 and undertake public consultation on this issue.

The outcome of this work could be either guidance concerning the definition or an amendment to the Law Enforcement Integrity Commissioner Act 2006 to clarify the definition itself.

The development of an effective draft definition of corruption will require research and careful discussion of the issues that is likely to take several months.

**Recommendation 7:**
The committee recommends that ACLEI and the Australian Public Service Commission continue to collaborate in the development of ethics training provided to public servants to include corruption prevention using ACLEI's specialised experience and knowledge.

**Agreed**
The Government agrees that ACLEI and the Australian Public Service Commission collaborate as appropriate in the development of ethics training provided to public servants to promote the importance of appropriate behaviour, including avoidance of corrupt activity.

**Recommendation 8:**
The committee recommends that the Law Enforcement Integrity Commissioner Act 2006 be amended so as to provide a mechanism by which the Public Service Commissioner, with the consent of the Integrity Commissioner, could request assistance, including on behalf of any head of a Commonwealth agency, in investigating
a serious corruption issue. Such a request would be made after consideration of whether ACLEI's unique experience and powers meant that ACLEI could provide greater investigatory value than the Australian Federal Police. Furthermore, to avoid overburdening ACLEI to the detriment of its primary law enforcement focus, such an arrangement should be funded by the requesting agency.

**Noted**

The Government encourages agencies to share expertise and resources in appropriate circumstances. It is important to ensure that the core work of ACLEI in investigating corruption issues within law enforcement agencies is not adversely affected.

This recommendation has the potential to constitute an open-ended second tier of agencies that could be subject to ACLEI oversight. The Government considers that any extended role for ACLEI in assisting Commonwealth agencies more broadly might be most appropriately more in the nature of an advisory role, rather than an investigative role. The investigative role is appropriately discharged by the AFP.

Conferring a referral role on the Public Service Commissioner would add a layer of procedural complexity in most cases. The exception would be in those matters where the Public Service Commissioner was personally investigating the suspected misconduct of an agency head under section 41(1)(f) of the Public Service Act; in those instances the Public Service Commissioner would consult the AFP about the carriage of matters that raised potential issues of serious corruption.

**Recommendation 9:**

The committee recommends that the Law Enforcement Integrity Commissioner Act 2006 be amended so as to include a 'more conveniently dealt with' clause that would enable the Integrity Commissioner to refer to the Commonwealth Ombudsman issues that are not, or through the course of investigation, it is discovered are not, corruption issues but which do relate to misconduct.

**Noted**

The Government notes that the Integrity Commissioner currently may provide information to the Commonwealth Ombudsman, where this is appropriate. The Attorney-General's Department will continue to liaise with the Integrity Commissioner and the Commonwealth Ombudsman to ensure that these existing arrangements remain suited to their purpose.

In general, the Ombudsman has no jurisdiction in relation to misconduct in APS agencies. Allegations of suspected misconduct by an APS employee should always be passed to the relevant agency head. If the allegation concerns misconduct by an agency head, including failure to deal properly with misconduct by his/her employee(s), that is a matter that can only be inquired into by the Public Service Commissioner.

**Recommendation 10:**

The committee recommends that the Australian Government conduct a review of the Commonwealth integrity system with particular examination of the merits of establishing a Commonwealth integrity commission with anticorruption oversight of all Commonwealth public sector agencies, taking into account the need to retain the expertise of ACLEI in the area of law enforcement.

**Noted**

The Government's approach to preventing corruption is based on the premise that no single body should be responsible. Instead, a strong constitutional foundation (the separation of powers and the rule of law) is enhanced by a range of bodies and government initiatives that promote accountability and transparency. This distribution of responsibility creates a strong system of checks and balances.

The Government has undertaken and continues to undertake significant work to improve the Commonwealth integrity system. This work includes:

- Developing Australia's first National Anti-Corruption Plan, an initiative announced by then Minister for Justice the Hon Brendan O'Connor MP in September 2011. In developing the Plan, the Government will examine evolving corruption threats to
Australia's national interests and ways to reduce corruption risks. The Plan will also clarify the roles and responsibilities of the range of bodies that promote accountability and transparency, including the overall lead responsibility for Commonwealth anti-corruption policy development and agency coordination.

- The implementation of revised Commonwealth Fraud Control Guidelines, issued by the Minister for Home Affairs and Justice on 24 March 2011, that place a greater emphasis on fraud prevention and instilling a culture of fraud awareness in Government agencies.

- Working towards the establishment of a Parliamentary Integrity Commissioner (PIC), to undertake a range of functions including providing advice to parliamentarians on ethical issues, and upholding a Parliamentary Code of Conduct. The Government has referred the matter of a Parliamentary Code of Conduct, including the role of the PIC, to the House of Representatives Privileges and Members' Interests Committee and the Senators' Interests Committee. The House Committee released a discussion paper at the end of the 2011 Spring sittings. The Senate Committee is expected to report back in the 2012 Winter sittings.

- Significant reforms to managing federal judicial complaints, which were announced by the Attorney-General in March 2011, to introduce greater transparency and accountability in judicial complaints handling. The reforms include developing a framework to assist Chief Justices of the Federal Court, the Family Court and the Chief Federal Magistrate to manage complaints about judicial officers that are referred to them and the re-introduction of the Parliamentary (Judicial Misbehaviour or Incapacity) Commission Bill into Parliament.

- The current review of Australia's implementation of the United Nations Convention Against Corruption (UNCAC). UNCAC is a binding global instrument on anti-corruption that establishes detailed mechanisms for the prevention and criminalisation of corruption, as well as international cooperation, asset recovery and information exchange.

- Recent changes to the Financial Management and Accountability Regulations 1997 to enhance the role of Audit Committees. In particular, Chief Executives will be encouraged, wherever practically possible, to appoint at least one independent member. The changes also broaden the functions that an audit committee may also undertake, such as reviewing the effectiveness of an agency's governance arrangements and reviewing the adequacy of an agency's risk management framework, internal control environment and legislative compliance.


The Government considers it appropriate to implement these measures before considering whether any further review should be conducted, and notes that on the available evidence there is no convincing case for the establishment of a single overarching integrity commission.

Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade's Human Rights Sub-Committee Report:

Human rights in the Asia-Pacific: Challenges and opportunities

Recommendation 1

The Committee recommends that

- The Australian delegations to its bilateral human rights dialogues with China and Vietnam include parliamentary representation from the Human Rights Sub-Committee of the Joint Committee on Foreign Affairs, Defence and Trade; and that
• The Department of Foreign Affairs and Trade provide the Human Rights Sub-Committee with an annual briefing on the outcomes of these dialogues, and on any other bilateral human rights dialogues that may later be established with countries in the Asia-Pacific.

The Government supports this recommendation and acknowledges the value of parliamentary representatives participating in bilateral human rights dialogues. It has been the practice of successive governments to invite representatives of the Australian Parliament (including members of the Human Rights Sub-Committee of the JSCFADT) to participate in delegations.

The Department of Foreign Affairs and Trade would be pleased to provide briefings to the Human Rights Sub-Committee on the outcomes of bilateral dialogues.

Recommendation 2

The Committee recommends that AusAID adopt a human rights-based approach to guide the planning and implementation of development aid projects.

The Australian Government promotes and protects human rights through its aid program, including in the areas of gender, disability, good governance, health, education, and law and justice. While the Government does not label it a 'rights-based approach', human rights principles are integrated into the planning and implementation of development aid projects.

The Independent Review of Aid Effectiveness, commissioned by the Australian Government in November 2010, released their report in April 2011. The report noted that Australia's aid program is 'rich in activities that advance Australia's commitment to human rights'. The Panel also saw an opportunity to improve clarity and communication about the links between the aid program and human rights.

The Government's response 'An Effective Aid Program for Australia' (July 2011) meets this challenge by incorporating human rights into one of its key development objectives:

Improving governance in developing countries to deliver services, improve security, and enhance justice and human rights for poor people; and to improve overall effectiveness in aid delivery in partnerships between host governments and aid agencies.

Many aspects of AusAID's current policies and activities are working to advance human rights within the Asia-Pacific region. For example:

• The Human Rights Fund, established in 1996, is an important mechanism for supporting human rights activities in the Asia-Pacific region through the aid program. It supports the Office of the United Nations High Commissioner for Human Rights; the Asia Pacific Forum of National Human Rights Institutions; and the Government's Human Rights Grants Scheme (HRGS).

• The HRGS provides grant funding to non-government organisations and human rights institutions based or operating in developing countries. The HRGS is an important component of AusAID's overall approach to human rights and aims to build human rights capacity in areas of need across the world, including the Asia-Pacific region.

• The Government's 'Development for All' strategy aims to ensure that persons with disabilities are included in, and benefit equally from, development assistance and is an important part of the aid program's broader human rights agenda. The strategy contributes to meeting our obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD) by addressing the barriers experienced by persons with disabilities to social and economic opportunities throughout the Asia-Pacific.

• The promotion of gender equity and the empowerment of women in partner countries is an overarching objective of Australia's aid program. AusAID is committed to ensuring the needs, priorities and interests of women are considered in all development activities and at every stage of the development process.

Recommendation 3

The Committee recommends that in responding to the need to make progress in the region on embracing and implementing the universal human rights principles contained in the core human rights treaties, the Australian Government should review its current strategies,
consult closely with key regional stakeholders, and consider work already being undertaken on this issue. This should include consideration of:

- human rights education to enhance understanding in the region of the content, benefits and practical local application of these treaties; and
- ongoing support for countries to meet reporting and other participation obligations in the United Nations human rights system.

The Government supports, and will continue to implement, this recommendation.

The Government has various strategies for promoting increased ratification of, and adherence to, core human rights treaties: bilaterally (through representations, dialogues and the aid program), regionally (through support for regional organisations that promote human rights) and multilaterally (through the United Nations). These strategies are kept under review.

The Government acknowledges the importance of consultation and engagement with key stakeholders and continues to look for ways to seek stakeholder views effectively. In promoting human rights in the region, the Government works closely with non-government organisations (NGOs), National Human Rights Institutions, and relevant authorities. The Government also recognises the importance of ongoing human rights education in the Asia-Pacific region, which it pursues through programs such as the Australia Awards initiative (for further information please see response to recommendation 4).

Through its aid program, the Government currently provides targeted funding and technical support to a number of countries in the Asia-Pacific region to assist them to meet their international human rights treaty obligations. For example:

- Australia's bilateral Human Rights Technical Cooperation (HRTC) programs with China and Vietnam have assisted the Vietnamese and Chinese Governments to meet their treaty reporting obligations and to incorporate aspects of these treaties into their domestic legal frameworks. This support has, in part, assisted China to draft national legislation on domestic violence. Vietnamese Government institutions have linked this assistance to major policy and legislative reform such as the enacted Law on Legal Education and Dissemination, the Gender Equality Law, the Law on Domestic Violence and the draft Law on Disability.
- In East Timor, the aid program has supported the development of a new national disability policy and strategy on disability. In Cambodia, Australia supported the development of disability rights legislation. A new program of support will enable the Royal Government of Cambodia to ratify, and then implement, the Convention on the Rights of Persons with Disabilities (CRPD).
- Australia provides funding to the Regional Rights Resource Team of the Secretariat of the Pacific Community (SPC/RRRT), which offers professional and technical support to build human rights capacity within Pacific Island governments and civil society organisations, including advice concerning obligations relating to international human rights treaties. SPC/RRRT assists individual Pacific Island countries to develop appropriate legislation for the protection and promotion of civil society organisations and supports civil society in advocating for the establishment of human rights machinery in specific countries.

**Recommendation 4**

The Committee recommends that the Australian Government establish a scholarship fund to enable individuals from non-government organisations and civil society groups in Asia and the Pacific, who work in human rights or relevant fields, to attend approved human rights courses in Australia.

The Government supports this recommendation and is pleased to report to the Committee that it is already being implemented through programs such as the Australia Awards initiative and the Australian Leadership Awards Fellowships.

The Australia Awards initiative, funded from the aid program, provides scholarships (up to 3700 in 2014) for study in Australia largely at the postgraduate level, and professional development opportunities in developing countries and in Australia.
The Australia Awards provide opportunities to address needs across governments, the private sector, NGOs and civil society. Individuals from non-government organisations and civil society groups in Asia and the Pacific are eligible for the Awards and can undertake approved human rights courses and other human rights training in Australia. AusAID works closely with whole-of-government and development partners to encourage applications that focus on priority issues, including human rights. In 2009 and 2010, students from Nepal, Indonesia, Bangladesh, Pakistan and Vietnam were enrolled in human rights courses at Australian universities through AusAID-funded scholarships.

Since 2007, AusAID has funded five human rights-related programs through the Australian Leadership Awards (ALA) Fellowships. The Fellowships are designed to provide short-term opportunities for study, research and professional attachment programs in Australia delivered by Australian organisations. For example, Justice Equality Rights Access International Ltd (JERA International) received an award in 2010 to host 12 Fellows from the All China Women's Federation and Research Centre for Human Rights and Humanitarian Law and the Peking University Law School for Human Rights.

Training is also provided to NGOs and civil society groups in developing countries under the Human Rights Grants Scheme. In 2009-10, seven grants were provided to train representatives from NGOs on human rights issues.

Recommendation 5

The Committee recommends that the Australian Government appoint a special envoy for Asia-Pacific regional cooperation on human rights, to undertake consultations with countries in Asia and the Pacific, and report to the Government within 12 months. The special envoy should engage in discussion in the region on how Australia can best support regional approaches to the protection and promotion of human rights, and the redress for human rights violations in the Asia-Pacific. The special envoy's responsibilities should be determined by the Minister for Foreign Affairs, but could include:

- undertaking high-level political consultations about the establishment of a Pacific subregional human rights mechanism and a wider Asia-Pacific regional mechanism; and
- consulting with government officials and key regional non-government stakeholders.

The Government does not support this recommendation.

While recognising the desirability of greater regional cooperation on human rights, the Government notes that evidence presented to the Committee strongly cautioned against Australia being seen to be the driving force behind the establishment of a regional human rights mechanism. The Government considers that supporting practical, grassroots activities and initiatives is a more effective way to promote human rights in the Asia-Pacific. This is considered more likely to achieve broad support from countries in the region for human rights objectives.

The Government also notes that its network of Posts throughout the Asia-Pacific often perform a similar function to the one proposed for a Special Envoy on Human Rights, including providing advice on how Australia can support regional human rights initiatives. For example, the Australian embassies in Jakarta and Singapore provided extensive information and advice to Canberra over a number of months on the negotiations surrounding the formation of the ASEAN Inter-Governmental Commission on Human Rights (AICHR).

This advice informed Prime Minister Gillard's announcement in October 2010 at the ASEAN-Australia Summit in Hanoi that Australia would provide funding to support engagement between the Australian Human Rights Commission and AICHR so that the two Commissions could build strong linkages. In addition, Australian Heads of Mission regularly make representations on human rights concerns to foreign governments in the region and Posts routinely report to Canberra on human rights issues.

The Australian Government is pleased with the recent appointment of a Human Rights Adviser by the Pacific Islands Forum Secretariat. The Government encourages and supports the human rights activities being undertaken by the Pacific Islands Forum Secretariat and the Regional...
Rights Resource Team (SPC/RRRT) of the Secretariat of the Pacific Community, including their work to explore a regional, demand-driven human rights mechanism.

The Australian Government also supports the Pacific Islands Law Officers' Network (PILON) in complementing the Pacific Islands Forum's efforts to improve the protection and promotion of human rights in the region. PILON's initiatives and activities in this respect are coordinated through the PILON Secretariat. For example, PILON members were encouraged at the 2009 meeting to consider their own legislative frameworks for compliance with international human rights instruments. In 2010, the PILON Secretariat, temporarily based in the Commonwealth Attorney General's Department, coordinated and distributed to members a discussion paper on the implications of a regional human rights charter for the Pacific. The Australian Government will continue to participate in PILON human rights activities and initiatives, coordinated through the PILON Secretariat.

JOINT STANDING COMMITTEE ON TREATIES

REPORT 110: TREATIES TABLED ON 18, 25 (2) AND 26 NOVEMBER 2009 AND 2 (2) FEBRUARY 2010

GOVERNMENT RESPONSE

Recommendation 3: Exchange of Notes constituting an Agreement between the Government of the United States of America and the Government of Australia to amend the Agreement concerning Space Vehicle Tracking and Communication Facilities of 29 May 1980, as amended

Recommendation 3: The Committee recommends that the Minister for Foreign Affairs write to all other ministers to remind them that, when they are planning to enter into a treaty, they must factor in the agreed 15 to 20 sitting day timeframe for the Committee to conduct its inquiry.

The Government agrees with the Committee that requests for the expeditious consideration of a treaty should be reserved for exceptional circumstances. The Acting Minister for Foreign Affairs, the Hon Dr Craig Emerson MP, wrote to Ministers on 16 September 2011 to remind them of the need to factor in the 15 to 20 sitting day timeframe when tabling treaty actions.

Treaty tabling timeframes are also highlighted in the 2011 edition of Signed, Sealed and Delivered - Treaties and Treaty Making: Officials' Handbook. This handbook contains the domestic and international legal framework supporting treaties and sets out the steps involved in treaty making, including critical timelines and individual departments' and agencies' responsibilities. It is widely distributed and readily available to assist officials from all Commonwealth agencies.

When dealing with line agencies about tabling treaties, Treaties Secretariat staff regularly reinforce the information regarding the importance of maintaining the timelines set out in Signed, Sealed and Delivered. The need to factor in the agreed timeframe for Committee inquiries and deliberations in respect of treaty actions is also emphasised in the annual Treaty Seminar conducted by the Treaties Secretariat of the Department of Foreign Affairs and Trade.

Recommendation 4: The Committee recommends that new and revised extradition agreements should explicitly provide a requirement that the requesting country provide annual information concerning the trial status and health of extradited persons and the conditions of the detention facilities in which they are held.

The Government does not accept this recommendation. The Committee suggests that implementing this recommendation would mitigate perceived risks resulting from the introduction of the 'no
evidence' standard in Australian extradition practice in 1986. The Government does not consider that the removal of the prima facie case requirement is directly relevant to the question of human rights protections available to a person following his or her surrender to another country. An assessment of whether or not an application for extradition has met the prima facie standard of evidence is separate from consideration of post-extradition issues such as the person's trial status, health and conditions of detention.

Further, and more importantly, the Government considers that the most appropriate time at which to examine any potential human rights concerns is before extradition occurs. The extensive review process during extradition proceedings provides ample opportunity for any such concerns to be raised and investigated.

This approach is consistent with Australia's obligations under international human rights law and mirrors Australia's approach to considering the risk of human rights abuses before an individual is removed from Australia under the Migration Act 1958. It is also consistent with international extradition practice. It is likely that current and potential extradition partners would not be prepared to accept the inclusion of explicit monitoring obligations in extradition arrangements with Australia.

The extradition process in Australia includes extensive procedural safeguards. These safeguards are included in the Extradition Act 1988, as well as in bilateral treaties. For example, Article 4(3)(d) of the Extradition Treaty between Australia and the Republic of India provides for the refusal of an extradition request where the Requested State believes that the surrender is likely to have exceptionally serious consequences for the person whose extradition is sought, including because of the person's age or state of health. This is in addition to other internationally accepted grounds of refusal, such as where the death penalty may be imposed or where the Requested State has substantial grounds to believe that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, sex, religion, nationality or political opinion.

Further, as noted in the Government Response to Report 91 of the Committee, Australia has established monitoring mechanisms in relation to Australian nationals who have been extradited overseas. This monitoring is able to be conducted because of the consular rights provided for under the Vienna Convention on Consular Relations and the resources provided to support Australia's consular network. The consular role reflects the Australian Government's particular responsibility for assisting its nationals while overseas.

Also consistent with the Government Response to Report 91, the Government has agreed to include additional information on persons extradited from Australia in the Annual Reports of the Attorney-General's Department, including information on:

- extradition requests granted by Australia and the categories of the relevant offences by reference to the countries which made the request
- the number of Australian permanent residents extradited, and any breaches of substantive obligations under bilateral extradition agreements noted by Australian authorities.

**Recommendation 5:** The Committee recommends that all Australians who are subject to extradition should receive a face to face meeting with an Australian consular official, except where the person has made explicit their objection to consular assistance to the satisfaction of consular officers.

The Government accepts this recommendation. Current Australian Government procedures ensure that, wherever practically and legally possible, consular officials visit Australians who are imprisoned overseas at least annually, and normally more frequently than this. In some limited circumstances, face to face meetings may not be practicable or necessary. For example, in a large country such as the United States where there are significant numbers of Australians imprisoned, they are widely dispersed and consular staff are familiar with the standard of prison conditions, consular assistance can be provided satisfactorily via regular telephone calls to the prisoner.

**Recommendation 6:** The Committee recommends that, when a foreign national is extradited from Australia to a third country, the
Australian Government formally advise the government of that person's country of citizenship that one of its nationals has been extradited from Australia to a third country.

The Government accepts this recommendation in principle. When foreign nationals are detained in Australia for the purposes of extradition, law enforcement officers will generally inform them that they are entitled to request that their consular authorities be informed of their detention, and consular authorities are entitled to visit and communicate with the person. In accordance with the constraints of disclosure of personal information under the Privacy Act 1988, the Government will only notify the extraditee's country of citizenship of their detention and extradition if the individual consents to the disclosure of personal information.

Recommendation 7: The Committee supports the Extradition Treaty between Australia and the Republic of India and the Treaty between Australia and the Republic of India on Mutual Legal Assistance in Criminal Matters and recommends that binding treaty action be taken.


Foreign Affairs, Defence and Trade References Committee

Government Response to Report

Senator JOHNSTON (Western Australia) (16:19): by leave—I move:

That the Senate take note of the document.

This government response was to an inquiry of the Senate Foreign Affairs, Defence and Trade References Committee into Defence's request for tender for aviation contracts wherein we questioned the veracity and the probity of the air sustainment contract conveying our troops from Australia into Afghanistan. I start off by saying it is not too much to ask I would not have thought that, given we only have one combat engagement, thankfully, when we fly our troops from Australia into the MEAO and into the theatre where we are conducting combat operations, the aircraft is airworthy, the seats are not broken, there is adequate food and supplies for what is usually beyond an 11-hour trip, the aircraft is safe and the pilots do not smoke. The fact is that this contract has been a significant problem in terms of probity. Indeed, I am thankful that the Department of Defence has acknowledged all but one of the recommendations and apparently embraced them. I congratulate it on that.

However, this contract was a problem from the very beginning. It had an aura and an aroma about it that was most concerning. Indeed, I wrote to the then secretary and said so at the time of the caretaker mode back in 2011. I was virtually ignored. Save for some steps taken, the contract continued. The department persisted. My prediction is that there will be problems with this contract. There already have been. I thank the secretary of the committee, and all of her team, for the way she conducted and assisted in this inquiry. As I have said, it is a good response.

The aircraft that flies our troops to the MEAO is a Portuguese aircraft manned predominantly by Portuguese personnel. It is not subject to Australian aviation standards; it is subject to European aviation standards. I am told by our soldiers that the quality of this aircraft is substandard, the quality of the food is substandard and there are safety issues with it. I am sure these will come out in due course. The Senate inquiry focused upon the probity associated with the awarding of this $100 million contract. The Portuguese company is being contracted by the tender winner. In fact, the tender winner has no planes and no wherewithal to fly aircraft. We raised concerns with the secretary and the CDF way back when this contract was first seen. It was not a matter that a minister had to sign off on; it was a
decision of the secretary. I was so concerned that I persuaded senators to undertake the references committee inquiry. Whilst no smoking gun of corruption was found in that inquiry, the report of the committee was pretty damming as to the fact that there was a very problematic probity evaluation.

For $600,000 Deloitte conducted an integrity inquiry into the tender process. They admitted that they were limited by their terms of reference. Serious allegations as to accountability and integrity were at the bottom of all of our concerns. A member of defence personnel was involved in awarding the previous contract and who subsequently worked for the successful tenderer. The rumour and the inference was that he was involved in the second contract, and indeed he had worked for the eventual winner for some time. Alarm bells were ringing.

The $100 million contract in question was awarded to a company that, as I said, owns no planes, employs few Australians and brokers a Portuguese charter operator who does not provide regular public transport operations, a minimum requirement under the tender specifications. The aviation industry has a clear understanding of how much this contract should cost. Nobody that I speak to in the industry can understand how the successful tenderer is able to perform the contract at the price being paid by defence, especially when it is using such a fuel-inefficient aircraft as the A340.

Defence has spent close to $1 million investigating itself and the entire process, which does nothing to inspire confidence in the integrity of contract administration or tender administration. Indeed, the Senate committee's inquiry has a number of matters that it puts on the table which are concerning. But, as I said, the department appears to accept the committee's response and appears to want to do the right thing in response to the recommendations.

In closing, I return to the fact that these are our best Australians. They are committed to our welfare. They get on this aircraft to go into battle for us. It should not be a crappy plane, the food should be good, the seats should not be broken and the pilots should not be smoking their heads off all the way for 11 hours. Safety should be a priority. It is a problem. I said to the secretary way back when, 'This will bite defence on the backside.' I maintain that and I stand by what I have said. It is a concern—it has always been a concern. You cannot broker out to a foreign country a responsibility that we should be carrying out personally so that we know that our people are properly looked after.

Question agreed to.

DOCUMENTS
Tabling

Mineral
Order for the Production of Documents
Senator CORMANN (Western Australia) (16:26): by leave—I move:

That the Senate take note of the document.

Clearly, the government has something to hide when it comes to its dodgy mining tax. Over the last 18 months the government has been ducking and weaving and running for cover and being absolutely desperate to avoid having to table the information about its mining tax revenue assumptions. Clearly, its mining tax revenue estimates must be dodgy. Clearly the mining tax revenue estimates must not stand up to scrutiny. Why
else is this government is so desperate to keep them secret from the scrutiny of this parliament?

The mining tax revenue estimates have been bouncing around ever since the Prime Minister and the Treasurer negotiated, exclusively and in secret, this mining tax deal behind closed doors, excluding all of the competitors of those three big mining companies from the process. What the government now tells us is that the mining tax revenue assumptions, commodity price assumptions and production volume assumptions are somehow a national secret. The government tells us that information is based on commercial-in-confidence data provided by the three big mining companies that were involved in the negotiations.

The logical conclusion of that argument is that not only were those three big mining companies given preferential access to the design of a massive new tax—which already gives those three companies a competitive advantage compared with everyone else who was excluded from the process—but also we are now told by this government that those three big mining companies are the only ones allowed to know what the government's mining tax revenue assumptions are. That is so outrageously inappropriate and improper that I cannot believe the Senate could possibly stand for that sort of contemptuous attitude from the executive government towards this chamber.

The mining tax deal negotiated by the government gave those three big companies a massive upfront tax deduction because it introduced the concept of a market value based upfront deduction. If you look at the revenue estimates, which are completely dodgy, and at the costs of all the related promises, which clearly exceed even the revenue that the government expects to collect, you can see that this mining tax package is yet another Labor Party fiscal train wreck in the making. It will put our budget at serious risk not only over the forward estimates but over the medium to long term, and it is quite unbelievable that the Greens, who were quite tough in their rhetoric over the past 12 months, have caved in and joined the Labor Party in this mining tax cover-up.

Question agreed to.

MOTIONS

Brown, Senator Bob

Senator CASH (Western Australia) (16:30): I move:

That the Senate notes the reflections of the Leader of the Australian Greens (Senator Bob Brown) on the President of the Senate, the Prime Minister (Ms Gillard), the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig), Senator Boswell, the Leader of The Nationals in the Senate (Senator Joyce) and Senator Cash.

I rise to contribute to the debate on this motion. It is a very serious motion, and at the outset I wish to point out that I will not be canvassing the material from Senator Kroger, which the Senate has referred to its Privileges Committee, in relation to Senator Bob Brown. Suffice it to say that Senator Kroger has argued:

… it is necessary for the Senate to be protected from the corrupting influence of a senator negotiating a $1.6 million corporate donation for their party, which has led to questions being asked, points of order taken, and votes being cast in the interests of the donor.

What concerns me today—hence the motion that we are now debating—is Senator Brown's behaviour since this reference and, in particular, his indiscriminate attacks on the President of the Senate, the Prime Minister, Senator Ludwig, Senator Boswell, Senator Joyce and me.
Senator Brown's reaction to the passage of Senator Kroger's motion referring him to the Privileges Committee was to give notice of a motion censoring the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig, over the Tasmanian Forests Intergovernmental Agreement. Senator Ludwig was, of course, at that time the Manager of Government Business in the Senate. I believe that the Leader of the Government in the Senate, Senator Evans, probably talked Senator Brown out of this attack on the Greens' alliance partner, as Senator Brown withdrew his notice of motion. However, Senator Brown, whilst obviously admonished, was undeterred. Two days later he gave notice of a similar motion calling on Senator Ludwig to report on the failure of the Prime Minister to uphold the Tasmanian Forests IGA. He then gave notice of another highly disrespectful—indeed, one might say pitiful—motion suggesting that the President had allowed the Privileges Committee to be politicised by giving precedence to a SLAPP-writ-style reference from Senator Kroger. SLAPP stands for 'strategic lawsuit against public participation'. However, consistently with so much of what Senator Brown does, I have no idea what relevance this could possibly have to a Privileges Committee reference.

But it did not end there. Senator Brown's deliberate and completely unfounded assault on the integrity of other members of the Senate continued. On the last day of the Senate sittings we learned that, in a tit-for-tat exercise, Senator Brown had concocted a charge against the father of the Senate, Senator Boswell, and had written to the President of the Senate asking that he give precedence to a motion to refer his allegations—which are no more than deliberate slurs against Senator Boswell—to the Privileges Committee. Anyone in this place who has served with Senator Boswell would agree that he, above all of us here, is a man of principle and integrity and does not have a corrupt bone in his body. Being a man of principle, despite being deliberately and unfairly targeted by the Australian Greens, he will not be silenced or deterred in his fight against the anti-Semitic boycott, divestment and sanctions campaign being spearheaded by Senator Rhiannon.

The President quite rightly rejected Senator Brown's request. Senator Brown, of course, refused to accept the ruling of the President, moved a motion of dissent and then turned his attack on the President of the Senate. A considered person would have taken the time over the parliamentary recess to consider their ill-informed behaviour. Senator Brown did not do this. What we have witnessed this week, the first sitting week of 2012, was a continued and sustained attack on the President of the Senate, with Senator Brown accusing Senator Hogg of bias, of a remarkable error of judgment, of a failure of presidential prudence, of a double standard, of facilitating an ambush on Senator Milne and him, and of a disgraceful detriment to the Senate's tradition of fairness. This was not only unwarranted but an unprecedented attack on the President of the Senate which could not pass unanswered.

Sadly, Senator Brown's childish behaviour does not end there. Over the parliamentary recess, Senator Brown continued his petulant attack and turned on the Prime Minister over the Tasmanian IGA by unilaterally breaking off his weekly meetings with her—weekly meetings which, I note, are a condition of the Labor-Greens agreement. Then, as senators resumed this year, we discovered that Senator Brown had also written to the President in relation to Senator Joyce and me with more trumped-up charges that he wanted brought before the Privileges Committee. Unsurprisingly, the President determined that they should not be given
precedence. The fact that these are trumped-up charges was admitted by Senator Brown yesterday in a statement to the Senate, when he said in relation to the President's ruling:

I think your decision to effectively reject my application in the matters regarding Senator Boswell, Senator Cash and Senator Joyce was correct.

Yet, despite this admission in the Senate yesterday, Senator Brown continues to waste the time of the Senate and continues to treat the Australian people with contempt. He has now put on the Notice Paper notices of motion in relation to these matters, matters that Senator Brown himself has admitted that the President was right to dismiss.

Senator Brown's statement and his ensuing actions confirm that Senator Brown sees himself as the leader of an elitist party with no regard for the practices or procedures of the Senate or, indeed, the parliament and, ultimately, has contempt for the Australian people. However, whilst it may well be disappointing to so many of us that a political party leader would use the Senate in this childish manner, it is hardly surprising. I am, however, like so many others, amazed that the other Greens' senators put up with such erratic behaviour from their leader. Clearly, Senator Brown's actions in lashing out at everyone in a scattergun approach is an attempt to distract attention from his own predicament. We know that some members of the Greens are onto this and believe that Senator Brown is out of control. To quote from the Monthly's feature on the rift in the Greens:

Members of the old guard have been heard referring to Brown as a 'megalomaniac'.

Senator Brown's behaviour, as I have outlined, is surely an example of this personality trait. We see motions and privileges references from someone with no real insight into why people believe that he behaved corruptly and who is lashing out at anyone and everyone in an attempt to justify himself and his own diminishing relevance.

We all know why Senator Brown's relevance and his grip on the Australian Greens is diminishing: because Senator Rhiannon is consciously and deliberately undermining Senator Brown's leadership. While Kevin Rudd has been white-anting Ms Gillard, Senator Rhiannon has been red-anting Senator Brown on this very issue. This started last year, when Senator Rhiannon's Democracy4Sale website featured criticisms of the Graeme Wood donation and reported allegations of Senator Brown's conflict of interest in relation to the Triabunna mill sale.

Since November, after Senator Brown was referred to the Privileges Committee for investigation over this matter, Senator Rhiannon's harping about the evils of corporate donations, particularly from property developers, has reached fever pitch. To quote a report from the Australian:

Angry Greens believe Senator Rhiannon set out to embarrass her leader over the privileges reference with a string of media releases and press conferences over donations and a notice of motion on lobbyists as the Senate vote loomed and in its aftermath ... 'It's too much of a coincidence,' one Greens insider insisted.

I'll say it is! Now Senator Rhiannon's criticism has become explicit. In the current issue of the Monthly, featuring the rift in the Greens, Senator Rhiannon is quoted as saying this about the almost $1.7 million donation to the Greens negotiated by Senator Brown with Wotif founder, Graeme Wood:

We—

the New South Wales Greens—

would have considered that a large donation from one person—considering we have worked very hard and in some ways we have led the campaign around political donations—may not have been wise for us.
It is no wonder that Greens insiders believe Senator Rhiannon is deliberately undermining Senator Brown's leadership. What she is saying to Senator Brown, to her colleagues and to the Greens membership, is that Senator Brown was unwise to take the donation from Mr Wood and that, had Senator Rhiannon been in the same position, she would not have.

As each day goes past, the Australian people are recognising that the Australian Greens are a party of contradictions. On the one hand they garner votes by pretending to be a cuddly party of tree huggers who are holier than thou in their approach to their finances and policies, whilst on the other hand they harvest massive political donations which they attempt to hide from the public. The Greens holier-than-thou claim that they cannot be bought is put to rest when you look at some of the political donations that they themselves have received. Corporate donations are horrendous. They are bad and they corrupt the democratic process—unless, of course, the Australian Greens are the beneficiaries of that donation. Absolute hypocrisy. The Australian people are waking up to the way that the Australian Greens operate and their gross hypocrisy. Led by Senator Bob Brown, their actions show them to be deceptive, dishonest and duplicitous. The Greens' hypocrisy is rank.

Senator Bob Brown: Madam Acting Deputy President, I rise on a point of order—two matters that might help guide the senator. One is that a matter has been put to the Privileges Committee and she should not trespass on that. The other is that there are standing orders about reflecting on honourable members in this place. Madam Acting Deputy President, I ask you to look at that matter, Madam Acting Deputy President, and, if you do not care to judge it now, to ask the President to rule on it.

The ACTING DEPUTY PRESIDENT (Senator Moore): Senator Brown, I will do that. My understanding, though, is that such terms have been regularly used in this place and that therefore there is considerable precedent. Direct imputation cannot be used; however, at this stage it is general. I will seek a ruling—I think that is appropriate—and I ask Senator Cash to be aware of that as she continues her contribution.

Senator Cash: This is exactly what the Australian Greens represent in this place: one standard for everybody else and a completely different standard—or is it rather absolutely no standards?—for the Australian Greens.
I say to Senator Bob Brown: withdraw your criticisms of the President of the Senate; apologise to him and apologise to Senator Ludwig; stop scapegoating the Prime Minister of Australia for your own predicament; and then remove your trumped up notices of motion against Senator Boswell, Senator Joyce and me from the Notice Paper. I do not expect an apology from Senator Brown, but I do think that Senator Bob Brown should think very carefully about apologising to both Senator Joyce and Senator Boswell.

I finish with a question to Senator Bob Brown. Last week it was revealed that Mr Wood's almost $1.7 million donation to the Australian Greens, which we know funded the Australian Greens' advertising campaign, was in kind; I ask Senator Brown whether or not Mr Wood received any benefit for that donation?

**Senator Bob Brown:** Madam Acting Deputy Speaker, that is clearly trespassing on a matter which the honourable senator's party put before the Privileges Committee via the President. Senator Cash does not know or understand the rules, even with Senator Abetz sitting behind her—though he is unable to advise her—but she should be asked to desist from breaching standing orders.

**The ACTING DEPUTY PRESIDENT:** Senator Brown, you make a valid point, and I draw Senator Cash's attention to it. The Senate has referred the issue to the Privileges Committee, and the issue is before it.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (16:47): How ignominious it is that Senator Cash ended by breaching the rules which she came in here to say should be upheld and that she did so in such a way that Senator Abetz has now fled the chamber. It is quite extraordinary.

Senator Cash's motion was debated at great length in the chamber just the day before yesterday, and Senator Cash took no role in it—she had no contribution to make. But today, no doubt aided and abetted by people who have more influence on the opposition then she does, she has brought forward this motion and made quite a hash of trying to substantiate any point in it. It is, of course, a motion to discuss personalities and politics rather than anything germane to or with any impact on the electorate. Therefore, to raise the level of debate from where Senator Cash began it, I intend to move that her motion be amended so that the following words are inserted after 'Senator Cash':

but considers the call from the Leader of the Opposition (Mr Abbott) to debate Australia's economy, and his proposals which would lead to a $70 billion deficit and extensive job losses, as a more appropriate matter for debate in the Opposition's private senators' time.

The honourable Leader of the Opposition, Mr Abbott, began the week saying 'bring it on'—he wanted to discuss the economy. However, I understand from news reports that he has not been able to do that in the House. Here we have a sterling opportunity to have a debate about the economy, and Senator Cash crashes right across it with this very petty and pretty poor motion, thereby using up the opposition's own private senators' time. Any reader of the *Hansard* is going to wonder what on earth has happened to this opposition. Senator Cash has only two colleagues in here out of the whole lot of them—there is nobody in here to listen to the debate. According to the opposition, the time allotted to debate this notice of motion is an opportunity to waste time. But as far as the Greens are concerned it is an important opportunity to talk about issues which the electorate is interested in reflecting upon. My proposed amendment to the motion is currently being circulated amongst members...
so that they can see the merit in it and, hopefully, vote for it so that at the end of the day a substantial motion, rather than the frivolous one Senator Cash brought before the chamber, is passed.

When, as we moved halfway through this period of government, Mr Robb, the honourable shadow finance minister, revealed that there was a $70 billion deficit in the opposition's policies, there was a fair amount of shock. I was among those who were shocked; I had had the excellent economist in my own Greens policy unit look at the opposition's policies, and the report had come back to me saying that, in the assessment of the economist, there was a $70 billion deficit in what the opposition was putting forward. I am loath to admit this, because I know how vulnerable one is to any admission in parliament, but I said to my policy unit: 'Look, that's incredible; the public won't believe that. Can you come back with a more modest deficit in the opposition policy?' They were working on that at the time Mr Robb came out and confirmed that the economists were correct. This opposition says, 'Put us into office and we'll give you a $70 billion deficit.' Mr Hockey said that the coalition faced the task of finding $50 billion, $60 billion or $70 billion and Mr Robb again confirmed that $70 billion was 'the order of magnitude' as recently as November. What an extraordinary failure this is of a conservative opposition which is dedicated to returning a surplus in the interests of the Australian people.

What is the penalty clause for that $70 billion that Senator Cash and her colleagues would run Australia into deficit with if we put it into more human terms? I can tell you that this would facilitate their friends at the big end of town at the expense of average Australians and their hospitals, their schools, their security, their roads, their public transport, Indigenous welfare, the environment, rural extension services. Senator Cash and her colleagues would rip that apart with massive spending in the interests of their particular section of the community, but to the detriment of everybody else.

We know that the first point of attack of the opposition, were they to get into government under their honourable leader Mr Abbott, will be the Public Service. We have heard from the opposition themselves—Senator Cash has not said this, but her more senior colleagues have—that some tens of thousands of Public Service jobs will go immediately. This country's voters need to know that and to understand that there will be a lot of breadwinners who are going to find themselves at home without a job if Senator Cash and her colleagues make it into government. I am not making this up; this is their own assessment of their own policies.

Senator Cash does not want to talk about that. She wants to be petty and to recycle debates from earlier in the week—during which she failed to make any contribution whatsoever—to fill up time on a Thursday afternoon, when you would think the opposition, if it did want a debate on the economy, would be in full flight. The only flight it is making is out of this chamber. All but three of them are missing right now. You have to wonder if this is an opposition the public expects in any way. It is totally bereft.

The government says it wants to end up in the black. The coalition wants a one per cent surplus rather than the 0.1 or 0.2 per cent that the government intends. That would mean finding more than an additional $10 billion. Take that out of health and education and transport and housing and so on. If it is to start funding the dental health and disability insurance aspirations to which Mr Abbott referred at the Press Club, it will need even more tax increases or spending cuts.
Mr Acting Deputy President Bishop, you would know that at the moment the Green's spokesperson on health, Senator Richard Di Natale, who is from Victoria, is negotiating with the Minister for Health on the health insurance legislation, which is before us at the moment. The Greens have a long-held policy based on community feedback that would produce a much better dental health scheme for this country. We have led that debate here. I have been pursuing that, even through the long drought of the Howard years, which represents the philosophy of Senator Cash. Not only did we not see an improvement in dental health care services, but we also saw a perfectly good scheme that helped pensioners and others get ripped out while the coal industry and others were being given hundreds of millions of dollars under the rule of Senator Cash and her colleagues. She was not here when pensioners were having their dental health scheme abolished, but she was part of the apparatus.

That is only a shade of what is to come if Senator Cash and her colleagues have their way. All her senior colleagues are missing from the chamber in this important debate. If the Abbot-led coalition, which I see is on the slide in the polls, were to come to government—I note in passing that Senator Cash's criticism about the appearance of the Greens in public comes with an increase in the Greens' position in the poll this week from 11 to 13 per cent. Senator Cash finds that amusing and so that is something we can celebrate together.

Senator Cash has an obsession with my good colleague from New South Wales, Senator Lee Rhiannon. Senator Cash is there with the poor old Murdoch media trying to create division and isolation. Is it me who is isolated, or is it Senator Rhiannon? I don't know. Use your time on that, Senator Cash, as you will, but the public see it as a missed opportunity and an abrogation of your duty if you do not come forward with policies other than the $70 billion black hole. They see it generally as a failure to get on with the job of putting forward a program that the voters of Australia might find exciting. I think it is far too much for me to suggest that there be a vision as well as a program brought forward. The amendment that I am proposing, which I hope the Senate will take up, leads me back to the issue of the Hon. Mr Robb, the shadow finance minister, suggesting that commodity prices could come off more than the government is forecasting in the coming years and there would consequently be a deficit of $50 billion. He did that in an interview on Lateline on 29 November last year. Given the rhetoric of the coalition about avoiding deficits, you are left with the conclusion that this would require them to find that additional $50 billion in savings. What we get to here is a completely hollow concoction from the opposition if they are going to respond with more than criticism of this minority Gillard government and where it is going.

We have an opposition that has no substance. It is very good at personal abuse. It does not like putting on the boxing gloves if it cannot fight below the belt—and Senator Cash has just demonstrated that again here today. What a sad lot of opposition members we have in this chamber. You would have thought that, if this situation in the country is as difficult as they say it is, the opposition would have a very substantial motion before the Senate in private members' time on Thursday afternoon with some constructive alternative to put to the people of Australia. Instead of that, as their shadow finance minister, the Hon. Mr Robb, has pointed out, their current policy platform would lead us into a $70 billion black hole.

What Senator Cash has done in bringing forward this motion is just attack personalities and events. She failed under the Senate program to make any contribution
whatever, and left this till Thursday afternoon. If she had wanted to make a real construction for the Senate in this important private members' time of the week, there would have been a motion presenting legislation, presenting an innovation, testing out the Senate to take a lead in public discourse. Instead of that, it has all been scuttlebutt and petty personality disputation coming from Senator Cash. What a lost opportunity.

Mr Acting Deputy President, for 13 years there was effectively no private members' time for discussion of bills during the Howard years. And you will remember that they took over the Senate and used it as a rubber stamp; they dishonoured its long tradition of being a watchdog for the people. But, having got the opportunity after the vote of the people of Australia in 2010, the Greens established, amongst other things, private members' time dedicated to legislation in both houses of parliament. When I asked my office to look at this just this week, it found that my team—every one of whom works hard and is an innovative thinker and is constructive in this place—has produced no fewer than 45 pieces of legislation to benefit the people of Australia. The coalition, with three times as many members on the opposition benches in the Senate, has produced the princely sum of five. There you get it: a ratio where the Greens output in constructive legislation per person is 20 times-plus that of Senator Cash and her colleagues. And if Senator Cash has got a piece of legislation on the slate I do not know where it is.

It is very easy to come in here and waste time. It is much more difficult to come in with constructive ideas. Senator Cash mentioned the intergovernmental agreement on forests in Tasmania. It was a Labor government which made the monumental breakthrough, in the wake of great public protests in Western Australia, on the back of moves by the Liberals at the time to protect at least a substantial component of the great forests of Western Australia, though there is more work to be done there. But Senator Milne and I and, indeed, the whole team of Greens are very proud to be working towards the protection of the world renowned forests of Tasmania. The National Geographic, for example, has been in Tasmania and is well aware that the tallest flowering forests on the face of the planet are a perfect complement to the giant redwood forests of California, which are of enormous interest right around the planet.

But Senator Cash and her colleagues—not least, of course, Senator Abetz—are chainsaw driven. They want to put the bulldozers into these World Heritage-value forests. They are flying in the face of 80 per cent of public opinion around the country that says 'protect them'. Again, she raised the issue. I would say to Senator Cash: go out and talk to the people of Australia, not least in your own state, and see what they think about protecting wildlife habitat, about preventing the extraordinary rate of extinction of species in this country. Go beyond the carping and petty politics that so often is exhibited at this time on Thursday afternoon and, instead, think about what it is that makes a community happy.

I have adverted to the failure of the opposition to come up with an economic policy—except one which will leave a $70 billion black hole and see the wholesale sacking of public servants and the defunding of hospitals, schools, housing and public transport. But there are other values in life as well. This is an opposition which is riddled with climate change sceptics and opposed to action to prevent the pollution of our atmosphere, which is an enormous threat to lifestyle and happiness as well as to the future economy. Wouldn't this have been a great opportunity for Senator Cash to have
outlined the opposition's environment policies? Certainly if she had done that her 17-minute speech might have been more like 17 seconds—but there must be something there. There must be some recognition of the environment somewhere in the opposition that they could latch onto and bring forward here. How different it is to the days of the Hon. Malcolm Fraser, who not only protected Fraser Island but stopped whaling in this country and had a regard for the environment which was nowhere to be seen in opposition ranks in 2011.

My amendment is to change this pretty poor-quality motion to one that has substance. I recommend it to the Senate. I hope that the Senate will see fit to alter the words in the way that I have proposed when the vote comes up.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (17:07): Senator Brown, do you intend to table that amendment?

Senator BOB BROWN: Yes.

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (17:07): I have to say this is a disappointing end to the sitting week. I am not surprised, given that sniping from opposition senators has typified the sitting period. Opposition senators apparently think it is more useful to use the chamber to snipe at other senators than to use their time to develop and detail alternative policies for the nation. As ever, there are no plans, no policies, no alternatives that the opposition Liberal and National parties are prepared to discuss. Really they should be in here outlining their ideas for managing the Australian economy, making the country more productive and helping Australian workers, families, pensioners, farmers and small businesses. But alas, that is too much to hope for.

The government has been consistently clear on this issue: the Senate should not become a Star Chamber. The government has been consistent in its view that it will not use Senate motions to condemn individuals, the public, members of the House or other senators. The use of motions as tactics to personally attack or name senators is completely inappropriate. There are proper procedures to deal with any matters which may arise regarding the behaviour of senators. If we are to be respected as a chamber, we must respect the processes of the chamber. There are processes in place that should be used, and the Senate should always provide procedural fairness.

The Senate is not and should not be the place to examine a senator's individual behaviour as has happened in motions such as those we have seen in the last two days for general business debate. There should be no room for undermining the processes of the Senate or indulging in personal attacks. It reflects poorly on the opposition and, more importantly, it reflects poorly on the chamber and all senators. The government will not be addressing the substance of the issue raised in Senator Cash's motion today, nor will we partake in such ad hoc debate in the future. I am disappointed that during this week established processes have been tested. In my opinion and in the opinion of the government the Senate has wasted its time on personal attacks. This should not be a place of duelling motions attacking individual senators. This is a chamber for considered review of legislation.

I know I am quite new to the position of Manager of Government Business, but I had expected that the element of cooperation for reaching the best outcomes for the Australian
community would be more typical of Senate debate.

Senator Brandis: If you mean what you say, will you chastise Senator Conroy?

Senator ARBIB: Let me be clear: the government believes there are established and well-tested methods for dealing with the conduct of senators, and Senator Brandis knows them quite well. It is our intention to support these processes and we will support the rulings of the President in relation to matters of determining precedence on any privilege motions. The position of President will continue to be respected by the government. The position of President is an inherently difficult one—we all know that—and we will continue to support the duties he exercises with proper process and fairness. I remind the chamber that, as the President said yesterday, a determination of whether a matter requires precedence is in no way a reflection on, or a preliminary assessment of, the facts. It is for the Senate as a whole, not the President, to determine whether matters should be referred to the Privileges Committee.

As I have already said, general business should be about discussing matters of substance. This chamber should have a high standard of debate on issues and challenges facing this country. Debating quotes out of context, and senators spending time settling scores and pursuing minor personal arguments, should not become the standard of debate in this place. The government has a significant agenda of reform. During a period when the world faces ongoing insecurity about economic stability, the government is determined to keep our economy strong, create new jobs, invest in our country and make our economy more productive. The opposition unfortunately rejected most of those policies last year and we have seen that typified in the debates this week.

We have all heard their noes, but what are the opposition's answers? What plans do coalition senators have for this country? We await their policies. I am sure that senators opposite do have views and do have ideas. Why do they not use the opportunities in this place to argue for their alternative vision? Even I am not so jaded that I assume opposition senators have no ideas and just want to indulge in petty squabbles. Now is the time to outline for the country your policies to make this a better place and to improve the quality of life of our people. Use the time; end the squabbles. These are the critical issues challenging the country. These are the critical issues that should be debated in this chamber. The government will not support the motion and will not support any motions like these in the future.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (17:14): What we have just witnessed again from Senator Bob Brown is yet another example of what I could only kindly call a clumsy deflection. He has attempted to direct the focus away from himself and from his colleagues because they do not like scrutiny and they do not like being accountable for their actions. I have listened to Senator Arbib preaching to us about what he considers to be good behaviour and all I can ask him is: what would the former Prime Minister Kevin Rudd say in response to your comments about good behaviour? Your actions speak far louder than words and you have an incredibly high-handed approach to others that you do not practise yourself. Be very careful of what you preach to others if you are not prepared to practise it.

I have sat in this chamber with a heavy heart all this week. I agree with the concerns that Senator Arbib raised because Senator Brown continued to impugn the integrity of the presiding officer of this place, directing an unprecedented attack against the
President, casting aspersions on his judgment, accusing him of prejudice and bias and, even more concerning, challenging the integrity in his presiding over the procedures and conduct in this chamber. There probably is not one senator that has not disagreed with a ruling that has been made at some time and I disagreed with one against myself only yesterday. It is the nature of this place. It is the nature of politics. We are elected to serve and to represent our constituents and, in so doing, the issues and debate in this place can become understandably heated, if not combative. It is the very nature of politics as we scrutinise and assess legislation and issues on the basis of what we believe is in the best interests of the nation.

Tragically, we have witnessed Senator Brown taking this prosecution to a new level. As for many footballers in the heat of a grand final or tennis players sweating over a tie-break to win game, set and match, the umpire is the ultimate arbiter. While we individually may not like his decision, it is essential for the integrity of any particular institution that the umpire's decision is final and, most importantly, respected. Regrettably, we have heard ad nauseam this week the protestations from Senator Brown that the presiding officer, the President of the Senate—should not have the final word. The events that have unfolded this week have reflected poorly on the judgment of Senator Brown rather than that of the President.

As the matters I referred to the Privileges Committee are currently under consideration, I do not wish to touch on those matters either, notwithstanding the fact that Senators Brown and Milne sought to do so earlier on in the week. I respect due Senate process and I believe it should be allowed to follow its due course. I note that Senator Brown has certainly left the chamber. The man who has created this issue has left the chamber.

What we have witnessed this week is a broadening of the vitriolic spray that the Greens leader directs at anyone who chooses to disagree with him. We all witnessed that with his dissent motion on the ruling of the President and his continued criticism of the President. As Senator Cash just mentioned, the first target of Senator Brown's wrath was Senator Ludwig following the Senate passing a motion of reference to the Privileges Committee as he gave notice of a motion to censure Senator Ludwig over the Tasmanian forests intergovernmental agreement. Senator Brown, for reasons which have already been speculated on, then withdrew this, only to give notice of a second motion calling on Senator Ludwig to report on the Prime Minister's failure to uphold the Tasmanian forests intergovernmental agreement.

On the last day of the Senate last year, Senator Brown engaged in a further tit-for-tat exercise with a letter to the President seeking precedence over allegations in relation to Senator Boswell—matters that had been clarified some 12 months earlier. Yet again, over the recess he wrote to the President in relation to Senators Joyce and Cash on matters that had already been declared in the senators' interest register. Unfortunately, what this has demonstrated is the obsessive behaviour of a leader who continues to shy away from personal public scrutiny and who is brutal in his language and demeanour when he seeks to deflect the focus. What we witnessed in this chamber this week was sadly nothing but bullyboy antics. I would suggest it was intimidatory behaviour, which only serves to diminish the standing of this place in the community. It most certainly diminishes the credibility of the individual. The significance of this behaviour cannot be underestimated as the
attacks on many in this chamber, not least of all the President, have taken place while the cameras are rolling and Hansard records every word.

It begs the question: do these same histrionics happen behind closed doors or is it something else? When the cameras are turned off, what happens behind the scenes? This is a particular concern when Senator Brown is dubbed the Deputy Prime Minister and is privy to weekly private meetings with the Prime Minister. If his behaviour is erratic when the cameras are rolling, what is it like when the cameras are turned off?

When Senator Brown announced early in January that his weekly meetings with the Prime Minister were off until she honoured her commitment to Tasmania's native forests, I have to confess that I did wonder whether the Prime Minister considered it her lucky day and the best Christmas present she had received, even if it was a belated one.

An insight into the wobbly relationships among the Greens is starting to emerge. You know there are problems afoot when members inside the Greens party start briefing out on each other—and we saw evidence of that in the recent publication of the *Monthly*. Senator Brown has been making a great show of unity with Senator Rhiannon of late but, unfortunately for them, the facts do not support this. According to the *Monthly*:

While both Brown and Rhiannon insist they work well together—and others attest to this—there is little love lost between them. "I know Bob doesn't like Lee and I know Lee doesn't like Bob," says one insider. In 2009, Brown opposed Rhiannon's nomination for the Senate, instead backing Kate Faehrmann, the then 39-year-old executive director of the New South Wales Nature Conservation Council, who went on to win election to the New South Wales upper house.

"We need to be bringing new blood into the Greens. Those of us who came out of the 1980s have contributed a lot, but our job is becoming one of elder statespeople," Brown said in a pointed reference to Senator Rhiannon.

Without going to the substance of the allegations against Senator Brown, Senator Rhiannon and her 'eastern bloc comrades' have been excoriating about the Wood donation. On 10 January 2011, New South Wales Greens MP John Kaye issued a statement, which is on the Democracy for Sale website, disassociating the New South Wales Greens from this donation. He said:

Almost none of Mr Wood's $1.6 million was spent in New South Wales. ... The Greens New South Wales election campaign did not have any involvement in accepting this money or determining how it would be spent.

On 12 January, Democracy for Sale featured an editorial from the *Australian* headed '$1.6 million donation sits strangely with Greens rhetoric'. On 17 June, Democracy for Sale featured another piece from the so-called hate media, an article entitled 'Brown faces conflict call over logging query'. And there is yet more. Since November last year, Senator Rhiannon's calls for donations reform have gone into overdrive. Senator Rhiannon has now gone on record in the *Monthly* to say this about the Wood donation:

We, the New South Wales Greens, would have considered that a large donation from one person, considering we have worked very hard and in some ways we have led the campaign around political donations, may not have been wise for us.

If this is not putting the skids under Senator Brown then I do not know what it is. We know about the friction between the Australian Greens and the New South Wales Greens. As recorded by the *Monthly*, the New South Wales group, who habitually refer to the Australian Greens as though they were another party, has staunchly resisted Brown's attempts to strengthen the Greens' national organisation. Members of the old
guard have been heard referring to Brown as a megalomaniac. Another insider says:
They have poisoned Bob's image in New South Wales. They have made him out to be a centrist and trying to bully them and control everyone and take away the power of states' rights.

Senator Brown is still not in the chamber, but I am sure he can get this on Hansard. I might send him an email just to make sure he sees it. Senator Brown, we can see right through your facade. We can see that your wild and random attacks on senators are driven not just by the predicament you find yourself in right now but by the internal politics and dissension within your own party. I support Senator Cash's call. I think you should apologise to the President, to Senator Ludwig, to Senator Boswell, to Senator Cash and to Senator Joyce. I think you should come clean on this whole thing. It was disclosed only last week that Mr Graeme Wood's $1.6 million donation to the Australian Greens was an in-kind donation. Senator Brown, how does one give an in-kind donation of advertising to the Australian Greens?

I understand that Senator Brown has been dragging all his young Greens senators to support him in the chamber here this evening. I find that a tad strange when he himself is not sitting here in the chamber. But I would like to note that Senator Rhiannon is sitting up in the back. Senator Rhiannon, where do you stand on this? I look forward to hearing from you in this chamber now to defend your leader, Senator Brown.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (17:29): I rise today to comment on a matter that Senator Cash has raised, and I share the concern of my leader, Senator Bob Brown, that this private members' time is being taken up by a matter allowing the coalition to continue a personal attack instead of dealing with matters of public importance. I mentioned this yesterday when Senator Sinodinos took the opportunity, in an incredible fall from grace, to spend his first matter of public importance for the year engaged in a personal attack on another senator rather than outlining a coalition policy or strategy.

The normal procedure for matters of public importance is to talk about matters that are important to the future of the nation, and I move:

That Senator Cash's motion be amended to insert the following words after 'Senator Cash':

but considers the call from the Leader of the Opposition (Mr Abbott) to debate Australia's economy, and his proposals which would lead to a $70 billion deficit and extensive job losses, as a more appropriate matter for debate in the Opposition's private senators' time.

I have a signed copy of the amendment and ask that it be delivered to the chair.

As to the matter of the coalition's black hole, it is quite extraordinary that the coalition would prefer to use private members' time to, in Senator Kroger's own words, 'be clumsily deflective and to refuse to have scrutiny and accountability for their actions'. That is precisely what the coalition is doing in relation to economic policy. What we have already is confirmation by Mr Robb, the shadow finance minister, of a $70 billion black hole, and Mr Hockey, of course, confirmed that, saying that the coalition faced the task of finding $50, $60 or $70 billion worth of savings. Mr Robb again confirmed in November last year that
$70 billion was the order of magnitude of the coalition’s black hole.

People listening to this debate must be asking themselves, 'How are the coalition going to deliver the surplus they say that they are going to deliver, when there is a $70 billion black hole already in their promises?' The coalition have said they want surpluses of one per cent of GDP rather than the 0.01 to 0.02 per cent that the government intends. That would mean finding more than an additional $10 billion a year. We heard from the Leader of the Opposition, Mr Abbott, at the Press Club, his aspirations on dental health and disability insurance—

Senator Brandis: Mr Acting Deputy President, I rise on a point of order. I draw your attention to standing order 90(3): An amendment must be relevant to the question to which it is proposed to be made.

I am aware, of course, that when it comes to debate on the MPI a great deal of latitude is given to recharacterise the question before the chair by way of amendment. However, I submit to you, Mr Acting Deputy President, that an amendment in the form which this has proposed goes a very long way beyond the latitude that is customarily given. The proposition it advances is that the Senate form the opinion—the amendment has just been handed to me—that a particular subject matter would have been a more appropriate matter for debate in opposition senators' private time. I do not recall ever having seen an amendment of this character. It is not an amendment which addresses the substantive issue which it seeks to raise—that is, the economy and criticism of the opposition's alternative policy proposals—but rather something entirely different. It is as it were by way of commentary upon the appropriateness of Senator Cash moving the motion she has moved.

Mr Acting Deputy President, I invite you to rule that this amendment falls beyond the terms of standing order 90(3) because it is utterly irrelevant to Senator Cash's motion. The expression of an opinion that Senator Cash would have been better off moving a different motion is utterly irrelevant to the issue which Senator Cash has placed before the Senate. Indeed, in substance—to take the point further—it is not really an amendment to the motion at all. It is grammatically in the form of an amendment, but in substance it is not even an amendment. It is a comment on whether or not Senator Cash should have moved the motion. In that sense as well it is beyond standing order 90.

Senator Chris Evans: Mr Acting Deputy President, on the point of order, I think Senator Brandis hit the nail on the head when he indicated that a great deal of licence had been allowed in these debates. I think that is right and, while I do not feel strongly on the issue, it seems to me, given the nature of the debate, it is probably not unreasonable to rule that the amendment is in order. But I have to say that senators ought to think about how they are treating the Senate and their own behaviour. This motion is a disgrace. The attempt to use general business and the time of the Senate in this way is a disgrace. It brings no credit on anyone; it brings no credit on the Senate, and this tit-for-tat, childless behaviour that is going on in the Senate is an embarrassment to us all. Mr Acting Deputy President, however you rule, I encourage all senators to have a good think about it.

Senator Kroger: Mr Acting Deputy President, on the point of order, the amendment has not been distributed throughout the chamber. As opposition whip, I do not have a copy of it, and I understand the normal courtesy of the senator moving an amendment is to provide one so that we have
an opportunity to look at it. We do not have copies throughout the chamber.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): It is not a point of order that a proposed amendment has not been circulated.

Senator Kroger: Can we ask the attendants to circulate it?

The ACTING DEPUTY PRESIDENT: Yes, we will ask the attendants to circulate the amendment, but I am aware that Senator Brandis has received a copy of the amendment. Senator Brandis, on the point of order, the motion that is before the chair is extraordinarily wide. Its opening words refer to the reflections of a range of members of this place and another place, and in no way is that limited by the remaining content of the motion. The amendment that has been moved by Senator Milne certainly to a limited extent comes within the known deliberations of a range of the persons referred to in the motion. By 'known deliberations' I mean comments that I have heard reported in the press or comments I have heard persons make in either chamber. Accordingly, whilst the amendment is very wide and at a distance from the motion, I do rule that it is in order. However, I have not had sufficient time to give more than cursory consideration to the points you raised, and the point you raised does have, in my mind, some substance and certainly some consequence. Accordingly, I will seek that the issue you have raised, whilst I rule against it now, be referred to the President for more considered deliberation and report back to the Senate, if he thinks appropriate, at a future time.

Senator MILNE: As I was indicating, what we have at the moment is rhetoric from the coalition about avoiding deficits that would require them to find an additional $50 billion a year in savings. In the Press Club speech the Leader of the Opposition, Mr Abbott, said that by the end of a coalition government's term tax cuts 'will be in prospect'. What does that mean? Will be in prospect? Taken at face value, that suggests that there will be no tax cuts for at least four or five years. This policy seems to have lasted less than a day, because media reports then had spokespeople for the Leader of the Opposition, Mr Abbott, saying there will be tax cuts within the first term.

I also go to the issue of the clean energy package which passed through the Senate last year and in which there is considerable benefit to Australians, with a $10 billion investment in clean energy—a huge investment in energy efficiency—announced today. I urge people in the community to be aware that there is over $200 million that the community can now apply for for energy efficiency—announced today as part of that package. The coalition would abolish all of those and yet it is out there telling the community that it supports renewable energy whilst at exactly the same time saying it will not support the Clean Energy Finance Corporation.

Interestingly, in that context in Tasmania you have the opposition—the Liberal Party in Tasmania—saying that the government should try to leverage off the Clean Energy Finance Corporation for Tasmania to have a whole strategy in renewable energy. It is quite clear that Mr Groom, the spokesperson, and Mr Hodgman, the Leader of the Opposition in Tasmania, have not spoken to their federal colleague Senator Abetz, because Senator Abetz would be able to tell them that they ought not talk about leveraging off the Clean Energy Finance Corporation when he intends to make sure it does not happen and that Tasmania gets no benefit from it in that circumstance.

Equally, we have Mr Groom and Mr Hodgman out there saying they want a
second Basslink. They want to get that out of the Connecting Renewables Initiative, which the federal government has on the go. They are saying, 'We want some of that money for Tasmania.' Meanwhile we have the coalition saying that it has a $70 billion black hole. It is going to sack public servants and somehow it is going to add tax cuts. It is going to get all the benefits, supposedly, of compensation and so on. This is a complete mess from the coalition in terms of an economic policy. No wonder Senator Cash does not want to talk about the coalition's policy; she does not want to have any scrutiny or any accountability for her actions in relation to the economy.

Let me move onto the issue of the mining boom. The Greens supported the resources super profits tax that was broadly in line with the Henry proposals. And we regret the fact that the government backed off the super profits tax, because it would have been appropriate to take excessive profits in the midst of a minerals boom and put them in a sovereign wealth fund in order to help Australia invest in public health and public education—particularly in light of the fact that under the Howard years there was such underfunding of education.

We hollowed out the manufacturing sector. We failed, under the Howard government, to invest in education and training. We turned this economy into a far less sophisticated economy. We turned it into a quarry economy, and that is why the coalition are now struggling with their economics. They have a situation where they cannot indicate how they intend to make up the $70 billion black hole in their strategy.

I want to go onto the super profits tax and the mining issues because Senator Cash is one of those who thundered against the proposal that the standard petroleum excise would apply to condensate from the North West Shelf. She was one who wanted to make sure that they did not pay an appropriate return—that they did not pay the taxpayers for the resources they were taking, that are owned by the community. There is an appropriate return to be had by the community from the resources of this country, and in the view of the Greens that should be spent on building the new economy—on building diversification and sophistication in the economy, investing in new manufacturing sectors and, in particular, investing heavily in education, training and pure research as well as applied research, because Australia happens to be very good at innovation. Australia happens to be very good at coming up with solutions to problems in particular technological areas. That is why we have such a fantastic global reputation when it comes to the solar industry in particular and the renewable industry. I am very pleased to say that it is because of the Clean Energy Finance Corporation and the clean energy package that we now see people wanting to come home from overseas, back to Australia, to get behind the transition to the low-carbon economy and create the manufacturing industries of the future.

We are at a stage in Australia and in the world, in fact, where the race is on to make the breakthroughs that are necessary in the technologies, whether that is solar, wind or batteries for electric cars. We are looking at a global race to be first in getting the breakthroughs that will rapidly accelerate the transition to a low-carbon economy. That is what the Greens have been working on with the government to try to achieve through the clean energy package. We have seen the coalition oppose it, oppose it, oppose it. They do not want to see a transition to a low-carbon economy; they want to lock in coalmining—a massive expansion of coalmining in Queensland. In fact, they are
massive coalmines that will lead to an increase in global greenhouse gas emissions. They talk up cheap energy at the expense of the environment and an acceleration of climate change and global warming. They deny global warming exists for the most part. They want to see an expansion of fossil fuel industries at the end of the fossil fuel age, when our whole competitive advantage in the future depends on us leaving those fossil fuels behind and making the massive transition. It is a fundamental difference of approach. That is where these debates ought to go.

As I was indicating a moment ago, in terms of fairness and income equality, we had here this morning a motion that I brought forward to address the duopoly of Coles and Woolworths, which is absolutely undermining the farm-gate price return for rural communities across Australia. The coalition, the National Party and the Liberal Party, voted it down with the government.

Senator Ryan: Since when have you cared about farmers? What are dairy farmers going to do with a carbon tax?

Senator MILNE: You voted it down and, tragically, there are farmers across the country who are going to the wall. We had the Queensland dairy farmers showing exactly what the milk price war has done to them, including the losses at the farm gate over time—the downward spiral that is going on. Exactly the same will now occur with Coles's discounting of fruit and vegetables—a 50 per cent reduction in the price of some lines of fruit and vegetables. Where will that leave the growers? How long is that discount in place?

Senator Brandis interjecting—

Senator Ryan interjecting—

Senator MILNE: The word 'hypocritical' has been used in here. Let me say, in relation to the Liberal Party and National Party's position when it comes to farmers and farm-gate prices, whenever Coles and Woolworths are mentioned they get up on their soapbox in communities around Australia saying they are doing everything they can to address the duopoly. Then, when you bring things in here which will actually start to address that, they vote against it because, when push comes to shove, they are not prepared to stand up for a decent farm-gate price.

This goes to the bigger picture issue of food security and food sovereignty in Australia. I would love to have a private member's debate in here at length on the issue of how you keep farmers on the land in Australia when they are under assault from coal seam gas, which the coalition totally support. Every last one of them is out there supporting the gas companies against the farmers. We are seeing the water resources of Australia compromised by coal seam gas miners and, behind them, the coalition totally support them and then get up and say they support farmers. Well, they are not supporting farmers in the Year of the Farmer. They are not supporting lifting productivity on farms. How is it lifting productivity when you drive a farmer off the land with coal seam gas expansion? How is that lifting productivity? How is polluting and compromising the Great Artesian Basin lifting agricultural productivity? It is not.

We have got a situation here where, if you are serious about keeping farmers on the land and protecting and sustaining the land for food and agricultural production, you would be looking at issues like, first of all, the planning laws that allow so much agricultural land to go under urban expansion around the country, you would be looking at issues like forcing the supply chain, and you would be looking at issues like the margin of each stage of the supply chain, so that we could find out with Coles—
Senator Brandis interjecting—

Senator MILNE: Mr Acting Deputy President, don't you love it when people stand up and make a big issue of respecting the procedures of the chamber and then they just cannot help themselves but interject at length. I am on my feet now speaking. They will have their turn in a moment.

The ACTING DEPUTY PRESIDENT: Order! Opposition speakers in this debate were listened to in absolute silence. The same courtesy should be extended to Senator Milne. Senator Milne, you were correct to raise that with me.

Senator MILNE: Thank you, Mr Acting Deputy President. I was just discussing the Coles and Woolworths duopoly and what is going on with Coles at the moment. What we should be debating in here this afternoon is how we can get an answer out of Coles. They are saying on the one hand that they are going to reduce the price of certain lines of fruit and vegetables by 50 per cent and they are saying that that will not have a long-term impact on farmers. In fact, they are saying that they are doing a great thing by the farmers by taking their surplus product. However, what is going on is that they have clearly negotiated a lower price with the farmers without guaranteeing a volume in return that they will take or a period of time over which they will take any particular volume. What is to say that farmers have not signed onto a low price in a time of glut, if you like, around the country and then will be forced to take lower prices into the long term?

Furthermore, while Coles will deny it, it is very clear that Coles will not be suffering a margin drop in its profits. It will spread the loss across the supermarket to make sure that it is not out of pocket, but the farmers will be pushed to a lower level of return at the farm gate. At some point farmers have to decide whether it is worth continuing in the business of farming, and that is why we are suffering in Australia at the moment. With the average age of farmers increasing, younger people are deciding that they are not going to go on the land because they have watched their families struggle all these years for less and less of a return. That is the kind of debate we should be having in here this afternoon, and we should be taking on this duopoly. We should be looking at it.

On Australia Day I was sickened to see big Australian flags over the tops of canned products in supermarkets. The assumption of the consumer is that if you buy this product then you are supporting something Australian, but we do not know that. The labelling laws in this country would allow the supermarkets to import vegetables from overseas by the container load, put them in those cans, stick an Australian flag on the front of the can and then lead consumers to believe that they are somehow supporting Australian farmers. That goes to the heart of the issue of trade, which is another issue we should be debating in here. We do not have fair trade under the current arrangements that have been entered into.

Opposition senators interjecting—

Senator MILNE: The coalition members are interjecting but they are the ones who oversaw the Australia-US Free Trade Agreement. The former Minister for Trade Mark Vaile ran around the country telling people in rural Australia that there would be hundreds of thousands of jobs created in Australia because of the US-Australia Free Trade Agreement. It was a sell-out, and the Productivity Commission has now pointed out that the claims were wildly exaggerated and that the benefits have not ensued as a result of that agreement.

Now the US is coming back with the Trans-Pacific Partnership free trade
agreement, which is being negotiated as I speak. The whole Australian community has no clue what the Americans will ask for under this Trans-Pacific Partnership free trade agreement because the US is insisting that the negotiating documents are kept secret for four years after it is negotiated. That is not on. I understand from leaks that have been made in other countries that are in these negotiations that the US is coming back with big pharmaceuticals to try to extend the patent period so that the generic medicines cannot be made sooner. The result will be more expensive medicines for people in Australia and in developing countries. Equally, Monsanto is coming into that agreement wanting to overturn any restrictions on GMOs. We have a moratorium in Tasmania and we do not allow it there, but Monsanto will be coming back to try to overturn that. We also have proposed changes to copyright. They are trying to get rid of Australian content in the Australian media and communication rules. We have an issue here that warrants a debate.

We have been asking the government to come clean and tell the Australian people what they are negotiating in the Trans-Pacific Partnership. What are they going to sell and give up? What are they about to trade away under an agreement where there is no indication at all that this is anything more than a big geopolitical move to suit the United States, rather than offering any benefit to this country? That is what we should be debating. We should be looking at the broader issues; and, frankly, the Abbott opposition is not up to it.

Senator Ryan (Victoria) (17:56): Before I address the substantive motion of Senator Cash I cannot let some of the allegations of Senator Arbib and Senator Milne go past. Being lectured to by Senator Arbib about good behaviour in politics is like being lectured to about the respect for law by Chopper Read. New South Wales is a killing field of disgrace and Labor leaders due to his influence and that of people like him. Under his guidance the New South Wales ALP became as much a racket as it was a political party. And who were the caporegimes of that mob? They were the New South Wales state secretaries—the heads of the New South Wales right.

He asks for ideas, as Senator Milne has. We have been pushing these ideas for several years now. They are simple: stop the new taxes, cut red tape, cut spending, balance the budget and pay back debt. It is actually pretty simple, but it is so hard for Labor to do because they have never ever managed it. If you do not get the basics right, all the grand schemes, all the best endeavours and all the highest aspirations are nothing short of meaningless.

Senator Milne has talked about the use of time in this chamber, which just proves that the Greens have no sense of irony. Day after day we sit in this place amid meaningless divisions that serve no purpose other than to print new bumper stickers for bikes in Fitzroy, where the Greens can run around and claim to be morally superior, pitching themselves to the morally superior class who do not bear the cost of the policies they seek to implement. For Senator Milne to come in here and talk about the impact on farmers when the carbon tax is going to force up the costs of Australian dairy farmers, who make the milk that Senator Milne is talking about and who are going to see cost increases of 10 to 20 per cent in only a handful of years, is nothing short of complete hypocrisy. I have little doubt that Senator Milne would have opposed the repeal of the Corn Laws, because cheap food is apparently a bad thing.

What we saw yesterday in the comments by Senator Bob Brown with respect to the ruling of the President represented a new
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low. All the President did was not grant precedence to a motion moved by Senator Brown; nothing more and nothing less. This is entrusted to the responsibility of the President's judgment, granted by the Senate by virtue of his election to the office. Senator Brown illustrated his complaint by outlining that the ruling of the President in such matters is often adopted by the chamber, quoting a report from several decades ago. This does not strengthen his argument; it merely reinforces that his grievance was with the decision itself rather than with a substantive issue. It is not formally determinative and it merely illustrates that the judgment of the President, which was exercised in this place, is important.

Senator Brown confused the issue here. The fact that allegations are made does not necessarily warrant any particular outcome. That is a matter for consideration at another time. As Senator Brown did not get his way in his motion of dissent, he used extraordinary language. The key tactic of the militant left was again illustrated when they failed to get their desired outcome: sledge and impugn the decision, judgment, person and indeed the motives of those with whom you disagree. To Senator Bob Brown and the Greens civil disagreement is not possible. Senator Brown also filed notices of motion, which he then admitted should not have been granted precedence. That represents an abuse of the procedures in this place. It does him, the Greens in particular and this parliament no favours.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Crossin) (18:00): We will proceed to consideration of government documents.

Tourism Australia

Senator IAN MACDONALD (Queensland) (18:03): I move:
That the Senate take note of the document.

This document is the Tourism Australia Report for 2010-11. Tourism in Australia at present is suffering from a number of factors, one of which is clearly the high Australian dollar. The tourism industry in North Australia and the north of the state that I represent in this chamber is experiencing particularly difficult times. There are iconic tourism destinations like the Whitsundays, a fabulous area. For those who might be listening, the Whitsundays are better than the Greek Islands for a sailing experience and for the resorts around there. They are slightly off the beaten track but there are good air services into the Hamilton Island airport. But that community is struggling from, as I say, the high Australian dollar. The additional costs of getting to places like that that will be caused by the carbon tax when it is introduced will place yet another burden on a struggling industry.

The Australian government should be doing everything in its power to support places like the Whitsundays, Port Douglas and Cairns, all of which are struggling for the same reasons. Because of the high cost of travel associated by general cost-of-living increases—which have been a hallmark of the current government—the cost of getting to these places in Australia is far higher than it is for getting to places like Bali, Thailand or Vietnam. This is a real problem, and it is exacerbated by the fact that, under the Gillard government, not only have passport costs gone up for international visitors but things like the carbon tax will put an extra burden on tourism industries which desperately need assistance.

We talk in this chamber quite often, and I notice Senator Carr is a great advocate, a great champion of this—in his own mind at least—of the manufacturing industry. He throws figures like billions of dollars to the manufacturing industry and to the car industry—and that is in part something that
over the years has been supported by our side of politics. But very little, if anything, goes to support one of the most significant industries in Australia—the tourism industry. The current federal government, and indeed the current Queensland government, seem incapable of devising any sort of program or assistance that would help those industries that are really doing it tough at the present time. The Queensland government is quite incapable of any financial assistance to the tourism industry. The Queensland government, as anyone who lives in my state of Queensland knows, is absolutely broke. The debt of the Queensland government is reaching the debt levels of the old Labor governments of Hawke and Keating—$96 billion. I think the last time I saw it, the debt incurred by the Queensland government was up around $90 billion. The Queensland government has sold everything it could get its hands on but is still what one might call broke. So we cannot expect any help from that direction.

Some of the money that the Gillard government has spent on climate change and on bureaucrats and advertising would have been far better used had it been diverted to assisting the tourism industry in North Queensland and Northern Australia, which is doing it so tough at the moment. I make a plea to the Gillard government, before it is too late, to have another look at the carbon tax. Realise what sort of damage you are doing to Australian industries like aluminium and tourism and have a rethink. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Australian Fisheries Management Authority**

**Senator BUSHBY** (Tasmania—Deputy Opposition Whip in the Senate) (18:09): I move:

That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**Great Barrier Reef Marine Park Authority**

**Senator BUSHBY** (Tasmania—Deputy Opposition Whip in the Senate) (18:09): I move:

That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**Australian Crime Commission**

**Senator PARRY** (Tasmania—Deputy President of the Senate and Chairman of Committees) (18:10): I move:

That the Senate take note of the document.
I indicate to the chamber—and I am sure most senators are aware—that use of assumed identities is always reported to the parliament. The Australian Crime Commission is very assiduous in handling these matters, also being part of the regulatory framework. On top of that the Australian Crime Commission is under the jurisdiction of the Australian Commission for Law Enforcement Integrity, which is an oversight body which ensures that there are no systemic or serious corruption issues within that agency, along with the Australian Federal Police and now the customs agencies.

Today during the tabling of ministerial responses to reports from committees of the parliament, including the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, the annual
review of the annual report of the Australian Commission for Law Enforcement Integrity was tabled. I encourage senators to make themselves familiar with that report. Several recommendations made by that committee were adopted by the government and the government has stated that it intends to fulfil some of the recommendations. When the committee met earlier today, it thought it was commendable of the government to do so. This is a bipartisan committee made up of senators and members from both houses.

The committee has made serious recommendations after a lengthy examination. One of those recommendations related to the potential increase in the term of the Commissioner of the Australian Commission for Law Enforcement Integrity. The commissioner's tenure would ordinarily expire after a set period of time. However, the committee did recommend some time ago that it would be prudent for the government to have the option at least to extend the commissioner's tenure by a period of two years. When we did that we added a caveat, which was that if the minister deemed that necessary and appropriate the committee would need to sign off on that. To me that was a fairly significant aspect.

The committee recommended that as an immediate measure the Australian Customs and Border Protection Service be brought under ACLEI's jurisdiction on a whole-of-agency basis by regulation. That was agreed to. The committee also recommended that in the longer term the Australian Customs and Border Protection Service be prescribed as a law enforcement agency within the Law Enforcement Integrity Commissioner Act 2006. Again, that was agreed to. Also, the committee recommended that ACLEI be appropriately staffed and funded as commensurate with the task of detecting, preventing and investigating corruption in an agency of the size and complexity of the Australian Customs and Border Protection Service. This proved to be what we believed would have been one of the more complicated recommendations, but the government has agreed to it. It shows the commitment under the Howard government, when ACLEI was established, and also now under the current regime to anticorruption measures. It demonstrates that anticorruption agencies are valued and will be entrenched within governments to come. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Consideration**

The following orders of the day relating to government documents were considered:


Trade—New Zealand—Export of apples to Australia—Order for production of documents—Document. Motion of Senator Williams to take note of document agreed to.

Departmental and agency grants—Orders for production of documents—Documents tabled 11 October 2011—

Australian Organ and Tissue Donation and Transplantation Authority

Department of Infrastructure and Transport

Department of Families, Housing, Community Services and Indigenous Affairs

Department of Regional Australia, Regional Development and Local Government
Department of Innovation, Industry, Science and Research [2]

Climate Change and Energy Efficiency portfolio
—Motion of Senator McKenzie to take note of documents agreed to.

Natural Heritage Trust of Australia—Report for 2008-09. Motion of Senator Macdonald to take note of document agreed to.


Department of Health and Ageing—Report for 2010-11. Motion of Senator Polley to take note of document agreed to.


Department of Immigration and Citizenship—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.


Department of Families, Housing, Community Services and Indigenous Affairs—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.

Department of Health and Ageing—Report for 2010-11—Corrigendum. Motion of Senator Parry to take note of document agreed to.

Family Court of Australia—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.


Wet Tropics Management Authority—Report for 2010-11, including report on the State of the Wet Tropics. Motion of Senator McLucas to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.


Department of Human Services—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.

Centrelink—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.

Medicare Australia—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.


Department of Resources, Energy and Tourism—Report for 2010-11, including report of Geoscience Australia. Motion of Senator Ronaldson to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Health Workforce Australia—Report for 2010-11. Motion of Senator Adams to take note of document agreed to.

Australian Institute of Marine Science (AIMS)—Report for 2010-11. Motion of Senator McLucas to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Department of Innovation, Industry, Science and Research—Report for 2010-11, including report of IP Australia. Motion of Senator Colbeck to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Australian Centre for International Agricultural Research—Report for 2010 11. Motion of Senator Colbeck to take note of document agreed to.

Department of Veterans' Affairs—Data-matching program—Report on progress 2010-11. Motion of Senator Ronaldson to take note of document agreed to.


Torres Strait Regional Authority—Report for 2010-11. Motion to take note of document moved by Senator Bushby. Debate adjourned till Thursday at general business, Senator Bushby in continuation.


Environment—Tasmanian Forests Intergovernmental Agreement—Harvesting requirements—Order for production of documents—Document. Motion of Senator Colbeck to take note of document agreed to.

Trade—Export of live cattle to Indonesia—Department of Agriculture, Fisheries and Forestry—Australian Government Solicitor—Department of Foreign Affairs and Trade—Orders for production of documents—Documents. Motion of Senator Colbeck to take note of the documents agreed to.


General business orders of the day nos 5, 7 to 9, 11 to 23, 25 to 27, 46, 48 to 53, 56 to 80, 82 to 110, 112 to 130, 133 to 142, 144 to 146, 150 to 152, 154 to 164 and 166 to 177 relating to government documents were called on but no motion was moved.
Thursday, 9 February 2012

COMMITTEES

Electoral Matters Committee

Report

Senator FAULKNER (New South Wales) (18:15): I move:

That the Senate take note of the report.

I welcome this report by the Joint Standing Committee on Electoral Matters on the funding of political parties in election campaigns and I welcome the recommendations of the committee, which proposes a better, more transparent and more accountable system for the funding of political parties and election campaigns. I think it is important to remind the Senate that the first term of reference for this inquiry by the Joint Standing Committee on Electoral Matters, which was agreed to by both the Senate and House of Representatives last May, was:

… options to improve the system for the funding of political parties and election campaigns, with particular reference to:

(a) issues raised in the Government’s Electoral Reform Green Paper - Donations, Funding and Expenditure, released in December 2008;

I think that that green paper, now more than three years old, stands the test of time. As Special Minister of State at that time, responsible for the production of the green paper, I remain very committed to addressing the challenges facing our electoral system that I identified then: the costs of electioneering leading to what I described as a 'campaigning arms race'; the adequacy of our electoral laws to deal with new media and new technologies; the rise of third-party participants in our electoral process and how their electoral activity should be regulated; and the complexity that we face with overlapping and confusing electoral systems for three tiers of government. In my introduction to the green paper I said:

In Australia, as in other democracies around the world, the potential for large and undisclosed sums of money in election and campaign financing has become more and more a matter of concern to the public. Perceptions of the potentially distorting nature of large donations—either cash or other resources—to political parties will degrade the public’s trust in the integrity of the political process. These perceptions of possible influence need not be only concerns about potential undue influence in the narrow sense of how government decisions are made, but in a broader sense: concerns that parties and politicians dependent on large donors will be if not compliant, then at least receptive, or that large donors may get access that others do not.

I went on:

The perception of undue influence can be as damaging to democracy as undue influence itself. It undermines confidence in our processes of government, making it difficult to untangle the motivation behind policy decisions. Electors are left wondering if decisions have been made on their merits.

In speeches I make to this chamber I rarely quote my own words and even more rarely do I quote my own words at such length, but I have done so on this occasion because I stand strongly by those words. I wanted to take this opportunity this evening to state clearly that, since I wrote those words, my commitment to reforming and improving our campaign and disclosure laws in Australia has not waned. Reform is desperately needed.

I want to see political parties and candidates subject to the toughest and most rigorous disclosure and accountability provisions possible in our electoral system. If that offends any vested interests on any side of politics, so be it. Frankly, I could not care less, because ensuring we have an electoral system of integrity in this country is paramount.

I also welcome the committee's clear support for the provisions of the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill, which I
originally introduced as Special Minister of State in 2008. That bill contained new disclosure and accountability proposals for which, despite my best efforts, I was unable to attain majority support in this chamber. Some of the measures contained in that bill—now, I am pleased to say, endorsed by the Joint Standing Committee on Electoral Matters—include reducing the current donation disclosure threshold from the current indexed $11,900 to a set, non-indexed figure of $1,000; eliminating of the donations-splitting loophole whereby donors can give multiple donations of just less than the donation disclosure threshold to all the different branches or divisions of a political party without having to disclose anything at all; banning of overseas donations, which are wholly acceptable in the Australian system but which most countries in the world outlaw; and reducing the reporting periods for participants in the electoral system. These are all important steps in the right direction. If enacted, they will make our electoral funding and disclosure system more transparent and more accountable.

I must say, in concluding my remarks, that it is very disappointing, although not surprising, that the opposition has stated its trenchant opposition to these important reforms in its dissenting report. That is very disappointing. Australian politics deserves better.

Senator Fierravanti-Wells (New South Wales) (18:24): Senator Faulkner's comments are very welcome but, quite frankly, unless the union movement and third parties are involved and covered by the framework of any legislation then it does not actually make a difference. I do not think the Australian Labor Party and their acolytes have had the political courage to take the hard decisions on this. It is all very well, Senator Faulkner, to make these comments but, I have to ask myself: had organisations like the HSU and other unions been covered would perhaps a lot of the highways and byways that we have traversed in relation to Mr Craig Thomson, and his time before he became a member, have been a lot easier—particularly in the dealings with Coastal Voice, many of which I have traversed in this chamber as well?

Senator Rhiannon (New South Wales) (18:25): It is an honour for me to follow Senator John Faulkner in this debate. I recognise that he has made a huge contribution, and I was very pleased when he came into the chamber to contribute a response to this report. When the green paper that he made reference to came out, it gave people who are following this issue closely and are campaigning for electoral funding reform great hope. Many of us actually felt great sadness when he was no longer the minister and we felt the chances of achieving reform had hit a roadblock and possibly gone backwards. Many people have said to me, and it is certainly my own feeling, that many of the recommendations in the report that we are considering now would have been fundamentally different if Senator Faulkner had still been the minister.

I was very pleased to hear Senator Faulkner's comments and I fully agree with him that the recommendations in the green paper stand the test of time. When he was Special Minister of State that document became a very regularly used reference for people who are deeply committed to the need for change here. I also agree with Senator Faulkner about how disappointing it is where the coalition stands. Senator Fierravanti-Wells has again unfortunately come into this debate with a lack of understanding, because her colleagues actually voted against some of the proposals that she said would have allowed reform to go ahead. I am referring to the comments that she made about union donations and third party donations. The
Greens put forward recommendations on this issue. They appear in our dissenting report. If you look in the minutes, you will see that the coalition voted against them.

While the recommendations from this inquiry are limited, it certainly was a significant inquiry and the body of evidence that is now in this report is very useful. Electoral funding reform should remain a top priority for all political parties. Indeed, it is critical to the very strength of our democratic process. I can share with senators in this chamber that many people in our community are deeply troubled by the political donations that pour into this political system. What I see is that it is breeding a cynicism about the political process, where people believe, 'What is the point of engaging with politicians when they will clearly pick up the phone for those who donate large amounts of money?' This is something that we need to deal with in a much more detailed way than with the recommendations before us.

Having said that, there are some significant achievements in these recommendations and I would like to mention a couple of them. One is that Labor have honoured the promise they made that they would lower the donation disclosure threshold to $1,000. This is very important in terms of the public having a greater understanding of where the money comes from that is funding political parties and many candidates.

It is worth remembering the history of why this reform is needed. One of the very unsavoury aspects of electoral changes that were made in the Howard years, and would have gone through this chamber, was when the disclosure threshold was lifted to $10,000, to increase with the CPI. So now it is around $11,500, and that is the level below which donations in the federal sphere do not have to be disclosed.

Another important recommendation that has come forward in this report is that any donation over $100,000 must be disclosed within 14 days. I was pleased that this was one of the recommendations that we put forward which was picked up. The Greens have advocated for this for quite a while. However, although it was picked up and supported—and you will see it in the report—there is a loophole here, and that is that the donations will not be judged on a cumulative basis. Therefore, you could have a donor who gives many small donations and if you added them up they could be above $100,000. But because they are not added up, that information would not be required to be disclosed within 14 days. I do think that that is unfortunate. Again, that sort of trickery—and I do have to call it that because that is how many people view it—is what makes people very cynical. It appears that you are gaining a reform but the system has these loopholes that really hide important information from the public.

The major failure with these recommendations is that we do not have the substantial electoral funding reforms that are urgently needed and which are being achieved in the states. We now have a state of affairs where the federal electoral funding laws are becoming increasingly out of step with what is happening in state jurisdictions. I am particularly referring here to New South Wales and to Queensland, but there is certainly talk that their reforms could occur in other states. In New South Wales the reforms have actually been quite far reaching. It is now illegal for developers and donors associated with the tobacco industry, the alcohol industry and the gambling industry to donate to political parties. There are also very tight caps on donations. The amounts that can be given by any organisation, corporation or individual to a political party cannot be over $5,000 and
cannot be over $2,000 to a candidate. That has been a significant achievement.

Another area which is another example of a missed opportunity with this inquiry is that the important bill that Senator Bob Brown gave notice of in this chamber—that is, the Electoral Amendment (Tobacco Industry Donations) Bill 2011—was not given support by this inquiry. It was a very simple piece of legislation—a very obvious piece of legislation—saying that we should stop anybody, any corporation or any part of the tobacco industry donating to the political process, and that was not agreed to.

In making these comments I have to say that my thoughts do go back to some of the hearings of this inquiry. A House of Representatives member, Mrs Bronwyn Bishop, was on this inquiry. Her behaviour on this inquiry made our work very difficult. It was quite appalling at times. She impugned the reputation of witnesses and she would grandstand with extreme statements. I came to realise that her tactics, from what I could see, were to be disruptive to the process of hearing important evidence and to throw witnesses off their evidence. That was certainly challenging, but I do congratulate the chair of this committee, Mr Daryl Melham, for being extremely fair in how he conducted the inquiry in the face of great difficulties from some members.

Because the inquiry recommendations were inadequate, I did set out a series of recommendations, in keeping with Australian Greens policy, in a dissenting report. These go through a whole number of key aspects that are already part of legislation such as that in Canada and being advanced in other Western democracies. Aspects of them are coming through in Queensland and New South Wales legislation. Again, I want to emphasise that important point—how out of step the federal laws are.

In summary, the Greens recommendations included a ban on all donations from all entities other than individuals. And just to emphasise for coalition members—again, going from the comments that Senator Fierravanti-Wells made—surely they could have been able to support our recommendation to ban donations from corporations, unions and other organisations and to deal with third parties. To go back to the recommendations in our dissenting report, we also called for a cap on the amount of money that can be donated in a year from a single individual, and caps on expenditure by political parties, candidates and third parties. I find that one is particularly popular with the public, because they realise that it would limit all those coloured glossies that get pushed into their letterboxes, and they have doubts about how useful they really are.

(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Crossin): Senator Rhiannon, your time has expired. There is a 10-minute limit on speaking to reports. Do you want to seek leave to continue your remarks?

Senator RHIANNON: I seek leave to make a short final statement.

Leave granted.

Senator RHIANNON: Thank you to my colleagues in the chamber. I would urge members to acquaint themselves with the dissenting report of the Australian Greens. Those recommendations do give a framework to how we could advance electoral funding reform at a federal level. That would bring more confidence back to the democratic process, which, while we have our differences, I believe we are all committed to.

Question agreed to.
National Broadband Network Committee Report

Debate resumed on the motion:
That the Senate take note of the report.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (18:37): I rise to take note of the National Broadband Network Joint Standing Committee's second report Review of the rollout of the National Broadband Network and seek leave to continue my remarks.

Leave granted; debate adjourned.

Economics References Committee Report

Debate resumed on the motion:
That the Senate take note of the report.

Senator STEPHENS (New South Wales) (18:38): I rise to take note of the Economics References Committee Report Investing for good: The development of a capital market for the not-for-profit sector in Australia. This is a long-awaited report and is the culmination of a very important piece of work by the Economics References Committee. It builds on the work that the Senate and the Productivity Commission have been doing. The Productivity Commission, in its 2010 report, The contribution of the not-for-profit sector, observed that there is a need to develop a sustainable primary market for not-for-profit debt in Australia. The Productivity Commission considered that a lack of access to capital for not-for-profit organisations could be due to concerns that not-for-profits are unable to service debt, the high costs for specialist financial intermediaries to provide capital, and the 'still young market' for capital that accepts returns in social as well as financial benefits. In policy terms these days that is called the 'social return on investment' in understanding of that issue.

The Productivity Commission argued the need for change in all three areas but noted that the Australian government has limited experience in this area. Accordingly, the Productivity Commission recommended that the federal government should establish an advisory panel to consider options and assess progress in developing a sustainable market for not-for-profit organisation debt products. Whereas the Productivity Commission actually considered these issues only in passing, this inquiry focused on the barriers and the options available to develop a mature capital market for the social economy sector in Australia.

The committee found that some of these constraints reflect on not-for-profits themselves. They lack a steady revenue stream to attract investment and the collateral to guarantee loans, they remain grant focused and risk averse to debt and equity capital, and they often lack the capacity and the organisational structure to raise equity capital. Other constraints to not-for-profit organisations accessing debt and equity capital reflect the limitations of mainstream financial institutions. Many are unaware of the needs of not-for-profit organisations, while others are dissuaded by the large transaction costs relative to the capital required by these organisations. As well, the market has been stymied to some degree by the lack of an enabling regulatory environment and, in particular, the lack of targeted incentives for financial intermediaries.

The committee's main recommendation was that there is a clear need for strategic direction to coordinate the opportunities for not-for-profit organisations to access capital in Australia. Currently, these needs are not coordinated and, as a result, many of the potential benefits for both not-for-profits organisations and investors are not realised. So the central recommendation of the report is that a social finance task force should be
established; that the task force must have a high-level advisory role, similar to that which has operated successfully in the United Kingdom and Canada; and that the task force should identify and publicise opportunities for not-for-profit organisations and the investment community to collaborate and shape a policy framework to develop a capital market for the not-for-profit sector.

The committee recommended that the task force should be composed of high-profile and influential members from the mainstream finance sector and include some community development finance institutions—CDFIs, the superannuation industry, the philanthropy, the not-for-profit sector itself, and academia. It should also have representatives from the departments of Treasury, Prime Minister and Cabinet, and Finance and Deregulation. The committee emphasised that the task force must be separate from the current arrangements that are in place to establish the Australian Charities and Not-For-Profits Commission, the ACNC, and the work of the Office for the Not-For-Profit Sector and the Not-For-Profit Sector Reform Council. The committee believed that only as a separate body will social finance issues receive the prominence and the attention that they have lacked in the past.

The committee was very encouraged that key stakeholders support the idea of a task force. Most notably, during the course of this inquiry, the Community Council for Australia, the CCA, convened a roundtable of 15 social finance experts which commended a task force. The CCA envisaged that the task force should build on the work of this inquiry and provide recommendations to the government on the capacity of the sector, its access to capital, enhancing the role of intermediaries and simplifying the sector's legislation and regulations.

Before I move on to some of the recommendations in the report, I want to express my thanks and appreciation to the secretariat and to those who were involved in what was a very long and protracted investigation. As well as those who made submissions, there were many other people from within the sector and particularly from the finance sector who took the time to participate in roundtables, to make submissions and to come back after our hearings and provide additional information. The generosity of the witnesses in doing that is to be commended. We really did appreciate it.

During the inquiry we saw very practical examples of the impact of lack of access to capital on very important areas that are challenging to us all—challenges in the aged-care sector, around social housing, the NRAS, around disability—and how this whole connection of social capital will actually intersect with what is envisaged under the National Disability Insurance Scheme. There are extraordinary crossovers in the challenges that are being confronted by us all, and we heard very important evidence about what we might be able to do in terms of improving access to capital and equity funds for not-for-profits.

One of the things that we understood from this inquiry is that not-for-profit organisations reliant on grant capital and donations are often risk-averse to debt and equity capital. They often prioritise resources directly towards their social mission rather than developing the financial literacy and organisational capacity necessary for long-term sustainability. I think we saw very strong evidence of that during the global financial crisis, when the government had to step in and provide significant funds to major organisations around Australia because their long-term sustainability was desperately challenged.
So the recommendations of the report go to some key points. As I say, the central one is around creating a social finance task force. We initially recommended that the task force report to government by July 2012, so I think it is imperative that the government respond quickly to that recommendation and try to get this in place as soon as possible. Importantly, we recommended that the social finance task force consider the potential for philanthropic trusts and foundations to invest a percentage of their corpus in social investment options, and particularly whether or not that could actually be a requirement, developing social investment vehicles for philanthropic intermediary organisations, and other kinds of mechanisms that could be put in place to enhance philanthropic engagement with the sector. We also recommended educating financial and corporate stakeholders about investing in social organisations in ways that they would not, perhaps, have understood before; promoting social investment products; and looking at what kinds of new debt instruments, equity-type investments and long-term patient finance could be put in place. The development of those kinds of products reflects a diversity among not-for-profit organisations and would allow them to access capital on a much more consistent and equitable basis.

We received quite a lot of information and submissions around the issue of social impact bonds, and we think that there is an opportunity to look closely at those as a mechanism. They are sometimes called ‘pay for success’ financial models and they are being trialled in New South Wales at the moment, so we will be following that closely. Strengthening social enterprises is a way in which we can foster a number of innovative approaches to targeting social issues, so that is another recommendation that is in the report. We commend the report to you all, and most importantly the recommendation around developing a measurement framework. I said at the beginning of my remarks that the issue of the social return on investment and how you can articulate and measure that is critically important. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Legal and Constitutional Affairs Legislation Committee Report

Debate resumed on the motion:

That the Senate take note of the report.

Senator LUDLAM (Western Australia) (18:48): Madam Acting Deputy President Crossin, this is a committee which you chaired, so I suppose it is fortunate for me that you are in the chair tonight, partly because it means you are less likely to heckle me! I think this is very important.

The ACTING DEPUTY PRESIDENT (Senator Crossin): I hope that is not a reflection on the chair, Senator Ludlam!

Senator LUDLAM: Absolutely not, Madam Acting Deputy President. I note that we do not have a great deal of time for this debate. However, I would like to put a few remarks on the record before we rise for the evening. We deeply regret that the Legal and Constitutional Affairs Legislation Committee has decided in its report on the Northern Land Council’s evidence to the committee’s inquiry into the provisions of the National Radioactive Waste Management Bill 2010 that it could not conclude that the evidence provided by the Northern Land Council misled its inquiry into the bill or raised any matter of privilege for future consideration by the Senate. This is an extremely important matter, and it is something that I appreciate that the chair of the Legal and Constitutional Affairs Legislation Committee, to her credit, did acknowledge was important enough to
bring back to the committee—because this is a matter that has been ongoing for a number of years—for a further look. It rests on a bill that is before this very chamber currently. It was a matter that had an hour's worth of debate yesterday, and it has been with the Senate, I believe, for about a year.

The committee in this instance decided that it could not make a conclusion, and it did not find either way. But in fact my contention, which I will speak to in greater detail when this matter returns to the chamber, is that the committee effectively decided that it would not make a conclusion or come to a decision. The committee should have taken the time and the opportunity to examine the documents that were before it, and I will go into some detail as to what the committee could have done rather than simply coming to the view that it was not competent or able to find one way or another.

This matter is extremely important. A particular community in the Northern Territory has been targeted for a national radioactive waste dump in Australia. We have never had such a facility before. It has been very, very contentious for governments of all kinds, and it is something that has been extremely vexed—an issue that neither Labor nor the conservatives have ever been able to get a grip on. In this instance, the site has been targeted for a particular cattle station about 120 kilometres north of Tennant Creek, and there is a serious dispute over whether the land should have been nominated from the Northern Land Council to the federal government. It is a site that is explicitly named and targeted in the legislation before the parliament, yet the people of that region have taken a very serious dispute to the Federal Court over whether that land should have been forwarded in the first place.

It was up to the Legal and Constitutional Affairs Legislation Committee in examining the bill—which it did with extremely truncated and narrow terms of reference the year before last—to decide whether or not this bill should proceed. It did decide, in the absence of quite a number of very important documents that the Northern Land Council refused to disclose to the committee when they gave evidence, to recommend that the bill be proceeded with. At the time, my office forwarded quite a detailed dissenting report saying that, in fact, the committee had not done its job; even within its narrow terms of reference, it simply had not done its job. It had not sought the requisite information to allow it to properly fulfil its function, and it has done so again. In the report that we are remarking on tonight, the committee has effectively said, 'We don't have the requisite information to properly fulfil our function. We're not going to seek it and therefore we're not going to make a finding.' What makes this dangerous is that, in the absence of that information and in the absence of a proper effort to seek that information and evaluate it, the committee nonetheless recommends that the bill be passed—and that, I think, is an extraordinary oversight. It is what these committees are set up to do. It is the reason that we take evidence, take up witnesses' valuable time and travel around the country seeking evidence.

The committee recommended in May 2010 that the bill be passed, acknowledging at the time that it did not have access to key documents and information, in particular the deed of agreement relating to the nomination—that is very, very important—or the anthropological reports that were relied upon...
by the Northern Land Council in forwarding this nomination and in claiming that it was in fact a nomination conforming to the land rights act. The committee at the time was therefore forced to rely heavily on testimony and assertions of those who did have access to the documents, namely the Northern Land Council.

The anthropology report, I think, is the key one. It was withheld from the committee, it has been withheld from other parties to the dispute until, I think, quite recently and it is the basis upon which the Northern Land Council nomination of the Muckaty site rests. The land council's entire case rests on this anthropological report that nobody, including named parties to the Muckaty Land Trust, has seen. The NLC is rightly recognised in the May 2010 committee report as the relevant representative body and its evidence and submissions are quoted throughout. The committee report of 2010 includes NLC assertions that it has fulfilled its statutory requirements to comprehensively consult with Aboriginal traditional owners and that it had correctly determined one particular clan of the Ngapa group as the rightful owners of the Muckaty nomination.

If the chair were to speak on this matter she would probably assert that, in fact, a Senate committee is not a properly qualified body to determine land rights disputes between contesting traditional owners, and on that I would agree with her. I hope I have not verbaled her there, but, of course, the committee is not a properly qualified body. We do not have a single Aboriginal person on the committee to begin with and none of us is an anthropologist, so we are not a properly qualified body to adjudicate that dispute. It is extremely unfortunate, in fact, that that matter has come to the Federal Court for adjudication, because, of course, the people bringing the action have much better things to do. There are things that are much more urgently on their radar than fighting off this proposal for a waste dump.

However, in the absence of having the expertise to adjudicate the dispute, the least the committee should have done was to have sought the documents to be able to test the assertions that were put to the committee by the Northern Land Council, which were, in effect, put to the committee on the basis of, 'Trust us—we are the experts.' If the nomination had been uncontested, I suspect that would have been enough and the matter would have travelled no further. However, in my view, where there is smoke there is fire. Not only has the nomination by the NLC been contested; it has been contested by a large group of people who have taken their dispute all the way to the Federal Court. They, regrettably, have had to engage legal counsel to fight this nomination in the courts. We will not know whether there is fire behind the smoke, because, of course, the key documents were withheld from the committee.

The Legal and Constitutional Affairs Committee did hold a brief hearing into the matters that were raised in this objection, which I put to the committee, that in fact the Northern Land Council may have knowingly misled the Legal and Constitutional Affairs Committee. That effectively was what this report was about: whether information that should have been provided to the committee was withheld or not. The committee in the end decided that we did not have enough information to make a call one way or another. My key contention is: we did not ask for that information and it was our job to ask. So we dissented. I strongly disagree with the findings of the committee, although I do thank the committee for at least responding to my letter. Pushing it one degree further, we wrote to the Northern Land Council and sought their views. But I was concerned about the inconsistencies
between evidence given by the NLC and open-source reporting and direct testimony from traditional owners and elders of that region who strongly contested the nomination and felt that, in fact, there was cause here to take it further.

I continue to be concerned that the inconsistencies are so great as to potentially constitute the misleading of the committee. We were held up, obviously, on the distinction between whether we were knowingly misled or unknowingly misled. We will not be able to find that out—not because it is beyond the wit or the competency of the committee to inquire in those matters but because we did not seek to ask.

I find it a shock, as do many supporters of the Australian Labor Party, that coercive attempts to dump radioactive waste out in terra nullius did not end with the election of the Rudd government but have in fact been picked up and pasted exactly where the former government left off. Our leaders may have changed, but our resources minister effectively has not. I continue to recall and remark that the government opened its first term with an apology and that, if this legislation is allowed to proceed, it will close this term owing another apology to Aboriginal Australians. I think the Legal and Constitutional Affairs Committee missed an important opportunity to right what will be seen, if we entrench it and lock it in, as a historical injustice that should not be allowed to stand.

Question agreed to.

Community Affairs References Committee

Report

Debate resumed on the motion:

That the Senate take note of the report.

Senator FIERRAVANTI-WELLS (New South Wales) (18:59): This report is into the Commonwealth funding and administration of mental health services. This report is quite wide-ranging. Indeed, very few Senate inquiries receive as many submissions as this one did. Over 1,000 submissions were made. The fact that one in five Australians has a mental health problem was certainly evident in this inquiry, and it just goes to show that mental health is a very serious issue. Judging not only by the number but also by the nature of the submissions to the inquiry, a lot needs to be done on mental health.

Tonight I focus on yet another backflip on mental health. The backflip by Mark Butler, the Minister for Mental Health and Ageing, on 1 February was not entirely unexpected given the criticism that the coalition had directed towards the government for its decision to cut access to extra sessions under the Better Access program. The minister's backflip on Better Access vindicates the coalition's criticisms that the government's changes to the Better Access program were made on the basis of inadequate consultations with key stakeholders and that there was very little attempt to assess the impact of the changes—most importantly, the changes affecting patients.

The dissenting report of the coalition senators to the inquiry of the Senate Standing Committee on Community Affairs into the Commonwealth's funding and administration of mental health services was very critical of the government's changes. We believe that these changes caused a lot of stress to patients, to their families and to the practitioners treating them. But these changes are typical of a government which cannot get anything right. Of course, backflips on mental health are not new. On 19 May 2010, then health minister Roxon was forced to perform the first budget backflip of 2010—and this less than a week after the budget was delivered—by deferring changes which would have prevented social
workers and occupational therapists providing mental health services. The latest backflip was the same old story—no consultation, no heeding the advice of the experts and little consideration of the impact on those suffering from serious mental health issues.

I now refresh the Senate's memory of the report. I go to some of the coalition senators' criticisms which are included in this report and which, with the benefit of hindsight, have well and truly been vindicated. We were very critical of the evaluation of Better Access. Among the aspects we criticised were the lack of measurement of key objectives of the Better Access program and how the performance over time of the program has been measured. Moreover, I have asked questions on these matters in the Senate. In our dissenting report, we picked up where criticisms had been made in the submissions. The methodology of the evaluation was the target of particular criticisms, which held that the evaluation had not proceeded 'according to scientifically accepted methods, the latter crucial for establishing the most accurate results'.

In the 2011-12 budget statement, the government stated that Better Access was an increasingly costly program and that it had not, allegedly, been fully effective in addressing the mental health needs of all target groups. What the government then did was ineffectively shift money from one program to another. Rather than reforming mental health, the government was simply robbing Peter to pay Paul: by rationalising its services, the government was simply redirecting funds from one program to another. It was unclear whether, in so doing, the government had any plans to monitor the impact on the quality of the care which was going to be available to people as a result.

Had this government not wasted so much money on pink batts, had it not wasted $16 billion on the Julia Gillard memorial halls and had it not wasted so much money on a whole litany of other programs, it would not have been picking on the most vulnerable in our society—the mentally ill—and cutting programs, which was in effect just a budget saving measure. It did these things because it had squandered so much money on other things, and then the government thought: 'Why don't we go out there and pick on the mentally ill? There won't be too many advocates for them.' And that is what the government did.

We were most critical of the government in this instance for its failure to consult with the key stakeholders and, most importantly, to assess the impact that its cuts were going to have on the patients. Consultation on mental health has not, of course, been a strong point of the Rudd-Gillard government. I take the Senate back to 2008, when the government established the National Advisory Council on Mental Health. In June 2010, we saw the rather spectacular resignation of Professor John Mendoza, who had been appointed the council's chairman. He resigned while heavily criticising the Rudd government for its lack of action on mental health. In an interview he gave on 21 June 2010 he gave his reasons for his resignation. He said:

Well it’s a frustration … When I took this role on I genuinely believed that the Government was going to take a different approach to mental health reform. They’d certainly made clear in opposition that they were determined to address the long standing problems in this area.

He also said:

… after two years … it was pretty clear we were getting nowhere.

With the chairmanship vacated, what does Minister Butler do but appoint himself as the chairman. Either he could not find anyone to replace Professor John Mendoza or he wanted to take a more hands-on approach
and give himself advice. How can you be the minister and appoint yourself as the chair of a ministerial advisory council? This, of course, also led to some criticisms.

And then, over and above this, we also had foggy evidence given at estimates about this other group which emerged whereby the minister established a new little group, a sort of 'kitchen cabinet', to advise him on some budget changes. The process was again criticised. It certainly was not handled well and it appears to have raised real doubts among stakeholders not only about the effectiveness of the national advisory council but it also reinforced the credibility of those participating and giving advice to the minister and raised real questions about the transparency and objectivity of its deliberations. This then led to criticism because some of the participants in those deliberations were subsequently the recipients of robbing Peter to pay Paul.

In our report we were very critical and in our concluding remarks we criticised the way the government had undertaken the changes and its scant consultation with key stakeholders, instead relying heavily on what had been a heavily criticised Better Access evaluation. It is not surprising to see that the government backflipped. It should have listened to the coalition and followed our advice. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to committee reports and government responses were considered:


Corporations and Financial Services—Joint Statutory Committee—Report—Statutory oversight of Australian Securities and Investments Commission—Interim report—Inquiry into the collapse of Trio Capital. Motion of Senator Bushby to take note of reports agreed to.


Legal and Constitutional Affairs References Committee—Report—Unauthorised disclosure of proceedings relating to the committee’s inquiry into Australia’s arrangement with Malaysia on asylum seekers. Motion of the chair of the committee (Senator Wright) to take note of report agreed to.

National Capital and External Territories—Joint Standing Committee—Report—Etched in stone? Inquiry into the administration of the National Memorials Ordinance 1928. Motion of the chair of the committee (Senator Pratt) to take note of report agreed to.

National Broadband Network—Joint Standing Committee—Second report—Review of the rollout of the National Broadband Network. Motion of Senator McEwen to take note of report called on. On the motion of Senator Kroger debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade References Committee—Report—Held hostage: Government's response to kidnapping of Australian citizens overseas. Motion of the chair of the committee (Senator Eggleston) to take note of report agreed to.

Education, Employment and Workplace Relations References Committee—Report—The administration and purchasing of disability employment services in Australia. Motion of the chair of the committee (Senator Back) to take note of report agreed to.

Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—Report—Integrity testing. Motion of Senator Macdonald to take note of report agreed to.
Rural Affairs and Transport References Committee—Report—Animal welfare standards in Australia’s live export markets, Live Animal Export (Slaughter) Prohibition Bill 2011 [No. 2] and Live Animal Export Restriction and Prohibition Bill 2011 [No. 2]. Motion of the chair of the committee (Senator Heffernan) to take note of report called on. On the motion of Senator Kroger debate was adjourned till the next day of sitting.

Environment and Communications References Committee—Report—The capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters. Motion of the chair of the committee (Senator Fisher) to take note of report agreed to.

Community Affairs References Committee—Report—The regulatory standards for the approval of medical devices. Motion of the chair of the committee (Senator Siewert) to take note of report agreed to.

Intelligence and Security—Joint Statutory Committee—Report—Annual report of committee activities 2010-11. Motion of Senator Faulkner to take note of report agreed to.

Rural Affairs and Transport References Committee—Report—Pilot training and airline safety; and consideration of the Transport Safety Investigation Amendment (Incident Reports) Bill 2010—Government response. Motion of Senator Heffernan to take note of report of document agreed to.

Rural Affairs and Transport References Committee—Report—Science underpinning the inability to eradicate the Asian honey bee—Government response. Motion of Senator Colbeck to take note of document agreed to.

Rural and Regional Affairs and Transport—Standing Committee—Report—Climate change and the Australian agricultural sector—Government response. Motion to take note of document moved by Senator Kroger. Debate adjourned till the next day of sitting, Senator Kroger in continuation.

Economics References Committee—Final report—The impacts of supermarket price decisions on the dairy industry. Motion of Senator Kroger to take note of report agreed to.


Scrutiny of New Taxes—Select Committee—Final report—The carbon tax: Secrecy and spin cannot hide carbon tax flaws. Motion of the chair of the committee (Senator Cormann) to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Report—International parental child abduction to and from Australia. Motion of the chair of the committee (Senator Humphries) to take note of report agreed to.

Treaties—Joint Standing Committee—Report 120—Treaties tabled on 5 July and 16 August 2011. Motion of Senator Williams to take note of report agreed to.

Environment and Communications References Committee—Report—Recent ABC programming decisions. Motion of Senator Williams to take note of report agreed to.

Community Affairs References Committee—Report—The effectiveness of special arrangements for the supply of Pharmaceutical Benefits Scheme (PBS) medicines to remote area Aboriginal Health Services. Motion of the chair of the committee (Senator Siewert) to take note of report agreed to.


Scrutiny of New Taxes—Select Committee—Interim report—The carbon tax: Economic pain for no environmental gain. Motion of the chair of the committee (Senator Cormann) to take note of report called on. On the motion of Senator Kroger debate was adjourned till the next day of sitting.

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Environment and Communications References Committee—Final report—The koala – saving our national icon [The status, health and sustainability of the koala population]. Motion of Senator Cameron to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Report—Incidents onboard HMAS Success between March and May 2009 and subsequent events: Part II. Motion of Senator Stephens to take note of report agreed to.


Finance and Public Administration References Committee—Report—Government advertising and accountability—Government response. Motion of Senator Macdonald to take note of document called on. On the motion of Senator Kroger debate was adjourned till the next day of sitting.

National Broadband Network—Joint Standing Committee—First report—Review of the rollout of the National Broadband Network. Motion of Senator Macdonald to take note of report called on. On the motion of Senator Kroger debate was adjourned till the next day of sitting.

Law Enforcement—Joint Statutory Committee—Reports—Examination of the annual report of the Australian Federal Police 2009 10—Examination of the annual report of the Australian Crime Commission 2009 10. Motion of Senator Mason to take note of reports agreed to.

Orders of the day nos 1 to 7 and 10 to 19 relating to reports of the Auditor-General were called on but no motion was moved.

DOCUMENTS
Tabling
The PRESIDENT (19:11): I present Work of Committees for the period 1 July to 31 December 2011.

Ordered that the report be printed.

AUDITOR-GENERAL’S REPORTS
Consideration
The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 12 of 2011-12—Performance audit—Implementation of the National Partnership Agreement on Remote Indigenous Housing in the Northern Territory. Motion of Senator Stiewert to take note of document agreed to.

Auditor-General—Audit report no. 13 of 2011-12—Performance audit—Tasmanian Freight Equalisation Scheme—Department of Transport and Infrastructure; Department of Human Services. Motion of Senator Colbeck to take note of document agreed to.


Orders of the day nos 1 to 6, 8 to 13, 15 to 18, 34, 42 and 43 relating to committee reports and government responses were called on but no motion was moved.

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ORDER OF THE DAY

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STATEMENT BY THE PRESIDENT

The PRESIDENT (19:12): During the general business debate earlier today, temporary chairs of committees undertook to refer to me two rulings which they made. Senator Moore ruled on remarks made by Senator Cash on which Senator Bob Brown took a point of order while Senator Bishop ruled on the relevance of the amendment moved by Senator Milne. I have examined the Hansard and the amendment, and in both cases I endorse the rulings that were made.

ADJOURNMENT

Tasmanian Tourism

Senator SINGH (Tasmania) (19:12): I rise this evening to share with the Senate the story of this year's Tasmanian of the Year and to highlight the benefits of ecotourism, one of Tasmania's most important and successful industries. In the days after Christmas last year, I had the chance to join Rob Pennicott on a trip with his ecotourism business based at Bruny Island. Rob's business has grown from a small start-up base on the Tasman Peninsula to being a flagship for Tasmanian ecotourism and the state's beautiful wilderness. Pennicott Wilderness Journeys now operates around Tasman and Bruny Islands, taking tourists to the cusp of the Southern Ocean and around the rugged cliffs of the coastline of Tasmania.

Along the way, Rob's company has employed local workers, told the stories of the birds, seals and other wildlife that call the state's coast their home, and promoted to the world some of the most remarkable landscapes in one of the most remarkable places in the world—Tasmania.

I had the privilege of joining Rob Pennicott on his Bruny Island cruise down to the tip of Bruny Island in the Southern Ocean, seeing for myself the incredible array of seals and birdlife along the way and how they inhabit our beautiful island. On that trip I saw caves and other parts of Bruny Island that I had never seen before. I have frequented Bruny Island on many occasions, but Rob's tour was a unique way for me to experience the rugged coast of Bruny Island and Tasmania. It was an incredible experience. All those on board, despite the unpredictable weather on the day, had an incredible time. For me, the feeling I had there of being very much alive will stay with me forever.

Rob's commitment to Tasmania and to protecting the unique natural environment that it houses has been a driving force behind a business that takes its impact on the environment as seriously as it does its striking marketing strategy. Impressively, Pennicott Wilderness Journeys offset all their carbon emissions through Greening Australia and with a particular focus on local planting projects. They measure their energy, waste and water usage using the EC3 system and achieve above best practice for all their scores.

Rob established the Pennicott Foundation with his wife, Michaye Boulter, in order to actively support the conservation and rehabilitation of the natural environment. In 2007 they founded the Tasmanian Coast Conservation Fund in partnership with Wildcare. Since that time, their landmark coastal conservation effort has been to rid Tasman Island of the feral cats there, introduced in years past by lighthouse keepers unconcerned by or ignorant of the island's incredible seabird ecosystem. Since that time, Rob has made a personal contribution of $100,000 toward the TCCF—a figure that would be impressive enough were it not dwarfed by the amount Rob raised with his Follow the Yellow Boat Road initiative.
The Yellow Boat about which I speak is no more than a simple, outboard driven, inflatable dinghy skippered by Rob and his colleague and friend Mick Souter. Along with cameraman Zorro Gamarnik, they followed the 'road' around Australia, attempting to circumnavigate the country over the course of months. Why? More than just for Rob's passion for adventure and the water, the Yellow Boat was raising money for the global effort to eradicate the scourge of polio. By October 2011, five months after the trip began, they had raised $280,000. Recent reports out of India suggest that polio has all but disappeared there.

With a sustained effort from organisations like Rotary International and the Bill and Melinda Gates Foundation, as well as by our own federal government, it might quickly be brought to the edge of defeat in countries such as Nigeria, Afghanistan and Pakistan. Rob's story is one that connects the local communities of Tasmania—the landscapes, the families, the heritage and the country—with the hundreds of thousands who will be benefit from the eradication of the deadly and debilitating polio. The efforts of this marine enthusiast cum entrepreneur and fisherman cum philanthropist make him wholly deserving of his title of 2012 Tasmanian of the Year.

I would also like to talk tonight about the NBN Co Discovery Truck. In January I was able to host a group of residents from the Glenorchy municipality on a tour of the Discovery Truck, which has been touring Tasmania since November last year and doing a fantastic job educating people on what the NBN will mean to them. I wanted to ensure the older members of our community understood how the NBN could impact their lives in a positive way, and what better way to do this than through the interactive tour offered by members of the NBN Co Discovery Truck.

I was joined by staff, residents and board members from the Lady Clark Centre in Claremont and by a number of members of the Glenorchy Bowls Club. We arrived at the truck and were greeted by the enthusiastic NBN Co demonstration team—Amy, Tom and Graeme—who will travel across Australia over the coming 11 months, educating Australians about the NBN.

After boarding the 23-tonne truck, we were seated and the presentation began. The team explained that 93 per cent of Australian homes would have fibre-optic cables connecting them to the NBN. The remaining seven per cent will have access to either satellite or fixed wireless internet service. Whichever the option, Australia's new broadband network is going to be seriously fast. For example, people will be able to download an entire movie in just under two minutes—something that can presently take up to two days, and that is if that connection does not time out. The speed of our internet that will result from the NBN is difficult to fathom. You may be interested to know that Australia is currently rated as 42nd on the list of network speeds in the developed world. Simply put, the Gillard Labor government do not think this is good enough, which is why we are taking action in this area.

We also learnt that over the course of the NBN rollout it will employ more than 15,000 people over 10 years. This is a fairly big milestone. Over recent years, data downloaded on the internet has increased by some 19,000 per cent. If this trend continues, the NBN is the only answer to ensuring we have the infrastructure in place to handle such downloads. We must have an extensive, reliable network that will enable us to interact on a global scale. We cannot continue as No. 42 on the list of network speeds in the developed world.
The group I hosted on the tour were particularly interested in how the NBN will benefit their health, how it will enable them to have, for example, a medical consultation from the comfort of their own home via videoconference. We were also able to explore the ways they will be able to undertake rehabilitation and exercise programs in their own homes. Members of the group were able to trial a fall prevention program developed by Neuroscience Research Australia. This is a technology that, thanks to the NBN, will be able to detect and respond to human movement. Sessions will be recorded and progress charts will be downloadable for health professionals, who can then monitor their patient's progress. This technology will benefit those recovering from a stroke, spinal cord injuries and Parkinson's disease and potentially benefit those with dementia or brain damage. This will dramatically improve the quality of life for so many in our community. There are so many benefits, and we touched on but a few during our tour. Education, health care, business, entertainment—all will be improved, thanks to the NBN.

I found that hosting a tour of the NBN Co Discovery Truck was a great experience for all those who came along. I would encourage all parliamentarians to do likewise when the team on the truck visits their electorates over the course of this year.

Senator FAULKNER (New South Wales) (19:22): This year marks the 35th year since then Prime Minister Malcolm Fraser formally made a humanitarian commitment for the resettlement of Vietnamese refugees in Australia. He did so under our responsibilities as a signatory to the 1951 United Nations Convention relating to the Status of Refugees. Last year I spoke in this chamber on the 60th anniversary of that convention.

The history of Vietnamese migration to Australia has recently been brought to our attention by the popular SBS television series Once Upon a Time in Cabramatta. The series described the hardship endured by Vietnamese refugees fleeing the newly unified Vietnam after the Vietnam War and their subsequent resettlement in Cabramatta, then a tiny suburb in Sydney's south-west. The Cabramatta community's struggle with gangs, drugs and violence through the 1980s and 1990s has been well documented. But Cabramatta has come a long way since those dark days. The Cabramatta experience provides many valuable lessons for Australians and future migrants alike. And it reminds us that community support is needed to assist migrants finding their place in Australian society.

While pockets of disadvantage still exist, the story of Vietnamese migration to Australia has largely been a story we can all be proud of. The Vietnamese people have made an outstanding contribution to Australian society and have forever changed the face of modern multicultural Australia. After the fall of Saigon in April 1975, fear of persecution from the invading North Vietnamese Army led massive numbers of Vietnamese to flee by sea. The first boatload of asylum seekers arrived in Darwin on 26 April 1976. Of course, most of the 90,000 refugees who settled in Australia in the 1970s and 80s arrived by air after being processed in refugee camps across South-East Asia. The majority of arrivals to New South Wales were processed at the Westbridge hostel, now the Villawood Detention Centre, and settled in nearby Cabramatta.

The Australian community was divided. Many had reservations about the new arrivals' ability to adapt to a very different
society. Others had reservations about refugees bringing with them their own politics, their own religion, their own culture and ancient ethnic conflicts. Vietnamese refugees arrived, in many cases, with broken families and fractured lives. They arrived in Australia with little knowledge of the language and culture. They struggled to find meaningful employment to support their growing families. And in many cases these issues were only compounded by the effects of post-traumatic stress disorder, a product of years of conflict and upheaval in their homeland.

The story of Vietnamese Australians has taught us valuable lessons in Australia's role as a responsible global citizen and about the humane treatment of refugees. It is proof that we are a generous country. It is an example of how quick and efficient processing of claims for asylum is possible and how, with sufficient planning and infrastructure, migrant communities can flourish and make a valuable contribution to Australian society. Cabramatta is a good example of close community engagement with government and our democratic processes, community policing and determination effecting positive change in our communities.

While extremists talk about ethnic ghettos and the failure to assimilate, the truth is that suburbs like Cabramatta are an example of harmonious modern Australian multiculturalism. The new generation of Vietnamese are often high achievers in schools and universities. They make a valuable contribution to Australian society in so many fields. They excel particularly in the field of health, such as pharmacy, optometry and general practice. They are engineers, architects, public servants, ministerial advisers. They are contributors in workplaces of all descriptions. Modern Australia is dotted with successful small businesses started by entrepreneurial and hardworking migrant families, particularly Vietnamese Australians. They excel in the field of small business, with many successful bakeries, drycleaners, restaurants and fabric stores. In fact, two Vietnamese Australians are recent winners of the Young Australian of the Year award. The story of Vietnamese refugees is not too dissimilar to the stories of our latest wave of refugees seeking asylum from the Middle East and Africa, vulnerable people fleeing war, famine and political persecution. It is interesting to note that while the community is once again debating the arrival of the latest wave of refugees, the second generation of Vietnamese Australians—every bit Australian—are making valuable contributions to Australian society and doing it with a broad Australian accent. They have become as accepted as the Greeks, Italians, Poles, Chinese and refugees from the former Yugoslavia.

Cabramatta has become an important piece of the jigsaw that makes up modern multicultural Australia. While some pockets of disadvantage remain, Cabramatta is surely not an ethnic ghetto. It is an optimistic, vibrant and harmonious community with people from a variety of ethnic backgrounds, people proud to call Cabramatta their home.

Fair Work Australia

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (19:31): An email that my office received today said:

I am in the Craig thompson electorate of Dobell and I am horrified at the allegations about him. I feel the enquiry has taken far too long and it should be finalised and we should be told what is going on. I didn't vote for him and I and a lot of my friends in the area want this sorted out now. Julia Gillard has to answer the questions. I watched question time today and there were no questions answered again. We want answers.

My office has been receiving lots of emails in relation to the Fair Work so-called inquiry. The issues that Fair Work Australia
need to deal with in the Craig Thomson and Health Services Union matter are not so complex as to have required over three years. Indeed, we were told at Senate estimates in recent times that the first complaint about the Health Services Union was made in January 2009. Here we are in February 2012 and we still do not have an outcome. As I have been able to say on a previous occasion, the Watergate investigation into a President of the United States took half the time that the investigation into this matter has taken thus far with Fair Work Australia’s investigations into Mr Thomson and the Health Services Union.

This specific issue that I want to address this evening is either the administrative incompetence or the institutional go-slow within Fair Work Australia. I am not sure which it is, but I am concerned. On 29 August last year my office put in a freedom of information request seeking documents relating to this matter. We were told flat-out that we would not be given any documents, nor would we be given a list of the documents they had to which they would not give us access. As a result, we had to appeal to the Information Commissioner. The Information Commissioner made Fair Work Australia reconsider their position and we were given a substantive number of documents on 29 December 2011, a very convenient time of year to receive them. That aside, this request took four months to be fulfilled, and only after the Information Commissioner decided to intervene. Then just on 8 February this year, we were given another lot of 135 pages of information, saying that they had been somehow overlooked. We will pursue that at estimates.

It is interesting that it was only when I indicated to the Senate committee secretariat that we wished to have the freedom of information officer responsible called, and we made another appeal to the Information Commissioner, that these extra 135 pages all of a sudden materialised. I do not know what is causing these sorts of difficulties within the administration of Fair Work Australia. What I do know is that there is a go-slow in relation to everything including requests for freedom of information. What I also do know is that there has been an endless tribe of ex-trade union officials appointed to positions within Fair Work Australia.

When Ms Gillard set up Fair Work Australia as the workplace relations minister, she promised the Australian people via her leader at the time, Mr Rudd, that there would not be an endless tribe of trade union officials appointed to positions within Fair Work Australia. But like her promise on the carbon tax and of not changing the definition of marriage and so many other things, Ms Gillard simply broke her promise. Of the 10 commissioners that Labor has appointed to Fair Work Australia, eight are ex-trade union officials and the other two are ex-bureaucrats or public servants. It seems not a single bit of talent in the private sector was worthy of appointment to Fair Work Australia. When it comes to officials within Fair Work Australia, we have the manager, Mr Tim Lee, a former trade union official appointed. What a coincidence, what serendipity. What a pool of talent exists within the trade union leadership that they can get all these appointments onto the commission and onto the administrative side of things within Fair Work Australia. But this Mr Lee, who presided over the three years of non-determination of the Craig Thomson matter, has now been rewarded with the position of commissioner in Fair Work Australia. And, if that is not bad enough, with whom do they backfill Mr Lee’s position? Yet again, another ex-trade union official. It is nonstop. Let us not have this nonsense anymore that these positions in Fair Work Australia are
simply appointed on merit. It is just getting a bit too coincidental.

On top of the delay occasioned by Fair Work Australia in relation to the freedom of information request made by my office and my concerns about it, we have now had the former manager, or industrial registrar, of the Australian Industrial Relations Commission, Mr Doug Williams, come out and take the unprecedented step of speaking publicly. He has said that, under his stewardship, this matter of Craig Thomson would have been resolved a lot quicker than it is being undertaken at the moment. He could see no reason why this matter has dragged on for three years, still without resolution in sight. Australia's premier political newspaper, the *Australian*, has editorialised in favour of a royal commission about the go-slow that has occurred within Fair Work Australia. Ms Kathy Jackson, the lady who blew the whistle in relation to the Health Services Union, has complained as well.

There are other issues associated with this as well. Clearly, Labor's dirt unit has a file, which they are peddling around, seeking to besmirch Ms Jackson. I have got no brief for Ms Jackson. I do not know whether what she says is right or wrong. But, clearly, what she is saying needs to be determined and finalised. But what has not been disputed by anybody in the Labor government is that, within this document that Labor's dirt unit has, there is a list of the telephone calls made by Ms Kathy Jackson. I call on the government to explain to the Australian people how the government came into possession of that document and by whom that document was prepared.

This is the sleazy underbelly of the trade union leadership fighting hard among themselves and then using the offices of a Labor government to help push their cause. If the Labor government can be involved, using their dirt unit to peddle this sort of information, then you know one thing: they are not concentrating on the issues that everyday Australians—such as the members of the Health Services Union, who contribute their hard earned money to try to buy some support and protection for themselves via their trade union—are facing. Instead their money has been wasted—$100,000 of it, it would seem—on prostitutes and other things. Those members are entitled to an answer. The Australian people are entitled to an answer as to why this is taking so long.

There is no doubt that Mr Craig Thomson, by these delays, is being kept on political life support and he in turn is keeping the Green-Labor alliance Gillard government on political life support as well. This issue needs to be resolved, and quickly. The delays that we are experiencing to date are simply unacceptable and cannot continue.

The PRESIDENT: I remind honourable senators that legislation committees meet next week to consider estimates, commencing on Monday at 9 am. Program details will be published on the Senate website. The Senate stands adjourned and will meet again on Monday, 27 February at 10 am.

*Senate adjourned at 19:42*

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:


**Departmental and Agency Appointments**

The following document was tabled pursuant to the order of the Senate of 24 June 2008, as amended:
Departmental and agency appointments and vacancies—Additional estimates—
Letter of advice—Foreign Affairs and Trade portfolio.

**Departmental and Agency Grants**

The following documents were tabled pursuant to the order of the Senate of 24 June 2008:

- Departmental and agency grants—Additional estimates—Letters of advice—
- Department of Education, Employment and Workplace Relations.
- Foreign Affairs and Trade portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Infrastructure and Transport: Code of Conduct Investigations
(Question No. 1052)

Senator Abetz asked the Minister representing the Minister for Infrastructure and Transport, upon notice, on 29 August 2011:

(1) How many Code of Conduct investigations have there been within the Minister's portfolio for the financial years: (a) 2010-11; and (b) 2011-to date.
(2) How many investigations established: (a) a breach; or (b) no breach, of the Code of Conduct.
(3) In each case, what provisions of the Code of Conduct were thought to have been breached.
(4) What penalties were applied where the Code of Conduct was broken.
(5) How many investigations are ongoing.

Senator Carr: The Minister for Infrastructure and Transport has provided the following answer to the honourable senator's question:

(1) (a) 5
    (b) 0 (1 July to 29 August 2011)
(2) (a) 4
    (b) 1
(3) Investigation 1: Section 13(3) and Section 13(11)
    Investigation 2: Section 13(3)
    Investigation 3: Section 13(3) and Section 13(11)
    Investigation 4: Section 13(3) and Section 13(11)
(4) Penalties applied included:
    1 reprimand
    1 termination of employment
    1 reduction in salary
    1 resignation prior to sanction being imposed
(5) 0

Australian Broadcasting Corporation
(Question No. 1243)

Senator Cormann asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 22 September 2011:

(1) How many hours of the Western Australian Football League (WAFL) has the Australian Broadcasting Corporation (ABC) broadcast in each of the following financial years and what was the production cost in each year:
    (a) 2007-08;
    (b) 2008-09;
    (c) 2009-10; and
(d) 2010-11.

(2) How many hours of WAFL does the ABC plan to broadcast in each of the following financial years and what is the projected cost in each year:
   (a) 2011-12;
   (b) 2012-13; and
   (c) 2013-14.

(3) Does the ABC have any formal plans to reduce the hours of broadcast of WAFL football.

(4) Does the ABC have any formal plans to stop the live telecast of WAFL games.

(5) If the ABC has no formal plans to reduce hours or stop live broadcasts, what discussions have occurred at management level about potential changes to WAFL broadcasting.

(6) What sporting events played in Western Australia, apart from the WAFL, does the ABC currently telecast on a regular basis.

(7) What local Western Australian sports will be broadcast by ABC television if WAFL is no longer broadcast live.

(8) How many hours of programming has the ABC produced in Western Australia in each of the following financial years and what was the production cost in each year:
   (a) 2007-08;
   (b) 2008-09;
   (c) 2009-10; and
   (d) 2010-11.

(9) How many hours of programming does the ABC expect to produce in Western Australia in each of the following financial years and what is the projected cost in each year:
   (a) 2011-12;
   (b) 2012-13; and
   (c) 2013-14.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) The ABC has broadcast the following hours of the Western Australian Football League (WAFL) in each of the following financial years:

<table>
<thead>
<tr>
<th>Title</th>
<th>Total Production Budget</th>
<th>Total TV Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>WAFL 2008</td>
<td>$1,111,469</td>
<td>81.0</td>
</tr>
<tr>
<td>WAFL 2009</td>
<td>$1,458,181</td>
<td>81.0</td>
</tr>
<tr>
<td>WAFL 2010</td>
<td>$1,618,762</td>
<td>81.5</td>
</tr>
<tr>
<td>WAFL 2011</td>
<td>$1,708,413</td>
<td>84.5</td>
</tr>
</tbody>
</table>

(2) The ABC negotiates sporting contracts on a regular basis. The ABC is presently in negotiation with WAFL with regard to the coverage of the 2012 and 2013 seasons.

(3) Please see response to (2) above.

(4) Please see response to (2) above.

(5) Please see response to (2) above.

(6) The ABC has recently televised the following events played in WA:

- Women's Football (W–League)
- Women's Basketball (WNBL)
• The International Super Series Hockey
  (7) Please see responses at (2), (4) and (6) above.
  (8) Total amount of programming hours produced in WA in each financial year and the corresponding cost to the ABC was as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Hrs</th>
<th>Total Forecast (Cash + Labour + Facilities - Revenue)</th>
</tr>
</thead>
<tbody>
<tr>
<td>07-08</td>
<td>181</td>
<td>$7,832,580</td>
</tr>
<tr>
<td>08-09</td>
<td>197</td>
<td>$11,290,637</td>
</tr>
<tr>
<td>09-10</td>
<td>229.6</td>
<td>$9,093,457</td>
</tr>
<tr>
<td>10-11</td>
<td>139.2</td>
<td>$5,908,166</td>
</tr>
</tbody>
</table>

(9) The ABC is presently in negotiations with WAFL with regard to the coverage of the 2012 and 2013 seasons. ABC TV expects to commission a similar level of program hours across other genres as per 2011.

**Australian Men's Shed Association**

*(Question Nos 1299 and 1300)*

**Senator Abetz** asked the Minister representing the Minister for Health, upon notice, on 1 November 2011:

1. What discussions were held by the Ministers and/or the Prime Minister, their offices or Departments with the Australian Men's Shed Association (AMSA) involving the appointment of Mr Andrew Stark as its Communications Manager.

2. What funding has the AMSA received from the Government in the 2010-11 financial year and how much will it receive in the 2011-12 financial year.

3. Was any of the funding provided to the AMSA on the basis that it would appoint a Communications Manager; if so, what were the reasons and proposed job description for the position; and was the department involved in the selection process.

4. Has the Minister or Prime Minister provided a reference to Mr Stark; if so, can copies be provided of any written reference or notes from a call.

**Senator Ludwig:** The Minister for Health has provided the following answer to the honourable senator's question:

1. The Minister for Health and the Minister for Indigenous Health have not had any discussions with the Australian Men's Shed Association (AMSA) about the appointment of Mr Andrew Stark. The Department of Health and Ageing did not hold any discussions with AMSA in relation to the appointment of Mr Andrew Stark prior to Mr Stark's appointment.

2. Under the Funding Agreement with the Department of Health and Ageing, AMSA received $1,000,000 (GST Exclusive) for the 2010-11 financial year and will receive $1,000,000 (GST Exclusive) in the 2011-12 financial year. One quarter of total funding to AMSA is allocated to practical support for sheds through the Australian Government Shed Development Program.

3. One of the requirements of the Funding Agreement was the recruitment of a National Marketing/Fundraising Manager to assist in securing future sustainability of AMSA to support men's sheds. The Department of Health and Ageing was not involved in the development of a job description or the selection process. Mr Stark was employed by AMSA as National Marketing, Fundraising and Communications Manager.
(4) The Minister for Health and the Minister for Indigenous Health have not provided any reference for Mr Stark.

**Association of Building Sustainability Assessors**

(Question No. 1301)

Senator Abetz asked the Minister representing the Minister for Climate Change and Energy Efficiency, upon notice, on 2 November 2011:

1. Has the department had any dealings with the Association of Building Sustainability Assessors (ABSA).
2. Is the department aware of any concerns with ABSA.
3. How does the department check the work of groups like ABSA in the delivery of programs like the Green Loans program and the mandatory disclosure in residential building scheme.
4. Has the department received any complaints in relation to the conduct of ABSA.
5. Does the department have any concerns with the conduct of ABSA.
6. Can details be provided, including the program and date, of how much funding the ABSA has received from the department.

Senator Wong: The Minister for Climate Change and Energy Efficiency has provided the following answer to the honourable senator’s question:

1. Yes, the Department has had dealings with ABSA.
3. As an AAO under the Nationwide Home Energy Rating Scheme (NatHERS) Scheme, ABSA provides an annual report to the Department on how they meet the requirements of the NatHERS AAO Protocol (see www.nathers.gov.au/assessors/index.html)
4. Please refer to Part (2).
5. Please refer to Part (2).
6. In 2011-12, ABSA has been contracted to complete two studies for the Department in relation to NatHERS:
   a. a scoping study on development of a common NatHERS certificate—$22,990 (incl GST); and
   b. development of a NatHERS software users guide—$48,500 (incl GST).
Employment and Workplace Relations
(Question No. 1309)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 31 October 2011:

In regard to a joint media release issued on 6 July 2011, stating the Government's commitment to provide 'fair and appropriate supplementation' to help support any phased increase, as a result of the Social and Community Sector equal pay case, will the Minister confirm that the Government will only provide a supplementation and not fully cover any costs of employers.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Australian Government is committed to achieving pay equity for Australian workers.

The Government's funding commitment in the equal remuneration case for social and community services (SACS) workers was clarified on 10 November 2011 when the Prime Minister announced that the Government will provide over $2 billion, phased in over a six year period, to fund its share of any wage increases awarded by Fair Work Australia (FWA).

In announcing its commitment to provide supplementary funding, the Government has encouraged State and Territory governments to commit to funding their share of the cost flowing from any wage increase awarded in this case.

The Prime Minister also announced that the Government would put a joint submission with the Australian Services Union (ASU) and other applicant unions to FWA on appropriate pay rises for SACS workers. The joint submission was filed on 18 November 2011. If FWA agrees to this submission, it will deliver very significant pay rises for the SACS workers covered by the equal remuneration application.

The phased introduction proposed in the joint submission recognises the complex funding arrangements in the sector, which involve local, state and territory governments, not for profit organisations, commercial providers and the Commonwealth.

This will allow community sector organisations delivering Commonwealth-funded programs to pay the new rates, without reducing services to the community. The Government will also increase funding under Commonwealth-State agreements that cover social and community sector employees.

Treasury
(Question No. 1317)

Senator Milne asked the Minister representing the Treasurer, upon notice, on 1 November 2011:

In regard to the debate on impact of negative gearing on the housing market at the recent Tax Forum:

1) Did the temporary suspension of negative gearing during the Keating Government lead to an increase in rents across the country.

2) What proportion of negatively geared properties are newly constructed rather than existing properties.

3) Would the abolition of negative gearing lead to an ongoing decrease in the rate of return on investment property, or just a one-off fall in prices, and does the department have any estimate of the size of any price fall.

4) Do any overseas countries allow negative gearing; if so, can a list be provided describing any relevant differences to the Australian situation.
Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

(1) Press Release No. 87 of 15 September 1987 which announced the then Government's decision to remove restrictions in the tax law applying to the negative gearing of rental property investments suggested that the supply of rental accommodation was only one of the factors which led to the suspension of quarantining of rental losses.

The Press Release stated that the Government had conducted extensive reviews of interest deductions in respect of primary production investments and corporate share purchases. In both of these cases it was decided that, as a matter of principle, interest deductions should be permitted against income from any source. The quarantining of rental property investments was left as the only case of its type in the Australian tax system. As a consequence, investors tended to move out of rental property investments into other, unquarantined, forms of activity, dampening the growth in the provision of rental accommodation. It also meant that the revenue savings from the measure in 1986-87 ($11 million) was substantially less than the initial forecast of $55 million.

There was data available to Treasury such as tax returns data and changes to the 'privately-owned dwelling rents' sub-component of the CPI which indicated that investors were moving out of rental property investments.

Treasury has not undertaken further analysis on this issue.

(2) This data is not available to Treasury or the ATO.

(3) It would be difficult to quantify whether limiting the ability to offset rental losses against other income would lead to a decrease in the rate of return on investment property, or just a one-off fall in prices. The impact of changes to negative gearing on house prices is difficult to quantify because of a number of factors. These factors include the ratio of negative geared properties to owner occupied housing; the extent to which the benefit provided by negative gearing is reflected in housing prices or whether the benefits are shared with renters through the provision of lower rents; and a range of other factors which impact on housing supply and interest rates.

The 2009 Review into Australia's Future Tax System found that while their proposed reforms to taxes could play a significant role in addressing housing affordability, other policies are likely to be more significant such as removing impediments to housing supply (Report to the Treasurer (page 420)).

As noted by the Review, the increase in house prices that occurred around the start of the decade was attributed by the Productivity Commission (2004) and the Reserve Bank (2003) primarily to strong growth in demand. This demand reflected a range of factors, including growth in average household incomes, increased credit availability, and relatively low interest rates. In the short term, when housing supply is relatively fixed, price increases are an inevitable response to strong demand (Report to the Treasurer (page 414)).

The Review also noted that sustained high levels and strong growth of housing prices are only possible when housing supply cannot increase to meet movements in demand. It recommended that COAG should place priority on a review of institutional arrangements (including administration) to ensure zoning and planning do not unnecessarily inhibit housing supply and housing affordability (Report to the Treasurer (page 422)). This recommendation has been accepted by the Government.

There are other factors that influence the price of housing which make it difficult to quantify the effect of removing or reducing the benefits of negative gearing would have on housing prices including:

- other taxes including the exemption of owner-occupied housing from the personal income tax and the capital gains tax system, stamp duties on housing transactions, GST on the price of supplying new housing, council rates and land taxes; and;

- infrastructure charges which are poorly implemented or designed.
(4) It can be difficult to compare taxation arrangements across jurisdictions. Australia's taxation system is generally more favourable towards leveraged investments, in particular housing, compared to other investments. In addition to negative gearing, a 50 per cent CGT discount is also available on the disposal of rental property. Capital gains on the sale of a person's main residence are typically exempt and the implicit value of rental services provided by owner-occupied does not form part of the occupier's assessable income. The effect of inter-country differences in these and other variables (such as tax rates and the deductibility provisions) cannot be determined.

Below is an outline of the ability to claim a tax deduction for loans used to purchase investment properties in some comparable overseas jurisdictions:

- In the United States, rental property losses are quarantined to rental income or passive income.
- In the United Kingdom, a loss from rental properties can be carried forward to set against future profits from other rental properties;
- In Canada, a taxpayer can deduct any reasonable expenses incurred to earn rental income including interest paid on borrowings to acquire a rental property. The reasonable expectation of profits test has been successfully challenged in the courts and as a result these tests have not been enforced with the same vigour as in the past.
- In New Zealand, negative gearing is available to a taxpayer and CGT does not apply on disposal of the property.

James Price Point
(Question No. 1426)

Senator Siewert asked the Minister representing the Minister for Social Inclusion, upon notice, on 7 November 2011:

Given that mining towns in the Pilbara region of Western Australia have some of Australia's highest rents and costs of living; how are the social impacts of the proposed Browse liquefied natural gas (LNG) precinct at James Price Point near Broome to be addressed, in particular, ensuring that:

(a) housing costs for Broome residents, which are already high, will not be inflated to unaffordable levels by an influx of persons associated with the Browse LNG precinct;

(b) small businesses do not suffer the unsustainable wage inflations which are usual in other Western Australian mining towns; and

(c) Broome residents will have adequate access to community services, such as hospitals and doctors.

Senator Chris Evans: The Minister for Social Inclusion has provided the following answer to the honourable senator's question:

The Western Australian Government has primary responsibility for planning matters associated with major development proposals such as the Browse LNG precinct near Broome.

The Australian Government is currently working with the Western Australian Government on a strategic assessment of the Browse LNG Precinct proposal under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act). This will include an assessment of the short and longer term environmental, economic and social impacts associated with the project. Under the EPBC Act, the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities is required to consider any potential impacts on matters of national environmental significance. The Minister will also take into account the principles of ecologically sustainable
development in making a decision on whether to approve an action or class of actions in relation to the proposed Browse LNG project.

The Commonwealth, state and local governments all have a role in the provision of community services to the residents of the Shire of Broome. For example, the Commonwealth Government, through the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) funds service providers to deliver a range of community, family and individual support programs. To date in 2011-12, FaHCSIA has committed funding of around $12 million to a range of services in the Shire of Broome and over $50 million across the Kimberley region of Western Australia, including almost $30 million for Community Development Employment projects, around $1 million for Family Relationship Centres and approximately $6.4 million for municipal services.

As Broome is recognised as an area of workforce shortage it also qualifies for a number of Australian Government programs to improve access to health services. This includes the General Practice Rural Incentives Program that aims to encourage medical practitioners to relocate to and practise in rural and remote communities. Medical practitioners relocating to Broome may be eligible for a Rural Relocation Incentive Grant of up to $60,000.

In addition, the Australian Government is funding a number of specific initiatives to improve local health services in Broome. This includes providing $7.9 million in 2009-10 from the Health and Hospital Fund to construct a 12 bed paediatric unit at the redeveloped Broome Regional Resource Centre and $16.9 million in 2011-12 to upgrade and expand the Broome Hospital.

**Immigration and Citizenship**

(Question No. 1428)

**Senator Hanson-Young** asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 7 November 2011:

1. Can details be provided of how many girls aged 17 or under have entered Australia on partner visa or prospective spouse visa over the past 5 years, including their country of origin.
2. Has the Government conducted a review of the visa criteria or conditions in light of concerns raised by child safety campaigners.
3. Does the Government conduct any regular follow up of the on-going welfare of under-age women who have entered Australia for the purpose of marriage.
4. Has the Government sought legal advice on whether the issuing of visas to 'child brides' contravenes domestic marriage laws.
5. Is the Government aware of any marriages conducted in connection to a prospective spouse visa which have required special permit from an Australian court for the marriage of a minor.
6. What steps does the department take on a case-by-case basis to be satisfied that applicants can demonstrate their genuine and ongoing partner relationship with their sponsoring partner.

**Senator Carr:** The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

1. In the last 5 years, the Department granted 207 Prospective marriages visas to 17 year old applicants. All but a few of these were women. The table below shows their nationalities.

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number of Prospective Marriage visas granted to applicants aged 17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>8</td>
</tr>
<tr>
<td>Armenia</td>
<td>2</td>
</tr>
<tr>
<td>Bosnia</td>
<td>1</td>
</tr>
</tbody>
</table>

**QUESTIONS ON NOTICE**
### QUESTIONS ON NOTICE

**Nationality** | **Number of Prospective Marriage visas granted to applicants aged 17**
--- | ---
Cambodia | 1
China | 3
Croatia | 1
Egypt | 3
Fiji | 3
Former Yugoslav, Republic of Macedonia | 23
India | 1
Iraq | 11
Jordan | 1
Lebanon | 107
Moldova | 1
Montenegro | 2
Nicaragua | 1
Pakistan | 4
Palestinian authority | 4
Romania | 1
Serbia | 3
Somalia | 1
Sri Lanka | 2
Syria | 8
Thailand | 1
Turkey | 12
Vietnam | 2
**TOTAL** | **207**

No Prospective marriage visas were granted to applicants under the age of 17.

In relation to Partner visas, preliminary analysis of the data indicates that approximately 13 visas were granted overseas and two were granted in Australia to applicants under the age of 18 but over the age of 16. Their nationalities are as follows:

| Nationality                  | Number of Partner visas (Subclass 309) granted outside Australia to applicants aged over 16 but under 18 |
--- | ---|
Pakistan | 3
Republic of South Africa | 2
Vietnam | 2
India | 4
Chile | 1
Canada | 1
**TOTAL** | **13**
Nationality | Number of Partner visas granted in Australia (Subclass 820) to applicants aged over 16 but under 18
--- | ---
United Kingdom | 1
United States of America | 1
TOTAL | 2

(2) The Department has not conducted any specific reviews of the visa criteria or conditions, nor have any child safety campaigners approached the Department directly with any concerns. However, the Department has measures in place to protect the welfare of minor applicants, which include refusing visa grant in cases where the sponsor has a conviction for a registrable offence.

(3) The Department does not conduct any regular follow up of the on-going welfare of women under the age of 18 who have entered Australia as holders of a Partner or Prospective Marriage visa. All new migrants are, however, given access to information about legal services through a number of products managed by the Department. Of particular relevance to Partner migrants is the *Beginning a life in Australia* booklet, which contains information about services in Australia. It also contains information about criminal offences and legal rights. This booklet is currently available on the Department's website in 37 community languages. In addition to the above, holders of Partner or Prospective Marriage visas also have access to services under the Settlement Grants Program administered by the Department. Services include information provision and casework services as well as referral to mainstream agencies following an assessment of individual needs.

(4) The Migration Act explicitly states that a marriage will only be recognised under migration legislation if it is recognised as valid under the *Marriage Act 1961*. In a similar way, in order to satisfy the criteria for the grant of a Prospective Marriage visa, there must be no impediment to the proposed marriage in Australian law. This means it must be demonstrated that the visa applicant and their sponsor will be aged 18 or over when the intended marriage will occur. Alternatively, if either the applicant for a Prospective Marriage visa or his or her prospective spouse is under 18 at the time of the proposed marriage, a Judge or magistrate must have made an order under section 12 of the *Marriage Act 1961* authorising the marriage.

(5) The Government is not aware of any marriages conducted in connection to a Prospective marriage visa which have required a special permit from an Australian court for the marriage of a minor.

(6) A range of legislative measures and risk profiling tools are available to case officers to ensure integrity in the Partner and Prospective Marriage visa programs and minimise any potential abuse. These include:

- Sponsorship limitations on repeat sponsors;
- A two stage process for Partner visa applicants where the couple must demonstrate that they have continued to be in a genuine relationship for at least two years after the Partner visa application was lodged;
- A requirement that the applicant and sponsor provide evidence to support their claims, including statutory declarations from third parties;
- A range of options to further investigate claims, including document verification, interviews with sponsors and applicants, home visits and evidence that a Notice of Intended Marriage has been lodged with an authorised marriage celebrant in the case of a Prospective Marriage visa application;
Risk matrices developed by the individual posts to assist the determination of the level of risk associated with an application; and

Where an application includes a person under the age of 18, the sponsor is required to provide police clearances.

Health and Ageing
(Question No. 1429)

Senator Bushby asked the Minister representing the Minister for Health, upon notice, on 8 November 2011:

(1) When was the Minister first made aware of the Tasmanian Government's decision to cut $58.1 million out of elective surgery over the next 3 years.

(2) Given that more than 100 hospital beds are closing in Tasmania as a result of these elective surgery cuts, what, if any, guarantees have been sought and provided that the new 195 overnight beds as part of the Royal Hobart Hospital redevelopment will be fully staffed.

(3) Given that the Tasmanian Government has clearly breached the National Health Reform Agreement with their cuts to elective surgery, what actions will the Federal Government be taking to enforce compliance with that agreement.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question:

(1) On Friday 30 September 2011, the office of the previous Minister for Health and Ageing was informed that Tasmania would make an announcement on 4 October 2011. The details were advised on 4 October 2011.

(2) While the Tasmanian Government is responsible for the operation of the Royal Hobart Hospital (RHH), under the terms of the Project Agreement for the Redevelopment of Royal Hobart Hospital the Tasmanian Government is required to support the delivery of improved and efficient health care services to all of Tasmania through the redevelopment of the Royal Hobart Hospital including 195 new overnight, on-campus beds (increasing capacity from 371 to 566 beds). This expansion is due for completion in mid-2016.

(3) The Commonwealth is continuing to consider a range of options.

Immigration and Citizenship
(Question No. 1430)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 8 November 2011:

With reference to the Minister's announcement on 2 November 2011, regarding a new accreditation scheme for 457 visa applications:

(1) How many additional staff: (a) have been employed or will be employed to work in this area; and (b) will be required to manage this accreditation process.

(2) What is the process to determine if a company meets the criteria set out for accreditation?

(3) Who ultimately decides if a company receives accreditation?

(4) Is there an avenue of appeal if a company applies for, but is refused, accreditation?

(5) How does a company satisfy the requirements for accreditation?

(6) Can a company re-apply to receive accreditation once their application has been refused?

(7) How will the department monitor compliance with the accreditation scheme?
(8) What other visa classes have expedited processing in place (i.e. Enterprise Migration Agreements etc).

(9) What percentage of visa applications submitted to the department will now have the possibility of consideration under expedited processing.

(10) What will happen in regard to the length of time of any existing sponsorship arrangements in place under a 457 visa.

(11) Are visa holders required to lodge a new application; if so, when and what are the public policy reasons behind this decision.

(12) What gains and improvements does the department hope this expedited processing will make i.e. reduction of 457 visa processing times.

Senator Carr: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) Existing Subclass 457 visa processing officers in the five processing centres will assess and decide applications for accreditation. The existing Subclass 457 visa policy section in the Department of Immigration and Citizenship's national office will manage the policy settings for the accreditation scheme.

No additional staff have been engaged to assess applications for the accreditation scheme or manage the accreditation process.

(2) In order to qualify for accredited status, a business must first meet all the requirements for standard business sponsorship.

A business which meets the requirements for standard business sponsorship may, at the same time, seek to be approved for 'accredited status'.

To be approved for accredited status, the processing officer must be satisfied that the business:

- is a government agency, a publicly-listed company or a private company with minimum of $4 million turnover per year for the last 3 years
- has been an active Subclass 457 visa sponsor for at least three years (with no more than a 6 month break in the past 36 months), with no adverse information based on the Department's and the Department of Education, Employment and Workplace Relations' monitoring, including formal warnings and sanctions
- has sponsored at least 30 primary Subclass 457 visa holders in the 12 months prior to the application for accreditation
- has lodged a high-level of decision-ready applications over the previous two years;
- has a non-approval rate of less than three per cent for the previous three years and
- has Australian workers comprising at least 75 per cent of their workforce in Australia and a commitment to maintain this level.

(3) Subclass 457 visa processing officers will assess and decide all applications for sponsorship accreditation as delegates of the Minister for Immigration and Citizenship.

(4) There is no avenue to appeal a decision to refuse a request for accredited status.

Businesses whose request for accredited status is refused, however, may still be approved as a standard business sponsor if they meet the requirements for approval as a standard business sponsor.

If a business makes an application for approval as a standard business sponsor and is refused, they may seek merits review of this decision with the Migration Review Tribunal.

(5) Together with meeting all of the requirements for standard business sponsorship, a business must demonstrate that they meet all of the additional characteristics for sponsorship accreditation detailed in
the response at question two. The business may demonstrate it meets the additional characteristics by completing the relevant questions on form 1196S 'Sponsoring overseas employees to work temporarily in Australia' (or its electronic equivalent) and providing supporting documentary evidence.

(6) Yes, the refusal of a request for accredited status does not prevent any future applications.

(7) If a sponsor is approved for accredited status but does not maintain the characteristics outlined in the response to question two, accredited status can be revoked. This means the sponsor will revert to standard business sponsorship status and no longer receive priority processing. The validity length of the sponsorship cannot be changed, and will remain at six years.

Sponsors with accredited status are subject to the monitoring regime which applies to standard business sponsors. All sponsors are required to comply with a series of 'sponsorship obligations'.

The Department has monitoring officers and inspectors based in sponsor monitoring units around Australia who are responsible for monitoring compliance with the sponsorship obligations. Sponsors who are found to have not complied with the sponsorship obligations may be barred from using the program or have their approval as a sponsor cancelled. In addition, sponsors may be subject to civil penalties for egregious non-compliance.

(8) The department has committed to process all Subclass 457 visa applications for positions in the resources sector in five days, provided the application is complete on submission. This commitment will also apply to complete visa applications submitted in association with EMAs.

The current median processing time for a Subclass 457 visa is 19 days, which is 39 per cent faster than in 2006-07.

Further to this, different classes and subclasses of visas have processing arrangements in place which provide for certain applications to be processed as a higher priority than others. For example:

• in the Family Migration program, visa applications for immediate family such as those applying within the Partner or Child categories are given the highest priority; and

• in the permanent Skilled Migration program, a priority processing direction (made under section 599 of the Migration Act 1958) applies, which directs processing officers to process applications made under the Regional Sponsored Migration Scheme as the highest priority.

Apart from these formalised arrangements, particular cases may be given a higher priority where there is a demonstrated compelling or compassionate circumstance.

(9) The Subclass 457 visa program is entirely demand driven, and as such the department cannot predict how many businesses may, in the future, apply for accredited status and how many visa applications will be made in association with sponsors who are approved for accredited status.

(10) Standard business sponsors are approved for a period of three years. Sponsors who are approved for accredited status will be approved for a period of six years.

The length of the sponsorship agreement has no bearing on the length of the Subclass 457 visa granted to persons sponsored by the business. A Subclass 457 can be granted for a maximum of four years.

(11) Subclass 457 visa holders are not required to lodge a new visa application if their sponsor seeks, or is approved, for accredited status.

(12) With a median processing time for all applications of 19 days, processing times for 457 visa applications are already at historically low levels. The benefit of the scheme is that sponsors with a demonstrated record of compliance with migration and workplace relations laws will receive the best possible processing times for nominations and visa applications lodged in association with their sponsorship.

As those sponsors who are likely to be approved for accredited status are sponsors who use the program frequently and have a good record of compliance, most will already be receiving expeditious...
processing. The implementation of the accreditation scheme means that these sponsors can seek formal recognition of their excellent track record, entitling them to priority processing.

**Curtin Detention Centre**

(Question No. 1432)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 8 November 2011:

In regard to the alleged incident at Curtin Immigration Detention Centre, that resulted in a female security guard being found semi-conscious suffering head injuries requiring hospital treatment on 2 November 2011:

1. Can the department confirm the details surrounding this incident?
2. At what time was the guard discovered and by whom?
3. Where was the guard located?
4. Can the minister confirm that there was a fire burning in a nearby washing machine?
5. What was used to start the fire?
6. At what time were the various chain of command posts notified?
7. When was the Minister's office notified?
8. When were the police and/or ambulance notified?
9. What treatment was provided on site?
10. At what time did the ambulance transport the guard to Derby Hospital?
11. What treatment was provided at Derby Hospital?
12. What investigations are being undertaken into the matter and who is investigating, is it:
   a. Serco;
   b. the department; and/or
   c. the Australian Federal Police.
13. Has the attacker and/or attackers been identified?
14. What action has or will be taken against the perpetrators of the assault?
15. How long was the guard in Derby Hospital?
16. Was the guard able to return to work following the incident?

Senator Carr: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

1. At 3:20am Australian Western Standard Time (AWST) on the morning of 2 November 2011, a female Serco officer was heard over the radio by other Serco officers saying, “put it down”. Serco officers initiated an immediate search in response to the radio transmission, noting that a fire alarm had been activated in the laundry room in the Foxtrot building. The female Serco officer was found on the ground of the laundry room in a semi-conscious state and appeared to have sustained a blow to her right cheek. A small fire was also observed in one of the washing machines and was immediately extinguished. The female Serco officer received immediate medical treatment at the site of the incident and was subsequently taken to the medical clinic at the Curtin IDC. She was transferred to the Derby Hospital shortly after for further treatment and observation.

2. The female Serco officer was found at 3:22am AWST on the morning of 2 November 2011 by other Serco officers.

3. The female Serco officer was located on the ground of the laundry room in the Foxtrot building.
(4) A small fire was found alight in one of the washing machines in the laundry room.

(5) A toilet roll, orange peels and pistachio nuts were found at the site of the fire and appear to have been used to light the fire.

(6) Notification of chain of command occurred at:
- Serco Curtin IDC Duty Manager – 3:22am AWST
- Serco Curtin IDC Centre Manager – 3:25am AWST
- Serco National Duty Manager – 3:25am AWST
- DIAC Duty Manager at Curtin IDC – 3:35am AWST
- DIAC National Duty Phone – 3:29am AWST
- DIAC National Duty Manager – 6:50am Australian Eastern Standard Time (AEST)

(7) A situation report on the incident was sent via email to the Minister's staff at 7:01am, AEST, on the morning of 2 November 2011.

(8) The Australian Federal Police (AFP) Operations Coordination Centre was verbally advised of the incident via telephone at 7:36am AWST on 2 November 2011. Written advice was subsequently provided to the AFP at 10:34am AWST on 2 November 2011. An ambulance was not required to attend the Curtin IDC.

(9) The female Serco officer was treated immediately at the scene of the incident and subsequently transferred to the medical clinic for further assessment.

(10) The female Serco officer was transported to the Derby Hospital at approximately 3:50am AWST by Serco. An ambulance was not required to attend the facility.

(11) The treatment provided to the female Serco officer by the Derby Hospital has not been disclosed to the department for privacy reasons.

(12) The incident was referred to the Australian Federal Police for investigation. The AFP sent officers to the Curtin IDC on 3 and 5 November to examine the crime scene and conduct an investigation into the incident. The AFP investigation into this matter is ongoing.

(13) The investigation by the AFP is ongoing. Any questions in relation to the investigation should be referred to the AFP.

(14) The investigation by the AFP is ongoing. Any questions in relation to the investigation should be referred to the AFP.

(15) The female Serco officer was transported to the Derby Hospital at approximately 3:50am AWST and was discharged from the hospital at 5:30am AWST on 2 November 2011.

(16) The female Serco officer returned to work at the Curtin IDC on 4 November 2011.

Attorney-General's
(Question No. 1433)

Senator Humphries asked the Minister representing the Minister for Home Affairs, upon notice, on 8 November 2011:

With reference to the answer to question no. 64 taken on notice during the 2011-12 Budget estimates hearings of the Legal and Constitutional Affairs Legislation Committee:

(1) Given that the response noted that the media unit consists of 24.3 full-time equivalent staff, of which eight are in the 24 hour, 7 day per week Media Team (24/7 Media Team), can an explanation be provided as to the business requirement to keep such a large media unit.

(2) What sort of tasks are expected of the 24/7 Media Team.
(3) Is there a shift-work allowance for the 24/7 Media Team; if so: (a) can a description be provided as to how it operates; and (b) how much is paid annually in shift allowances.

(4) How many people are 'on call' outside hours at any particular time.

(5) How much of the Communications and Media Unit's workload is:

(a) devoted to dealing with various issues i.e. irregular maritime arrivals, drug hauls at borders etc; and (b) spent on 'positive promotion' of the Australian Customs and Border Protection Service and how much is spent on 'crisis management'.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

In October 2011, the paid FTE for the Communication and Media unit was 22.0.

The breakdown of those staff by classification is as follows:

<table>
<thead>
<tr>
<th>Pay Classification Level*</th>
<th>FTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Level 2</td>
<td>5.7</td>
</tr>
<tr>
<td>Customs Level 3</td>
<td>8.6</td>
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<tr>
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<td>6.8</td>
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</tr>
<tr>
<td>Total</td>
<td>22.0</td>
</tr>
</tbody>
</table>

The communication and media function within Customs and Border Protection includes two separate sections – the Communication Section and the Media Section is currently headed by a CL5 officer. Both sections are part of the Corporate Governance and International Strategy Branch which is headed by a SES Band 1.

The Communication Section consists of four small teams. Each team consists of 2-3 staff dedicated to each Program within the Agency, that is Border Enforcement, Passenger and Trade Facilitation and Corporate Operations as well as Digital and Online Communication. The Digital and Online Communication team also provides an in-house graphic design function.

The Communication Section is responsible for providing strategic (internal and external) communication advice to the organisation including:

- developing internal and external communication strategies for Customs and Border Protection program areas;
- developing and editing content for a range of communication products for internal and external audiences;
- maintaining digital and online communication channels including the intranet and internet, the internal newsletter;
- management of the 'Border Security' program;
- production and publication of the Annual Report and
- providing graphic design advice and services for communication products.

The Media Section consists of six staff and is responsible for:

- monitoring, managing and responding to issues in the media;
- proactively communicating Customs and Border Protection information via the media;
- providing a 24/7 on-call service and
- media liaison.
The media team is staffed from Monday to Friday from 7.00am until 6.30pm. On-call arrangements are in place from 6.30pm until 7.00am, Monday to Friday and from 6.30pm Friday until 7.00am Monday. There is only one officer on-call at any time and the officer is generally at the CL3 or CL2 level. However, they are provided support by a CL4 or the CL5 officer during on-call hours.

The on-call officer is paid a restriction allowance for the on-call hours, is able to access either time-in-lieu or overtime for hours worked outside of regular hours.

The restriction allowance approximately $300 per week for a CL2 and $340 for a CL3. Staff from both the Media and Communication section are available for on-call duty.

**Crisis Coordination Centre**

(Question No. 1435)

**Senator Humphries** asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

In regard to the Crisis Coordination Centre (CCC):

1. Has Emergency Management Australia (EMA) increased in size to provide the 20 officers manning the CCC, or has this been manned from existing resources.
2. Are all elements of the CCC ready-to-go or is there a particular functionality that is yet to become operational.
3. To what extent does the Parliament House Briefing Room duplicate the functionality of the CCC.

**Senator Ludwig:** The Attorney-General has provided the following answer to the honourable senator's question:

1. EMA has not increased in size to staff the CCC. The CCC is staffed from existing resources.

During the Steady State the CCC operates with approximately 22 AGD officers (business hours) and six shift staff (after hours). The Steady State refers to periods of time when the CCC is not responding to a specific major incident, however continuous monitoring and assessment of all-hazards both nationally and internationally is maintained.

The Crisis State refers to when a major incident has occurred or is emerging and a CCC incident team is stood up to coordinate Australian Government actions. The CCC has been established to manage up to three concurrent incidents at a time and can house approximately 100 officers from the Australian Government or states and territories. Any relevant Australian Government or jurisdictional agency can be represented within the CCC with incident teams tailored to respond to the actual event/s.

2. All elements of the CCC are active; there is no particular functionality that is yet to become operational.

3. The new facility that houses the CCC has been designed to provide more physical space for Australian Government and state and territory officials to work together, to allow better connectivity back to those official's home agencies and appropriate systems to coordinate information of all classifications. The new facility provides a direct link to the Parliament House Briefing Room (PHBR) and direct connectivity to First Ministers' Departments through the telepresence suite and other secure video teleconferencing connections.

The PHBR provides the Prime Minister and Cabinet access to ICT systems of all classifications and videoconferencing capabilities, which allow for remote participation in meetings, the participation of state and territory First Ministers, relevant Australian Government agencies and with diplomatic posts and selected foreign leaders. The PHBR is supported by the CCC during domestic incidents.
The CCC develops briefing and decision support materials of all classifications including Geospatial information. This can be transferred to the PHBR via a number of ICT systems that connect the two facilities. The PHBR is also supported by the Department of Foreign Affairs and Trade (DFAT) crisis management arrangements during international incidents and the Department of Defence for military led operations.

Natural Disaster Relief and Recovery Arrangements
(Question No. 1436)

Senator Humphries asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

With reference to the Prime Minister's joint media release of 17 October 2011 with the Acting Premier of Queensland, 'Queensland communities boosted by continued reconstruction investment':

(1) As the Minister who administers the Natural Disaster Relief and Recovery Arrangement framework through the 'long standing natural disaster arrangements' referred to in this media release, where in the budget will the 'more than $1.1 billion' in funding announced for the Darling Downs and South West come from.

(2) Is this funding, that would have been provided anyway, under existing arrangements, or is this a new policy commitment.

(3) Will the Strengthening Grantham initiative be funded out of the department or elsewhere.

(4) Why was Grantham identified as requiring a special appropriation for this initiative and what role did the department play in identifying Grantham.

(5) Were any other sites identified as potential recipients of this kind of project; if so, which sites were considered and why were they rejected.

(6) Are there other towns across Australia that were identified as being worthy of this kind of relocation initiative; if so, does the Government intend to fund similar projects in other towns.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

(1) The $1.1 billion announced on 17 October 2011 will be funded under the Natural Disaster Relief and Recovery Arrangements (NDRRA). NDRRA funding has been appropriated in the 2011-12 budget and forward estimates.

(2) The intent of the NDRRA is to support State and Territory governments in their relief and recovery efforts as well as provide financial assistance to restore essential public assets damaged by an event. This funding is not a new policy commitment.

(3) The Strengthening Grantham initiative will be funded under NDRRA. Funding has been appropriated in the 2011-12 budget and forward estimates.

(4) A special appropriation was not made for the Strengthening Grantham initiative. Funding was provided under the NDRRA. The Department played no role in identifying Grantham for the relocation initiative.

(5) The identification and promotion of disaster resilience projects is primarily the responsibility of the State and Territory governments. The Government has not received any other requests to fund similar projects in other towns under the NDRRA.

(6). Refer to answer for question 5.
Attorney-General's
(Question No. 1437)

Senator Humphries asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

In regard to the spectrum for public safety agencies:

(1) What advice has the department received on the feasibility of providing the 800MHz band to public safety agencies instead of the 700MHz band and can a copy of this advice be provided; if not, why not.

(2) How will the 850-870 portion of the 800MHz band be cleared of the current tens of thousands of narrowband users and over what timeframe.

(3) Why do the terms of reference of the Government's Public Safety Mobile Broadband Steering Committee not allow it to consider both the 700MHz and 800MHz spectrum for public safety before it reports in the first half of 2012.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

(1) The Attorney-General's Department has actively participated in the Public Safety Mobile Broadband Steering Committee, which has been tasked with providing an implementation plan and business model for a nationally interoperable mobile broadband capability for public safety agencies, and the potential for a possible allocation of spectrum from the 800 MHz band in this regard.

Information on the suitability of 800 MHz band spectrum in support of deploying this capability has been provided to the Steering Committee by the Department of Broadband, Communications and the Digital Economy (DBCDE), the Australian Communications and Media Authority (ACMA) and the consulting firm engaged by the Steering Committee, Gibson Quai-AAS. A Fact Sheet prepared on this topic by DBCDE is available from:


(2) The Attorney-General's Department does not have portfolio responsibility for spectrum allocation and/or management. A Fact Sheet prepared on this topic by DBCDE is available from:


(3) The terms of reference for the multijurisdictional Public Safety Mobile Broadband Steering Committee allow for consideration of both the 700 MHz and 800 MHz spectrum for public safety agencies and its report to the Standing Council on Police and Emergency Management will include consideration of this issue.

Emergency Management Australia
(Question No. 1438)

Senator Humphries asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

In regard to Emergency Management Australia briefings to state and territory emergency services agencies:

(1) What sort of information is being provided in these briefings and can copies of any material be provided; if not why not.

(2) Has the department received any feedback on these briefings; if so, can copies of such feedback be provided; if not, why not.
(3) Do the briefings include any information about Emergency Alert, particularly in light of the issues in the recent use of Emergency Alert in the Mitchell chemical fire in the Australian Capital Territory.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

(1) The Pre-Season briefings were conducted in each State and Territory over the period 30 September 2011 to 14 October 2011. The Director General of Emergency Management Australia chaired the briefing and led discussion on the Australian Government arrangements including timely Australian Government assistance to jurisdictions. Support is achieved through effective service delivery coordinated through the Australian Government Crisis Coordination Centre and working within the Australian Government Crisis Management Framework. Discussion also included the importance of information sharing, the deployment and utilisation of Liaison Officers and joint planning and prioritising of resources. Included in the briefing was updated information on the provision of financial assistance under the Australian Government Disaster Recovery Payment and the Natural Disaster Relief and Recovery Arrangements.

Australian Government agencies involved in the Pre-Season briefings were the Bureau of Meteorology, Geoscience Australia, Department of Human Services and the Department of Defence.

The Bureau of Meteorology provided an overview of the weather outlook for the relevant jurisdictions and included an Australian weather outlook highlighting the prospect of a return of La Nina which in turn will increase the likelihood of higher than expected rainfall, increase chances of cyclones and severe storms.

Geoscience Australia provided an overview of the mapping capability available and the services which could be offered during an event. The ability to provide emergency service agencies services information such as baseline geographic information, hazard detection alerting products (Sentinel hotspots, earthquake and tsunami alerts), disaster mapping and impact analysis (event specific exposure data and modelling) was highlighted.

Humans Services informed of the current processes in place for the provision of services to the community in relation to assistance during significant events. The delivery of a range of Australian Government disaster recovery payments and services to individuals and communities affected by domestic and off-shore events, which includes: Australian Government Disaster Recovery Payment, Funeral / Memorial Assistance, Income Recovery Subsidy and Social Work / Case Management Assistance.

The Australian Defence Force presented information on the arrangements currently in place for the provision of assistance by Defence during times of emergencies. Information was also provided on tasks that Defence can undertake during emergency response (lift and mobility, communications, situational awareness, coordination, shelter, health and welfare, weight of numbers).

This year's briefings included facilitated scenario-based discussion exercises between Emergency Management Australia, Defence and the states and territories. These exercises were used to refine communication and information sharing arrangements, identify capacity constraints in the most common types of emergencies if concurrent major disasters struck and identify likely support that would be requested of the Commonwealth.

The presentations delivered can be provided, but would be better suited if delivered as part of a briefing.

(2) Jurisdictions have provided verbal feedback following the briefings, indicating that they were well received. There is a consensus that yearly pre-season briefings provide a useful vehicle to share information between jurisdictional and Australian Government agencies.
The briefings are about the provision of services and support from Australian Government to jurisdictions during emergency events and for jurisdictions to discuss their capability for response. Jurisdictions briefed on their various methods of communicating with the public and their awareness campaigns, but Emergency Alert was not specifically discussed at these presentations.

**Attorney-General's**

**(Question No. 1439)**

Senator Humphries asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

In regard to breaches of model litigant rules (MLR):

(1) What processes does the department have to monitor all Commonwealth litigation to ensure that agencies comply with the MLR.

(2) What is the cost of monitoring compliance with the MLR.

(3) When were the MLR last reviewed and by whom.

(4) Can a copy of the review report be provided, if one exists.

(5) Why did the department fail to include key data on breaches of the Legal Services Directions (LSD) in its 2010-11 annual report, and was this:

(a) an administrative oversight and at what level in the department; or

(b) a conscious decision and at what level and for what reason.

(6) In relation to the 2010 and 2011 release of the breaches of the LSD data which the Attorney-General made in August 2011, is the department concerned about any trends that appear to be forming.

(7) Can a breakdown be provided of the data into the breaches of the LSD, including what the breach was for and how many of the breaches related to agencies failing to act as model litigants.

(8) Why did the most recent release of the LSD breaches data not include data on the 'still under investigation' category.

(9) In relation to the criticism in the Denlay v FCT case which was decided in the Court of Appeal, Supreme Court of Queensland in 2010: (a) what lessons have been learnt in relation to taking steps towards bankruptcy against a taxpayer engaged in objecting to an Australian Taxation Office (ATO) assessment; and (b) does the department's area with responsibility for MLR outcomes have an involvement in the prosecution of such cases; if so, did it challenge the course taken by the ATO.

(10) In relation to the decision by Edmonds J in Australian Competition and Consumer Commission (ACCC) and Metcash (August 2011): (a) what action has been taken by the Office of the Legal Services Commissioner and/or the ACCC in relation to the judge's comment that certain government witnesses gave 'unreliable evidence'; and (b) does this comment alone constitute a breach of the MLR; if so: (i) what investigation has occurred and with what results, and (ii) what was the cost of this case to the Commonwealth.

(11) Given that the MLR procedures refer to certain sanctions for breaches of the MLR: (a) what are these sanctions; and (b) how many times have the sanctions been imposed.

(12) For all MLR breaches in the 2010-11 financial year, can a breakdown be provided by agency and/or department, along with the action and/or outcome.

(13) Do departments and agencies each appoint an MLR contact person so that that person can independently assess whether all available evidence has been handed over to the party against whom an agency might be taking legal action; if so, with what effect; if not, has this been considered.

(14) Can a breakdown be provided, by case, of the costs for each of the 20 most expensive pieces of litigation (civil and criminal) finalised during the 2010-11 financial year.
**Senator Ludwig:** The Attorney-General has provided the following answer to the honourable senator's question:

In relation to the question as a whole, the Commonwealth 'Model Litigant Rules' are set out in paragraph 4.2, Appendix B (The Commonwealth's Obligation to Act as a Model Litigant) of the Legal Services Directions 2005 (the Directions). These model litigant obligations exist as part of the overall obligations the Directions impose on Commonwealth agencies in relation to the handling of claims and litigation.

In relation to the Senator's specific questions:

1. The Directions provide the framework for the way in which the Department monitors the Commonwealth's compliance with model litigant obligations in the handling of civil claims and litigation. In order to ensure compliance with model litigant obligations the Department:
   - Works with agencies to ensure they are aware of their obligation to report on their compliance with the Directions (including the model litigant obligation) as they are required to do so under paragraph 11 of the Directions;
   - Monitors reports of case law and tribunal decisions;
   - Provides support to agencies (for example: training, advice and assistance) to improve their awareness and understanding of the content of the model litigant obligation and how best to satisfy its requirements;
   - Monitors media reports;
   - Receives reports from legal service providers, courts and tribunals; and
   - Receives complaints from other parties to litigation involving the Commonwealth.

   On occasion, judicial officers and tribunal members comment on their expectations of the conduct of a Commonwealth litigant including the obligation to act as a model litigant. In some instances critical comments are made. Generally, these comments are referred to the Department and the conduct of the relevant Department or Agency in the proceedings is reviewed in terms of its compliance with the Directions, including the model litigant obligations.

2. The cost is not directly measured, as monitoring compliance with the model litigant obligation is performed as part of the functions of the Office of Legal Services Coordination.

3. The model litigant obligation was last amended in 2008 by the Attorney-General.

4. The explanatory statement for the 2008 amendments to the Directions is attached.

5. (a) an administrative oversight and at what level in the department; or
   - (b) a conscious decision and at what level and for what reason.

The failure to include data on breaches of the Directions in the Department's 2009-10 annual report was an administrative oversight by the Department. The Office of Legal Services Coordination is the area within the Department with relevant responsibility. It is the long standing practice of the Department to publish data about compliance with the Directions in its Annual Report. This practice has not changed. The omission was corrected with the urgent publication of the statistics on the Department's website. The 2009-10 statistics were also included in the 2010-11 Annual Report. The statistics were uploaded to the website in August 2011, and the Annual Report was published in October 2011.

6. As outlined in (7) below, of the 24 breaches in 2009-10 there was one breach of the model litigant obligations, with the remaining breaches mainly related to tied work (para 2), consultation (para 10) or agency reporting (para 11). Of the 18 breaches in 2010-11, there were no model litigant obligation breaches. One breach related to engagement of counsel, with the remaining breaches being reporting (para 11) breaches.

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**QUESTIONS ON NOTICE**
The Department will continue to monitor agency conduct with a view to requiring all Commonwealth agencies to achieve the highest professional standards in its handling of claims and litigation.

(7)—

<table>
<thead>
<tr>
<th>Type of breach</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model Litigant Obligation (para 4.2, Appendix B)</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Engagement of Counsel (para 6, Appendix D)</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Tied work (para 2, Appendix A)</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Sharing of advice within Government (para 10)</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>Agency responsibility (para 11) 16</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Total breaches</td>
<td>24</td>
<td>18</td>
</tr>
</tbody>
</table>

(8) The number of breach matters still under investigation is set out in the final column of Table 6 of Page 63 of the Department's 2010-11 Annual Report.

(9) This question is more appropriately directed to the Australian Taxation Office.

(a) As noted in the response to question 1, the Department raises issues in relation to compliance with the Legal Services Directions (including the model litigant obligation) with agencies. Consistent with this, the matter of Denlay has been discussed between the Office of Legal Services Coordination and the Australian Taxation Office.

(10) This comment has been taken into account in the Office of Legal Services Coordination investigation.

(a) Judicial comment does not establish a finding of a breach of the Legal Services Directions.

(i) The investigation into this matter is ongoing, so I am unable to comment further at this stage; and

(ii) The cost of individual cases is not reported to the Attorney-General's Department.

(11) The purpose of the Directions is to improve standards and levels of compliance across the Commonwealth in respect of the purchasing of legal services and the conduct of the Commonwealth in civil claims and litigation. Any sanctions in relation to non-compliance of the Directions, and the requirement to report a breach, are intended to encourage a culture of compliance.

The Department provides an outreach education program to ensure increased awareness of, and compliance with, the Directions by the Commonwealth and its legal services providers.

In assessing compliance, the Department consults where appropriate with the relevant agency on a case by case basis to ensure appropriate remedial action is taken to avoid recurrence.

The types of sanctions that could be imposed by the Attorney in cases of serious breach include:

- Issuing directives to require an agency to handle or conduct litigation in a particular manner (including a directive as to which legal service provider should represent the agency);
- Requiring an agency to implement training or systems to prevent future breaches occurring;
- Raising a serious breach with the relevant responsible Minister, the Department or during Senate Estimates hearings.

No sanctions were imposed in the 2010-11 financial year.

(12) There were no breaches of the model litigant obligation in the 2010-11 financial year.

(13) No. Any arrangement to appoint a model litigant contact person would be made on an agency by agency basis. There is no current requirement for each agency to have a designated model litigant contact person.
(14) No. Each year agencies are required by the Directions (para's 11.1(ba) & 11.1(da)) to make public and report to OLSC on agencies legal services purchasing and expenditure during the preceding financial year in respect of its legal services expenditure. Reporting on expenditure is not required to be done on the basis of a breakdown per individual piece of litigation. Agencies are not required to report on expenditure on legal services expenditure on criminal matters which are not covered by the Directions.

In 2010 the Department released the Commonwealth Legal Services Expenditure Report 2009-10. The report is available on the Attorney-General's Department website at:


2009-2010 was the first time the Department had released this report. The Department is in the process of publishing the 2010-11 report.

Attachment A

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

Judiciary Act 1903

Legal Services Directions

Legislative background

Under section 55ZF of the Judiciary Act 1903, the Attorney-General may issue legal services directions applying generally to Commonwealth legal work (as defined in that section) or in relation to Commonwealth legal work performed in relation to a particular matter. The power to issue legal services directions was conferred having regard to the Attorney-General's responsibility, as first law officer, for legal services provided to the Commonwealth and its agencies, including Commonwealth litigation, and for the provision of legal advice to Cabinet.

Legal Services Directions were initially issued under this provision in 1999. They are administered by the Attorney-General with the assistance of the Office of Legal Services Coordination (OLSC) in the Attorney-General's Department. OLSC provides assistance and advice to agencies about the operation of the Directions. OLSC also publishes relevant information about the Directions (such as Guidance Notes on their interpretation and emerging issues) on its website: http://www.ag.gov.au/olsc.

Policy background to the Legal Services Directions

The Directions set out requirements for sound practice in the provision of legal services to the Commonwealth.

The Directions are an important mechanism to manage, in a whole-of-government manner, legal, financial and reputation risks to the Commonwealth's interests. They give agencies the freedom to manage their particular risks, which agencies are in the best position to judge, while providing a supportive framework of good practice.

For example, the rules about the conduct of tied work ensure that the Commonwealth minimises the risk that portfolio-specific approaches to questions of public international law or constitutional law (for instance) will impair the Commonwealth advancing and maintaining a consistent and clear position on such matters.

Another example of how the Directions provide support for good practice can be found in paragraph 10 which sets out requirements for consultation with an agency in relation to a request for advice concerning the interpretation of legislation administered by that agency. Such requirements minimise
both the chance for unnecessary and inefficient duplication of work and the chance of inconsistent positions being taken by agencies on the same legislative provisions.

The Directions are a legislative instrument and have the force of law. Sanctions can be imposed for non-compliance. These sanctions may include the issue of a specific Direction by the Attorney-General, in relation to the conduct of a particular matter or the use of a particular legal services provider. They may also include adverse comment on an agency or a provider being made to the Attorney-General or the relevant Minister.

History of the Directions
In 2004, the Attorney-General initiated a review of the Directions of 1999. As a result, a new instrument was issued in 2005.

This Statement explains the provisions of the Directions, and draws attention to aspects of the Directions which differ from those issued in 2005.

Contacting OLSC
Questions about the interpretation and operation of the Directions can be directed to OLSC. Contact details are as follows.
Telephone (02) 6250 6611
Facsimile (02) 6250 5968
Mail: Assistant Secretary
Office of Legal Services Coordination
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600
Email: olsc@ag.gov.au
Website: http://www.ag.gov.au/olsc

SECTIONS
Section 1
Section 1 of the instrument sets out the name of the instrument.
Section 2
Section 2 specifies that the instrument commences on 1 July 2008.
Section 3
Section 3 provides for the amendment of the previous Directions which were issued to take effect from 1 March 2006.

SCHEDULE 1: LEGAL SERVICES DIRECTIONS
PART 1 FMA Agencies
Paragraph 4 (Claims and litigation by or against the Commonwealth or FMA agencies)
Paragraph 4.2 of the Directions provides that claims are to be handled and litigation is to be conducted by the agency in accordance with The Commonwealth's Obligation to Act as a Model Litigant, at Appendix B to the Directions.
The amendment will extend the provision to note that the agency is not to start legal proceedings unless it is satisfied that litigation is the most suitable method of dispute resolution. This obligation in relation to commencing legal proceedings will be found at new paragraph 5.1 in Appendix B to the Directions.

Paragraph 11 (Agency responsibility)

A new subparagraph 11.1(da) has been added to require Chief Executives of agencies to report to OLSC within 60 days after the end of each financial year about their agency's legal services expenditure and the legal work of the agency, using a template approved by OLSC. The mandatory use of the template will assist in obtaining consistent information that will in turn allow for a better and more accurate analysis of Commonwealth legal services expenditure.

A consequential technical amendment is required to subparagraph 11.2(b) to enable a new subparagraph 11.2(ba) to be inserted into paragraph 11.2.

A new subparagraph 11.2(ba) imposes a responsibility on Chief Executives of agencies to provide specified details to OLSC on an annual basis about aspects of the agency's use of persons appointed by the Attorney-General under section 63 of the Judiciary Act 1903 to receive service in proceedings to which the Commonwealth is a party.

A new set of provisions (paragraphs 11.3, 11.4 and 11.5) introduce a requirement on the Chief Executives of agencies to ensure that in procuring legal services the agency does not adversely discriminate, subject to an actual conflict of interest arising, against legal services providers that have acted, or may act, pro bono for clients in legal proceedings against the Commonwealth or its agencies.

PART 2 Extended or modified application of the Directions

Paragraph 12 (Extended application of Directions to non-FMA bodies)

A new paragraph 12.3A has been included to extend the application of the amendments to the Directions to bodies that are not agencies regulated by the Financial Management and Accountability Act 1997. The extended application of the amendments is designed to protect the legal, financial and reputation interests that underlie the rest of the Directions.

In particular, by requiring agencies regulated by the Commonwealth Authorities and Companies Act 1997 to also report on their legal services expenditure, it will provide OLSC with more comprehensive information about legal services purchasing across whole of government.

Paragraph 12A (Obligations of persons appointed under section 63 of the Judiciary Act 1903 to receive service)

This is a new paragraph that imposes an obligation on persons appointed by the Attorney-General under section 63 of the Judiciary Act 1903 to accept service, to report to the agency on whose behalf service has been accepted, about the receipt of the service using a template approved by OLSC.

The use of a standard Notice will ensure that agencies are aware that, although a particular provider has accepted service, agencies are free (subject to the tied work rules in the Directions) to instruct the legal services provider of their choice to have carriage of the matter.

General notes

The notes provide examples, interpretive assistance and further information on issues concerning or closely relating to the Directions.

Note 2A titled 'Who can receive service in proceedings to which the Commonwealth is a party' clarifies that lawyers providing legal services to the Commonwealth or its agencies who are appointed by the Attorney-General under section 63 of the Judiciary Act are the only persons able to receive service on behalf of the Commonwealth.
The technical amendments to paragraph 6 and subparagraph 8(a) are to provide for consistency of language used in the Directions.

Appendix B (The Commonwealth's obligation to act as a model litigant)

This Appendix explains the nature and scope of the Commonwealth's obligation to act as a model litigant, which has received long-standing recognition in Australian common law.

New subparagraph 2(aa) has been inserted to require the Commonwealth and its agencies to make an early assessment of the Commonwealth's or the agency's prospects of success in legal proceedings that may be brought against the Commonwealth or its agencies; and the Commonwealth's potential liability in claims against the Commonwealth or its agencies.

The amendment made to paragraph 2(e)(i) is a technical consequential amendment.

New subparagraphs 2(e)(iii) and 2(e)(iv) are inserted to require the Commonwealth and its agencies to continue to consider other methods for resolving the dispute throughout the course of litigation. This is to make it clear that the consideration of alternate methods of dispute resolution; for example, settlement negotiations or formal alternative dispute resolution; is a continuing obligation.

A new paragraph 5 has been substituted for the previous provision in order to emphasise the importance of agencies doing all they can to resolve disputes without recourse to litigation. The Commonwealth or its agencies are only to start court proceedings if other methods of dispute resolution (eg alternative dispute resolution or settlement negotiations) have been considered.

Paragraph 6 and its note are omitted to ensure consistency in the Directions as the amendments require arrangements to be made so that a person participating in any settlement negotiations on behalf of the Commonwealth or an agency can enter into a settlement.

**Defence: Projects of Concern**

(Question No. 1440)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to Projects of Concern:

(1) How many Projects of Concern industry consultation sessions have been conducted by the Minister or his delegate and for each session:

(a) on what date was it held;
(b) where was it held, and
(c) who was invited and who attended.

(2) What was discussed at the Projects of Concern industry consultation meetings.

(3) What actions were agreed to at those meetings:

(a) at a collective level;
(b) by project, and
(c) by contractor.

(4) How are contract specific obligations and issues, including confidentiality, managed at those meetings where the meetings are held in open forum with other contractors?

(5) What is the legal effect of the resolutions or decisions made at these meetings and are they legally binding under the relevant contracts.

(6) When did the Independent Project Performance Office (IPPO) become responsible for Projects of Concern and can a description the role of the IPPO in relation to Projects of Concern be provided.
(7) If the decision is taken to install the phased array radar on all eight Australian and New Zealand Army Corps frigates under Project SEA 1448 Phase 2B:
(a) what will be the cost, and
(b) when will the final system be installed on the eighth ship.
(8) What is the expected in-service date for the first future frigate under project SEA 5000?
(9) To what extent was the Australian Industry Capability Program or advancement of Priority Industry Capabilities identified and prioritised as a selection criterion in the tender documentation for the LAND 121 Phase 3 project.
(10) Has the Defence Materiel Organisation finalised its advice to government on a preferred tenderer/way forward for this project; if so, when was it forwarded to government for final consideration.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Please refer to the 19 October 2011 Supplementary Budget Estimates Question on Notice 17 for a full list of meetings, dates, locations and attendees.

(2) As stated in the 29 June 2011 Ministerial Media Release on reforms to the Projects of Concern system, the Minister for Defence Materiel conducts the Projects of Concern summits with Defence and company representatives to ensure individuals are being held to account for the progress of remediation efforts. Discussions at the summit cover all aspects of project activity and remediation, and are commercial in confidence.

(3) As also stated in the June Media Release, an action from each meeting is for the Defence Materiel Organisation (DMO) and company to update the project's remediation plan. This plan identifies remediation objectives, milestones, and project actions over the following six months, as well as the agreed basis for removal from the Projects of Concern list. All actions are assigned to an individual, accountable officer from Defence or the company. Remediation plans are commercial in confidence.

(4) The meetings are not held in an open forum. Attendance at each meeting is restricted to Defence and company representatives directly involved in the project. This allows commercially sensitive activities and contract obligations to be discussed freely.

(5) The discussions have no direct legal effect. However, agreements made at a summit meeting can lead to a contract amendment.

(6) As advised in the June Media Release, the Independent Project Performance Office (IPPO) began operating on 1 July 2011. The Projects of Concern Directorate is now part of the IPPO Branch within DMO.

(7) (a) The total project cost to install the Anti-Ship Missile Defence upgrade in all eight ANZAC frigates is in excess of $650 million, including the funds already spent on upgrading HMAS Perth.
(b) The final system will be installed in the eighth ship in 2017.

(8) As outlined in the Defence White Paper 2009 and the public Defence Capability Plan (DCP), it is the Government's intention to replace the ANZAC Class frigates with a new generation of naval surface combatants under SEA 5000. It is expected that Defence will commence work on developing this project for Government consideration beyond 2019. While the indicative initial operational capability for this project is financial year 2027-28 to financial year 2029-30 (as per the public DCP), final dates will be determined later in the project development process.

(9) The industry capacity necessary to support the capabilities/equipment that will be acquired through LAND 121 Ph 3 is not a Priority Industry Capability. The revised tender for the project
included a criteria that addressed Australian industry participation in the project. It was not prioritised as all evaluation criteria are considered as part of selecting the final preferred tender. The revised tender identified industry requirements for manufacture of modules and through-life support in Australia.

(10) As announced by the Government on 12 December 2011, Rheinmetall MAN Military Vehicles Australia has been selected as the preferred supplier tenderer and will now enter into detailed negotiations to provide up to 2,700 protected and unprotected medium and heavy vehicles under LAND 121 Phase 3B.

Defence: Early Indicators and Warning System

(Question No. 1441)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to an Early Indicators and Warning System (the system):

(1) How many projects have activated the triggers established as part of the system and can a breakdown be provided of each post first-pass and post second-pass example.

(2) How many internal reviews have been established and conducted as a result of the activation of these triggers and can a list be provided of all completed and ongoing internal reviews.

(3) What is the average duration of these internal reviews and what resources are dedicated to their conduct, including a breakdown of those resources using average hours and work days needed to conduct the review.

(4) How many full diagnostic examinations (Gate reviews), listed as completed and ongoing, have been:
   (a) recommended; and
   (b) conducted.

(5) What is the average duration of a Gate review and what resources are dedicated to their conduct, including a breakdown of those resources using average hours and work days to conduct the review.

(6) Has a Gate Review Board been formed for each Gate review as announced by the Government in May 2011.

(7) For projects in contract, has the conduct of internal or Gate reviews had any effect on the Commonwealth fulfilling its contractual obligations.

(8) What changes have been made to the triggers since the system was established in May 2011.

(9) How many independent experts have been contracted to provide advice to Gate reviews, indicating for each review:
   (a) who has been contracted;
   (b) how much work they did or are doing on that review;
   (c) when they did that work; and
   (d) how much they have been or will be paid.

(10) What contracting methodology has been used for these engagements and have all of these engagements been published on AusTender.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) The first quarterly Early Indicators and Warnings (EI&W) report, completed in September 2011, identified 16 pre-Second Pass capability development projects and six post-Second Pass projects that breached the EI&W thresholds. A list of the projects will be published.
(2) Projects that trigger EI&W thresholds are reviewed by the Director General of the Defence Materiel Organisation (DMO) Independent Project Performance Office (IPPO) to determine if a Gate Review is required. There have been four such Gate Reviews for the following projects:

JP2089 Phase 2B, SEA1390 Phase 4B, JP2025 Phase 5 and Land 17 Phase 1A.

(3) Typically, for each Gate Review, an experienced analyst from the DMO Gate Review team and an External Board member review the project over a period of approximately two weeks. The total time varies with each project depending upon size and complexity. This analysis leads to the provision of an agenda paper to the Gate Review Board members highlighting key concerns confronting the project.

The membership of each board is tailored according to the nature of the project; the larger, more complex the project, the more senior the board members. Each board then runs for approximately four hours, plus a 1–2 hour pre-brief. The board members may choose to conduct additional sessions. The board comprises a chair, usually one of the DMO General Managers or a DMO Division Head; one or two external members; and two to four other DMO managers across the spectrum of legal, finance, engineering and project management disciplines.

(4) (a) In May 2011, the Minister for Defence directed that the DMO Gate Review program be expanded to an annual review of all DMO major capital projects. There are approximately 180 major projects to be reviewed each year.

(b) This calendar year approximately 90 projects will have been reviewed.

(5) See the answer to Q3.

(6) The composition of each Gate Review Board is identified two months ahead of the review.

(7) No, the role of the Board is to review the status of a project, and provide direction to DMO line management.

(8) No changes have been made.

(9) (a) The panel of External Board Members (independent experts) currently numbers 15, rising to 20 by April 2012.

Current external members are:

Mr Ross Smith Procurement consultant, ex Department of Defence and Finance
Dr Ralph Neumann FAICD Physicist, ex Department of Defence
Mr Roger Howick FCCA Ex industry CFO
Mr Ian Irving Engineer, project manager, ex industry executive
RADM Rtd Peter Purcell AO Project manager, Company Director, ex navy engineer
Mr Frank Lewincamp PSM Ex Department of Defence; DIO, DMO
Mr Barry Barnes Engineer, project manager, ex industry executive
RADM Rtd Oscar Hughes AO Project manager, ex navy engineer
AVM Rtd Clive Rossiter AO Consultant, ex RAAF engineer
Mr Rod Locket Engineer, ex industry CEO
Mr Garry Seaborne Engineer, shipbuilding project manager
CDRE Ret Merv Davis AM Ex industry CEO, ex navy engineer
Dr Ian Williams PSM Ex Department of Defence; DMO
Mr John Gallacher Engineer, project manager, ex industry CEO
Mr Alan Johnson Engineer, project manager, ex industry CEO

(b) An External Board Member averages 32 hours work per Gate Review. The number of Gate Reviews each has done to date varies from 5 to 20.
(c) This calendar year the external members will have sat on some 90 reviews. Next calendar year they will be sitting on some 180 reviews.

(d) In financial year 2010/11 expenditure on external members was $580,000. In financial year 2011/12 expenditure to date is $627,000, with an end of year forecast of approximately $2 million.

(10) External Members are engaged on individual 12 month contracts at a standard hourly rate. They are paid a monthly fee plus time and materials for each Gate Review. All engagements have been published on AusTender.

**Defence**

(Question No. 1442)

**Senator Humphries** asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to Technical Skills Shortage:

(1) What work has been done by the department to assess technical skill levels within the Australian Defence organisation generally and as needed to achieve Force 2030, and can copies of any reports that have been prepared since 1 December 2007 be provided.

(2) (a) How are technical skill levels for the purposes of meeting current and future operational requirements and for the purposes of delivering Force 2030 measured within the Australian Defence organisation; and (b) what are the current technical skill levels in the: (i) department, (ii) Army, (iii) Navy, (iv) Air Force, and (v) Defence Materiel Organisation.

(3) How did the Navy reach the decision to award bonuses of up to $80 000 per annum to engineers, as reported in the media on 22 September 2011.

(4) What work has been done within the department to assess technical skill levels within the Defence industry and the Australian industry generally, to the extent that it affects the department and the delivery of Force 2030.

(5) Can a breakdown be provided by service and by group, of how many engineers are currently employed.

(6) (a) What are the churn rates within the department for engineers; (b) what are the separation rates for engineers; and (c) how do these churn and separation rates compare with applicable benchmarks.

(7) On what basis are engineers within the department engaged.

(8) Which current and future procurement projects are most dependent upon, and therefore vulnerable to, a shortage in technical skills, engineering skills in particular.

(9) Is a lack of technical skill currently jeopardising the department's capacity to fulfill its obligations under any major capital project contracts; if so, which projects and which contractual obligations.

(10) What 'Job Families', Graduate Programs and career structures are in place within the department to attract and retain technical staff, in particular engineers, and which specific engineering specialities are recognized and how.

**Senator Carr:** The Minister for Defence has provided the following answer to the honourable senator's question:

(1) The Defence Strategic Workforce Plan 2010-20 articulates Defence's approach to workforce planning in support of the Defence White Paper 2009 and Defence's Strategic Reform Program. This plan draws heavily upon the intent of the broader strategic planning environment, and the implications for Defence's workforce and how Defence will deliver the workforce it requires to build Force 2030.
The Defence Strategic Workforce Plan 2010-20 provides a balanced discussion about the challenges faced by both the military and civilian workforces, and facilitates the provision of guidance for the development of respective Service and Group People Plans.

(2) (a) Current and future workforce needs are identified through a broad range of means. Defence uses the Defence Workforce Planning Cycle to aid in workforce planning – this cycle uses key strategic inputs such as the White Paper, Defence Planning Guidance, Joint Operations Concept, Defence Capability Statements, the Defence Capability Plan and the Strategic Reform Program to inform the broader Workforce Plan.

(2) (b) The Defence Materiel Organisation (DMO) current technical skill levels are underpinned by key capabilities that Technical Officers are expected to be skilled in at each level within the framework. The Materiel Engineering Council has determined that the following capabilities are the top ten priority skilling areas for Technical officers;

- Systems Engineering
- Requirements Management
- DMO Technical Regulatory Framework
- Systems Safety Engineering
- Capability Development Documentation
- Software Engineering
- Verification and Validation
- Technical Reviews and Audits
- DMO Induction Program—Engineer and Technical
- Sustainment Engineering

Defence is not immune from the challenges facing some sectors of the broader employment market in Australia. Defence is closely examining labour market trends, and internal workforce trends, to determine which components of the Defence workforce may come under pressure in the short and longer term.

Over the next 5 years the most significant employment growth in Australia will be in a number of occupations which are closely aligned to Defence critical skill areas. Future workforce data suggests that there may be impacts for Defence in some job categories or specialisations in the next 5 years due to a range of factors including the resources boom and an ageing workforce.

Defence notes that the demand in Australia for technical trades, engineers, and particular health and Information Communication and Technology (ICT) roles, is continuing to grow, and that Defence will need to continue to review its employment offer to retain such specialist skills.

(3) On 20 September 2011 the Chief of Navy announced a financial bonus offer for selected ANZAC and COLLINS class Marine Technician (MT) sailors. The scheme does not offer $80,000 per annum—it offers a maximum of $80,000 in return for two years service for the highest targeted qualification, scaled down to $40,000 for two years service (in two one year increments of $20,000) for the lowest targeted qualification.

The decision to offer a bonus was arrived at following consideration of the potential impact that increasing rates of separation in these groups might have on Navy's ability to continue to deliver the appropriate level of ANZAC and COLLINS capability, and in the longer term, other Navy capabilities.

This bonus is designed to encourage key MT personnel within the ANZAC and COLLINS classes to remain in the Navy to ensure we have suitably trained people providing the appropriate level of supervision and support to keep our ANZAC frigates and COLLINS submarines at sea and,
importantly, to enable us to more quickly qualify the many marine technician and other categories of
sailor who are coming through the training system.

(4) In 2009, Defence surveyed DMO’s 50 largest Australian-based suppliers, seeking information on
their defence industry skill levels. Between them, the surveyed firms account for around 95 per cent of
DMO’s domestic expenditure with prime contractors. The survey results form a skills ‘baseline’ to which
defence industry can be compared in future, to identify structural shifts in the defence industry
workforce, and to make comparisons against skilling requirements in non-defence areas of the
economy.

In this respect, the results from the survey are currently assisting Skills Australia structure a more
comprehensive and forward looking review of whether sufficient skills exist in domestic defence
industry to support Defence and the delivery of Force 2030 and how the capacity and capability of the
domestic defence industry can be enhanced. For example, the survey is being used by Skills Australia to
device a set of skills categories relevant to defence industry and the survey’s results are likely to be used
by Skills Australia to help determine trends in the availability of particular skills over time.

The Priority Industry Capability (PIC) health checks completed to date—for Combat Clothing,
Infantry Weapons, Dry Docking and Common User Facilities, and Acoustics—have had a strong focus
on the availability within domestic industry of labour skills necessary to support the capital equipment
and systems considered to be of the greatest strategic significance to the Australian Defence Force
(ADF). The process of checking the health of these PICs has involved direct and detailed discussions
with relevant defence contractors on the make-up of their workforces. These discussions included skills
profiles, age profiles, geographic concentrations and mobility. Importantly, the process looked
explicitly at future demand for skills and seeks to match this to supply.

DMO has conducted an Engineering and Technical training needs analysis of the entire Engineering
and Technical workforce within DMO.

The DMO Institute Expansion Program for the Engineering and Technical Job Family is progressing
in accordance with the Industry Skilling Program Enhancement (ISPE) initiative.

DMO corporately sponsored training to the Australian Defence Force Academy, University of NSW
(UNSW) for specialist Engineers (i.e. Systems Engineers).

DMO is providing sponsorship for the 2012 Systems Engineering Conference to support DMO
Engineers Continuous Professional Development.

(5)

<table>
<thead>
<tr>
<th>Australian Force</th>
<th>Defence Officer Engineersa</th>
<th>Other Ranks Technical</th>
<th>TOTAL ADF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy</td>
<td>409</td>
<td>3420</td>
<td>3829</td>
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<tr>
<td>Army</td>
<td>1355</td>
<td>5113</td>
<td>6468</td>
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<tr>
<td>Air Force</td>
<td>925</td>
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<td>5510</td>
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<td>TOTAL</td>
<td>2689</td>
<td>13118</td>
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<table>
<thead>
<tr>
<th>Australian Service</th>
<th>Public Engineering</th>
<th>Technical</th>
<th>TOTAL APS</th>
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<tbody>
<tr>
<td>Air Force</td>
<td>90</td>
<td>164</td>
<td>254</td>
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<tr>
<td>Army</td>
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<td>DMO</td>
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<td>758</td>
<td>1460</td>
</tr>
<tr>
<td>Australian Service</td>
<td>Public</td>
<td>Engineering</td>
<td>Technical</td>
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<td>0(2)</td>
<td>0(2)</td>
</tr>
<tr>
<td>I&amp;S</td>
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<td>4</td>
<td>33</td>
</tr>
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<td>Navy</td>
<td>188</td>
<td>28</td>
<td>216</td>
</tr>
<tr>
<td>VCDF</td>
<td>8</td>
<td>106</td>
<td>114</td>
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<tr>
<td>TOTAL</td>
<td>1035</td>
<td>1114</td>
<td>2149</td>
</tr>
</tbody>
</table>

(1) This data, correct as at 31 October 2011 shows officers between O02 (Lieutenant and equivalent) and O05 (Lieutenant Colonel and equivalent) and includes 8 Air Force officers at the O01 level (Pilot Officer).

(2) The above tables show employees who belong to the 'Engineering and Technical' job family. Employees in the DSTO are typically categorised as belonging to the Science and Technology job family and are not included in the above results.

(6) (a) and (6) (b) Current Human Resource reporting tools within the department are not currently designed to report on churn rates. Separation rate data provides some indication of the movement of engineers and is set out in the following tables (correct as at 31 October 2011).

<table>
<thead>
<tr>
<th>Australian Defence Force Officer Engineers(1)</th>
<th>Other Ranks Technical</th>
<th>TOTAL ADF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy</td>
<td>4.8%</td>
<td>8.7%</td>
</tr>
<tr>
<td>Army</td>
<td>5.6%</td>
<td>10.1%</td>
</tr>
<tr>
<td>Air Force</td>
<td>5.0%</td>
<td>5.3%</td>
</tr>
</tbody>
</table>

(1) This data, correct as at 31 October 2011 shows officers between O02 (Lieutenant and equivalent) and O05 (Lieutenant Colonel and equivalent) and includes 8 Air Force officers at the O01 level (Pilot Officer).

<table>
<thead>
<tr>
<th>Australian Public Service – Separation rates for engineers</th>
<th>Engineering</th>
<th>Technical</th>
<th>Engineering &amp; Technical Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole of Defence</td>
<td>6.0%</td>
<td>5.6%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Defence (excl DMO)</td>
<td>4.6%</td>
<td>6.2%</td>
<td>5.5%</td>
</tr>
<tr>
<td>DMO</td>
<td>4.9% (1)</td>
<td>10.9% (1)</td>
<td>8.6% (1)</td>
</tr>
<tr>
<td>Transfer rate from DMO to greater Defence</td>
<td>1.3% (1)</td>
<td>1.3% (1)</td>
<td>1.4% (1)</td>
</tr>
<tr>
<td>Transfer rate from greater Defence to DMO</td>
<td>1.8%</td>
<td>1.7%</td>
<td>1.8%</td>
</tr>
</tbody>
</table>

(1) Note – DMO workforce management practice is to include ongoing and non-ongoing staff in these statistics. Defence workforce data only contains ongoing/permanent staff.

(6) (c) ADF engineering and technical separation rates are only benchmarked against historical internal trends. Attempts in the past to benchmark against other Defence Forces (such as Canada) have proven inconclusive owing to different remuneration structures.
Engineers are employed in those roles where the needs for engineering skills or experience have been identified.

The work of the Defence Materiel Organisation is technical and complex. All Defence projects are dependent on technical and engineering skills to some degree. Engineering and technical skills improve the DMO's ability to assure value for money—and to reduce capability risks, schedule risks, cost risks, reliability risks and safety risks.

Off the shelf procurements have a lesser requirement for engineering and technical skills. Where the capability requirement allows, the DMO uses off the shelf options as a means of reducing risk. This also allows technical skills to be directed to more complex procurement or sustainment business areas.

At the other end of the spectrum, systems integration is particularly challenging. Supporting modern operations requires an organisational capability to select, procure, integrate and make interoperable a very complicated system of systems. This requires scarce high-level engineering and technical skills to adequately manage the risks.

The effectiveness of risk mitigation for most DMO projects is influenced by the availability of appropriate technical skills. Nearly every electronic systems project, guided weapons project and platform modification project is dependent on engineering and technical skills—which is a substantial portion of the Defence Capability Plan.

Like many organisations reliant on technical skills, the DMO is experiencing an ongoing challenge with attracting, developing and retaining high quality engineers and other high quality technical professionals. This is best characterised as a long term problem that the DMO is working consistently to address—it is not, overall, a crisis. Noted skills shortfalls being experienced today by the DMO include radio frequency engineers, software engineers, satellite communications engineers, tactical data link engineers, systems engineers, guided weapons engineers and technical experts in simulation.

The DMO has a wide range of programs and activities in place or planned to ameliorate attraction, retention and development challenges.

Further, the importance of engineering and technical skills in sustaining military capability should not be forgotten. As can be seen from Mr Rizzo's Plan to Reform Support Ship Repair and Management Practices—and our experience with sustaining the Collins class—maintaining complex capabilities after delivery relies heavily on strong engineering and technical skills.

The study by Skills Australia to map the current skill sets in Australian defence industry is underway, and will examine the skills that will be required over the next 10 years and beyond, and how we might bridge the gaps. Until the study's results are available in mid 2012, it is difficult to determine whether particular procurement projects are vulnerable to skills shortages.

In addition, as checks of the health of the remaining eight Priority Industry Capabilities are progressed, a clearer idea of skills issues relating to industry capabilities of relatively high strategic value should be available. These checks will cover the broad capability areas of high frequency and phased array radars, electronic warfare, mission and safety critical software, systems integration, anti-tampering, signature management, munitions, and the Collins combat system.

Defence, in particular the DMO, has a substantial workforce of engineers and staff with other technical skills. In most cases the available talent can be managed to adequately treat most of the foreseeable risks. On the one hand, the DMO's technical workforce could be stronger which would reduce the risk and the pressure on DMO management. Realistically though the DMO's technical workforce can never entirely achieve the ideal quality nor be of unlimited quantity.

Risks to the DMO's capacity to fulfil its obligations under any major capital project contracts are addressed wherever possible and if particular risk mitigation (such as technical skills) cannot be relied on, other risk controls will be explored and applied. So it is not simply that a deficit in skills will automatically lead to project failure.

QUESTIONS ON NOTICE
The contemporary skills challenge is characterised by regional variations. Defence's experience is that technical skill supply and demand vary significantly by location and are strongly influenced by the local economy and industry. Perhaps the most acute challenges for the DMO are presently in Western Australia, where competing for the experts needed to sustain maritime platforms and conduct munitions maintenance is proving difficult during a resources boom.

(10) All Australian Public Service (APS) jobs in Defence are given a job code according to the Defence APS Standard Classification of Occupations and assigned to a Job Family. A Job Family identifies at the broadest level the categories of related occupations across the APS workforce in Defence.

Defence has fifteen APS Job Families. There is an Engineering and Technical Job Family. Each Job Family has a senior level sponsor who has responsibility for developing career path guidance within their Job Family, and specifying the skills, learning and development (including experience) requirements for those career paths. The existence of career pathways in a Job Family does not limit the ability of employees to move to positions in other Job Families is they are suitable.

Defence provides a variety of attraction and professionalisation strategies to support its job families. These include, but are not limited to, early engagement strategies such as the Defence Technical Scholarship program, entry level programs such as the Defence Graduate Development Program, Materiel Graduate Scheme, the Civilian Engineering Development Program, ADFA Engineering Undergraduate Scheme, Materiel Work Experience Program and Materiel TAFE Employees Scheme targeted at attracting and retaining technical staff, including engineers. Memoranda of Agreement have also been established with Engineers Australia and the Australian Maritime College.

Additionally, Defence Force Recruiting has strategies in place to improve recruitment to technical and engineering categories in the Australian Defence Force, including specialist recruiting teams in the engineering and technical space.

Defence recognises a number of engineering academic disciplines through its entry programs including: civil, mechanical, electrical, communication, aerospace communication, chemical, electrical, instrumentation and control, software, systems, aeronautical computer systems, naval architecture, space, telecommunications, mechatronic, information, materials.

Defence delivers a range of professionalisation and training programs for Engineers. These include Certification of professional engineers and technical officers through Engineers Australia. Additional professionalisation and training programs are being investigated including submarine design and development courses for engineering and technical officers.

**Defence: Strategic Reform Program**

(Question No. 1443)

**Senator Humphries** asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to the Strategic Reform Program:

(1) For each of the following financial years: 2009-10, 2010-11, 2011-12 and 2012-13: what are the current gross savings targets, costs and net savings for each reform/savings stream (an updated table, is required, equivalent to p. 27 of the SRP booklet 2009, which includes gross savings targets, stream costs and net savings).

(2) (a) What were the actual figures achieved for each reform/savings stream (gross savings, costs, net savings) for the 2009-10 financial year that led to the achievement of the target gross savings of $797 million; and

(b) what were the total program costs for the 2009-10 financial year (actual) and total savings (net).
(3) (a) What were the actual figures achieved for each reform/savings stream (gross savings, costs, net savings) for the 2010-11 financial year that led to the achievement of the target gross savings of $1.016 billion; and

(b) what were the total program costs for the 2010-11 financial year (actual) and total savings (net).

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Investment funds can be allocated to both cost reduction and non-cost reduction streams, and to Groups and Services for a variety of reform activities. Therefore a 'net savings' view is not reflective of the purpose of SRP investment funds as they can not be solely attributable to cost reduction streams.

<table>
<thead>
<tr>
<th>Stream</th>
<th>Cost reduction target</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011-12</td>
</tr>
<tr>
<td>Information and Communications Technology</td>
<td>$147m</td>
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<tr>
<td>Smart Sustainment</td>
<td>$370m</td>
</tr>
<tr>
<td>Non-Equipment Procurement</td>
<td>$207m</td>
</tr>
<tr>
<td>Workforce and Shared Services</td>
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<tr>
<td>Reserves</td>
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<tr>
<td>Logistics</td>
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<tr>
<td>Other</td>
<td>$286m</td>
</tr>
<tr>
<td>Total*</td>
<td>$1284m</td>
</tr>
</tbody>
</table>

*Summation variances are due to rounding.

SRP Investment funds

<table>
<thead>
<tr>
<th></th>
<th>2011-12</th>
<th>2012-13</th>
</tr>
</thead>
<tbody>
<tr>
<td>SRP investment funds**</td>
<td>$434m</td>
<td>$226m</td>
</tr>
</tbody>
</table>

** Strategic Reform Project (SRP) cost provisions are consolidated into a central provision. SRP costs cannot be attributed to streams.

(2) (a) Refer to the Defence Annual Report 2009-10 Volume 1 Department of Defence, Table 1.1 2009-10 SRP Reform Stream cost reductions

(b)—

<table>
<thead>
<tr>
<th>SRP</th>
<th>2009-10</th>
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<tbody>
<tr>
<td>Total investment funds</td>
<td>$303m</td>
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<tr>
<td>Total cost reductions</td>
<td>$1022m</td>
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</tbody>
</table>

(3) (a) Refer to the Defence Annual Report 2010-11 Volume 1 Department of Defence, Table 1.1 2010-11 Key SRP Achievements

(b)—

<table>
<thead>
<tr>
<th>SRP</th>
<th>2010-11</th>
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</thead>
<tbody>
<tr>
<td>Total investment funds</td>
<td>$507m</td>
</tr>
<tr>
<td>Total cost reductions</td>
<td>$1064m</td>
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</tbody>
</table>
Defence
(Question No. 1444)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) What is the current status of the Force Structure Review, and has it formally commenced; if so, when did it commence and when will it be completed.

(2) What is the current status of the Force Posture Review.

(3) What is the current status of implementation of the recommendations of the Kinnaird and Mortimer reviews.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) In the 2009 Defence White Paper, the Government announced its intention to prepare new White Papers at intervals of no greater than five years. To ensure that the development of future White Papers is as comprehensive as possible, a strategic risk assessment, a force structure review, and an audit of the Defence budget are to be conducted in the year prior to any White Paper.

The Minister for Defence has announced the Government’s intention to deliver a new White Paper in early 2014. In order to meet this timeline, Defence has commenced preparation for a force structure review, which will be conducted in 2012. The results of the review will be reported to Government by early 2013.

(2) The Force Posture Review Expert Panel, Dr Hawke and Mr Smith, are on track to provide me with a progress report in December 2011. The final report will be provided to Government in the first quarter of 2012. Government will respond once the report has been received and considered. It is too early to pre-empt the report's findings.

(3) One of the key elements of the Defence Procurement and Sustainment Review, conducted by Mr David Mortimer AO in 2008, was to consider progress in implementing the 2003 Kinnaird Review of Defence Procurement.

The Mortimer Review noted the success of the Kinnaird reforms and provided a detailed analysis of the implementation of those reforms which can be found at Annex B to the Mortimer Review report.

The majority of the Mortimer recommendations have been implemented. In particular the following key initiatives are in place:

- processes to support consideration of off-the-shelf options with cost-benefit analysis for each project;
- project directives to ensure that there is clear accountability for the delivery of capability as approved by Government;
- the independent project performance office;
- a stronger linkage between the capabilities sought and strategic priorities;
- assurance to Government of the affordability of the Defence Capability Plan;
- a strengthened mechanism for the CEO DMO to provide independent commercial advice to Government;
- the DMO General Manager Commercial and his new Commercial Group;
- programs with industry and State Governments to address skills shortages;
- charters for the DMO managers of complex projects and products; and
- greater DMO accountability for its use of resources and performance through direct appropriation to the DMO for its operating costs.
Ministers also noted in August 2011 that the Kinnaird and Mortimer reforms have improved the rigour applied to the capability development process. Ministers noted that there had been 20-25 per cent reduction in schedule slippage for those projects subject to the Kinnaird and Mortimer reforms as compared with earlier projects.

**Defence: Staffing**
(Question No. 1445)

*Senator Humphries* asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to recruitment:

1. (a) How many applications have been received for the position of Chief Executive Officer of the Defence Materiel Organisation (CEO DMO); and (b) how many of these applications were from: (i) industry, (ii) the Government sector, (iii) the department; and (iv) overseas.

2. Can a copy be provided of the recruitment pack.

3. When is a decision and announcement expected.

4. To whom will the CEO DMO report.

5. Will anyone outside DMO report to the CEO DMO; if so, who and can a description be provided of those arrangements.

6. What will be the relationship between the CEO DMO and the Head Capability Development Group and the soon to be appointed Associate Secretary Capability.

7. Has the position of Deputy CEO DMO been advertised.

*Senator Carr:* The Minister for Defence has provided the following answer to the honourable senator's question:

1. (a) and (b) (i), (ii), (iii) and (iv) The Secretary of Defence engaged the services of EWK International to undertake an executive search for the CEO DMO role. A number of high quality applications were received as a result of formal advertising and a national and international search process. The Secretary of Defence and the Selection Advisory Committee are currently conducting a merit selection process to identify a suitable candidate.

2. The Merit Selection exercise has not yet been finalised, however, usual Defence process would preclude access to recruitment documentation by third parties who are not directly involved in the process.

3. The successful candidate will become known in due course.

4. The CEO DMO has responsibilities to the Minister for Defence through the Secretary and the Chief of the Defence Force.

5. No.

6. The detail of the relationship between these roles is currently under consideration.

7. No, the role of Deputy CEO DMO currently has an acting incumbent performing the duties.

**Defence: Projects**
(Question No. 1446)

*Senator Humphries* asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

In regard to quarterly accountability reports:
(1) Has the list of ‘designated key projects’ been determined and the reporting mechanism instituted; if so, can a list be provided.

(2) Has the first report been provided as planned in October 2011; if so, can a copy be provided.

(3) How does the list of ‘designated key projects’ differ from those projects listed as Projects of Concern, those projects included in the Major Projects Report, and those projects that trigger Early Indicators and Warning system.

(4) How does the quarterly accountability reporting mechanism ‘improve accountability and pick up problems early’ in any way not achieved through the Early Indicators and Warnings system.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) A list of ‘designated key projects’ has yet to be finalised.

(2) The first report was provided as planned. A copy is not provided as it is a classified document.

(3) Designated key projects are high priority projects on which Defence provides regular and rigorous quarterly reporting to the Minister for Defence, the Minister for Defence Materiel, the Secretary for the Department of Defence and the Chief of the Defence Force. There is no requirement for projects to be under stress to be designated for quarterly review, only that they are a priority capability for Defence. In this way, they are different to Projects of Concern.

(a) Projects of Concern are those projects identified as having very significant technical, cost and/or schedule difficulties.

(b) The DMO Major Projects Report (DMO MPR) is an annual report presented by the Australian National Audit Office (ANAO) to Parliament and the Australian public about the status of selected DMO major acquisition projects.

(c) Projects that trigger the Early Indicators and Warning system are running late, over budget or not delivering the capability required.

(4) The Quarterly Accountability Report provides more rigorous reporting on select high priority projects and is individually signed off by the senior executives responsible for the project.

**Defence: Air Warfare Destroyer Program**

(Question No. 1447)

**Senator Humphries** asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) What is the current schedule delay for the Air Warfare Destroyer (AWD) program, measured in months.

(2) Which Early Indicators and Warnings has the AWD program triggered.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The Joint Ministerial Media Release of the Ministers for Defence and Defence Materiel on 26 May 2011 was based upon advice from the Air Warfare Destroyer (AWD) Alliance on changes to the allocation of block assembly work for the AWD construction program and information that without this action the first ship would be two years late.

The AWD Alliance also advised that the allocation changes would reduce the delay of the completion of Ship 1 by up to 12 months and of all three AWDs by up to 12 months.

Based on this initial analysis, the DMO and the AWD Alliance are working to a delay of 12 months on the contracted 90 month delivery schedule for the first Air Warfare Destroyer; a 13.3 per cent
schedule slip where the Early Indicators and Warning System (EI&W) schedule trigger point is 20 per cent.

(2) Action taken by the AWD Alliance to limit potential slippage mitigated the risk of further schedule slip and predated the implementation of the EI&W System. The AWD Program has triggered no EI&W criteria or thresholds since the implementation of the EI&W System in June 2011.

Defence
(Question No. 1448)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

Have the defects reported with the Australian soldier Multicam pattern clothing, as reported in the Daily Telegraph of 19 September 2011, 'Exposed: Diggers Fighting Unholey War', been rectified as directed by the Minister for Defence Materiel in September 2011;

if so, when was this completed and was the correction of these problems covered under warranty and if not under warranty, was an additional cost incurred and how much.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

Defence is working with the uniform manufacturer to incorporate feedback from the operational trial to enhance both the effectiveness and durability of these uniforms. These changes include moving to a slightly heavier but more durable fabric, as well as modifying some of the pockets to improve access and reduce the likelihood of the uniforms catching when moving through heavy undergrowth and confined spaces. All of these changes have been incorporated into the baseline design and will be included in the next order of uniforms, which will start arriving from the United States in January 2012.

Deployed soldiers have also been issued an extra set of uniforms (an increase from two sets to three) from the attrition stock held in theatre to ensure they have sufficient uniforms readily accessible if any garments do rip. Future deployments will be issued four sets per soldier.

The work that has been done by the contractor to incorporate the feedback from the operational trial and the testing that was conducted to support the decision to move to the more durable fabric was all done at nil cost to the Commonwealth. The unit cost for the uniforms has also remained unchanged.

The final configuration for the Australian made uniforms that are due to be delivered from mid-2012 will incorporate the feedback from the operational trial. As the uniforms will be made in Australia, they will not be made from the same fabric as the trial uniforms, but will be made from the cotton/polyester fabric used in the Disruptive Pattern Camouflage Uniform.

Defence: Staffing
(Question No. 1449)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

How many new jobs will be created as a result of the $18.7 million upgrade to the Defence Science and Technology Organisation (DSTO) facilities at Scottsdale, Tasmania, including jobs during the construction/upgrade phase and jobs at the DSTO facility after it becomes fully operational.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

The $18.7 million Reinvestment in Australian Defence Force Specific Nutritional Capability project, Defence Science and Technology Organisation (DSTO), Scottsdale, Tasmania, will upgrade facilities
and infrastructure to meet Defence's nutrition and food science research and development needs for the next 30 years. Works include the refurbishment and expansion of the food technology facilities, upgrades to existing chemistry and nutrition laboratories, and improvements to working accommodation.

The Parliamentary Standing Committee on Public Works (PWC) conducted its hearing of the project on 27 July 2011 and Parliament approved the project on 12 October 2011. Construction is expected to commence in early 2012 and be completed by early 2014. During the construction phase, it is estimated that an average of 30 job opportunities will be created, peaking at around 60 working on site during the fit out and finishing stage for the refurbished and expanded buildings.

The DSTO facility at Scottsdale, Tasmania, directly employs 28 personnel and indirectly impacts other economic activity, mostly the delivery of goods and services. There is no planned increase in DSTO staff as a result of the project.

**Defence**

(***Question No. 1450***)

*Senator Humphries* asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

1. How many first and second pass approvals are planned for the remainder of the:
   a. calendar year; and
   b. financial year, including 'intermediate pass' approvals planned or approvals that may need to go back to government again after completion, and any instances of combined first and second pass approvals.

2. For each approval in paragraph (1), what is:
   a. the project planned;
   b. its expected date; and
   c. the value in government expenditure that will flow.

3. What is the total value of Defence Capability Plan projects deferred beyond the forward estimates since the Defence White Paper was finalised in 2009, using the current 2011-12 financial year as the reference point.

*Senator Chris Evans:* The Minister for Defence has provided the following answer to the honourable senator's question:

1. (a) As at 16 December, 46 projects* have been approved. (b) As at 16 December 28 projects* have been approved.

   * Project approvals include first, second and other passes.

2. (a) and (b) and (c) The planning of the progression and approval of the projects are located within the Public Defence Capability Plan (DCP).

   The DCP is reviewed regularly to take account of changing strategic circumstances, new technologies and changed priorities, in the context of the overall Defence budget. The plan sets out the proposed investment in new capability, reviewed and revised as part of the financial year 2011-12 budget and subsequent DCP updates (most recent August 2011).

3. In comparing the Draft DCP 2012-21 (released at the D&I Conference 2011) to the approved DCP 2009-19 (accompanying the Defence White Paper), the following 3 projects have deferred Year-of-Decision beyond the forward estimates:
JP 1544 Phase 1 Enterprise Content Management System – Financial year 2012-13 to financial year 2014-15 deferred to financial year 2014-15 to financial year 2016-17, $100 million—$300 million (Low end of band);

JP 2025 Phase 6 Jindalee Operational Radar Network (JORN) – Financial year 2013-14 to financial year 2015-16 deferred to financial year 2015-16 to financial year 2017-18, $300 million—$500 million (High end of band); and

JP 2048 Phase 5 Landing Craft Heavy Replacement – Financial year 2015-16 to financial year 2017-18 deferred to financial year 2016-17 to financial year 2018-19, $300 million—$500 million (Middle of band)

Defence: Program Funding

(Question No. 1451)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) Of the $1.1 billion identified in the 2010 Budget for soldier/force protection over the forward estimates:

(a) how much has been committed in contracts; and

(b) how much has so far been spent.

(2) Can a breakdown be provided for each expenditure item under the package in paragraph (1), including the items purchased/ordered, contract value and amount spent so far; for money not yet spent, what further expenditures are planned and to what value.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Of the $1.1 billion identified in the 2010-11 Budget for soldier/force protection over the forward estimates as well as the $0.5 billion of funding provided under Operation SLIPPER:

(a) an amount of $875.1 million has been committed; and

(b) $537 million has been spent to 30 June 2011, with $215.2 million in 2009-10 and $321.8 million in 2010-11.

(2) Due to the classified nature of the capabilities being procured under the package a breakdown by individual initiative is not publically available. Of the initial estimate of $1.6 billion, an amount of $26.7 million is no longer required as the acquisition costs were less than expected, $126.4 million was re-programmed from 2010-11 to 2011-12 in the 2010-11 Additional Estimates and $1.8 million from 2009-10 is being re-programmed from within the funding allocated to Groups.

Defence: Program Funding

(Question No. 1452)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) Of the $445.7 million in funding to support Australian Defence industry as noted in the Government's Defence Industry Policy in June 2010 (Building Defence Capability: A Policy for a Smarter and More Agile Defence Industry Base): what is the full planned breakdown for distribution of those monies by program and year.

(2) Of the $445.7 million:

(a) how much has been so far approved for distribution under each program and cumulatively;

(b) how much has been actually distributed, under each program and cumulatively; and

QUESTIONS ON NOTICE
(c) to which contractors or entities has the funding been awarded, including how much, when, under which program and for what.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) and (2):

Annex A, B, C and D – are available from the Senate Table Office.

They contain...

Summary of budget for Programs and Initiatives funded under the 2010 Defence Industry Policy Statement (DIPS) as at 23 November 2011

The 2010 Defence Industry Policy Statement (DIPS) for Australian industry, titled Building Defence capability: A policy for a smarter and more agile Defence industry base, announced support of more than AUD $445.7 million out to 2018-19. This support is provided for a range of programs and initiatives that industry can access to improve their competitiveness, their capacity for innovation, their ability to enter export markets and the skills of their workforce.

The Annex shows a summary of the original budget for programs and initiatives launched in the 2010 DIPS, the planned budget as at November 2011, current commitments and expenditure to date, for the initiatives and programs announced on Friday 25 June 2010, by the then Minister for Defence Materiel and Science (The Hon Greg Combet). All figures are expressed as out turned dollars.

Additional funding of AUD $15.79 million has been injected into the Capability Technology Demonstrator program, and re-phasing of the Priority Industry Capability Innovation Program to ensure grants allocations in the final year of the program can be met has required AUD $2.37 million to be re-phased beyond financial year 2018-19. Other minor adjustments total a reduction of AUD $1.05 million.

The 2010 Defence Industry Policy Statement (DIPS) lists a number of additional programs, being the Defence Materiel Organisation (DMO) Business Access Offices (BAO), the Defence Industry Innovation Board (DIIB) and the Defence Industry Skills Taskforce (DIST) that are funding neutral in the Policy Statement and continue to be delivered within the standard annual DMO operating budget.

The Rapid Prototyping Development and Evaluation Program and the Capability Development Advisory Forum are managed and delivered by Capability Development Group (CDG) and are also cost neutral in the Policy; also being delivered within the annual CDG allocated operating budget.

Defence: Projects

(Question No. 1453)

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) Given that the Minister has stated that the contingency allowed for in the AIR 6000 Joint Strike Fighter (JSF) program is running out, in terms of cost and schedule for the JSF program, what amount of contingency remains.

(2) What are the terms of reference/mandate for the Scheduled Compliance Risk Assessment Methodology (SCRAM) team review being undertaken by the Defence Materiel Organisation into the JSF program under AIR 6000.

(3) When will the SCRAM team report and to whom.

(4) (a) Does the SCRAM team have the power to recommend that Australia defer or cancel its current or future orders for F-35 Lightning II (JSF) aircraft; and

(b) what are the options under the terms and conditions of the order that is currently in place for 14 aircraft.

QUESTIONS ON NOTICE
Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) While Australia uses the official United States Department of Defense cost estimates as the basis for our own, we have always adopted a more conservative approach to Joint Strike Fighter (JSF) cost estimates than has the United States. Australia has always included contingency funding, but the Government does not divulge the contingency levels for sound commercial reasons. The estimated cost of Australia's first 14 JSF aircraft does, however, remain within the Government's programmed approval.

In terms of schedule risk, Australian project staff in the United States Air Force test and evaluation program in the United States from early 2012 (through 2017) greatly mitigates risk to our schedule.

(2) and (3) In parallel with the United States Government's current review of the JSF Program's progress, Defence's New Air Combat Capability Project continues to independently monitor the JSF Program's schedule compliance. The Schedule Compliance Risk Assessment Methodology being applied is that used by the Defence Materiel Organisation to assess risk in major projects. Under direction from Australia's JSF project manager, an independent Defence Materiel Organisation team visited Lockheed Martin in the United States in late October 2011 to discuss JSF progress. Our project office's risk assessment, and any recommendations, will be part of an overall submission to Government in early 2012 and will inform further decisions on JSF in late 2012.

(4) (a) No.

(b) While the Government has committed to buying 14 JSF aircraft, it has yet to sign an order for aircraft. The Government has only approved the funding for 14 JSF aircraft and paid for some initial long lead items for Australia's first two aircraft. A final decision that will commit Australia to a binding contract for these first two aircraft will not occur until early 2012.

Defence

Senator Humphries asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) What are the department's guidelines for posting of married couples who are both serving members of the Australian Defence Force.

(2) What steps does the department take to ensure that married couples are posted to a common location wherever possible, and do these guidelines vary between the Army, the Navy and the Air Force.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) The Department has policies in place that apply to members of the three Services where the members of the couple are from different Services. The Australian Defence Force (ADF) recognises that members who are lawfully married, or are in a recognised de facto relationship, have an expectation that they will be able to enjoy their life together. However, the staffing requirements of individual Services, and the dispersed locations of the various ADF units, can make the collocation of ADF couples difficult to achieve. These policies provide a mechanism for ADF couples to collocate where practicable, consistent with Service requirements.

(2) Service staffing requirements and operational imperatives, combined with the dispersed localities of the various Defence units and establishments, can make collocation of some ADF couples difficult to achieve. However, whenever practicable, and consistent with Service requirements, Service Career Management Agencies will attempt to collocate inter and single-Service couples. Couples are informed to recognise that there are clear limitations to the scope to achieve this, for example:

QUESTIONS ON NOTICE
• a member of another Service who forms a couple with a RAN member must accept that their partner is liable for sea duty;
• a member of an Army arms corps may be restricted to those locations where arms corps units are based, which locations are often incompatible with options available to the other member;
• a junior member of the RAAF is often required to serve with a specific Force Element Group for a number of years with very few location options; and
• where collocation is not feasible, the ADF has a variety of initiatives to help support Service couples during such separations.

Export Finance and Insurance Corporation
(Question No. 1457)

Senator Milne asked the Minister representing the Minister for Trade, upon notice, on 10 November 2011:

In regard to HRL Limited, has any funding, insurance, guarantee or other support been sought from the Export Finance and Insurance Corporation during the current or the previous terms of Government; if so: (a) what sort of support was sought; (b) what was the value of the support; and (c) what is the status of the request or application.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

I am advised that no funding, insurance, guarantee or other support has been provided to HRL Limited by the Export Finance and Insurance Corporation.

Christmas Island Detention Centre
(Question Nos 1461 and 1462)

Senator Cormann asked the Minister representing the Minister for Immigration and Citizenship and the Minister for Home Affairs, upon notice, on 10 November 2011:

With reference to the answer to question on notice no. 1104 (Senate Hansard, 1 November 2011, p. 119), of the eight individuals who were part of a group of 22 identified as being participants or organisers in the Christmas Island riots, arrested and charged with various offences and who are now accommodated at a detention centre on the Australian mainland:

(1) To which detention centre on the Australian mainland were each of those eight individuals transferred from Christmas Island and on what date.

(2) Since their initial transfer from Christmas Island to the Australian mainland have any of those eight individuals been transferred to a different detention centre on the Australian mainland; if so, for each of those eight individuals to which detention centre (or detention centres) have they been transferred and on what date did each transfer take place.

Senator Ludwig: The Minister for Immigration and Citizenship and the Minister for Home Affairs have provided the following answer to the honourable senator's question:

(1) One client departed Christmas Island on 5 April 2011 and was transferred to Villawood Immigration Detention Centre (IDC).

One client departed Christmas Island on 6 May 2011 and was transferred to Northern IDC.
One client departed Christmas Island on 24 June 2011 and was transferred to Perth IDC.
One client departed Christmas Island on 28 June 2011 and was transferred to Perth IDC.
One client departed Christmas Island on 29 July 2011 and was transferred to Northern IDC.
One client departed Christmas Island on 19 August 2011 and was transferred to Northern IDC.

Two clients departed Christmas Island on 28 September 2011 and were transferred to Maribyrnong IDC.

(2) Of the eight individuals referred to in question on notice no. 1104, six have been further transferred since their initial placement on the Australian mainland. The transfer and accommodation details for these six individuals are as follows:

One client was transferred from Villawood IDC to Perth IDC on 7 June 2011. He was then transferred back to Villawood IDC on 23 June 2011. The client was removed from Australia on 1 November 2011.

One client was transferred from Northern IDC to Perth IDC on 21 June 2011. He was transferred back to Northern IDC on 24 June 2011 and as at 24 November 2011 continues to be accommodated at that facility.

Two clients were transferred from Perth IDC to Maribyrnong IDC on 23 September 2011. As at 24 November 2011 both clients continue to be accommodated at that facility.

Two clients were transferred from Maribyrnong IDC to Melbourne Immigration Transit Accommodation on 17 November 2011. As at 24 November 2011 both clients continue to be accommodated at that facility.

**Sustainability, Environment, Water, Population and Communities**

(Question No. 1464)

Senator Waters asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 10 November 2011:

With reference to a recent *Four Corners* program on 7 November 2011 and comments by the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) that the Government has undertaken to change the process for notifying the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Committee of activities that may affect the outstanding universal values of our world heritage properties to ‘make sure there’ll be a more routine method of notification’:

(1) What will this new process involve, and when will it be in place.

(2) Will the Government’s new process be consistent with paragraph 172 of the UNESCO document, *Operational Guidelines for the Implementation of the World Heritage Convention* by:

(a) ensuring the World Heritage Committee is informed of the Government's intention to undertake or to authorise major restorations or new constructions as soon as possible, and prior to the Government making any decisions that would be difficult to reverse; and

(b) allowing adequate time and appropriate procedures so that the World Heritage Committee has the opportunity to advise the Minister prior to any decision on appropriate solutions to ensure that the outstanding universal value of the property is fully preserved.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:

(1) The process requires the Department of Sustainability, Environment, Water, Population and Communities to report quarterly to the World Heritage Centre on proposed developments that are determined under section 12 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as likely to have a significant impact on the world heritage values of any of Australia’s world heritage properties. The first of these reports was provided to the World Heritage Centre in October 2011, with quarterly reports to be provided thereafter as required.
(2) (a) Yes, the process requires proposals to be notified at the assessment stage of the process and prior to any approval decisions.

(b) Yes.

Afghanistan
(Question No. 1466)

Senator Ludlam asked the Minister representing the Minister for Defence, upon notice, on 9 November 2011:

(1) What is the government’s policy on the disclosure of details to the public and media regarding soldiers wounded in Afghanistan.

(2) While the numerical total of soldiers wounded in Afghanistan is disclosed, have there been instances wherein the details about the timing and nature of those wounds has remained ambiguous; if so, can an explanation be provided.

(3) Will the Minister retroactively correct the public record as to how and when each individual was wounded.

(4) Does there need to be a greater level of transparency on the reporting of Australian Defence Force casualties.

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Defence aims to provide public information on every operational incident involving battle casualties (wounded and killed in action). Operational tempo, ongoing operations and special operations are three factors which may lead to occasional differences in the timing and detail of reporting. However, media information about casualty figures are updated as appropriate when operational circumstances permit.

Defence guidance on the release of public information during incidents includes:

(a) The Australian Defence Force (ADF) will not release the names of casualties until Next of Kin (NOK) notification procedures have been completed.

(b) The ADF will not comment on the circumstances or causes of an incident until any investigation has been completed and if it is likely to be subjected to disciplinary proceedings.

(c) In order to align with the civilian practice for reporting patient medical condition without compromising the medical-in-confidence nature of the wounds and injuries, Defence has adopted a nomenclature for public information relating to battle casualties.

Public release of names:

(a) Names of ADF members (not afforded protected identity status) remaining in an operational area following an announced wounding or injury will not be released.

(b) Names of ADF members (not afforded protected identity status) returning to Australia for treatment will remain protected until authorised for release by the individual member concerned. Names of ADF deceased will be released in consultation with the member’s family.

(c) Only Special Forces soldiers, who have protected identity status, may have their names withheld when they are admitted into non-military hospitals.

(d) There is no policy to hide the identity of other Australian soldiers undergoing medical treatment and rehabilitation in private or public hospitals.

(2) The Defence website carries the latest statistics of ADF fatalities and casualties, including a year-by-year breakdown of these incidents. Delays in reporting fatalities and casualties can occur for a range of reasons:
(a) Defence will, as a matter of policy, seek only to confirm fatalities and casualties following next of kin notification.

(b) Delays in reporting can also occur for operational security reasons and releasing information close to the time of the incident would place ADF personnel at an increased risk of harm.

(c) Delays in reporting can also occur when an ADF member presents some time after the wounding occurred. This has occurred recently for example following delayed onset of symptoms.

(3) The Department of Defence is currently conducting a detailed investigation of its casualty records for Afghanistan, which were created prior to the standing up of Headquarter Joint Operations Command in late 2009. Prior to this time the Department did not have in place a consistent and unified process of collating and releasing information. Where an error in public reporting, e.g. the number of wounding incidents, has occurred the public record will be corrected.

Where there have been historical inconsistencies with how personnel wounded in action in Afghanistan has been publicly reported, it does not detract from the care provided to wounded soldiers, and where required the ongoing rehabilitation of individuals who were wounded during their service to the nation.

(4) Defence’s reporting of fatalities and casualties seeks to strike a balance between meeting the public interest in reporting fatalities and casualties, while respecting the individual rights of ADF personnel to privacy and confidentiality.

It is always the intent of Defence to disclose information that is in the public interest. The current policy and practice of reporting battle casualties (wounded and killed in action) provides sufficient information to the Australian public without compromising the medical-in-confidence and personal privacy of the individuals involved.

**Olympic Dam**

(Question No. 1467)

Senator Ludlam asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 14 November 2011:

In regard to the approval under the Environment Protection and Biodiversity Conservation Act 1999 (the Act) for the Olympic Dam expansion:

(1) In granting approval to the Controlling Provision 'Nuclear actions (sections 21 and 22a)' what limitation has the Commonwealth placed on the magnitude of the approved mining project to correspond to the scale covered by the Environment Impact Statement (EIS) documentation that was accepted by the Minister and the subject of procedural fairness in public consultation, ie for a facility capable of producing up to 750 000 tonnes of copper per annum and the associated environmental impacts—rather than the significantly larger scale of project anticipated in the original 2005 EPBC Act referral of up to 1 000 000 tonnes per annum of copper production.

(2) What were the issues in question in the 'adequacy test' of the EIS documentation conducted under the Act over the 5 month period from the proposed Supplement to the EIS having been provided by the proponent on 2 December 2010 before public release of an accepted final EIS in May 2011.

(3) What further information, if any, did the department seek from the proponent regarding satisfaction of the 'adequacy test' applied to the Supplement to the EIS.

(4) In the formal assessment of the final EIS in the exercise of your powers under section 132 of the Act, what further information, if any, did the Minister or delegate seek from the proponent so that sufficient information was before you on the relevant impacts on matters protected by the Act in order to be able to make a decision under section 133 of the Act—including under the 'Nuclear Action' controlling provisions for the protection of the environment from nuclear actions.
(5) What use, if any, was exercised of the 'stop the clock' provisions of the Act in the formal assessment period, and if exercised, on what issues was that undertaken and what further information was sought.

(6) In acknowledging that assessment under the Act applied to all environmental impacts of the proposed project and that this approval now also applies to the existing Olympic Dam mining operations (Condition 81 Scope), what new conditions were placed on the existing Olympic Dam operations (other than Condition 21 to 'phase out the use of evaporation ponds as soon as possible') – operations which were previously assessed by the Commonwealth in the mid 1990's under the Environment Protection (Impact of Proposals) Act 1974 and prior to the EPBC Act.

(7) Will the Minister give a commitment for public release and public consultation on the proposed 'Environmental Protection Management Plan' which is required from the proponent before substantial works may be commenced before Ministerial assent may be granted to this plan.

(8) Noting that the tailings storage facility (TSF) is to cover some 4 000 ha up to a height of 65 metres and the mining operations set out in the EIS are for a design leakage/seepage rate of up to 8.2 million litres a day with an average leakage rate of 3.2 million litres a day from the TSF over the proposed decades of mining to 2051, what is the design relationship between increasing the area of the tailing storage facility that is lined and the resultant environmental protection outcome in consequent reduction of the proposed leakage/seepage rate.

(9) What is the capital expenditure on the proposed lining of the tailings storage facility—which is arbitrarily limited to that of the central decant area of 400 by 400 metres in each tailings cell, a total lined area of only some 4 per cent of the total area of the tailings storage facility.

(10) What is the required investment in capital expenditure on environmental protection measures to properly line the tailings storage facility to exercise effective control of tailings so as to prevent leakage of liquid radioactive tailings waste from the tailings storage facility.

(11) In the exercise of Ministerial responsibilities under the Act to protect the environment in this assessment process and in this decision, is it the case that the department did not require the proponent to provide capital expenditure estimations on environmental protection measures to further limit or prevent leakage from the tailings storage facility; if there was no requirement, why not.

(12) Does the department consider that the capital expenditure costs of environment protection measures in radioactive waste management is a 'commercial in confidence' matter for the proponent.

(13) Why did the Minister not apply section 134(1) of the Act, as a necessary condition to be applied for the protection of the environment from nuclear actions a matter protected under section 21 of the Act, to impose the most stringent conditions to guarantee the prevention of leakage of tailings waste, including the requirement of effective mitigation measures such as adequate lining of the proposed tailings storage facility.

(14) Why has approval been granted to cause a plume of seepage leachate in groundwater from the tailings storage facility which the EIS documentation cites (draft EIS Ch.12 p.371) will affect groundwater levels for up to 6 km from the tailings storage facility and which Approval Condition No.26 then seeks to regulate so that the plume must not come within 20 m of the surface (80 m AHD) unless otherwise agreed in writing by the Minister.

(15) Why is the proponent being allowed to avoid the needed investment in capital expenditure to control radioactive wastes, to protect the environment and to prevent leakage from the tailings storage facility.

(16) In the Commonwealth's support for the South Australian government's proposed mine rehabilitation bond of some $72 million for the whole of mining operations at Olympic Dam, is it the case that the required investment in capital expenditure for effective lining of the TSF to control and to
prevent leakage of these acid liquid radioactive and heavy metal wastes would on its own exceed the value of this proposed bond.

(17) Who does the Federal Department understand is to be the responsible entity for the TSF post mine closure at Olympic Dam given that the South Australian government Assessment Report (Chapter 4 p.41) cites that the ‘Responsible entity post closure’ for the open pit is the South Australian government, however it lists the responsible entity for the tailings storage facility post closure as ‘Not stated’.

(18) Given that tailings storage facility uranium mine tailings present a serious long term hazard to the environment and to health what are the long term responsibilities and liabilities of the proposed ‘responsible entity’ under this approval for the Olympic Dam surface tailings storage facility—post proposed closure of mining operations in 2051 and the Approval’s cited limited 10 year period of mine rehabilitation conditions up to 2061.

(19) Why has the proponent apparently been granted approval to produce these long term hazardous radioactive tailings, to ‘dispose’ of the tailings in largely unlined surface piles, and to then avoid formal legal ongoing responsibility and liability for the tailings and for the potential environmental and health impacts from the tailings post mine closure under the conditions of this approval that apply up to only 2061.

(20) Given the Commonwealth government's statutory required conditions and standards for isolation of uranium mine tailings from the environment at the Ranger mine under the Atomic Energy Act 1953 that: 'By the end of operations all tailings be placed in the mined out pit…in such a way to ensure that the tailings are physically isolated from the environment for at least 10 000 years', and 'Any contaminants arising from the tailings will not result in any detrimental impact for at least 10 000 years', what mine closure and rehabilitation assessment, plans and investment costings, if any, were required from the Olympic Dam proponent to achieve these correspondent conditions and standards in the management, storage and long term disposal of uranium wastes at Olympic Dam.

(21) Why was the proponent not required to submit assessment information on the potential to rehabilitate the proposed open pit—at least to the extent of disposing of the tailings into the pit.

(22) Given that the primary objective of the Act is to provide for protection of the environment and that section 136(2)(a) obliges the Minister to take the Principles of the Ecologically Sustainable Development (ESD) into account in making a decision, including the need for a precautionary approach to the avoidance of likely environmental harm, why has the Minister not felt legally compelled to impose the most stringent conditions and standards in this case.

(23) Is it the case in this approval that in failing to rehabilitate this open pit the mining proponent BHP Billiton will effectively avoid some billions of dollars in mine clean up and rehabilitation costs and leave the pit as a permanent feature and scar on the landscape to form a hyper saline lake of some 300 m depth in the base of the 1 km deep pit that will be contaminated by radionuclides and heavy metals.

(24) Following 6 years of the Act EIS assessment process, why does approval condition 32 'Mine closure' leave it up to the proponent to: (a) draft a set of environmental outcomes that are to be achieved indefinitely post closure; (b) draft a set of assessment criteria to achieve these outcomes; (c) have yet to decide how to propose to cover the tailings (at 32.c.ii); and (d) conduct a 'Safety Assessment' to determine the 'long term (from closure to in the order of 10 000 years) risk to the public and the environment from the tailings storage facility and the rock storage facility'.

(25) Is it the role and the responsibility of the Minister under the Act to set the required environmental outcomes and assessment criteria for mine closure approval conditions and to know the potential extent of the risk to the public and to the environment before granting an approval to the proponent for the proposed mining operations.

QUESTIONS ON NOTICE
(26) Following 6 years of the Act assessment the approval grants the proponent 2 further years from the date of the approval to provide a 'Mine Closure Plan' for assessment and further approval by the Minister, will the Minister give a commitment to make this proposed 'Mine Closure Plan' public and to provide public consultation on the proposed plan before further Ministerial assent is to be granted.

(27) Noting the South Australian government announced on 12 October 2011 that as part of the proposed Indenture agreement the proponent will be provided with the long term security required to proceed in the project by the grant of freehold over the expanded mining lease at Olympic Dam an area of 49 700 ha (ie of 497 square kilometres) of Crown Land, why was this proposed extensive grant of freehold title over an area of nearly 500 square kilometres of Crown lands not included in the EIS documentation and not addressed in the relevant matters subject to public consultation—including with Aboriginal interests—in the EIS process.

(28) Has the Commonwealth government been a party to this proposed extensive grant of an area of nearly 500 square kilometres of Crown lands to a mining proponent BHP Billiton, the largest and richest mining company in the world.

(29) When did the Commonwealth government learn of this proposed grant of freehold title over the expanded Special Mining Lease.

(30) What are the implications for Native Title rights and interests, and what Native Title Act process may be involved, in this proposed grant of freehold title over Crown lands to the proponent BHP Billiton.

(31) Given the Minister was not provided with assessment information by the proponent in the EIS documentation on the proposed extension of the period of extraction of waters from the Great Artesian Basin for further decades up to 2051 (the period of the approval now granted for all mining operations at Olympic Dam), what further information—if any—was sought from the proponent under section 132.

(32) What assessment, was undertaken by the Minister and the department regarding this proposed extension of the period of extraction of the Great Artesian Basin (GAB) waters in the Minister's responsibilities to the environmental impacts of this mining matter on the community of native species dependent on natural discharge of groundwater from the GAB, the "Mound Spring Community" listed as an endangered ecological community and a matter protected under section 18 of the Act.

(33) Why has the fundamentally important matter of setting of compliance criteria been left to be set by the proponent, in: approval condition 27 and 28 Extraction of water from the Great Artesian Basin to 'ensure that water extraction from Wellfield A and B in the GAB...does not have a significant adverse impact on groundwater dependent listed threatened species or Ecological Communities' and with the relevant compliance criteria to be set by the proponent in their preparation of the 'Environment Protection Management Plan' (under Condition No.4).

(34) Why has the Minister granted approval for open pit mine operations, infrastructure, processing and transport predicated on production of a uranium infused bulk copper concentrate for precedent overseas sale and processing and proposed export direct to China – a matter that is not sanctioned under any of Australia's bilateral uranium sales agreements.

(35) Noting that the Commonwealth Assessment Report (dated 13 September 2011, Nuclear Security and Safety at p.57-59) acknowledges that 'There is not currently in place a bilateral safeguard agreement with China that covers the export of the uranium contained within the copper concentrate. Such an agreement would need to be finalised before any export of copper concentrate can take place. ASNO would determine the accounting arrangements and security measures required' why has this approval pre-empted the potential outcome of a required future new or amended nuclear treaty with China, a matter that has yet to be negotiated with China, or to be put to the Australian Parliament, or to be put to the required Joint Standing Committee on Treaties Inquiry, and that may not be realised.
(36) Why did the Minister not assess the feasible alternative of an expansion of the long standing practice at Olympic Dam to produce a copper product on site, or decide to reject this part of the application for the proposed precedent sale and overseas processing of a uranium infused bulk copper concentrate.

(37) What responsibility does the Minister accept for the consequent environmental and radioactive risks in this proposed precedent sale and overseas processing of a uranium infused bulk copper concentrate of up to 1.6 million tonnes per annum, and in the resultant waste management requirements for some 1.2 million tonnes per annum of Olympic Dam mine wastes to be dumped in China over decades up to 2051.

(38) In assessing the world's largest ever proposed uranium mining project the department's "Olympic Dam expansion assessment report EPBC 2005/2270" (13 September 2011) states at p.10 that: "the department has not recommended conditions in relation to radiation protection for workers at the Olympic Dam mine site", why has the Minister not placed any specific conditions (other than compliance with existing Codes) in relation to radiation protection for workers at the Olympic Dam mine site.

(39) The Minister's approval condition radiation No.14 requires a Dose Constraint for Members of the Public for radiation exposure from Olympic Dam operations to be no more than 300 micro-Sieverts in a year unless otherwise agreed by the Minister, noting that the correspondent South Australian government Radiation Condition No.34 states that this reference level is to be specific to public doses at Roxby Downs and at the proposed Hiltaba Village, will this Commonwealth Dose Constraint also apply to non-designated uranium mine workers at the Olympic Dam mine site.

(40) What is the proportion of workers and the actual numbers of workers and of any contractors at the proposed expanded Olympic Dam mine site that are proposed to be formally designated as uranium mine workers and fall under the current International Commission on Tasiological Protection (ICRP) regulatory limit of 20 mSv a year, rather than the current public exposure limit of 1 mSv a year.

(41) Will train drivers transporting the uranium infused copper concentrate and truck drivers transporting uranium oxide be given the protection of the Minister's new approval condition radiation No.14 to require a Dose Constraint for Members of the Public for radiation exposure from Olympic Dam operations to be no more than 300 micro-Sieverts in a year.

(42) Given that projected ionising radiation exposure levels for key categories of designated uranium mine workers at Olympic Dam are far in excess of the independent European Committee on Radiation Risk (ECRR) recommended total ionising radiation permissible dose standard of 5 mSv a year for designated nuclear and uranium mine workers, what assessment if any did the Minister and the Department undertake in consideration of the independent ECRR recommendation, a matter that was put to the Minister to take into account in public submissions and a matter that he is able to legitimately consider under section136(2)(e) 'any other information' that he has relevant to impacts of the action, as an example standard relevant to the impacts of the proposed nuclear action at Olympic Dam.

(43) Noting that the department's Olympic Dam expansion assessment report EPBC 2005/2270 states that an 'expert review by Australian Radiation Protection and Nuclear Safety Agency concludes that the total radiation dose to pit workers under unlikely worst case conditions may be up to 12 mSv/y' and then says that this may be expected to be reduced to below 10 mSv/y, and that 'The predicted average doses to hydrometallurgical and refinery workers were stated to range from 3 mSv/y to 5 mSv/y and up to 9 mSv/y for smelter workers' (p.7), what commitment can the Minister provide for the Commonwealth government to conduct a health study of past, current, and future uranium mine workers, and when will that study start.

(44) Why does the Minister and the department's Assessment Report place no Conditions on greenhouse gas emission issues given that the proposed project involves a significant increase in greenhouse pollution of some 4.1 (Gas electricity option) to 4.7 Mt Co2e per annum, and that it is
within the Minister's powers to do as the project involves a nuclear action sec.21 and the matter protected under s.34 is 'the environment' and that sec.134 allows the Minister to impose conditions on an approval that are necessary or convenient for protection of this matter.

(45) Why has the Minister not required the Federal government's current climate change policy for an 80 per cent cut by 2050 on 1990 greenhouse gas emission levels to be applied in this case, instead of the proposed SA government condition of a now out dated policy setting in BHP Billiton's 2009 draft EIS commitment to a 60 per cent cut by 2050 on 1990 levels—which was then the South Australian State Strategic Plan Target.

(46) Why has the Minister not required the proponent to use Renewable Energy (RE) for electricity generation, other than the South Australian government condition to only require use of RE to power the desalination plant (35 Mw) and for pumping of desalinated water to the mine site (22 Mw), when the use of RE presents the most effective greenhouse mitigation measure to limit and manage emissions from the project's proposed additional 650 Mw electricity demand. (Noting that an on-site heat recovery cogeneration energy efficiency measure is also said to provide up to 250 Mw at full production levels).

(47) Why has the Commonwealth allowed a perverse outcome in a massive public subsidy to the world's largest mining company through the diesel fuel rebate with BHP Billiton to receive an annual rebate of up to $85 million at an average diesel use of 480 million litres a year at full production levels, for a total subsidy to BHP Billiton of over $3.2 billion for the proposed use of approximately 17 900 million litres of diesel from the start of open pit construction throughout Olympic Dam mining operations up to 2050—a long term perverse disincentive to adopt other cleaner options.

**Senator Conroy:** The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) The scope of the approved project is that described in the referral (2005/2270) under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) as varied on 24 October 2008 and 9 June 2010. This indicates an approximate production rate of 750,000 tonnes per annum of refined copper equivalent.

(2) The issue in question in the 'adequacy test' was whether, in accordance with section 104(3) of the EPBC Act, as it applied to the project (i.e. pre-February 2007 version of the Act), the Minister had adequate information for the purposes of making an informed decision on approving under Part 9 of the EPBC Act (for the purposes of each controlling provision) the taking of the action.

(3) Further information was sought from BHP Billiton relating to: the stability of the open pit and rock storage facility; stability of the tailings storage facility under earthquake loading; infiltration modelling in relation to the closure strategy for the tailings and rock storage facilities; progressive rehabilitation; capacity for neutralisation of acidic seepage from the tailings and rock storage facilities; geochemical modelling of seepage from the tailings storage facility; workforce exposure to radon, post closure radiation doses; groundwater modelling; hydrodynamic modelling; operation of the desalination plant under different flow regimes; construction of the intake pipe for the desalination plant; dissolved oxygen in receiving waters; ecotoxicity testing for the desalination plant; noise and dust impacts; and the gas pipeline.

(4) No further information was sought by the Minister or his delegate under section 132 of the EPBC Act.

(5) The clock was not stopped in the formal assessment period. However, the Minister wrote to BHP Billiton on 21 December 2010 advising that the statutory timeframe in the EPBC Act was unlikely to be met due to the complexity of the project and the need to align with state/territory processes.

(6) Schedules 1 and 7 of the approval conditions also apply to the existing operation and, as such, can be regarded as 'new' conditions. Condition 28, however, reflects the existing environmental requirements on BHP Billiton under their uranium export permit.
(7) The Minister will consider the need for public consultation on the Environmental Protection Management Plan when it is submitted for approval.

(8) The department's assessment was that, taking into account the poor quality of groundwater below the tailings storage facility and the natural attenuation of seepage from the tailings, increasing the area of lining in the tailings storage facility would not result in improved environmental protection and may lead to geotechnical instability in the tailings storage facility.

(9) Questions about capital expenditure should be addressed to BHP Billiton.

(10) See answers to questions 8 and 9.

(11) No capital expenditure estimates were required as the environmental protection measures proposed by BHP Billiton were considered to be adequate.

(12) Where capital expenditure costs are relevant to the Minister's decision making, the Minister, or the department, will consider whether this material is commercial in confidence, if required.

(13) The Minister applied the conditions necessary to protect the environment.

(14) Condition 26 regulates the height of the groundwater mound below the tailings storage facility to ensure there is no interaction with surface vegetation. Conditions 22, 24 and 25 regulate lateral movement of seepage.

(15) The proponent must make the capital expenditure necessary to comply with the approval conditions.

(16) Questions about capital expenditure should be addressed to BHP Billiton.

(17) These matters are governed under State law. Subclause 24(10) of the Schedule to the Roxby Downs (Indenture Ratification) Act 1982 provides that freehold land granted over the area of a special mining lease will revert to the State at the expiration of the period ending two years after the termination of the relevant lease.

(18) The approval condition for the mine closure plan includes requirements on the approval holder to ensure that the mine tailings do not present a serious hazard to the environment and public health. This includes a comprehensive safety assessment to determine the long-term risks to the public and the environment from the tailings storage facility. The approval holder will be required to achieve the environmental outcomes in the approved mine closure plan. If the outcomes are not achieved prior to the expiry date of the approval under the EPBC Act, the approval holder may be in breach of the approval conditions, unless the approval is extended. Conditions 34 and 35 of the approval allow the minister to impose a bond up to the full cost of implementation of the mine closure plan.

(19) BHP Billiton must dispose of tailings in a properly constructed facility and meet the environmental outcomes in the mine closure plan as required under condition 32 of the approval.

(20) BHP Billiton was required to provide a summary mine closure plan in the environmental impact statement. Condition 32 of the approval requires the proponent to prepare a mine closure plan within two years of the date of the approval, or prior to construction of the tailings storage facility, whichever date is the earliest. This plan must be approved by the Minister. The condition requires the plan to contain a comprehensive safety assessment to determine the long-term risk to the public and the environment (from closure to in the order of 10,000 years) from the tailings storage facility and rock storage facility.

(21) This information was provided in section 4.1 of the Supplementary Environmental Impact Statement 2011.

(22) The Minister has imposed the most stringent conditions needed to protect the environment.

(23) The open pit will remain as a permanent feature.
(24) The environmental impact statement demonstrated conceptually, to the Minister's satisfaction, how the mine could be closed and that the long term environmental risks could be acceptably managed. Condition 32 requires the proponent to prepare a detailed comprehensive closure plan for the Minister's consideration and approval. The Minister will determine the adequacy of the plan and the environmental outcomes and assessment criteria to be used.

(25) In approving the proposal, the Minister was satisfied that he had adequate information on the long-term risk to the public and the environment to make a decision.

(26) The Minister will consider the need for public consultation on the mine closure plan when it is submitted for approval.

(27) The tenure of the mining lease is a matter for the South Australian Government.

(28) No

(29) When the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Bill 2011 was introduced to the South Australian Parliament on 18 October 2011.

(30) In accordance with the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Act 2011, freehold title will not be granted until the South Australian Minister is satisfied that native title is or will be extinguished. The South Australian Government, BHP Billiton and the native title parties have negotiated a proposed Indigenous Land Use Agreement (ILUA) under the Native Title Act 1993 for the surrender of native title rights and interests in return for significant benefits for the native title parties as well as Indigenous people in the broader region. Authorisation of the ILUA is not expected until February/March 2012, with execution of the ILUA, including registration, to follow.

(31) The Minister's approval of the Olympic Dam expansion did not extend the period of extraction of water from the Great Artesian Basin. This extraction was assessed under the now repealed Environment Protection (Impact of Proposals) Act 1974. The period of extraction remains the same as approved by the Australian and South Australian governments following that assessment.

(32) See answer to question 31.

(33) The Minister will set the compliance criteria, not the proponent. The proponent will propose criteria for the Minister's consideration and approval.

(34) The decision to approve the project under the EPBC Act is separate to any other regulatory requirements that may apply to the project. BHP Billiton will need to have all relevant regulatory approvals in place to proceed with the project.

(35) See answer to question 34.

(36) The proposal the Minister was required to assess was that referred (and as varied) under the EPBC Act.

(37) The EPBC Act applies only to impacts of the action on the environment within the Australian jurisdiction.

(38) As noted on page 10 of the department's assessment report: 'The requirements for protection of workers are extensive and comprehensively regulated and monitored by the South Australian Government'.

(39) A dose constraint is a target for the optimisation of radiation protection, however, it is not a dose limit. It is a way of encouraging good practice and ensuring doses are as low as reasonably achievable. The Code of Practice and Safety Guide, Radiation Protection and Radioactive Waste Management in Mining and Mineral Processing (ARPANSA 2005) notes that it is common practice in Australia to designate occupationally exposed employees who are likely to receive doses that are a significant fraction of the dose limit (for example, more than 5 millisievert per year). Designated workers are monitored more intensively and work to a higher dose constraint than non-designated
employees who receive low doses and are monitored less intensively. Depending on the situation, non-designated workers may be occupationally exposed at sufficiently low levels that a dose constraint similar to the case for a member of the public dose constraint can be applied.

(40) This question should be addressed to BHP Billiton.

(41) Truck driving, where the load is uranium oxide, and train driving, where the load is copper concentrate, would be classified as an occupational exposure situation and the occupational dose limit applies.

(42) The assessment was informed by advice from the Australian Radiation Protection and Nuclear Safety Agency, as Australia's pre-eminent body on radiation protection matters. The approval conditions require compliance with the Code of Practice for Radiation Protection and Radioactive Waste Management in Mining and Mineral Processing developed by the Agency and used by state/territory agencies. The code takes account of recommendations from the International Commission on Radiological Protection. The Commission is an international non-governmental body of leading experts that issue radiation protection recommendations based on current best scientific understanding.

(43) This question should be addressed to the Minister for Health and Ageing.

(44) The Australian Government has a national market-based approach to address greenhouse gas emissions, including the introduction of a carbon price. In addition, greenhouse gas emissions will also be subject to a plan to be approved by the South Australian Government.

(45) See answer to question 44.

(46) The Australian Government has a market-based policy that will encourage companies such as BHP Billiton to move to renewable energy sources.

(47) Questions relating to taxation rebates should be addressed to the Treasurer.

**Taxation**

(Question No. 1469)

**Senator Cormann** asked the Minister representing the Minister for Human Services, upon notice, on 14 November 2011:

In regard to information sharing between the Australian Taxation Office and the Child Support Agency:

(1) What checks are made by the Commissioner of Taxation to ensure that releasing individual Tax File Number (TFN) information to the Child Support Registrar is lawfully authorised.

(2) What percentage of cases handled by the Child Support Agency (CSA) are TFNs obtained under section 150D of the Child Support (Assessment) Act 1989 (the Assessment Act).

(3) Is it correct that under section 150D of the Assessment Act the Registrar is not required to seek a client's permission to use a TFN or seek a statement in writing from a client authorising the Commissioner of Taxation to release their TFN to CSA.

(4) Is the Commissioner of Taxation provided with a copy of a statement in writing from the Child Support Registrar to confirm the particular individual client has authorised the Commissioner to give the individual's TFN information to the Child Support Registrar when the TFN is not obtained under section 150D of the Assessment Act.

(5) Is a record kept of requests to access child support liable parent's TFNs made by the Child Support Registrar under section 150D of the Assessment Act or under section 16C of the Child Support (Registration and Collection) Act 1988 (Registration and Collection Act).

(6) Is a record kept of the statements in writing provided by a paying parent to the Child Support Registrar under section 150C(2) or (3) of the Assessment Act or in section 16B(4) or (5) of the Registration and Collection Act.
(7) Does the process for releasing the TFN information of individuals to the Child Support Registrar differ from the process for releasing the TFN information of individuals to other Commonwealth officers; if so, in what way does the process differ.

Senator Arbib: The Minister for Human Services has provided the following answer to the honourable senator’s question:

(1) Disclosure of TFN information by the Commissioner of Taxation to the Child Support Registrar is authorised under the Taxation Administration Act 1953 and the Income Tax Assessment Act 1936. Requests to the Commissioner for TFN information by the Registrar are made through agreed channels by authorised officers. Arrangements for the provision of ATO information to the Child Support Registrar, including those relating to security, privacy and confidentiality, are managed through a formal agreement established under the Head Memorandum of Understanding between the two agencies. The agreement specifies the kinds of information the Registrar will request the Commissioner to provide on a regular basis to support child support administration, outlines the processes through which the information will be provided, and also describes arrangements for non-standard or irregular requests for information.

(2) CSA does not keep records of the method by which a customer’s TFN is obtained.

(3) Yes.

(4) No.

(5) No.

(6) If a statement is provided, pursuant to section 16B(4) or (5) of the Registration and Collection Act, this record would be kept by CSA. Section 150C of the Assessment Act was repealed by the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Bill 2011.

(7) Yes. CSA staff obtain TFN information by directly accessing Tax Office systems. This differs from the way other agencies gain TFN information. The circumstances in which the Commissioner of Taxation may release TFN information to other Commonwealth officers is very limited. Where a person indicates in a TFN application form that they need a TFN to give to Centrelink or to the Department of Veterans’ Affairs, the ATO will send the person’s TFN to the relevant agency if the person has authorised the ATO to do so. The taxation legislation authorises disclosure of TFN information by the Commissioner to facilitate the administration of specific aspects of social security and higher education legislation. There is no regular provision of TFN information to other agencies for those purposes. Requests for TFN information are assessed to determine whether the release of TFN information is authorised under relevant legislative provisions.

National Heritage List
(Question No. 1471)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 21 November 2011:

(1) In regard to the King Sound boundary of the west Kimberley National Heritage listing, is the boundary:
   (a) to the shoreline; if so, how is the ‘shoreline’ defined;
   (b) to the high tide line;
   (c) to the low tide line; or
   (d) to the Australian Height Datum.

(2) As the only listed National Heritage value for King Sound is the historical use of the galwa (Aboriginal raft), is the Minister aware:
(a) that the King Sound area has the highest tides in Australia; if so, why is this not a listed heritage value;

(b) of the published scientific paper by Semeniuk and Brocx that describes the: (i) international geo-heritage significance of King Sound, and (ii) the King Sound mangrove forests as globally unique; if so, why are they not listed heritage values; and

(c) that the King Sound mangrove forests are recommended by the Australian Heritage Council to be registered on the National Estate; if so, why are they not listed as a heritage value.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) (a) Yes, the relevant part of the West Kimberley National Heritage place boundary in King Sound is the south-western boundary, which follows the shoreline from latitude 17.482S to longitude 123.103E. "Shoreline" is not defined in the EPBC Act. The Concise Oxford English Dictionary defines "shoreline" as "the line along which a large body of water meets the land".

(b) No.

(c) No.

(d) No.

(2) While the historical use of the galwa (double log raft) is the only listed national heritage value for most of King Sound, parts of the sound are also encompassed by the geological heritage value of the Kimberley ria coast, the aesthetic value of the coast, and the value associated with the 1688 William Dampier landing.

(a) Tidal movements in the west Kimberley were considered by the Australian Heritage Council in its assessment but were not found of themselves to be of national heritage value. Tidal movements are acknowledged as part of the aesthetic value of the coast and the historical use of the galwa.

(b) The department advises that the paper by V Semeniuk and M Brocx entitled "King Sound and the tide-dominated delta of the Fitzroy River: their geoheritage values" was published in the Journal of the Royal Society of Western Australia in June 2011, one year after the Council completed its assessment.

The Australian Heritage Council considered the mangrove forests of King Sound in its assessment, but did not find them to be of national heritage value.

(c) The King Sound mangrove forests have not been recommended by the Australian Heritage Council for listing in the Register of the National Estate.

Regional Australia, Regional Development and Local Government: Travel Allowance

(Question No. 1472)

Senator Joyce asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 22 November 2011:

In regard to travel or accommodation expenses, has the Government or any Regional Development Australia committee paid Mr Paul Budde, or any organisation that Mr Budde is affiliated with, any money, including the covering of any travel or accommodation expenses; if so, what were these payments for, how much did the payments total, and can an itemised list of any separate payments and the reasons for them be provided.

Senator Sherry: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator's question:
The Department of Regional Australia, Regional Development and Local Government has not made any payments to Mr Paul Budde or Paul Budde Communication Pty Ltd. Each Government department would need to be asked about their own payments. The Department does not collect or hold financial information about the individual payments made by Regional Development Australia (RDA) committees. RDAs are independent bodies that are focused on growing their regions and the economic development of regional Australia. In performing this role they undertake a wide range of activities as part of their normal operations, including regional planning, working with local stakeholders and conducting forums.

**Australian Defence Force**

(Question No. 1473)

Senator Bob Brown asked the Minister representing the Minister for Defence, upon notice, on 22 November 2011:

In regard to the Facebook page entitled 'Steve Austin' (the webpage) which targeted serving gay and lesbian Defence members and to which current and serving members of the Australian Defence Force (ADF) subscribe or contributed:

1. Can a list be provided of each rank and the number of persons who hold that rank of the defence members who contributed or subscribed to the webpage.
2. Were the ranks inferior or superior to that of the members of the ADF targeted by the website.
3. Of the contributors and/or subscribers to the webpage who were junior in rank to those targeted, was a charge of insubordination pursuant to section 26 of the Defence Force Disciplinary Act 1982 (the Act) contemplated; if not, why not.
4. What is the difference under the Act between conduct and language that is vilifying of a superior officer and conduct and language that is 'threatening, insubordinate or insulting.
5. Does vilifying behaviour of an officer constitute insubordination under the Act or any other disciplinary provisions of the ADF.
6. Does the Act make unlawful language or conduct that is vilifying of a superior officer.
7. Can a list be provided of the laws, rules or regulations which apply to Defence Members prohibiting vilifying behaviour.
8. Of the laws, rules or regulations listed above, can an explanation be provided as to why Defence members have not been proceeded against pursuant to those laws, rules or regulations.
9. What was the name and rank of the officer who decided not to proceed against Defence members who contributed or subscribed to the webpage.
10. With reference to the Defence Instruction (General) and, in particular, the provisions of the instruction relating to Unacceptable Behaviour and Workplace Bullying, can an explanation be provided as to whether vilifying behaviour is or is not: (a) unacceptable behaviour; (b) bullying; (c) insubordination; (d) insulting; or (e) threatening.
11. Did the conduct of the webpage and participation on the webpage amount to vilification.
12. Can a copy of the legal advice provided to the ADF regarding this matter be provided.
13. Is vilifying behaviour contrary to military discipline and order.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

1. A Defence investigation identified 32 serving members of the Australian Army who had accepted friend requests from the Facebook page entitled 'Steve Austin' (the webpage). A list of each rank and
the number of persons who hold that rank is below: (a) Captain – One; (b) Warrant Officer Class Two – One; (c) Sergeant – One; (d) Corporal – 13; (e) Lance Corporal – Six; and (f) Private – Ten.

(2) The ranks of the ADF members targeted by the website ranged from Private to Major.

(3) Yes.

(4), (5), (6) and (7) For ADF personnel, the Defence Force Discipline Act 1982 (DFDA) is the primary Act for the purposes of discipline. Vilification is not specifically and explicitly defined in the DFDA. The DFDA also enables the ADF to enforce Commonwealth Laws as applicable in the Jervis Bay Territory. Section 26 of the DFDA defines insubordinate conduct as conduct or language that is threatening, insubordinate or insulting to or about a person where the person is a superior officer and the language is used in that person's presence.

Despite not being explicitly mentioned in the DFDA, vilification of any kind is unacceptable and Army considers the targeting of any person who is, or is thought to be, gay or lesbian to be repugnant and contrary to both Army's values and those of the wider community.

Additionally members of the ADF remain subject to state and Commonwealth laws. Defence must also comply with the requirements of the Human Rights and Equal Opportunity Commission Act 1986, and the acts administered by the Commission, including the Sex Discrimination Act 1984. New South Wales, the Australian Capital Territory and Tasmania prohibit vilification on the grounds of sexual orientation, gender identity and relationships. In these jurisdictions, vilification refers to communications made in public that incite 'hatred towards, serious contempt for, or severe ridicule of' a person or group of people on the grounds of their sexual orientation and or gender identity.

(8) Defence, like the broader community, is coming to grips, in both a legal and policy sense, with the rapidly evolving nature and potential of social media. Defence recognises this and is currently reviewing its social media policies, following the conduct of the Social Media Review announced by the Minister for Defence on 11 April 2011. This will include a review of the legal and policy requirements associated with misuse of social media.

Under the current legal and policy framework within Defence, 'befriending' a site does not – in and of itself – provide sufficient legal basis to sustain a disciplinary or legal charge. A small number of identified members posted comments to the Facebook page, but, this information was not deemed, by investigators to be of a vilifying nature.

Lessons learned from recent events have been translated into the delivery of additional equity training, which has been provided to units to reinforce the responsibilities of individuals. Within the Australian Army, all units have participated in a cultural awareness program, which has reinforced Army's values of Courage, Initiative and Teamwork, as well as Army's nine core soldier behaviours. This awareness program was designed to generate discussion among unit personnel on a wide range of equity and diversity issues and to reinforce the need for all Army personnel to take personal responsibility for their actions. Army continues to actively work to promote a fair and tolerant workplace and maintains the view that any kind of vilification is abhorrent.

(9) The Chief of Staff at Army Headquarters has taken administrative action in the form of a written warning to all 32 identified ADF members who became friends of the Facebook page. This warning has been retained on file for future reference.

(10) Refer to the answers above.

(11) Refer to the answers above.

(12) Legal advice is privileged and is not proposed to be released on public interest grounds.

(13) Yes. Refer to the answers above.
Australian Defence Force
(Question No. 1474)

Senator Bob Brown asked the Minister representing the Minister for Defence, upon notice, on 22 November 2011:

In regard to the Facebook page entitled 'Steve Austin' (the webpage) which targeted serving gay and lesbian Defence members and to which current and serving members of the Australian Defence Force (ADF) subscribe or contributed:

(1) On what date were all persons targeted and named on the webpage advised of the fact by the ADF.
(2) Has the Minister been briefed on the anti-Semitic and Nazi linkages connected with the webpage.
(3) Are persons who were targeted by the webpage required to continue working with Defence members who subscribed or contributed to the webpage.
(4) Has the ADF warned its members to 'check their privacy settings' when joining webpages that might be regarded as hate and vilification sites.
(5) Is there a list of words and expressions that are vilifying, insulting, racist, sexist or homophobic that are explicitly prohibited from being used by Defence members.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) By 1 November 2010.
(2) Yes.
(3) Six persons where identified on the webpage. One of those members has discharged from Army and another is in the Standby Reserves. Three of the members remain in units that contain members of Army who were identified in the investigation. Those three members have indicated a desire for this to occur. One member has identified a desire not to be directly involved with members identified in the investigation. That individual is currently in a workplace that allows this separation to be managed.
(4) Army conducted cultural training sessions for staff on 31 May 2011 that highlighted the significance of privacy settings in social media. Army also wrote to the 32 ADF members identified in the investigation and made a similar point.
(5) There is no list of words and expressions that are explicitly prohibited from being used by Defence members. The Defence Force Discipline Act 1982 (DFDA), however, provides for the discipline of members engaged in unacceptable behaviour. Additionally, members of the ADF remain subject to state and Commonwealth laws (see response to parts 4-7 of Senate Question on Notice No. 1473).

Australian Defence Force
(Question No. 1475)

Senator Bob Brown asked the Minister representing the Minister for Defence, upon notice, on 22 November 2011:

I refer to the Facebook page entitled 'Steve Austin' (the webpage) which targeted serving gay and lesbian Defence members and to which current and serving members of the Australian Defence Force (ADF) subscribe or contributed:

(1) Of those serving Defence members who chose to join this webpage and/or contribute to its content, how many have been subject to any discipline.
(2) If Defence members were subject to discipline, what form did this take and when did it occur.
(3) Have any Defence members who chose to subscribe to the webpage or contribute to its content, been issued with a Notice to Show Cause as to why they should continue to serve in the military; if not, why not.

(4) When did officials within the ADF become aware of this webpage.

(5) On what date did military officials take action against the webpage and its subscribers and what form did this action take.

(6) On what date was a formal complaint lodged against this webpage.

(7) When was the first interview of a Defence member conducted.

(8) Of the Defence members who contributed or participated on the webpage, how many were interviewed and how many provided: (a) Written responses; (b) Verbal responses; or (c) Written and verbal responses.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) and (2) See response to part 9 of Senate Question on Notice 1473.

(3) Not applicable. See response to part 8 of Senate Question on Notice 1473.

(4) (5) and (6) The first known notification was made to a domestic military police unit on 5 August 2010. Army Headquarters became aware on 11 August 2010 and made a formal complaint to Facebook on the same day. The Facebook site was removed by Facebook administrators by 12 August 2010.

(7) The first interview by the Australian Defence Force Investigative Service of a Defence member was conducted on 16 August 2010.

(8) Thirty two personnel were interviewed. A combination of written and verbal responses was provided.

Australian Defence Force
(Question No. 1476)

Senator Bob Brown asked the Minister representing the Minister for Defence, upon notice, on 22 November 2011:

I refer to the Facebook page entitled 'Steve Austin' (the webpage) which targeted serving gay and lesbian Defence members and to which current and serving members of the Australian Defence Force (ADF) subscribe or contributed:

(1) When did members of the ADF become aware of this webpage by choosing to subscribe to it or by contributing to its content.

(2) How many serving members of the ADF specifically took action to subscribe to this webpage or to contribute to its content.

(3) Is there a mandatory reporting requirement for abusive or vilifying conduct in the ADF; if so, how many Defence members who were aware of this webpage and/or contributed to it informed the authorities about the abuse and vilification it contained and advocated.

(4) What instrument creates a mandatory requirement to report abusive or vilifying conduct.

(5) If none of the Defence members who subscribed to this webpage and/or contributed to its content reported the webpage to military authorities, what action has the ADF subsequently taken to reprimand or penalise such Defence members for their inaction in reporting this abuse.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Unknown.
(2) See response to part 1 of Senate Question on Notice No. 1473.

(3) Defence personnel have a responsibility to take all reasonably practicable steps to protect the health and safety of themselves and others in the workplace. Consistent with this requirement, all Defence personnel must promptly report to their supervisor, commander or manager (as appropriate), incidents of unacceptable behaviour that are beyond their ability or authority to manage. The existence of the web page was reported to Defence from a number of its members through various channels. The first known report was to a domestic military policing unit on 5 August 2010.

(4) Defence Instruction (General) PERSONNEL 35-3—The Management and Reporting of Unacceptable Behaviour.

(5) ADF personnel do not have a mandatory reporting requirement to report vilification or abusive behaviour that is instigated by a party outside of Defence, as was the situation in this incident.

**Sustainability, Environment, Water, Population and Communities**

**(Question No. 1477)**

**Senator Birmingham** asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 22 November 2011:

In regard to the Water for the Future programs referred to in the September 2010 Incoming Government Brief:

(1) What are the eight ongoing Water for the Future programs.

(2) Who has been conducting the ‘high level review’ of these programs, and has this review been completed; if so, when; if not, when is it expected to be completed.

(3) Has any report been provided to the Minister as a result of this review; if so, when; if not, when is it expected to be provided.

(4) Has any report been provided to Cabinet as a result of this review; if so, when; if not, is one expected to be provided and when.

(5) What changes, if any, have been made to the programs as a result of this review.

(6) Will the report and/or findings be released publicly; if so, when.

**Senator Conroy:** The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:

(1) The eight ongoing Water for the Future programs are:
- Sustainable Rural Water Use and Infrastructure
- Restoring the Balance in the Basin
- Great Artesian Basin Sustainability Initiative
- National Water Security Plan for Cities and Towns
- Green Precincts
- National Rainwater and Greywater Initiatives
- National Urban Water and Desalination Plan
- Water Smart Australia

(2) to (6) The review is being conducted by the Department of Sustainability, Environment, Water, Population and Communities, and is currently in progress. When it is complete it will be considered by the Australian Government.
Firearms
(Question No. 1478)

Senator Bob Brown asked the Minister representing the Minister for Home Affairs, upon notice, on 23 November 2011:

How many firearms were imported in each of the past 10 years and how many of these were: (a) long guns; and (b) short guns.

Senator Ludwig: The Minister for Home Affairs has provided the following answer to the honourable senator’s question.

The number of commercially imported*# firearms for years 2001 – 2010 is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Handgun</th>
<th>LongArm ##</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>11,578</td>
<td>19,631</td>
<td>31,209</td>
</tr>
<tr>
<td>2002</td>
<td>9,761</td>
<td>30,368</td>
<td>40,129</td>
</tr>
<tr>
<td>2003</td>
<td>12,328</td>
<td>28,892</td>
<td>41,220</td>
</tr>
<tr>
<td>2004</td>
<td>7,765</td>
<td>37,400</td>
<td>45,165</td>
</tr>
<tr>
<td>2005</td>
<td>7,544</td>
<td>43,277</td>
<td>50,821</td>
</tr>
<tr>
<td>2006</td>
<td>7,417</td>
<td>51,377</td>
<td>58,794</td>
</tr>
<tr>
<td>2007</td>
<td>7,615</td>
<td>60,364</td>
<td>67,979</td>
</tr>
<tr>
<td>2008</td>
<td>6,257</td>
<td>67,302</td>
<td>73,559</td>
</tr>
<tr>
<td>2009</td>
<td>7,674</td>
<td>60,253</td>
<td>67,927</td>
</tr>
<tr>
<td>2010</td>
<td>13,405</td>
<td>71,064</td>
<td>84,469</td>
</tr>
</tbody>
</table>

* Commercial firearms are goods that have been imported into Australia in accordance with Customs import declaration requirements, even if by a private user.

# Figures provided include air firearms as well as conventional firearms.

## Long arms include rifles, shotguns, military, antique firearms and uncategorised air-firearms; and for 2003 onwards, paintball markers.

It should be noted that Customs and Border Protection’s data collection and recording arrangements were amended in 2004. Accordingly, data prior to 2004 is not directly comparable with current statistics.

Centrelink
(Question No. 1481)

Senator Siewert asked the Minister representing the Minister for Human Services, upon notice, on 28 November 2011:

In regard to Centrelink's 2 hectares rule:

1. How many Centrelink recipients are affected by the rule.
2. How many of these recipients are aged pension recipients.
3. How many rural pensioners have been forced to sell their homes as a result of this rule.
4. What is the average property size affected by this rule.

Senator Arbib: The Minister for Human Services has provided the following answer to the honourable senator's question:

1. 11,654 recipients are affected by the rule, as at 9 December 2011.
Those affected are income support payment customers and their partners who:

(i) are paid a part rate income support payment because of the asset test; and

(ii) have the value of land in excess of 2 hectares adjacent to their home counted in their assets.

For Social Security Income Support payments, a person's principal home is generally exempt from the assets test. This exemption can include the land on which the house stands, as long as the land is on a single title and does not exceed two hectares. This is sometimes referred to as the “two hectares rule”. Any additional land, or other real estate assets, will generally be included as an asset.

The exemption for the person's principal home can include more than two hectares, as long as the land is on a single title, where the following criteria are met:

(i) the customer (or their partner) is of age pension age and receives, or qualifies to receive Age Pension, Carer Payment, or Service Pension paid by the Department of Veterans' Affairs;

(ii) the customer has a 20 year continuous attachment to the land as their principal home; and

(iii) they are making “effective use of productive land” to generate income, taking into consideration their capacity to do so.

The definition for “effective use of productive land” includes:

(i) the person or a family member operating a farming business on the land; or

(ii) the person is leasing the land to someone else for a commercial rate of return; or

(iii) the land has limited or no potential for commercial use, e.g. 'lifestyle blocks'.

(2) 10,057 of these recipients are Age Pensioners.

(3) The Department of Human Services does not hold this information.

(4) The Department of Human Services does not hold the information required to determine the average property size affected by this rule.

Attorney-General's
(Question No. 1482)

Senator Ludlam asked the Minister representing the Attorney-General, upon notice, on 5 December 2011:

(1) Has the Attorney-General ascertained whether there are any charges to be laid by the Government of the United States of America (US) against Mr Julian Assange, including under the US Espionage Act of 1917 or other statutes.

(2) Has the government ascertained, whether formally or informally, the accuracy of reports of a sealed indictment of a US Grand Jury.

(3) What steps, if any, has the Attorney-General taken to establish any facts pertaining to paragraphs (1) and (2).

(4) Does the Government define the work of Mr Assange in his capacity as Editor in Chief of Wikileaks as 'having implications for Australia's foreign relations', thereby enlivening the Intelligence Services Act 2001.

(5) Can the Attorney-General confirm that the Government would not permit the extradition of Mr Assange to the US should he return to Australia.

(6) Why has the Government failed, or refused, to supply an answer to the question asked during the 2011-12 Budget estimates hearings of the Foreign Affairs, Defence and Trade Legislation Committee on 2 June 2011 regarding a public interest immunity ground for a blanket refusal to answer any question arising from information in US cables made public through Wikileaks.
Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

(1) I am not aware of any charges by the United States Government against Mr Assange, including under the US Espionage Act or other statutes. The decision to lay charges is a matter for the US authorities. The Australian Government would expect any charges laid against Mr Assange to be carried out in accordance with due process.

(2) No.

(3) These are matters for the US authorities. At this stage, it would be premature to speculate on what further representations the Government may make in relation to Mr Assange's case.

(4) Consistent with longstanding practice, it is not appropriate to comment on operational matters, or to confirm or deny whether any particular person or organisation is the subject of an intelligence investigation.

(5) Australia's extradition relationship with the United States is governed by the Extradition Act 1988 (Cth) and the Treaty on Extradition between Australia and the United States of America, done at Washington on 14 May 1974, as amended by the Protocol done at Seoul on 4 September 1990. Within this framework:

• Australia can only extradite a person to the United States for prosecution or punishment for conduct that would constitute an offence that would be punishable under both Australian and United States law by more than one years' imprisonment.

• Australia will only extradite a person to the United States for an offence for which the death penalty is available if the United States undertakes not to impose or carry out the death penalty for the offence.

• Australia will not extradite a person to the United States where there is a relevant 'extradition objection'. Extradition objections include where extradition is sought in relation to a 'political offence', where it is sought for the purposes of prosecuting or punishing the person because of his or her race, religion, nationality or political opinions, or where, on surrender, the person may be prejudiced at trial or punished because of his or her race, religion, nationality or political opinions.

• In accordance with its international obligations, Australia will not extradite a person where it has substantial grounds for believing that, on surrender, there is a real risk the person will be subject to torture, arbitrary deprivation of life or cruel, inhuman or degrading treatment or punishment.

• A person may only be prosecuted or punished for the offences for which Australia grants his or her extradition to the United States. Australia's consent is required before the person may be prosecuted or punished for additional offences.

It is inappropriate to make a commitment in relation to the extradition of an individual in advance of a formal determination on the merits of the case.

(6) It is not appropriate to comment on leaked United States documents because it may cause damage to national security, defence, or international relations.

Assange, Mr Julian
(Question No. 1483)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 5 December 2011:

In regard to the Minister's responsibility for the protection of consular and legal rights of all Australian citizens overseas and the answer to question on notice no. 1282 regarding Mr Julian Assange:
(1) On what dates have consular officers 'been in regular touch with his lawyers'.

(2) When consular officials 'attended all eleven of Mr Assange's court appearances' did any interaction or exchange occur with Mr Assange or his legal team.

(3) As a result of attending all eleven of Mr. Assange's court appearances, what reporting did consular officials provide and to whom.

(4) On the three occasions when the Australian Government sought assurances from Sweden that Mr Assange's case would be handled in accordance with due process (7 December 2010, 5 January and 10 February 2011): (a) did the Government seek specific assurances that Mr Assange would not be subject to the temporary surrender mechanism that could specifically result in his extradition to the United States of America (US); if so did the government seek such assurances in the form of writing or through verbal communications; and (b) what was the Government told by the Swedish authorities and in what form.

(5) Given the answer to question 1282 indicated that the Government 'has no formal advice of any Grand Jury investigation' when the question asked as to whether the Government sought advice, has the Government actually sought clarification, formally or informally, from the US Government about the existence of a Grand Jury investigation and as to what crimes for which Mr. Assange is being investigated.

(6) What legal or other advice has the department sought and from whom regarding Mr Assange's current extradition process.

(7) To whom has the department provided legal and other advice regarding Mr. Assange's current extradition process.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) Consular officers have communicated (via letter, email, telephone or face to face) with Mr Assange's lawyers – Birnberg, Peirce & Partners – on the following dates in 2011: (a) 15 December (b) 9 December (c) 5 December (d) 29 November (e) 28 November (f) 15 November (g) 9 November (h) 7 November (i) 2 November (j) 28 October (k) 25 October (l) 19 September (m) 8 August (n) 14 July (o) 13 July (p) 12 July (q) 6 July (r) 30 June

Prior to this, consular officials were in contact with Mr Assange's previous legal team.

(2) Consular officials were able to speak with Mr Assange prior to his 7 February hearing but not at his other court appearances. Consular officers spoke with Mr Assange's lawyers at the courts following his appearances on 24 February, 12 July and 13 July 2011. Consular officers were in contact with Mr Assange's lawyers following the court hearings on 2 November and 5 December 2011.

(3) Consular officials reported to DFAT and other relevant Government agencies through the diplomatic cable network.

(4) (a) No. This is because there is no distinction, in terms of the legal protection afforded a person whose extradition is being sought, between "temporary surrender" and extradition. "Temporary surrender" is not an alternative to extradition. It is how extradition is described in a situation where the person whose extradition is sought is either already on trial or imprisoned in the country which has received the extradition request. It describes the option the requested State has in this situation to interrupt its own proceedings in the country seeking the extradition. All protections available to the person whose extradition is sought apply equally to an extradition that is a "temporary surrender". Provision for "temporary surrender" is an increasingly common feature in modern extradition relationships and is not unique to the relationship between the US and Sweden. It is included in Australian extradition treaties and in the Extradition Act 1988. It is also included in all extradition relationships between the US and member states of the European Union, including the United
Kingdom. (b) Australian officials were advised orally by Swedish officials that Mr Assange's case would be afforded due process.

(5) Yes.

(6) The Department has sought advice from the Attorney-General's Department on Australia's extradition process. The Department has also sought information on extradition law, processes and practice from authorities in the United Kingdom and Sweden.

(7) The Department has provided information to the Minister for Foreign Affairs and his office on Mr Assange's current extradition process. The Department has shared information with other relevant agencies in Australia on Mr Assange's current extradition process, including the Attorney-General's Department. The Department has shared information on this matter with Mr Assange's lawyers and with Senator Ludlam.

Bureau of Meteorology

(Question No. 1484)

Senator Ian Macdonald asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 5 December 2011:

In regard to the Bureau of Meteorology (BoM):

(1) What are the current staff numbers in the BoM field offices in north and northwest Queensland.

(2) Have those numbers changed over the past year.

(3) Are there any plans to decrease these staffing levels over the next 3 years.

(4) Are there plans to move any of these positions to the BoM head offices in either Brisbane or Melbourne.

(5) Can the number of Observers, Technical Officers (Meteorology) and Meteorologists be provided, as at December 2011 (present time) and as at December 2001 (10 years ago) for each of the following:
   (a) those located in each state and territory capitals, including a total of all; and
   (b) those located outside the state and territory capitals (exclude from these figures in (a) and (b) staff specifically dedicated to defence and civil aviation).

(6) What are the current numbers of Senior Executive Service (SES) staff located at the: (a) Head Office in Melbourne; and (b) in the state capitals.

(7) What were the staff numbers 5 years ago for SES positions located at the: (a) Head office in Melbourne; and (b) the state capitals.

(8) Is the new radar at Herveys Range in Townsville, built to replace an old radar at Mount Stuart during 2011, providing accurate forecasts.

(9) Are there any recorded incidents where showers in the region of the Townsville Airport were not 'seen' by the Herveys Range radar; if so, can details be provided.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) and (2) Headcount including maintenance and leave relief staff.

<table>
<thead>
<tr>
<th>Location</th>
<th>Staff No. 08/12/10</th>
<th>Staff No. 08/12/11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cairns</td>
<td>16</td>
<td>11</td>
</tr>
<tr>
<td>Longreach</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Mackay</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Mount Isa</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
(3) At this stage there are no plans for significant changes to the staffing levels in the field offices listed in questions 1 and 2. Changes may result from the introduction of the Next Generation Forecast and Warning System in 2013 but this has yet to be determined.

(4) Decisions on the staffing levels within Bureau offices depend on service requirements and changes in technology. They can also depend on the availability of staff to work in some locations. Staff numbers and locations are constantly under review to optimise the service.

(5) (a) Staff as at 8/12/2011

<table>
<thead>
<tr>
<th>Location</th>
<th>Staff No. 08/12/10</th>
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</tr>
</thead>
<tbody>
<tr>
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<td>7</td>
</tr>
<tr>
<td>Townsville</td>
<td>14</td>
<td>12</td>
</tr>
<tr>
<td>Weipa</td>
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<td>1</td>
</tr>
<tr>
<td>Willis Island</td>
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<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>47</td>
<td>42</td>
</tr>
</tbody>
</table>

(6) and (7) The table below outlines the SES numbers in 2006 and 2011. The increase in SES numbers is due to the addition of new functions under the Water for the Future program, the National Plan for Environmental Information and the transfer to the Bureau of the Ionospheric Prediction.
Service. Victorian totals include the Chief and Deputy Chief of the Centre for Australian Weather and Climate Research, a joint arrangement with CSIRO.

<table>
<thead>
<tr>
<th>Location</th>
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<th>SES No. 2011</th>
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</thead>
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<td>ACT</td>
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</tr>
<tr>
<td>QLD</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>14</td>
<td>22</td>
</tr>
</tbody>
</table>

(8) Hervey Range radar was installed as part of the ongoing radar upgrade program and replaced Mt Stuart radar. The Bureau's radars provide rainfall estimation, and not forecasts, by detecting the reflection of radar signals from water droplets. Every radar has unique characteristics and limitations which are determined by the location and type of the radar. Due to the complexity of the terrain near Townsville the radar was positioned in an elevated location to enable the better detection of severe weather such as thunderstorms, tropical cyclones and potential flooding over a larger geographical area. This means that some low-level rainfall may go undetected. Recent maintenance and calibration checks have ensured that the radar is now operating to specifications.

(9) The Bureau has received some comments on the radar's ability to detect low-level showers. In response, the Bureau has recently adjusted the radar settings to capture rainfall closer to the ground and has conducted further calibration and maintenance checks on the radar.

TREASURY
(QUESTION NO. 1485)

Senator Siewert asked the Minister representing the Treasurer, upon notice, on 25 November 2011:

(1) Given that the Minister has stated that he is concerned that the retail supply chains are getting so badly damaged and consumers' choices are being limited, can an explanation be provided as to whether the Labor Government members were fully advised prior to introducing the National Competition Policy that it was not based on classical market theory but the Baumol based 'contestability theory', which supported corporate market dominance.

(2) Is the Minister aware that the Baumol based 'contestability theory' was the basis for the major recommendation for removing the restrictions on price discrimination by retailers to their suppliers.

(3) Is the Minister aware that in their 2008 grocery price inquiry, the Australian Competition and Consumer Commission (ACCC) avoided admitting that the basic pre-conditions of 'contestability' did not exist in Australia's retail grocery sector.

(4) Is the Minister also aware that the ACCC avoided assessing the impacts of the National Competition Policy on the Australian retail grocery sector in their 2008 grocery price inquiry.

(5) Given that the ACCC chose to ignore that the majority of Australia's primary producer organisations advised it that there was a growing gap between farmgate and retail prices, how will the Minister ensure that the ACCC will properly assess the serious concerns and complaints of Australia's grocery supply sector.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

In October 1992, all levels of Government agreed to establish an independent inquiry into competition policy in Australia (known as the Hilmer inquiry), which conducted extensive public
consultation and reported to Government in 1993. The Hilmer report was released publicly, prompting widespread discussion and review of the principles proposed and their basis in economic theory including independent analysis of the potential benefits of the Hilmer reforms by the Industry Commission (a predecessor of the Productivity Commission). The Hilmer report considered a wide range of evidence, submissions and economic theories, including but not limited to contestability theory, in arriving at its recommendations.

Publishing comprehensive analysis of the reform proposals and articulating the economy-wide benefits of reform culminated in 1995 with all Governments agreeing to an ambitious plan to promote enhanced competition, known as the National Competition Policy (NCP), which was implemented over a ten year period. In 2005, the Productivity Commission Review of National Competition Policy Reforms estimated that NCP reforms have served to permanently increase Australia's GDP by around 2.5 per cent or $A20 billion.

National Competition Policy and the subsequent Council of Australian Government's reform agenda play an important role in enhancing competition in the Australian economy to promote economic growth and efficiency. A fundamental principle underlying competition policy is that the competitive process – which maximises the wellbeing of both consumers and producers – should be protected, rather than individual competitors or particular market structures.

The then Trade Practices Act 1974 contained an explicit prohibition from 1974 to 1995 on specific types of price discrimination which had the effect of substantially lessening competition. The repeal of the former section 49 of the Act, which prohibited anti competitive price discrimination, was recommended by the Swanson Committee, the Blunt Committee and the Hilmer Committee. The inquiries raised various concerns, including that the former prohibition: caused price inflexibility; reduced price competition; was contrary to economic efficiency; and had not been of assistance to small business. The Hilmer Committee noted that price discrimination generally enhances economic efficiency, except where such conduct would contravene sections 45 (anti competitive agreements) or 46 (misuse of market power).

The prohibition was subsequently repealed in 1995. Its repeal was subsequently endorsed by the Dawson Committee.

International experience has been consistent with the repeal of section 49. Canada repealed its anti competitive price discrimination provision in 2009. The United States Antitrust Modernisation Commission in its 2007 report recommended that the Robinson-Patman Act 1936 (RPA) be repealed. This was consistent with the reviews which reported in 1955, 1969 and 1977 that recommended the repeal or substantial overhaul of the RPA.

In the Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries in 2008, the ACCC concluded that the grocery retailing market is 'workably competitive' but that there are a number of factors that limit the level of price competition. The report also noted the positive impact that ALDI has had on grocery prices competition. Since the release of the report, Costco has also entered the Australian market and the expansion of ALDI has led to further price competition.

The ACCC, as the independent regulator responsible for the investigation and enforcement of the competition and consumer laws, is actively monitoring issues in the supermarket sector and is equipped to take action should evidence arise of a breach in the Competition and Consumer Act 2010. The Government is confident in the capability of the ACCC to enforce the law.

QUESTIONS ON NOTICE
Agriculture, Fisheries and Forestry
(Question No. 1486)

Senator Abetz asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 12 December 2011:

In regard to the answer to question on notice no. 19 taken on notice during the 2011-12 supplementary Budget estimates hearings of the Rural Affairs and Transport Legislation Committee:

(1) If the discussions referred to were not formally minuted by the department, were they informally minuted; if so, can details be provided.

(2) In the event that no minutes were kept whatsoever, can the department advise why and at whose instruction, given that the Minister indicated that he was 'sure' that there were minutes.

Senator Ludwig: The answer to the honourable senator's question is as follows:

I confirm that I had ongoing discussions with the Department of Agriculture, Fisheries and Forestry during the period 30 May 2011 and 2 June 2011.

It is a long standing practice of successive governments not to disclose discussions between ministers and their departments. The Department of Agriculture, Fisheries and Forestry provided written advice to me at a number of times during this period. Details of which have been released under Freedom of Information Act.

Prime Minister
(Question No. 1487)

Senator Abetz asked the Minister representing the Prime Minister, upon notice, on 12 December 2011:

In regard to the answer to question on notice no. 45 taken on notice during the 2011-12 supplementary Budget estimates of the Finance and Public Administration Legislation Committee, in which the committee was advised that officials were not involved in discussions with parliamentarians and that clearly this disclosure was not seen as diminishing the capacity of members and senators to properly discharge their parliamentary duties, the question was asked as to whether the Prime Minister was involved in any discussions with any parliamentarians over the particular issue of the Tasmanian Forests Intergovernmental Agreement.

(1) Was the Prime Minister involved in such discussions; if so, with whom. (The content of the discussion clearly should not be sought and is not being sought).

(2) If this information is not to be provided, can an explanation be provided as to why many other Ministers have volunteered that they have been consulted by Members of Parliament in relation to various projects.

(3) Does the Prime Minister believe that such disclosures have diminished the capacity of members and senators to discharge their parliamentary duties.

Senator Chris Evans: The Prime Minister has provided the following answer to the honourable senator's question.

(1) The Prime Minister regularly communicates with government and cross-bench parliamentarians, including Tasmanian members and senators.

(2) and (3) The Prime Minister is not in a position to provide an answer on behalf of other ministers or speculate on the nature of responses to other questions on notice.
Marine Sanctuaries
(Question No. 1489)

Senator Cormann asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 12 December 2011:

In regard to the proposed Commonwealth South-West Marine Parks:

(1) Can the Minister confirm when the Commonwealth's proposed boundaries will be released to the public.

(2) What is the process in implementing the proposed boundaries.

(3) Has the Western Australian Government been consulted in the preparation of these boundaries; if so, what is its position on the draft boundaries; if not, why not.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

In regard to the proposed Commonwealth South-West Marine Parks:

(1) The Commonwealth's proposed boundaries will be released to the public in the first half of 2012.

(2) The implementation of the proposed boundaries is a two phase process involving the declaration of a marine reserve network followed by development of a management plan for the network.

Once final marine reserve network proposals have been released, there will be a separate process to formally proclaim the marine reserve networks under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). This includes:

- Publishing a notice inviting the public to comment on the proposal to declare a Commonwealth marine reserve network over the area, including formal statutory consultation of at least 60 days for comments
- Consideration of public comments
- Revisions if required
- Ministerial decision
- Advising the Governor-General
- The Governor-General makes a Proclamation declaring the areas to be Commonwealth reserves
- The Proclamation comes into effect when registered on the Federal Register of Legislative Instruments.

(3) The Western Australian Government was consulted in the preparation of the draft boundaries and has provided a written submission during the public consultation stage. In its submission, the Western Australian Government confirms its support for marine reserves and its commitment to working with the Australian Government on marine biodiversity protection. For details of the submission, contact the Western Australian Government.

Employment and Workplace Relations: Staffing
(Question No. 1490)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 13 December 2011:

Has the department appointed a former adviser to Ms Gillard as a Director in the Workplace Relations group; if so: (a) what are the duties of the officer; (b) will the officer be working on any aspects of the review of the Fair Work Act 2009; and (c) is the officer employed in an ongoing or non-ongoing position.
Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

Ms Andrea Lester, workplace relations adviser to the former Deputy Prime Minister, the Hon Julia Gillard MP, is engaged in a non-ongoing capacity with the department for the period 26 October 2011 to 26 February 2011. For the period 26 October to 16 December 2011, Ms Lester's duties were to assist the Workplace Relations Policy Group on the equal remuneration case for social and community sector workers. Ms Lester did not work on the post-implementation review of the Fair Work Act 2009 during this period.

From 16 December 2011, Ms Lester is backfilling in the office of the new Minister for Employment and Workplace Relations until permanent staff are appointed. These arrangements are in line with the Department of Finance and Deregulation Ministerial entitlements guidelines which determine that portfolio departments are responsible for the provision of relief staff for periods up to 12 weeks in duration.

Employment and Workplace Relations: Staffing
(Question No. 1491)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 13 December 2011:

(1) Has the department advertised for a number of Executive Level 2 positions in the Workplace Relations Policy Group; if so, how many positions are available.
(2) For each position, can the following information be provided:
   (a) the branch in which the position is available;
   (b) the duties of the position;
   (c) whether the position is ongoing or non-ongoing; and
   (d) whether it is a new position.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

Yes, on 1 December 2011, the department advertised for a number of Executive Level 2 positions in the Workplace Relations Policy Group. There is currently one ongoing position available, Manager, Workplace Flexibility Team in the Diversity and Flexibility Branch. The position is an existing vacancy. The recruitment process will be utilised to establish an order of merit to fill future vacancies in the Group, if required.

Broadly, the duties of the vacant position are to manage a team to provide workplace relations policy advice, specifically in respect to workplace flexibility and undertake liaison as required.

Marine Bioregional Planning Program
(Question No. 1494)

Senator Boswell asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 15 December 2011:

In regard to the Marine Bioregional Planning Program:

(1) What will the total cost be to patrol police and administer the Coral Sea marine park once it has been declared.
(2) Which government agencies will be responsible for monitoring any illegal fishing methods, such as drift nets, super seiners and long liners.
Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) The boundaries and zoning of the proposed Coral Sea Marine Reserve have not been finalised and are subject to further consideration as part of an extensive public consultation process. Costs for administering the reserve will be subject to the finalised reserve design and management requirements.

(2) The Department of Sustainability, Environment, Water, Population and Communities has the lead role in compliance monitoring of marine reserves, with assistance from other Commonwealth agencies. Where appropriate and by agreement, State agencies may also be involved for specified compliance services. Monitoring arrangements for a Coral Sea Reserve are yet to be determined.

Medicare Locals
(Question No. 1509)

Senator Humphries asked the Minister representing the Minister for Health, upon notice, on 16 January 2012:

(1) How were grant funding allocations for Medicare Locals determined.
(2) What is the total amount of funding allocated to the Australian Capital Territory under the grants program.
(3) Did the Member for Canberra discuss these grants for the Canberra electorate with the Minister.
(4) Did the Member for Fraser discuss these grants for the Fraser electorate with the Minister.
(5) Did Senator Lundy discuss these grants for the Australian Capital Territory with the Minister.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question:

(1) A total of $493 million (GST Exclusive) has been allocated over four years, from 2010-11 to 2013-14, to establish and operate Medicare Locals.

To accommodate for relative differences in the characteristics of each Medicare Local catchment and population, core funding has been allocated on a weighted population approach that takes into account:

- health inequities for people living in rural and remote areas (as measured by the proportion of the Medicare Local catchment area which falls within Australian Standard Geography Classification – Remoteness Areas 3 (Outer Regional), 4 (Remote) or 5 (Very Remote));
- Aboriginal and Torres Strait Islander populations;
- overseas born with low English speaking proficiency;
- socio-economic status; and
- population age profiles.

(2) In 2011-12, the total amount of core funding allocated to the ACT Medicare Local is $2.27 million (GST exclusive). A further $1.95 million (GST exclusive) is also allocated to the ACT Medicare Local in 2011-12 for programs run through the Medicare Local, including, but not limited to the Access to Allied Psychological Services (ATAPS), After Hours, Closing the Gap and Practice Incentives Programs.

(3) (4) (5) The Minister for Health has not discussed the funding allocation for the ACT Medicare Local with the Member for Canberra, Member for Fraser or Senator Lundy. The Minister for Health is advised that the former Minister for Health and Ageing has not discussed the funding allocation with the Member for Canberra, Member for Fraser or Senator Lundy.