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SITTING DAYS—2013

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FORTY-THIRD PARLIAMENT
FIRST SESSION—NINTH PERIOD

Governor-General
Her Excellency the Hon. Quentin Bryce AC, CVO

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

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

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

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1. Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
2. Chosen by the Parliament of New South Wales to fill a casual vacancy (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.
3. Chosen by the Parliament of New South Wales to fill a casual vacancy (vice Hon. M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.
4. Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.
5. Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.
6. Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 1.6.12), pursuant to section 15 of the Constitution.
7. Chosen by the Parliament of South Australia to fill a casual vacancy (vice M. J. Fisher, resigned 15.8.12), pursuant to section 15 of the Constitution.
8. Chosen by the Parliament of Western Australia to fill a casual vacancy (vice C. Evans, resigned 12.4.13), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
# 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><em>Minister Assisting the Prime Minister on Digital Productivity</em></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Asian Century Policy</em></td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Mental Health Reform</em></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Jason Clare MP</td>
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<td><em>Minister Assisting the Prime Minister on the Centenary of ANZAC</em></td>
<td>The Hon Warren Snowdon MP</td>
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<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>The Hon Dr Andrew Leigh MP</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td><em>(Deputy Prime Minister)</em></td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td><strong>Assistant Treasurer</strong></td>
<td>The Hon David Bradbury MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon Bernie Ripoll MP</td>
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<tr>
<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><em>(Leader of the Government in the Senate)</em></td>
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<tr>
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<td><strong>Special Minister of State</strong></td>
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<td><strong>Minister for Defence Science and Personnel</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<td>Minister for School Education, Early Childhood and Youth</td>
<td>The Hon Peter Garrett AM MP</td>
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<td>Minister for Employment and Workplace Relations</td>
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Monday, 17 June 2013

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10:00, read prayers and made an acknowledgement of country.

PARLIAMENTARY REPRESENTATION

Western Australia

The PRESIDENT (10:01): I have received, through the Administrator of the Government, from the Governor of Western Australia, a copy of the certificate of the choice by the Houses of Parliament of Western Australia of Susan Lines to fill the vacancy caused by the resignation of Senator Chris Evans.

I table the document.

Senators Sworn

Senator Susan Lines made and subscribed the oath of allegiance.

COMMITTEES

Law Enforcement Committee

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (10:05): by leave—I move:

That the Parliamentary Joint Committee on Law Enforcement be authorised to hold a public meeting during the sitting of the Senate today from 10 am, to take evidence for the committee’s inquiry into the spectrum for public safety mobile broadband.

Question agreed to.

BILLs

Environment Protection and Biodiversity Conservation Amendment Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (10:06): In continuing my speech on this legislation, I would like to clarify some points made by the member for New England. He made a comment in the other place that the coalition had stopped this legislation from proceeding through the Senate. I do not know how we could do that. If people want to count the numbers, there are 34 coalition senators, which does not get you to 39 to control this place. It was the government that brought on the legislation on the referendum of local government, so how could Mr Windsor say that this particular bill we are debating now has been delayed because of Senator Joyce and others? That is outrageous. I am sure Senator Fifield would agree with me. How is No. 34 greater than No. 38 or 39? It is ridiculous to suggest such a thing, given that Senator Joyce clearly stated in his speech that we would be supporting this legislation. I wanted to clarify that for the record. For the member for New England to say that we are holding this bill up is absolute rubbish. In fact, if Mr Windsor spent more of his time seeing what is going on over here and how the legislation is going through—and read some Hansards, instead of spending more time in the Prime Minister’s office—he might have some idea of what is happening in the Senate.

Mr Windsor shed crocodile tears for our farmers. Just recently, there was an agricultural and veterinary chemicals bill.
This bill includes a re-registration system that adds no extra triggers for chemical review but adds another expensive layer of registration, with a periodic recheck of the existing trigger funded by industry. The bill will add $9 million a year in extra costs. Our farmers are huge users of chemicals. You cannot simply grow weeds and wheat together; you grow one or the other. You cannot simply leave your sheep—especially in the northern areas, where it is wet during summer—unprotected from barber's pole worm and other worms. They are simply going to die. Their production will be reduced enormously.

Farm chemicals have been part of agriculture for many years and have increased our productivity and output enormously. Just last Sunday week I planted a small acreage of lucerne and oats to bale some hay. My concern is the ryegrass in that paddock. Because the rain came next day, I did not have time to spray. I wish I had. We will just have to hope for the best.

As far as Mr Windsor and his crocodile tears for farmers are concerned, he backs these changes by the government. They were driven by the Greens, who seem to have most control of the government. The bill will add $9 million in extra costs to farmers' chemicals.

The National Farmers' Federation, state farm bodies such as NSW Farmers and AUSVEG, all oppose the legislation. From what I am hearing, Mr Windsor gave every indication he would support the coalition to oppose the bill, but then the Prime Minister obviously called in a favour and he did what he had to do, and has done around 350 times in this parliament—he voted with the government. AUSVEG, which represent Australia's 9,000 vegetable and potato growers, were so incensed they put out a media release headed 'Tony Windsor sells out Australian farmers', and I will quote a couple of lines: 'In an exemplary display of putting personal politics before good policy, Mr Windsor has succeeded in punching every farmer in the country below the belt.' That is what it said in the media release. Not only will this bill increase costs for Australian farmers, it will also mean that the industry may lose access to essential crop protectants due to a re-registration system that will allow political pressure rather than scientific fact to determine what treatments are available for farmers and their needs.

As I said, chemicals play a major role in the very survival of our animals, in the production of our wheat and cereal grains and many other crops. So, here we have this water bill in front of us which is designed to protect the underground water in relation to coal seam gas and mining industries. I have said all along that you cannot destroy the environment for future generations. In fact, it was the National Party in November 2011 that clearly stated that there was to be no coal seam gas on prime agricultural land. Of course, it is up to the states to determine the prime agricultural land. I am well aware of the old fact that possession turns sand into gold. Every farmer thinks their property is prime agricultural land, because they are proud of it, and that is why they perform and produce so well. As far as food security goes, this is what this legislation is about: to see that we do not damage our food-producing land for the future generations.

I would also make another note that Mr Windsor, if he is very concerned about food security, abandoned the farmers of the sea—our fishermen—when the coalition tried to get the marine parks disallowance through. Australia has the world's third largest ocean territory and harvests just 28 kilograms of seafood per square kilometre per year from our oceans. Compare that to other countries. I would like to see what they harvest in
Thailand, probably about 700 kilograms per square kilometre. So, we have locked up more of our sea farm, if I can call it that, where we actually carry out our fishing to feed Australians. What does that mean? That means we will be importing more seafood into our nation, and, of course, jobs and wealth will be gone. The amount of seafood that we import now, especially from Thailand, is quite amazing, as I mentioned.

I notice that Mr Windsor and his cohort Mr Oakeshott, the member for Lyne, both proclaim 'the hung parliament has been a success'. Well, what a success it has been! Have a look at what is going on now. It is more about who is Prime Minister and the division in the Australian Labor Party than running the nation, and no doubt there will be more of that this week and next week until the guillotine does fall on the Prime Minister. Mr Oakeshott actually described this parliament as being 'alive'. Being 'alive' is an absolute embarrassment and a total disgrace to our nation. All we read in the papers is who is going to be Prime Minister next week. Perhaps Senator Feeney might be able to give us a clue. He might be able to tip us off as to which direction they are pushing. Are they going to push the Prime Minister over the cliff or are they going to keep her? Time will tell. I am sure all in this place will be watching this with a lot of interest. Do not worry about governing for the country, let's just line up another 130 pieces of legislation and rush them through. Whoever is the maintenance man or woman around this place, oil up the guillotine, because it is going to be overworked next week. It will be dropping and it will be up and down like a yoyo as the bills come through. I suggest they get the Innoxa and the CRC out and lubricate the sides of it, to prevent it from overheating with friction, because that is what we will see next week. What we will see next week is the guillotine—up and down it will go. Of course, it will be supported by the Greens. Their history of rushing legislation through this place without proper debate is already on the record.

At the weekend we had the state conference of the New South Wales National Party. The conference reaffirmed that the maximum benefit should flow to regional New South Wales from any royalties derived from coal seam gas production. It is amazing. As I said in the first part of this speech on 16 May, the Nationals are aware of the huge concern in relation to coal seam gas, but we will not get caught up in the hysteria whipped up by the Greens and the Independents. We have stated our position clearly on the protection of prime agricultural land and a financial return to the farmers, but we are also mindful of the need to ensure our future energy supplies. We have huge storages of coal seam gas and other gases in Australia, but what are we doing for energy? We are relying on imported fuels. New South Wales currently imports 95 per cent of the gas it consumes from interstate. The majority of contracts for the supply of gas to the 1.1 million New South Wales consumers will expire within the next five years. A report finds that, as early as 2017, New South Wales's traditional sources of gas, South Australia, from the Moomba gas fields, Victoria and Queensland, will increasingly be used to meet rising demand from both the Queensland LNG project and gas fired electricity generation.

So we do need energy, and we will not be seeing farmers return to the time of the draught horse, the Clydesdale or the single-furrow and moldboard plough; we need to grow food. We need to produce not only for Australians but for the world. But we need to protect our land to see that future generations can look back and say, 'When they entered
into these energy-sourcing projects, they looked after the land.'

I was very pleased to recently visit a coalmine at Mudgee, where I saw the rehabilitation. The topsoil was put aside, the coal was taken out and then the soil was put back. The pasture was improved—it was actually better than when they started and I commended the miners on the magnificent job they did of rehabilitation. Of course, there are many areas in the Hunter Valley where I think the rehabilitation has been an absolute disgrace. So, if we are going to go mining, we must protect the land for future generations—that is my whole argument.

As far as this bill goes, it is based around more powers under the EPBC Act for the federal government, but they should be working with their state colleagues. We already have the EPAs and all the stringent regulations at a state level. Under the Australian Constitution, the land is in the control of the Crown, the state; but here we have more regulations coming in from Canberra.

As a fifth-generation farmer, I say that protecting our environment is vital, especially our land—and, sadly, it does not get enough attention. I believe the greatest asset in this country is its topsoil, the soil that is needed to grow the food not only for us but for millions upon millions of people in the years to come. The world will rely on Australia to provide food to so many people around the world and of course it is a huge export industry for us. So the whole idea is to protect everything for the future of generations of Australians to come. I say that as a grandparent now. We need to protect our land and keep it healthy and viable, especially the water under that land. That is what this bill is about—protecting the water to see that there is no pollution of that water because, if it is damaged, how can it be fixed? It would be a difficult problem to fix.

I know there are coal seam gas wells in Queensland that have been operating for many years, just like in Western Sydney. Thankfully, there have been no reports of any damage. I have spoken to Origin Energy and to Santos, and they are of the attitude that they will not go on to a farm if the farmer does not want them on their property, and that is fair enough in my book as well. The farmers own the land, although the banks might have a share in it, of course.

This legislation is not opposed by the coalition. Let us hope that it contributes to preserving our environment and our food-producing land for generations to come.

**Senator EDWARDS** (South Australia): I join with my Senate colleague Senator Williams in rising today to speak on the Environment Protection and Biodiversity Conservation Amendment Bill 2013. This bill will amend the EPBC Act to create a matter of national environmental significance for coal seam gas and large coalmining developments which are likely to have a significant impact on a water resource. Other matters of national environmental significance include World Heritage sites, nuclear actions and wetlands of international importance—for example, our Ramsar wetlands. Whilst in South Australia we do not have the kind of coal seam gas development that we are seeing in New South Wales and Queensland, when I first came to this place in 2011 I sat on an inquiry into the management of the Murray-Darling Basin, and in its interim report to this place we handed down a report focused specifically on the impact of mining coal seam gas on the management of the Basin. During the course of the inquiry I saw firsthand some of the coal seam gas...
developments near towns like Narrabri, Roma and Dalby.

We on this side of the chamber understand how costly it is to do business in this country. We know how to do business, because most of us have been in business—unlike most of those on the other side, perhaps with the exception of an old truckie and a couple of lawyers who previously sat in union-sponsored law firms. We know how big an impact government regulation and red tape have on industry. Over-regulation continues to strangle our business and to drive up costs in this country. As an Australian Chamber of Commerce and Industry Survey showed, 73 per cent of businesses report greater increases in regulation over the last two years. And now 60 per cent of business spends over $5,000 a year just meeting the ever-increasing regulatory requirements under this Gillard Labor government, who have abandoned business in this country, if May's federal budget is anything to go by. Sad but true: since coming to office, the Rudd-Gillard government has added nearly 800 pieces of legislation, published nearly 21,000 regulations and repealed just 104. That is not one in one out, as was originally promised by Labor; that is 200 in for every one out. This is why we on this side are committed to cutting $1 billion worth of red tape out of the economy, and I can assure anyone reading or listening to this contribution that we will deliver. My Senate colleague in the chamber, Senator Sinodinos, former chief of staff to Prime Minister Howard, will deliver this, if the people of Australia put their trust in the coalition on 14 September.

Australia has a broad range of comprehensive environmental laws—and so it should; we have so much to protect. However, this legislation adds another layer of bureaucratic red tape, and it will increase approval times and make Australia a less desirable place in which to invest. Further tax changes in the budget include the effects on exploration costs and thin capitalisation rules. That will also hurt the oil and gas industry's international competitiveness, further driving investment away from Australia. The interim report from the inquiry into the management of the Murray-Darling Basin highlighted how difficult regulations currently are, even without this bill. I quote from the interim report:

The gas companies have made much of the extremely demanding regulatory environment in Australia. In submissions to the committee, QGC—which is wholly owned by the BG Group— noted that the: QCLNG Project was assessed for environmental and social impact under Queensland and Commonwealth legislation in a process that began in 2008 and took more than two years. The environmental and social impact assessment totalled more than 12,000 pages.

AP LNG has described the conditions imposed on it as "unprecedented": … the Coordinator-General has, in addition to existing legislative requirements, imposed a set of conditions that have not been used to previously regulate project impacts in Queensland. They were:

- 58 imposed conditions mainly related to environmental and water issues,
- 16 imposed conditions related to traffic and transport issues, and
- 5 imposed conditions (including many sub-components) related to social and economic impacts.

Conditions imposed under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 for each of the three components of the Australia Pacific LNG Project (gas fields, pipeline and LNG facility) total 261.

The large number of conditions is indicative of the many complex issues, challenges and
uncertainties that are presented in regulating this industry.

In short, this bill means the Commonwealth will duplicate the state's approval processes. The protection of water is, rightly, the responsibility of the states. But, now, as a further checking process, the states will be provided with an expert panel—and this is appropriate—to provide the further testing that the community is demanding. The coalition did support the implementation of this expert panel, so let the panel do their work and report for all Australians.

The oil and gas industry is today responsible for more than 30c in every dollar of private sector investment. The industry is currently investing around $200 billion over five years—that is more than $1,200 per second—in new projects that will pay billions every year to governments and create more than 100,000 new jobs. We need to strike a balance between industry and the environment. We would never give up on the environment, we would never compromise the environment, but we must understand that it does house the resources we need to grow this country.

This bill questions the approach taken in targeting specific industries. The coal seam gas industry is an important part of our nation's future prosperity. It is important for jobs in many areas and it has to involve sensible practices. But the last thing any sensible government would want to do is stop this industry in its tracks by imposing impediments to investment by bogging down approval times on duplicated topics and escalating costs without an eye to common sense. We know that the Greens, on the other side, in their coalition with the government, will do anything in their power to stop this industry. They are diametrically opposed to it and they have, on hundreds of occasions in this place, done anything they could do to put an impediment in the coal seam gas industry's way.

A sensible government must find a way for industry and environmental practices to be balanced appropriately. Industry does not need another quick fix-approach which adds red tape to the impending developments that this country so sorely needs. Industry needs to be able to flourish in an economic and regulatory environment of certainty and strong policy decision making. The industry view reflects reservations towards the bill, with its many continued changes and lack of long-term foresight. The Australian Coal Association highlighted the burden on Australian industry, expressing disappointment in the 'regressive policy making', by saying:

At a time when we should be sharpening Australia’s competitive edge by improving the efficiency of our regulatory system, the Government has offered a knee-jerk reaction to campaigning by environment groups which adds another layer of green tape without delivering any environmental benefit …

Are we going to simply ignore this view of peak industry associations which are so important to Australia's economic prosperity?

The Senate inquiry that looked specifically into this bill further highlighted the high levels of discontent amongst the adverse effects of CSG and coal mining on the availability and quality of water resources. It further highlighted that assessment and approval processes for these developments are inadequate.

The inquiry I sat on highlighted just how complex an issue the coal seam gas industry is. While there are many significant economic benefits for rural and regional towns in terms of jobs and economic activity from coal seam gas there are also perceived and real negative impacts—like the doubling of the population of small towns overnight,
and the social problems that flow from that. There are issues surrounding coal seam gas mining on prime agricultural land and, as the content of this bill suggests, on water. But flowing from that was an allocation of $150 million to define the real issues and apply solutions for all approval authorities, which includes state governments. But I will talk more on that later.

We heard from a lot of scientists and scientific bodies, including the CSIRO, about potential impacts of this kind of mining on underground water bodies and aquifers. A lot is still not known, which makes it difficult to regulate or make easy decisions about this. Most alarmingly, evidence was given in the inquiry of the clear lack of consultation in formulating the bill. What we need is a better understanding of the issues arming the existing approval authorities. We need an ability to streamline their scrutiny of the real issues rather than duplicating the status quo. It simply does not make for improved legislation.

This is made all the more difficult by the short life of this industry, with individual wells only lasting about 15 years, on average. So the gas is likely to be exhausted over the period of the next 50 years. We must be careful not to damage the prime agricultural land and aquifers for the next 500 years. But without economic activity to generate wealth we will not have the revenue to look after the environment and to conduct the research into the impact of this industry.

We on this side of the chamber are concerned about the absence of proper process in arriving at the introduction of this legislation as highlighted by the coalition senators in their additional comments to the final report of the EPBC amendment bill inquiry. As has become a hallmark of this government, there was no consultation undertaken on this bill before it was introduced into the parliament. Both the Australian Coal Association and the Australian Petroleum Production and Exploration Association drew attention to the absence of a regulation impact statement. They were quoted final report of the inquiry:

...we are particularly concerned with the way this legislation has been rushed into parliament, without any consultation or the preparation of a regulatory impact statement. There is no justification that we can see for such a gross failure of process and, accordingly, we welcome the Senate committee's close scrutiny of the bill ...

Another hallmark of this government is to rush, rush, rush and that does not make for good policy. Putting all the key industry groups offside is another hallmark of this government.

As I have noted, the government have put aside $150 million over five years for a new independent expert scientific committee—and we support that—to provide scientific advice to government about coal seam gas and large coal mining approvals where they have significant impacts on water. The committee will commission bioregional assessments and research into the impacts of coal seam gas and coal mine developments on water resources and methods for minimising those impacts. This is a big concern across eastern Australia and anywhere where this mining is contemplated. But $150 million buys a lot of research. It is research that has not been done in the past, but will be done now. The allocation of these funds is overdue. It is about time. Let the independent scientific committee get on with that job.

Further to that, there are a number of ongoing studies, including the National Groundwater Assessment Initiative, the Healthy Headwaters program and the research looking into the Namoi Catchment in New South Wales. The science and data
generated from this research needs to be made public to better inform decision-making and policy creation so that we are not making decisions in the dark or uninformed. This is the empowerment that we are looking for throughout this entire chamber. I urge all senators to support Senator Birmingham, representing the coalition. The coalition's amendments in this chamber look to counter the member for New England's amendments. Mr Windsor's amendments basically attempted to prevent bilateral assessments for the proposed coal seam gas trigger. Allowing assessments is a key way to reduce the regulatory burden on businesses while maintaining environmental standards. The New South Wales Minerals Council executive, Mr Stephen Galilee, recommended the federal government should reconsider their backward decision on the legislation. He said:

It is extremely disappointing that in an election year the Federal Government and Tony Windsor are seeking to create the impression that the State based assessment process isn't good enough. This is completely wrong. Water is already a fundamental aspect of the assessment process for mining projects in New South Wales.

Mr Windsor should also heed the comments from the National Farmers Federation, who have deep concerns about the potential for this bill to be extended to agriculture in the future. I quote from the NFF, who said:

Water is a critical factor for our farmers, and our strong concern is that this bill could actually have perverse negative outcomes for our agricultural sector. What may, on first glance, look like a win for farmers in the short-term could actually have long-term unintended consequences for our current, and future, farmers.

Coal seam gas offers significant economic benefits for Australia, particularly for rural and regional Australia. The industry must have the support of the community in recognition of its generation of billions of export dollars and new jobs. However, we must be careful to weigh up the impacts—I attest to that. In assessing coal seam gas projects, we must be careful not to burden the industry with additional and unnecessary regulation when there is a far more credible path to follow than the legislation in its current form.

I hope that all good senators embrace the coalition's amendments, which make very good sense. Sadly, good sense seems to be a rare commodity in dealing with enterprise in this Gillard Labor-Green's government administration. This morning, there are rumours amid the halls of this place that Minister Burke is wandering around the offices of the crossbenchers trying to do a deal—another grubby deal—proposed by the Greens by incorporating shale into this legislation. We will wait with interest to see what comes out of that. I would have thought that those on the other side should be worried about trying to fix the economy rather than be worried about who is going to lead them through the next pieces of legislation.

I urge all senators here to look at Senator Birmingham's amendments rather than look at the pantomime which is going on quite publicly in this place. I urge you to embrace those amendments and get this legislation through. (Time expired)

Senator BOYCE (Queensland) (10:39): I must acknowledge—and I am sure my colleague Senator Edwards would have acknowledged if he had realised—that we have Mr Windsor from the House of Representatives in the gallery, listening closely, I hope, to the comments being made by the coalition on ways that this piece of disrespectful legislation could be improved, if it must be put to the Senate at all. I would like to quote the Prime Minister, Ms Gillard, from April 2012:
Look, what we want to work towards here is a streamlined system, so that projects don’t go through two layers of assessment for no real gain. And so the classic examples that are brought by business is where people have gone through sequential assessments, so it’s double the time, things that have been required for the first assessment are required in a slightly modified form for the second assessment, so they don’t even get the benefits of just uplifting the work and re-presenting it, it’s got to be re-done.

That is a quote from the Prime Minister in April 2012, making comments that the coalition very much agrees with and demonstrating, perhaps briefly, an understanding of the costs that are imposed on business when we replicate and duplicate requirements across the state and federal bodies, and that regulation continues to be the issue there.

I referred to this bill earlier as 'disrespectful', and I continue to hold that view. It is disrespectful of the Hawke review, which went on for 10 years, looking in an independent way at issues that can be cogently and coherently brought into the environment biodiversity conservation bill, without this favouritism that infects the bill currently before us. It is also disrespectful of the legislation it seeks to amend. The EPBC Act is the main centrepiece of the federal environmental legislative framework. It covers eight matters of national environmental significance and sets guiding principles to protect and manage significant environmental and heritage items at a national level. The eight matters in which the federal government has jurisdiction are World Heritage sites, National Heritage sites, wetlands of international importance, nationally threatened species and ecological communities, migratory species, Commonwealth marine areas, the Great Barrier Reef Marine Park, and nuclear actions. Now what we have is this weird little add-on, it might have made a bit of sense for the federal government to look at the whole matter of water resources and the impact of all types of mining on water resources, But no, not that—it will just look at the impact of coal-seam gas and coalmining on water resources. And, as Senator Edwards pointed out earlier, apparently there are currently moves to include shale oil in there.

There would be absolutely no reason water resources should not be included in the EPBC, except that the states already do it. And we had the Prime Minister just 12 months ago as well as the environment minister, Mr Burke—even more recently—agreeing that duplication was not the way to go, that it is ridiculous that we have examinations done by state governments and then by federal governments, who are looking at the same things but looking at them differently. It was interesting to note that Senator Birmingham, during Senate estimates recently, managed to winkle out of the government the extraordinary costs of the EPBC Act. It is currently costing taxpayers $32 million just to administer the legislation, and it takes 210 staff. Next year, with the little changes that are going on—the water changes—it is going to add another $38½ million, and an extra $10 million a year after that. And they will need an extra 43 staff in this coming year simply to satisfy the requirements of Mr Windsor. The disrespect in this legislation is for the parliament, for the Senate, for the environmental community and for the mining industry.

What changed between 2012 and now? The only thing that the coalition can understand has changed is that Mr Windsor has been to see the Prime Minister and told her that he wants this legislation passed because it will be good for his re-election chances. That is what we understand has happened here. Even the Australian Network of Environmental Defenders Offices, a group
that is highly in favour of environmental protection, do not agree with what is being done under this piecemeal piece of legislation. They say—

Senator Waters interjecting—

Senator BOYCE: Senator Waters is interrupting. I was about to read the comments. The piecemeal approach is what very much upsets people in the environmental movement as well as other areas. Ms Walmsley from the Australian Network of Environmental Defenders Offices said:

I think the clear example of an ideal process would be the Hawke review. That was a 10-year review of the act. It was independent. The panellists on the Hawke review interviewed hundreds of industry, farmer and environmental groups. They did a thorough, independent review. They put out 71 recommendations. The government put out a response. There were so many great things in that package that could strengthen the bill and address a lot of these issues that are being incrementally addressed by really specific small bills that deal with really small issues …

Ms Walmsley went on to say:

So, no, I do not think it is ideal that the EPBC Act is being amended by piecemeal bills. I think we should embrace the opportunity to follow the Hawke review and actually do a proper amendment of the act itself to strengthen the Commonwealth role.

That, of course, would be the way to respect the roles of the Commonwealth and the state, to respect this act as an important piece of legislation—the centrepiece of our environmental legislation—and to respect the roles of the many organisations that should, and could, have been asked about their view on this legislation. None of them, of course, were asked.

The Prime Minister even managed to exempt this bill, looking at coal seam gas and coal mining effects on water resources, from the regulatory impact statement process. Why? Once again, to please, one presumes, Mr Windsor—to get this through quickly enough for Mr Windsor to be able to wave it around, presumably, as part of his re-election campaign. I do not think it is going to be enough. I think people are going to remember the concerns that they have.

Of course, we already have assessment of water and the impact on water resources done by the state governments. Another aspect of the disrespect here is the clear implication from a lot of the government material and from a lot of the environmental material that the state government processes are somehow wanting, somehow non-scientific, somehow politically polluted. And we have this major political pollution sitting before us right now. Why would the federal government, the Greens and the Independents have the disrespectful view that the states are somehow not up to checking the environmental impact on our water resources?

The Queensland state government—and, Madam Acting Deputy President, you will be aware that I represent the state of Queensland—through its Department of Natural Resource and Mines Coal Seam Gas Engagement and Compliance Plan 2013, is developing an overall strategy for the responsible oversight and regulation of the coal seam gas industry. In my view some of the coal seam gas miners, in the early days of exploration and negotiations, behaved like complete cowboys. Most of them have now tidied up their act. They have realised that the way to go about business is in a community that supports what you are doing, not in a community that is full of ridiculous rumours because you have not bothered to explain what you are doing and how you are doing it and are using bully boy tactics on people. Certainly the coal seam gas mining
industry in some respects can only blame itself for the poor image it has had.

The Queensland government, as I said, has come up with a gas engagement and compliance plan, as have other state governments where it is relevant. The Department of Natural Resources and Mines in Queensland is fully committed to the sustainable use of Queensland natural resources. Giving evidence to a Senate hearing on this piece of legislation, the Queensland government said they always demanded a high level of compliance and their compliance evaluations will increase and become stricter as a result of this compliance plan. The Queensland government said: ‘The federal Labor government, through the measures in this bill, are making it difficult for the Queensland government to boost the state's economy and keep it strong. The federal government are overriding the state's sovereign rights for their own political agenda.’

We have many other comments from many organisations that cannot understand why this legislation has been rushed through in this piecemeal way, or why we are looking at a really small issue, as the Environmental Defenders Network said, or why there was not real consultation about it, or a regulatory impact statement was not required or why it is completely doubling up on work that is already being done by the states. Apropos of the amendments that Mr Windsor moved in the House of Representatives, there is no ability in the bill for the state evaluation to be accepted by the federal government; it has to happen twice and it only has to happen around these areas.

The coalition supported the establishment last year of the expert scientific panel to further research the impact of coal seam gas mining on water because there are genuine community fears about it. So what was the sensible thing to do? The sensible thing to do was to set up the expert scientific panel to look at the problem and separate the scaremongering and fear campaigns developed by the Greens, who are simply anti-business at any cost, from the realities and the possibility of what may harm water tables. And, of course, that is a major issue for Australia. The coalition supported the establishment of the expert scientific panel because we believe it was necessary to intelligently and respectfully look at the changes that need to be made.

Of course, the ink is scarcely dry on the development of the expert scientific panel and we have the government, prompted by Mr Windsor, coming up with a ninth matter of national significance to stick into this bill. Irrespective of the outcome of the panel's findings in terms of coal seam gas, it will be in the bill as a matter of national environmental significance. It is not reasonable to do this. Witness after witness to the Senate committee inquiry into this bill made that point. The Chief Executive of the Business Council of Australia, Jennifer Westacott, said:

It flies in the face of what makes sense for jobs and the economy, while offering no tangible benefit to the environment.

If we could see that there was going to be a benefit for the environment in this then no-one would disagree with it happening. But it is a little job on the side, a little deal on the side, that has nothing to do with genuinely improving the Environment Protection and Biodiversity Conservation Amendment Bill. It has everything to do with politics and particularly the politics of New England. The Australian Industry Group, the Australian Petroleum Production and Exploration Association, the Clean Energy Council and the Energy Supply Association of Australia, in a joint submission to the inquiry, said:
... non-evidence based policies which are restricting the development of new energy sources may have significant negative consequences for the broader Australian community.

Knee jerk policies continue to undermine the development of energy projects within this country. This comes at a real cost—and this cost is borne by the Australian community, in jobs, in economic growth and ultimately higher energy bills.

The Australian Coal Association referred to this bill as regressive policy making. They said:

At a time when we should be sharpening Australia's competitive edge by improving the efficiency of our regulatory system, the Government has offered a knee jerk reaction to campaigning by environment groups which adds another layer of green tape without delivering environmental benefit.

Some people might like to suggest that most of those organisations that I quoted are, in fact, organisations that would be pro mining and anti environment. I would want to contest that. The issue is that these groups will operate within the law and they, quite reasonably, like to have the law settled before they invest their billions of dollars.

We have the situation with this bill, apropos, again of a deal that has been done, presumably, between Mr Windsor and the government that any approval not already in existence will be subjected to this new requirement. It is not just for new approvals; it is for anything that is currently in the pipeline. As an organisation seeking approval for a mine you may very well have done what was required by the state government in regard to water resources. You may very well have done everything that the federal government wants it done for water, which is presumably not going to be terribly different from the way the state government wanted it done. It is going to involve another level of cost, another level of testing and another level of wasted resources, which is another example of the ridiculous green tape that this government has developed around everything, very much because of their inability to see the need for jobs, to see the need for growth and to understand how to go about doing something like that.

Mr Windsor, as I said, should hang his head in shame at this piece of legislation. It is disrespectful of the Senate and of the parliament and of the environmental and mining movements.

Senator SINODINOS (New South Wales) (10:59): Before I begin let me make the point in relation to this bill that the coalition has not sought, at any stage, to stall discussion, debate or passage of the bill. We are not seeking to create roadblocks, but we will not be silenced when it comes to our view about the unnecessary extra layers of red and green tape which this bill will add to what is already a very extensive area of red and green tape.

By way of background, one of the hats I wear is chairman of the Coalition Deregulation Taskforce. We have been looking at the issue of regulation and red tape across the country under this government. Kevin Rudd went to the 2007 election with a commitment: for every new regulation introduced, one would be taken out. One in, one out.

Senator Ian Macdonald: What a joke!

Senator SINODINOS: My colleague Senator Macdonald says, 'What a joke!' Indeed. It sounded so glib: one in, one out. It was very easy; it rolled off the tongue. Twenty-one thousand new regulations later...
and here we are with new layers of red and green tape. What is particularly galling for me is to have to acknowledge that people like Mr Windsor in the other place are adding to red and green tape, using their numbers in the House to add to red and green tape. They are people who should know better. They are people who claim to be in touch with their electorates and claim to understand the needs of small business, and here we are adding more red and green tape.

What is particularly galling is that we are doing this without even a regulatory impact assessment. This legislation is so important that it has been exempted from the process. So be it. If we were on the verge of nuclear war, we might not have a RIS about whether we go to war or not. We are not at war. Fortunately, we are living in a very peaceful country at a relatively peaceful time and we can take our time about these measures. But we are not being given that option. Industry is not being given the option of giving full advice on the costs and benefits of the legislation, and neither are other stakeholders.

I recognise that we are dealing with some very sensitive matters around the interplay between coal development, coal seam gas, the water table and the like. There are some very interesting scientific views about how that all plays out. Taken to their logical conclusion, those scientific views would essentially say that you would probably have to stop all industry. If we want to stop all industry in this regard, whether it is the coal seam gas industry or coal development, let's just be up-front about it and have a debate about all the consequences that flow from that, rather than have the debate we are having today, where people can use the power they have in the other place to impose on the government measures where the benefits have not been demonstrated to exceed the costs. It may be that the benefits do exceed the costs. We do not know that. There is no regulatory impact statement. The bill has been exempted from the possibility of that being done.

We are dealing with an act which both sides of politics fundamentally support. There is the Environment Protection and Biodiversity Conservation Act, which I have had some dealings with in the past, in a former life. Indeed, it was a coalition government that was involved in putting together the act in its current form. The whole purpose of the act was to recognise eight matters of national significance where the federal government had jurisdiction: World Heritage sites; national heritage sites; wetlands of international importance; nationally threatened species and ecological communities—and that does not include threatened species of Independents, Greens or others—migratory species; Commonwealth marine areas; the Great Barrier Reef Marine Park; nuclear actions. Get the drift? It has to have a national implication, a national consequence. That is why we have tiers of government. One tier of government is federal—that is us. There is another tier of government which looks after matters within the borders of states and is meant, subject to the Australian Constitution, to have sovereignty within the areas that are defined for the states. There are outside areas defined for the Commonwealth, and so on.

So, there you have it. This act is all about matters of national significance, and we are going to have a ninth matter of national environmental significance added to the act, which will apply to the actual—and this is where it has retrospective effect—or the likely significant impacts of 'coal seam gas development and large coalmining developments on a water source'. Why stop there? What is the logic of that? Why not any development that potentially has an impact on any water source or any other source in
the communities, of one sort or another? It does not have to be water. Where is the rhyme or reason?

Ultimately, legislation has to have logic. This legislation in that sense has one logic—the logic of numbers or the logic of power: 'I can do this. I can impose this. I can show people that I can do this, therefore I will do it.' It is subject to no accountability, no cost-benefit test and no regulatory-impact assessment. People are right to say that these are controversial issues, but there also comes a point when you have to stand up for principle. The principle we used to have was one of subsidiarity, where we devolved power to the lowest level, whether it was local, state or federal government, depending on the significance of the issue. That is all out the window: 'That don't matter anymore; we do what is politically convenient, we're seen to be doing it, and it doesn't cost us anything. And we can say that because we don't have a regulatory impact assessment to tell us what the costs might be.'

I recognise that there are some important scientific issues caught up in all of this, but what science teaches us is that there must be rigor around what you are hypothesising and how you test it. The policy equivalent of that, in this context, is the regulatory impact assessment—and we do not have that. That process also applies another logic to these circumstances. It provides for a more extended process of consultation, with affected stakeholders, whether they are industry or other. That sort of consultation is important if you want to take the community with you. Now, one section of the community, using its numbers, imposes its will. We do not get a settlement of the issues, we just get this pendulum back and forth depending on who is in power and has control. These matters never get looked at properly.

It is a pity that we have found ourselves caught in such a situation. Various stakeholders say various things. The Minerals Council of Australia said in its press release the legislation:

… shows that the Federal Government is more focused on increasing the bureaucratic constraints on the coal sector rather than creating the right regulatory environment to expand the industry; creating more jobs and national income.

There are some of you here who do not want to expand the industry or increase national income—and I am not looking at the opposition benches when I say that. That is understood. The Minerals Council of Australia also said:

The proposed changes will do nothing to enhance Australia's reputation as an investment destination. Project approval times in Australia are already well in excess of the international average and the plan put forward today will simply add to those delays for no environmental gain.

It is simply another layer of regulation.

The Prime Minister was very much alive to this duplication of Commonwealth and state processes in the environmental space. Indeed, it appeared at one stage that she had come to an accommodation, particularly with stakeholders in the business community, through the Business Advisory Forum attached to the Council of Australian Governments. It looked like we were going to get a streamlined process, but that was scuppered at the 11th hour through the influence of shadowy backroom figures, potentially of a green tinge—we do not know for sure; it was never quite made public. There is not much transparency around that process. Here was one sector in the community asking for a more transparent process, a greater streamlining of the approval process, and it was scuppered at the 11th hour.
The National Farmers' Federation has expressed deep concern about the potential for this bill to be extended to agriculture in the future—the thin end of the wedge—and it is the farmers who are picking this up, a constituency that some of the supporters of this legislation claim to speak for. But what does a peak body like the National Farmers' Federation have to say? The federation said:

Water is a critical factor for our farmers, and our strong concern is that this bill could actually have perverse negative outcomes for our agricultural sector. What may, on first glance, look like a win for farmers in the short-term could actually have long-term unintended consequences for our current, and future, farmers.

That is right. You create the trigger. You create the weapon and it can be used against you, because you have no guarantee, in a future parliament, who might do what deal that may affect agriculture or farmers.

People too caught up in the current controversy around coal seam gas do not seem to understand that you are dealing here with systemic issues around how our parliament makes laws to effect these things and the relationship between federal and state parliaments in these sorts of areas. The Australian Industry Group, the Australian Petroleum Production and Exploration Association, the Clean Energy Council and the Energy Supply Association of Australia joined forces with concerns on this bill that non-evidence-based policies which are restricting the development of new energy sources may have significant negative consequences for the broader Australian community. Knee-jerk policies continue to undermine the development of energy projects within this country. This comes at a real cost and this cost is borne by the Australian community in jobs, economic growth and, ultimately, higher energy bills.

But, no, wait—we are not going to worry about the resource sector. We are not going to worry about the energy sector. We do not worry, because isn't there a pipeline out there and isn't it easy just to pick this stuff up, take it to market and sell it? We are so advantaged in this regard that we can do this without having to worry about the competition or our national competitiveness. It does not matter how much it costs to do something in Australia—we will be okay; we are insured; we are the lucky country. No, we are not. The terms of trade are falling. We have to raise our productivity. The Secretary of the Treasury, Martin Parkinson, at the last Senate estimates made the point: in the period ahead, as our terms of trade come off from the historic highs where they have been, our productivity has to almost double to potentially make up for the shortfall and the impact that will have on our living standards.

So we do not have a choice; we have to be productive and we have to be competitive. Through energy policies, already we have imposed quite big increases in energy costs across the community. That has had an impact on the cost of living. It has had an impact on the competitiveness of projects. We have to recognise that, whatever the merits of any individual piece of legislation that people in good faith may put up, it comes on top of that mountain of regulation and costs we have already—and that is the mountain that has to be tackled. So we cannot just argue about the merits of an individual piece of legislation; the challenge that serious policymakers face is how they deal with the mass of regulation as a whole. It is a cop-out to say, 'We don't have to worry about that. If those fossil fuel sectors and those resource sectors go down, we can make it up through renewables.' We are making it up through renewables, but we are having to pay a cost for that and we cannot make up 100 per cent of our energy supply through renewables, whether cost wise or in
a reasonable time frame. My colleague Senator Ludlam says, 'Yes, we can.' Yes, we can, but only by immiserising growth and imposing lower living standards on Australians as a whole.

Senator Ludlam interjecting—

Senator SINODINOS: That has not been made up. That is backed up by all sorts of rigorous studies across the country. Senator Ludlam, you should read more widely than Green Left Weekly.

What I will say is that you have, out of their own mouths, this recognition of the costs—because, at the end of the day, the Greens do not believe that the GDP numbers reflect the actual resource base of the country or our happiness or anything else, so they are quite happy to see GDP going down. My point is this: in a rational society, where you have to sell these policies, in the suburbs, in the outer parts of the country, in regional and rural Australia, where people have to think about the costs and benefits of these things, they know that too many costs that impede great trading industries come at the expense of all of us. That is why we have rigorous processes like regulatory impact assessments to look at the costs and benefits of doing all of this.

The Queensland state government has some strong views through its Department of Natural Resources and Mines and the Coal Seam Gas Engagement and Compliance Plan 2013, a key part of their overall strategy for the responsible oversight and regulation of the coal seam gas industry. According to that document:
The Department of Natural Resources and Mines (DNRM) is fully committed to the sustainable use of Queensland's natural resources … The Queensland government demands an already high level of compliance obligations which it always evaluates and improves upon. The federal Labor government through these measures is making it difficult for the Queensland government to boost the state's economy and to keep it strong. The federal government is overriding the state's sovereign rights for its own political agenda.

The issue here goes to something else. If we want to convince the states to do better, then just taking it out of their hands and riding roughshod over them by having a further process is essentially just saying that you cannot trust sovereign government. My view is this: a sovereign government, if it is subject to popular and democratic election, will face the sanctions of the people. The same people in New South Wales who vote for a federal government vote for the state government. What this legislation says fundamentally is that other tiers of government cannot be trusted. As I said before, I think the real basis of this legislation is a view that if you have the numbers and you can do it, why not do it, why not respond to a perceived political demand to do so, and let principle go out the window.

The ALP, the Labor Party, the Labor government have made very sympathetic noises to business and industry when it comes to cutting green tape but have failed at every measure when challenged to put it into practice. Six months ago Tony Burke, the minister for environment, rejected an amendment to regulate coal seam gas, claiming the Commonwealth had no constitutional powers to make such laws. Prime Minister Julia Gillard, after a COAG meeting in April 2012, said: 'Look, what we want to work towards here is a streamlined system so that projects don't go through two layers of assessment for no real gain.' That was the view after the COAG meeting. Then in November 2012, Tony Burke, in a press release entitled 'Environmental standards a priority for the federal government', said:
This is about lifting the States up to the level of environmental protection provided by the Commonwealth, not letting Commonwealth standards drop. We can keep stringent environmental standards while simplifying an overly complex process—and we are.

Tony Burke introduced an expert panel on coal seam gas in 2012 to address the concerns the community had with coal seam gas operations, which the coalition supported. This bill simply adds further regulation on top of that. It goes against all the rhetoric of the government about streamlining process. Even the independent review by Allan Hawke, commissioned by this Labor government, considered the use of a water trigger under the EPBC Act previously and ruled it out, concluding that:

… including water extraction or use as a matter of NES under the Act is not the best mechanism for effectively managing water resources.

There used to be a time, particularly when Mr Rudd was the Leader of the Opposition in the run-up to the 2007 election and he would have said or done anything to be elected, when he promised to bring in a new era of evidence based policy making. Here you have Allan Hawke, an experienced public servant, who has worked with both sides of politics, who has run major departments like Defence, who understands public policy and the processes of public policy, who is saying that 'including water extraction or use as a matter of national environmental significance under the EPBC Act is not the best mechanism for effectively managing water resources'. This is evidence based policy making. We pay these experts high consultancy fees, which they are worth because they are all brainy, experienced people, and then, of course, when it suits us, we systematically ignore their advice. It is called politics overriding policy.

My experience, over a long period of time, is ultimately that good policy does trump bad politics, because, at the end of the day, the public will always respect an outcome which has been achieved as a result of a process. One of the reasons this government is in so much trouble today and faces the existential dilemmas around its leadership is that, on the way through, it has systematically trashed policy and processes. It will say or do anything to get a vote. Today it is your friend, tomorrow you are the enemy, as convenient. One day it is friends with Andrew Wilkie, the next day it is friends with Peter Slipper. That is not a way to do policy. The coalition do not support what Mr Windsor has proposed. (Time expired)

Senator RUSTON (South Australia) (11:19): It was interesting to see Senator Lines being sworn in this morning. I wonder how long it will take before she realises things are not always what they seem in this place. When I arrived here a number of months ago, I believed far more than I do now that, as Senator Sinodinos says, good policy will always trump bad politics. But it appears once again that here we have another example of politics trumping policy. Having had an involvement in the hearings relating to this bill, I am really concerned that there is more a political agenda than any real objective. If there were any real objectives, you would have to ask why we are only applying this to coal seam gas and related coal mining. One would have thought that a water trigger under the EPBC Act should apply to anything.

Let us have a look at the other eight elements that are included under the EPBC Act as triggers at the moment. They include world heritage sites, which is a pretty broad thing; national heritage sites, which is equally broad; wetlands of international importance, which is broad; national threatened species and ecological communities, which is broad; migratory

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species, a very broad area of responsibility; Commonwealth marine parks, which is growing as the current legislation continues, with the Great Barrier Reef Marine Park recognised as a massively important world heritage area; and nuclear actions. How can we add to that, this tiny little specific area of a water trigger as it relates to coal seam gas or coal mining. It strikes me as a very strange thing. Those of us who are becoming more cynical as time goes by would suggest that it is for political purposes. I am not sure this bill is really going to achieve a great deal. The reality is that this is just another layer of regulatory burden.

Six months ago Minister Burke rejected an amendment to regulate coal seam gas mining, claiming that the Commonwealth had no constitutional powers to make such laws. But then in April last year, at a COAG meeting, the Prime Minister said 'what we want to work towards is a streamlined system so that projects do not go through two layers of assessment for no real gain'. The Prime Minister really does need to explain how on earth, with an additional trigger in relation to water at a federal level—in addition to all the triggers that get put into place at a state level, plus all the other triggers that apply to this that are not necessarily water specific—this bill is not adding another layer of burden. She said: 'The classic examples that are brought by business are where people have gone through sequential assessments. So it is double time. Things that have been required for the first assessments are required in a slightly modified form for the second assessment. So they do not even get the benefit of just uplifting the work and re-presenting it; it has got to be redone.'

I am absolutely astounded that we have this bill in the House, supported by the government, which is completely contrary to the Prime Minister's words only 12 months ago. She said: 'Clearly it is an efficient system. Having said that, obviously Australians want environmental protection and I do not think there is anybody in this place that does not want to see our environment protected and kept in a sustainable state into the future.' But that is not to say that we have to go crazy about overly burdensome regulations and requirements if they do not really have any great benefit and they are being picked up by other processes along the way.

The big issue here is that what the government says and what the government does are two completely different things. There are so many examples I can think of where the government says one thing but what it does and the policies it puts in place are completely contradictory. I come from the country. I am from a farming background and I am very keen to help the farming sector through some very tough times at the moment. Over the last few months, we have heard constantly about the opportunities in the Asian century white paper. We have talked about the National Food Plan. We have also talked about the fact that this country wants to see Australia as the food bowl of the world. But if you look at the actions of this government in relation to supporting this project and this sort of rhetoric, they are going in completely the opposite direction.

We have seen so much money cut out of agricultural research and development, at both a state and a federal level. We have seen increased burdens on our farmers to comply. You only have to look at the amount of money our growers and exporters are now expected to pay to get export licences and the fees they are charged through AQIS to get their products overseas—it is almost a wonder why anybody bothers to export from Australia at the moment, given the burdens that are put in place.
We were promised, when the whole concept of cost recovery was put to this parliament—despite the fact that we did not support it; we got it—that there would be a heap of cost-saving measures added in. Needless to say, we did not see any of those cost-saving measures. Now we find, once again, that the poor old primary producer has to bear the burden of these increased costs, without having any benefit of the cost-saving measures that were promised. You talk the talk but don't walk the walk. It is this which is causing a whole heap of damage to Australia.

The APVMA bill that was recently put through this place tried to say that it would streamline things for Australian producers. You cannot streamline something and make it less of a burden on producers when you are increasing the cost and going for full cost recovery. You just end up with a situation where what the government says and what it does are two completely different things. Everyone is getting a tiny bit scared about the sovereign risk associated with all this.

What of the cost of this bill? During estimates, when Senator Birmingham was questioning the Department of Sustainability, Environment, Water, Population and Communities, it was noted that the EPBC Act requires $32 million a year and 210 staff to operate the department. It admitted that changes to the existing EPBC Act, to add a new environmental test, which is to be given effect under this bill, will cost $38.5 million over the forward estimates, with ongoing costs of $10 million a year. At the same time, the changes will require an additional 43 staff this year, rising in coming years to 50.

How on earth can we be trying to reduce the burden on our community, on our producers—on the people who are actually productive out there in Australia—when we are making changes to bills that increase the burden and increase the amount of debt we have to deal with? How on earth can this bill achieve anything for Australia, given the extraordinary cost it is to government and industry at large, when we have not even got to what the implications will be for the mining industry?

The coalition recognises that communities have concerns about coal seam gas mining. Everybody has concerns about things they do not fully understand. I live on the river. We have just been through the most extraordinary process with the Murray-Darling Basin Plan. I, for one, as an irrigator and a licence holder, understand the importance of water and do not for one minute take away the importance of water—the very sustainability of this country. We are not saying that water and the impact on ongoing water resources is not extremely important. We also recognise the importance of farming. We are the party that supports farmers. We are the party that supports country people.

I have been particularly distressed since being here that the current government does not seem to understand what it is the farming communities of this country need in order to become productive. I live in an area where you see people pulling out orange trees and burning them, simply because they do not have the support out there to make a profit. This is very distressing. But I can assure you that I, as a member of the coalition, entirely understand the importance of farming in Australia. The coalition also understands the importance of being productive. Any of us who have run out own business understand that if you are not productive you do not go on for terribly long. As a country, we need to remain productive. These sorts of bills and the introduction of an additional layer of burden to our communities are making us less productive not only in Australia but also on the world stage. We have seen some
extraordinary situations happen over recent times due to Australia not being competitive.

South Australia, the state that I represent in this place, had the terrible announcement in September last year that BHP Billiton were not intending to continue with their mining expansion at the Roxby Downs site. For South Australia that was a major, major body blow. What has been most distressing is that underlying that decision by BHP Billiton was the fact that they were not able to afford to continue to mine that particular site because of the compliance costs, the regulatory costs and the burdens that were placed on them by government. We should take away some of these burdens—and the mining tax jumps to mind as the obvious one—and most of the mining industry would breathe a great sight of relief if we no longer had it. The fact is that the sorts of bills, like the one we are today talking about, are just more burdens on miners and on the sovereign risk that we present in constantly changing the rules halfway through the process.

During the hearings we heard from a number of people. We heard from people that, obviously, were very concerned about the impacts on the water from mining projects. We also heard from those that had very big commercial interests in the operation of these mines. We should not shy away from the fact that companies like BHP Billiton, like Santos, and companies like the Queensland coal and gas company are really important contributors to the Australian economy. We cannot move away from the fact that Australia needs these guys because they are a very important part of our economic base. I think these guys are intent on ensuring that they protect the environment, because the last thing they want to do is to be shut down. There comes a time when a balance has to be achieved and acknowledgement that we cannot all be on one side or the other.

In relation to the committee's inquiry, I just referred to BHP Billiton's evidence as an example. They expressed, quite upfront and quite loudly, their support for robust environmental regulation, and the importance of minimising duplication, cost and complexity in that regulation was something that they were calling for. They had concerns about the technical drafting issues that may result from unintended consequences of these bills on the existing operations, impacts on the bilateral approval processes with states and the general uncertainty around the impacts on the timelines and requirements for approvals.

As Senator Sinodinos quite rightly pointed out, strongly and regularly, during his statement to the house: where is the Regulatory Impact Statement? You would think it would be reasonable for a Regulatory Impact Statement to be undertaken when introducing such a piece of legislation as this so that we could ensure that the concerns of everybody are considered as part of this process. It seems to me that the consideration of a very one sided situation is occurring here and that we are not actually taking into account the things that the mining industry—a very important part of our economic base—have put forward. They seem to have been totally disregarded as if there was no importance in them at all. The fact that we have no Regulatory Impact Statement, I think, is an absolute travesty of justice in this situation.

BHP Billiton also expressed concern about the potential impact on existing projects. I think this is a key point in the sense of legislation that may be passed which will affect things that are likely to happen in the future. Of course, any business that is in possession of all the facts will make a
decision as to whether they choose to proceed or not to proceed. It makes it very, very difficult for those companies or those projects that are part way through and have been commenced. This particular bill is still likely to impact on them. BHP Billiton expressed a direct concern for current projects when they said:

These will be subject to increased regulatory assessment additional to assessment activities already in place. This includes referral of all water related impacts of new projects to the Independent Expert Scientific Committee for advice. This duplicates existing state assessment processes and further complicates and extends the assessment of major projects.

It seems completely unreasonable to apply what is, in essence, a retrospective legislative requirement on things that are already occurring. Once again, had we had a regulatory impact statement on the proposed changes, this would have ensured that these concerns were taken into account and dealt with. That way, the concerns raised by a number of miners during the inquiry process may have been alleviated, instead of us causing more angst, more concern and more risk and increasing the likelihood of mining projects in this country not proceeding.

This whole idea that it is okay to make changes on the run is wrong—that it is okay to give organisations and businesses one set of rules and objectives, tell them these are the ground rules under which they must operate and then turn around and change them. We do not have to look terribly far to see some of the most horrific consequences of knee-jerk changes to regulation or public policy on an existing operation. Let us just look at the northern part of Australia and see what they have done to our cattle producers there. If ever there were a most disgusting and irresponsible policy change in Australia, it has to be that. In the process of purporting to be dealing with an issue in relation to the treatment of animals, I do not think too many people from the government have been up and had a look at the consequences of thousands and thousands and thousands of cattle starving to death because producers were not able to get them out of the country and there was not sufficient feed for them to be fed. Nobody likes to see any animal hurt—I am the world's greatest softy when it comes to animals—but, when we see hundreds of thousands of cattle dying from starvation because of a policy decision that completely destroyed an industry, the government really does need to be held to account for the consequences.

Once again, we have a great big boat in South Australia tied up to a wharf—a great big boat that legitimately bought a number of licences to go fishing in South Australian waters. They bought these fishing licences off genuine people who had legitimate licenses and they were not going to take one more fish out of the South Australian fishery than would otherwise have potentially been taken by those who owned the licences. But, because of a knee-jerk reaction, once again we had a policy change part way through a company's project. It is just not fair. You cannot possibly expect a company to make a sensible decision when the facts before them at the time they make the decision are likely to be changed at the drop of a hat. It is just not right and it must not happen. Likewise, with this particular bill, the regulatory burden will impact on projects that are already underway. Businesses cannot possibly be expected to make decisions under those conditions.

Finally, the sovereign rights of the states here are another matter that really does need to be considered. To me, this smacks of, 'The states can't be trusted.' It seems we are playing Big Brother on all this in saying to them, 'I'm terribly sorry, a few people have complained about the way you're handling
the administration of these projects. So, because you can't be trusted to handle them, we'll just come in over the top of you. We'll decide because we know best.' The question in that is: where on earth does this issue end if we think that, every time somebody does not like the way a state, which has a sovereign right to operate in this jurisdiction, handles something, we can just hand the powers on to the Commonwealth and fix the problem that way?

The coalition does not oppose this bill. We acknowledge the community concerns about water resources. However, we do have very, very big concerns about the regulatory burden the bill will place on our communities. (Time expired)

Senator SMITH (Western Australia) (11:39): I am sure my colleague Senator Ryan is eager to make a contribution in a very short time and I am very much looking forward to his contribution. I rise to make a contribution on the Environment Protection and Biodiversity Conservation Amendment Bill 2013. As previous speakers have indicated, the coalition does not oppose this bill, but I do want to place on record a couple of concerns I have, particularly from a Western Australian perspective.

The bill seeks to amend the Environment Protection and Biodiversity Conservation Act, commonly referred to as the EPBC Act, by adding a ninth matter of national environmental significance. At present, under the terms of the EPBC Act, the minister has responsibility to make assessments relating to World Heritage sites, national heritage sites, wetlands of international importance, nationally threatened species, migratory species, Commonwealth marine parks, the Great Barrier Reef Marine Park, and nuclear actions. The amendments proposed by this bill would put in place environmental impact assessment processes for actions involving coal seam gas or large coalmining developments that are likely to have a significant impact on water resources. You might think that is a noble goal, but that is not necessarily the case. My fear, and it is shared by my coalition colleagues, is that what we have with this legislation is yet another example of this government wanting to be seen to act on community concerns but not adequately thinking through whether this is, in fact, the best way to proceed. In other words, what we have here yet again is legislation that is being driven by politics and not policy.

Of course, there are legitimate community concerns about coal seam gas projects, and we all share a desire to ensure that our water quality is maintained. That is why the coalition is not opposing this bill. However, it is somewhat curious that we now find ourselves in this place discussing putting a water trigger in the EPBC Act, because it was not all that long ago—just a few months ago, in fact—when the Gillard government ridiculed the idea that a water trigger was needed in the EPBC Act. So, we have to ask ourselves: what has changed in so little space of time?

Call us cynics, but we in the coalition are suspect of any of the government's actions in this regard. The coalition suspects it might have something to do with the fact that the member for New England, Mr Windsor, marched into the Prime Minister's office and demanded this be done rather than put this idea through a rigorous process of proper policy assessment. He walked into the Prime Minister's office not doing what most Australians would request him to do and seeking her resignation; instead, he went into her office and requested a deal for himself. In the blink of an eye, the Gillard government completely reversed course and rushed legislation into this parliament to
satisfy the demands of one MP whose support it relies on for its very survival. All at once, what was deemed unnecessary just weeks earlier was suddenly considered to be urgent. Think about it: none of the science or evidence changed in those few weeks. Community concern did not appear overnight. It was there when Labor pilloried this proposal, just as it is today. Does anyone think for a moment that the Prime Minister, the minister and the entire cabinet suddenly changed their whole thinking on the matter and were suddenly convinced by new and compelling evidence? Of course not. What happened was that the member for New England threatened this government’s grip on office. All he had to do was make his demand and the Gillard government jumped: ‘Yes, Tony. How high, Tony? Three bags full, Tony.’ Simon Says has become Tony Says. It is no way to make public policy; it is no way to govern a country like ours.

When you take such a slipshod approach to your legislative agenda, it stands to reason that you will produce legislation that is less than ideal, which is what we have been presented with in this particular case. One of the many concerns with this legislation is that it creates many areas of duplication with existing state laws. I know this is a particular concern to the state government in Western Australia. Indeed, the Minister for Mines and Petroleum, the Hon. Bill Marmion, wrote to me just last week to express the government’s concerns in Western Australia in relation to this specific bill. Western Australia is not commercially viable when it comes to coal seam gas, which is primarily what this bill is aimed at. Yet this bill will impose a layer of additional regulation. The WA state government finds this somewhat galling given the state has already established a strong regulatory framework for commercial gas extraction from deep shale and tight rock formations, especially where fracking is involved. Moreover, WA already has the strongest chemical disclosure requirements of any Australian jurisdiction, rigorous environmental and safety approval processes and international standards for the design and integrity of wells.

Yet the Gillard government takes no account of these things. We know this government is not big on states’ rights. It looks to further centralise power at every turn and has a dismissive attitude to the very real concerns of Western Australians with regard to dwindling GST payments—but that is for another time. Yet the fact remains that under the terms of the Australian Constitution it is the states that are responsible for regulating land use, including the exploration of minerals and resources on that land. They are—and are well accepted to be—state resources. That is something with which the Rudd and Gillard governments have never been comfortable, which is why we have seen the imposition of a mining tax and the accompanying rhetoric about sharing wealth amongst the states and the like. Of course, it is not entirely inappropriate for the federal government to take some role in environmental protection; that is not in dispute. But I think there is legitimate concern about the manner in which the amendments to this legislation have been handled.

As a result of Labor’s rush to comply with Mr Windsor’s wishes, we are witnessing the imposition of a one-size-fits-all approach. As others have already noted, all the concerns being expressed about the problem that this legislation seeks to address seems to be coming from one particular state. Perhaps it is for that jurisdiction to examine whether its own laws are operating effectively and whether a state based solution is not more appropriate. The danger in doing this at the federal level is that these new requirements will impact on projects across the board. The
impact will be felt as greatly in Western Australia, where there is minimal community concern about coalseam gas, as it will in those jurisdictions where community concerns are much greater.

This brings me to my other key concern: that we are now introducing elements to the EPBC that target a particular sector or industry. The intention of the EPBC is to consider matters of broad national environmental significance, irrespective of which industry is proposing a development. However, with this amendment, we are beginning the process of singling out coalseam gas and coalmining. I do worry about the significant precedent that this sets. If this is done now in relation to the coal sector, what is to stop a future government targeting other groups by applying additional EPBC triggers to their activities? I am thinking particularly of the agricultural sector. I know this is a matter of great concern to many farmers and farming groups across my home state in WA.

I would also add my voice to the concerns expressed by my colleague Senator Birmingham about the fact that this legislation is retrospective. We generally take the view that retrospective legislation makes for bad policy outcomes. This is especially so when we are dealing with the development of projects that create jobs for Australians but require significant private investment. What kind of signal are we sending when we change the rules for environmental approvals for those who have already started the costly and time-consuming process of applying and telling them that they have to start all over again? What will that do to investor confidence? What will that do to job creation in Australia? Should this legislation pass, it should apply only to applications that commence after this bill becomes law, not to applications already in progress.

As I indicated at the outset, the coalition does not oppose this legislation, but we do maintain significant concerns, and we think there is a better way forward than simply legislating as a knee-jerk reaction to political imperatives. That is why we are proposing a simplified one stop shop for environmental approvals and proposing to vastly reduce the levels of green tape that act as a barrier to investment and job creation. We believe we can have a simpler, more rapid process in place for environmental approvals. It is actually possible to do this just as rigorously and just as efficiently by cutting back on the duplication that exists in the current system while at the same time maintaining high levels of environmental protection. Should the coalition be fortunate enough to govern after 14 September we will work with states to put in place an approvals regime that does not needlessly delay projects and prevent the investment and job creation that our country so badly needs after the years and years of this government's mismanagement.

To end, I quote from the letter that the Minister for Mines and Petroleum in Western Australia sent to me only a week ago. He said: 'Given Western Australia's robust regulatory regime and its independent environmental protection authority, the state does not agree that this bill in any form, and the extra layer of regulatory duplication that would result, would be of benefit to West Australians.'

Senator RYAN (Victoria) (11:50): I rise to speak on this particular bill, but, as happens on many occasions, I start by wondering why there seems to be an assumption by some that all wisdom resides in this place, this parliament or this city. Yet again, there is a bill before us that seeks to override what communities decide through other elections to state parliament. There is a bill here that assumes that somehow decisions made in this place are holier, wiser
or delivered with greater insight than decisions made by elected representatives at the state level.

The truth is, as my colleague Senator Smith outlined earlier, this bill does not have anything to do with the environment. This bill has nothing to do with an established environmental need. It has everything to do with an established political need. The government’s own behaviour on this demonstrates that. This is a bill that seeks to deliver the member for New England a bumper sticker, a political win. It does not deliver or ensure that there will be any greater environmental protection, because no-one has convinced me or established that decisions made by Commonwealth bureaucrats and politicians are somehow wiser, better or more well informed. There is no proof, nor has there ever been an example, of where the 226 members of this place can ensure that the outcome will always be better.

We need to go back to what the real driving force of this bill is. It was about a political dilemma that this Labor government faced. In fact, this bill symbolises what has been so wrong about the government that was drawn from this 43rd Parliament. Promises and commitments made one day, or statements, policies and frameworks announced one week are all overturned days, weeks or even hours later because a political need somehow overrides any word given or any consideration or consultation undertaken regarding important issues like this. We saw it most pointedly of all with the carbon tax. 'There will be no carbon tax under the government I lead' are words that will be taught to Australian political science students, I would imagine, for decades, along with the press conference with the then leader of the Australian Greens, Senator Bob Brown, and the announcement of there suddenly being a carbon tax explicitly provided for by virtue of the Prime Minister's political need to stay in the Lodge and the need for Labor to retain the reins of power. In this particular case, we have seen statements, policies and announcements of the government overturned weeks after they were made in order to please the political interests of the member for New England.

The EPBC Act is actually a very important act, and I say it should not be dealt with in such a cavalier fashion because there are national environmental interests. There are some international obligations which the Australian community expects. But, in this particular instance, the concern the coalition has is that we are adding a new industry-specific sector to be EPBC Act and that it is being done without due consideration. I am yet to be convinced that somehow duplicating the assessments undertaken by state governments will necessarily result in better ones.

One of my colleagues, Senator Ruston, earlier referred to the Olympic Dam project. The Olympic Dam project is an important example of what can happen when the costs and compliance regime around major resource projects are taken too far. I am not a South Australian, but that was an important project and remains so for South Australians. If that project had been commenced a couple of years earlier when prices were higher, when the economy was stronger, or even a couple of years before that, and if the regime had not strung out the approval process so long, then that project would have commenced. Once resource projects commence, then they have a habit of continuing because of the sunken costs that are inherent in such projects. The loss to Australia and the loss to South Australia from Olympic Dam being deferred is one of substantial economic activity that might otherwise have been undertaken if it were commenced earlier. We need to take into
account that regulatory costs are delaying these decisions to the point where the costs become so great it is not worth it—it does not often happen, but occasionally does—or are delaying a decision so long that circumstances change, meaning that people will not undertake those particular projects.

I put to you that the South Australian and Australian economies would be stronger today if Olympic Dam had been going ahead. That is one of the reasons. The costs of regulation and compliance are reasons the coalition has a promise of a one-stop-shop for environmental approvals, where the states can be the authorising agents for standards set by the Commonwealth. There is no point making people go through multiple layers of compliance and regulation if we are all trying to achieve similar outcomes. It merely adds to costs and it merely slows down projects.

Senator Smith highlighted earlier one of the risks of this, which was to add an industry-specific nature to the EPBC Act. I think that Senator Smith has highlighted a particularly important point, because it is a real risk to add an industry-specific aspect to the EPBC Act. But I do not think it is something we should flippantly ignore, either. The reason is that there are some in this parliament who would like to use the EPBC Act to restrict economic development. I will use an example of the behaviour of the Greens with respect to the Future Fund. Over time, we have witnessed The Greens questioning the Future Fund. It started off with antipersonnel weapons, which they would like banned from Future Fund investment. Then they moved down to tobacco, saying that we should ban the Future Fund from investing in tobacco. And over a year ago I wrote an article predicting the Greens would head the same way on coal, because this establishes the precedent where they can use regulation and public funds to achieve the objective they cannot achieve through the ballot box. They want to use the bullying power of the state, of bureaucrats, of regulations and of state owned funds to achieve particular objectives for which they cannot generate democratic political support. So, what have we seen over the last few weeks? We have seen the Greens come out and say the Future Fund should not be actually investing in coal, because of the threat it poses.

That is only the first step. I say to the people of Australia and to those who care about the EPBC Act that this will open a door for the Greens and people who have that mindset to actually start inserting further industry-specific aspects into the EPBC. It will open the door to them. In fact they are probably excited by the prospect. If people actually consider the EPBC Act to be important, as I think most Australians do, they will not want it to become the political plaything of extremists seeking to implement a particular economic and social model that they cannot generate support for through the ballot box. They are trying to do it through the back door through regulations or through getting the Future Fund in and out of certain industries. That is what the Greens are about.

This bill poses a risk in simply watering down the commitment that most people would have to the EPBC Act, but also in increasing compliance costs. There has been no established need for this particular change. It is inconsistent with the coalition's policy to actually reduce the burdens and the costs of complying with environmental regulation. Some, mistakenly, or somehow maliciously, may try to equate that with reducing environmental standards. But only someone who did not care about the environment would actually say that reducing the cost of compliance was a bad thing, because reducing the cost of
compliance will actually generate greater public support.

The coalition has committed to working with the states to streamline our environmental approval process. We are committed to that. We do not think this particular bill fits with that policy, but we will not oppose it, even though we do point out that we think it has more to do with a political objective than an environmental one.

Senator LUDLAM (Western Australia) (11:59): I rise to add to comments on this legislation. Senator Waters has carried this debate for the Australian Greens, as this is an area of great interest and expertise for her. So I am going to confine my responses to those that directly impact on Western Australia.

This is one good example of how crossbench collaboration can bring an unwilling government to the table for a result that acts in the public interest and improves environmental protection. I acknowledge Mr Windsor for bringing it forward in the other place and for negotiating with the Greens on the proposal that these powers remain with the Commonwealth government. The right place for them is Commonwealth environmental legislation, specifically the EPBC Act, rather than deferring and delegating these powers away to state governments that have shown themselves hopelessly captive to the very fossil-fuel industries they would seek to regulate.

Within those broad parameters, I will speak briefly about a serious loophole, and I do not for a moment believe that this has been introduced into the bill intentionally. I think it is a genuine mistake, and results much more from geology than from politics. But now it is upon us to remedy that problem. Shale and tight gas are different forms of unconventional gas from coal seam gas. They are just as damaging to the water and the environment as the types that this bill is dealing with today and they require the same highly damaging and risky extractive techniques of hydraulic fracturing, including the use of injected chemicals to get these materials out of the ground.

Western Australia has the fifth largest reserve of shale gas in the world. The way that this amendment we are debating is drafted excludes shale gas from consideration and deals with coal seam gas only. Simply because unconventional gas resources onshore come from different forms of geological strata in different formations should not mean that a third of the Australian continent should be free from this kind of protection measure. If the Australian government believes that this amendment is worth passing, that Commonwealth environmental law will be improved. With the inclusion of a water trigger for coal seam gas, there is then no reason at all why you would not extend its ambit to include shale gas and other forms of unconventional onshore gas, which Western Australia has a large and extremely unfortunate endowment.

The WA Department of Mines and Petroleum—with WA holding the fifth largest reserve of shale gas in the world, these things are always somewhat uncertain, given that the resources are underground and not necessarily very easy to prove up—expresses huge enthusiasm for unconventional gas mining. The Western Australian government's so-called Strategic Energy Initiative was neither strategic nor showed any particular initiative. It rests for Western Australia's domestic electricity supply—as we are busy shipping our North-West Shelf LNG trade to the lowest bidder and exporting it as rapidly as we can get it out of the ground. The WA Strategic Energy Initiative proposes that Western Australia should become almost entirely dependent for
our electricity generation on a mix of coal and unconventional gas. This is an area of enormous interest for Western Australians. The WA government has no plans in place for renewable energy to take up any substantial fraction of the electricity mix in WA. Instead, it proposes that unconventional onshore gas should take up the slack, which presupposes a drilling campaign across particular geological regions of WA—unprecedented in Western Australian history.

The Western Australian government has had no due diligence for ensuring that unconventional gas mining—shale and tight gas fracking—do not cause unacceptable damage to the WA environment and public health. There have been no environmental assessments or attempts to consider landscape-scale impacts, which would have been the appropriate level of assessment for an industry of this type. In WA, which is a couple of years behind, we are seeing the extraordinary confrontations that were seen in New South Wales and Queensland and which brought this legislation to the foreground. WA is proposing to repeat exactly those mistakes. If we get there through the kind of head-long rush to support the gas industry and its ambitions we will find that this amendment, which proposes a water trigger to the EPBC, will not protect Western Australian landholders, Aboriginal stakeholders or advocates for the environment. It will not protect those issues, because of a loophole in the bill which effectively draws the geological definition of unconventional gas too tightly and constraining it to coal seam gas.

In WA there has been very little attempt to engage local communities in a discussion about whether they want a tight gas and shale gas industry for their state. In the mid-west there was community consultation that consisted of little more than government sponsored industry circuses for the gas industry, and the Kimberley has seen, if anything, less consultation. There are an estimated 297 or 300 trillion cubic feet, TCF, of shale and tight gas in WA. It is an extraordinary resource and it dwarfs some of the reserves on the East Coast. If a new shale gas industry goes ahead on the scale imagined in WA, the costs of mitigating the carbon pollution will be borne elsewhere in the economy. The CSIRO recently released a report that confirmed what many of us have been saying for years: the long-term impacts of chemicals used in and released by fracking are unknown and risky. This is in the driest continent on the planet and the western third of that continent would be unprotected by the measure that we are debating here today.

The Greens opposed the Barnett government’s reckless promotion of the fledgling shale and tight gas industry. We call on the Commonwealth government—and I hope we will get government support for this amendment when we put it in the committee stage—to recognise shale gas in this bill. I will not address that in too much detail now, but we do have an amendment to that effect. If we believe that landholders on the East Coast should be protected from the violations of groundwater and environmental integrity and agricultural productivity posed by this industry, then I would like to know why Western Australians should not be similarly protected.

The department, as I said, estimates that about 10 per cent of Western Australia is prospective for shale gas. We have three major basins that are either known or highly prospective to contain unconventional gas. The Canning Superbasin, which underlies a large part of the Kimberley, is estimated to hold at least 200 TCF of that gas. If you want to compare that with some of the known reservoirs on the East Coast, you will get an understanding of the magnitude of the
resource, if you want to call it that, in WA. The Perth Basin, which lies along the coastline from Busselton to Carnarvon and beyond, is the most advanced in terms of proving the resource up and moving it towards production.

With the onshore Carnarvon Basin, which lies between Shark Bay and Exmouth and inland, and the Officer Basin in which exploration is only fairly recent, WA is highly prospective. Right now we are expecting the next three fracking wells to take place in the north of the Perth Basin, near Eneabba. In the Canning Basin—that colossal reserve—BURU is confident that its discoveries in the Valhalla-Paradise region will be backed up with more gas shows out of the Laurel Formation. So there is a lot of activity at the moment. We have not seen the pitched battles and lock-the-gate campaigns that we have seen on the East Coast. Some of these sites are very remote and they are more a concern to Aboriginal landholders than, for example, pastoralists or settled agriculture and irrigated agriculture, as we see on the East Coast, but it does not make this technology any less damaging. The onshore Carnarvon Basin is still in the very early stages of exploration but, given the success of the offshore gas field, we would not be surprised to see petroleum onshore as well.

So we have an extraordinary land rush and scramble to Western Australia. We are extremely concerned about water use, because fracking is a process that uses a lot of water that will have to be sourced locally in WA. The US EPA estimates that about 19 million litres is required to drill and frack a well. Where is that proposed to come from in WA? The WA minister for mining estimates that roughly 300 wells are needed to drain a small gas field. That is 5.7 gigalitres of water. Given the location of the known fields in and around Eneabba and throughout the mid-west and the competition for that water that already exists with mid-west mining companies, we need to seriously consider the licensing and extraction of this much water for the purposes of gas fracking.

A huge part of the controversy over this industry has centred on the chemicals that are used to try and open up the fractures in the geology to release the gas. The chemicals are used for engineering reasons and, for the most part, they are treated as commercial-in-confidence. The idea that in this country, as they have done in the United States, we would let the fossil fuel industry inject poisonous chemicals into groundwater reserves—and they will not even tell the public which chemicals they are because it might breach some commercial-in-confidence considerations—just shows you how far gone this industry really is.

To frack a single well can take as much as 19 million litres of fluid. A megalitre is a cubic metre of fluid. Nineteen million litres of fluid to crack a single well. That works out between 85,000 and 380,000 litres of unknown chemicals, poisonous chemicals, per well. The public do not know what the chemicals are and the department will not tell us. I suspect that is the sort of thing that, as has happened in the United States, eventually comes out by way of leaks and whistleblowing, putting the industry on the defensive. Why not simply disclose it at the outset, particularly if we are being told that these chemicals are entirely harmless?

In response to public pressure, industry is starting to put out a little bit of information regarding these chemicals online, and they say, 'Household chemicals, walnut husks, wells that emit nothing but butterflies—there's no danger at all'. Now, I say thousands of litres of household chemicals are not nothing at all—that these are things we should be extremely concerned about. There is a reason that these things have little
skulls and crossbones on the labels and that we do not let kids anywhere near them. So, the information that the industry has released so far is entirely inadequate.

Apart from contamination through these unknown chemical additives in the thousands and hundreds of thousands of tonnes, there is also a huge concern about methane in groundwater. Methane is the cause of the flaming tap water that people would have seen in some of the advocacy videos and materials coming from the United States. Water that ignites—what a wonderful idea! Methane is not considered a contaminant in and of itself. It is, however, entirely flammable and is a potent greenhouse gas. The US EPA has just come down with some new rules around well completions that mean new completions must not vent or flare but must trap and sequester the gas produced in testing. We do not have anything like those rules in Western Australia, because we are operating under a state government administration that could not care less about the greenhouse gas emissions. It has sucked up, without any kind of critique, the statements of the gas industry that say that because they are better than old forms of coal fired power they are therefore good for the environment. Of course, nothing could be further from the truth.

Shale gas exploration all along the Perth basin in WA will also have a serious impact on agricultural land. If the Commonwealth and the state government want to prevent the kinds of collisions and contests that are occurring on the Liverpool Plains and across Queensland, one thing they could do is take very good care in relation to the collision between this industry and farmers and pastoralists in WA. With each pad requiring roughly three hectares of land plus all the roading and pipeline infrastructure, we can see the sort of damage that is likely to be done. And when announcing the halving of royalty rates for the unconventional gas industry, the minister noted that approximately 10 times the number of wells would need to be drilled to extract the same amount of gas. So, what it has looked like in other jurisdictions—a well every couple of hundred metres and a spaghetti of road and pipeline connections holding it all together—could be coming soon to Western Australia. And as for the protections we legislate today—because of the good work of the crossbenchers in the other place and here in the Senate—WA will be left out.

There are risks associated with hydraulic fracturing. France, Bulgaria, various townships in the United States and other jurisdictions have voted to ban this technique. The state of Vermont in the United States signed its fracking ban into law. These countries and other jurisdictions are seeing that the safest way for them to manage the environmental and health issues associated with fracturing is to not do it at all. It is already occurring in WA without any environmental impact assessment and with no regulatory oversight by the government’s environmental agencies, either the EPA or the Department of Environment and Conservation. This activity is regulated entirely under the petroleum act administered by the Department of Mines and Petroleum, which is the No. 1 promoter of the industry. So, it is not even that we have a captive regulator; we have no regulator at all. The Auditor-General has found that the DMP has been critically deficient in its compliance monitoring and its enforcement activities for environmental conditions across the whole suite of extractive activities that it regulates. That is why it is so important that the Greens were able to negotiate that these powers, such as they are, remain with the Commonwealth, because the WA authorities are entirely captive to—and see themselves...
as promotional arms of—the fossil fuel industries that they enable.

WA does not need a gas fracking industry at this time to secure energy for the future, as claimed by proponents of the industry. In fact—and the state government's strategic energy initiative shows in black and white exactly how this will operate—the insistence on squeezing the last fossil drop out of Western Australian geology when we should be by now well and truly into the age of renewables shows how pursuing an unconventional gas industry in WA and across the country can actually constrain development of renewable energy alternatives. The regulatory expertise and the interest within government—the promotional work, the workshops, the conferences—are all being brought to bear on maintaining and extending the fossil fuel incumbents and the expense of the renewable industries that we should be turning to. The state government, for example, is providing very significant subsidies to the fracking industry, including more than $100 million in unconventional gas exploration subsidies via royalties for regions. What an extraordinary waste of taxpayers' money in order to help the extractive fossil fuel industry squeeze the last drop of carbon out of the Western Australian landscape! There is a 50 per cent royalty reduction for the industry.

We have entirely untapped energy sources in WA. In Western Australia, with the help of a group of engineers and advocates known as Sustainable Energy Now, we have developed the WA Energy 2029 proposal which depicts what it would look like to get 100 per cent renewable energy. As dismissive as Senator Sinodinos was when he said that nobody has ever looked at the possibility of doing 100 per cent renewable energy in Australia, apart from his rather dismissive acknowledgement of Green Left Weekly, the Australian government's own energy market regulator has just undertaken a study that says it is possible. It is going to cost money and it is going to require political will and investment. In fact, what is going to cost us much more is to blindly plough on with business as usual.

I commend to the government the Energy 2029 proposal and I also commend it to you. When we get to the committee stage on this bill I will want to know if the government is supporting the Australian Greens' amendment that we will move to bring the entire continent into these measures. If the Liverpool Plains is worth protecting and if Queensland is worth protecting then so is the Perth Basin and so is the Fitzroy Valley. That is the job that we have been brought here to do today, to ensure that such regulations do exist to at least provide a minimum due diligence before we allow the gas industry to frack Australian water resources across the length and breadth of the continent. It should apply to all states and territories. I invite my coalition colleagues from Western Australia, and a number of them are in the chamber now, to explain whether they would support an amendment to bring Western Australia within the ambit of this legislation.

Senator Cormann interjecting—

Senator LUDLAM: No, Senator Cormann, I will happily take that acknowledgement. You stand condemned, Senator Cormann, for leaving Western Australia unprotected even as there is an acknowledgement, at least on this side of the chamber on the cross benches, that some protection is warranted, that some environmental oversight by the Commonwealth for protection of water resources is required. I will have to trust that Labor senators will join with the crossbenchers in passing an amendment that at least offers this minimal degree of
protection for Western Australians as it does for the rest of the country.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (12:17): On 18 September 2010 following the last federal election the Prime Minister, Ms Gillard, said:

The parliamentary reforms for the new parliament will change our political processes and the way we conduct our democracy, bringing new levels of openness and accountability into our democratic processes, with the hope that each of us in parliament can be judged on the contribution we make, not the points that we score.

Further, around that time, the Prime Minister said:

I believe Australians want greater scrutiny of their government and greater accountability to parliament.

The Prime Minister further said: 'Obviously I am a big believer in transparency, and understanding and unveiling the facts'. What a shame it is, yet again, that we see those words of Prime Minister Gillard ring so hollow around this building. We are, of course, here to consider questions associated with the Environment Protection and Biodiversity Conservation Amendment Bill, and they can be best referred to as the development of a water trigger.

It is my situation, and I am sure it is that of my colleagues in the coalition, when we definitely say that coal seam gas requires a comprehensive policy approach to address the environmental, community and economic impacts—all three. The principles underpinning the position that we take, of course, is the capacity for a measured, rational and balanced assessment of mining and its management. Time does not permit me to comment on the observations made by Senator Ludlam in his contribution a few moments ago except to say that, as a Western Australian senator, I place on record my disagreement with Senator Ludlam's pessimistic reflection on the controls in place in our state.

I believe these are the elements that need to be addressed. First of all, managed properly, coal seam gas does have the potential to revitalise parts of regional Australia and develop, at a time of increasing pessimism around the world, a new economic boon particularly in those states in the east and the north-east of this country. I acknowledge of course, as does any reasonable minded person, that, poorly managed, this could produce serious environmental and social problems, which nobody in this place wants to see. I certainly believe that there should be no coal seam gas development in areas where we know that the impact on the quality of ground water or surface water would be negative. Once again, we must ensure a circumstance in which we can predict that and prevent it. It must also be clear that it must be safe for the environment before any coal seam gas exploration or extraction could occur.

Secondly, prime agricultural land is increasingly important and we are losing it in this country at a great rate as we all know. Urban expansion and the salinisation of ground water on the land in Western Australia and in the other states certainly does focus on the need for us to preserve prime agricultural land and ensure it is not placed at harm by any sort of extractive activity such as that associated with coal seam gas, should it be that circumstance. I also remind the chamber and those who are listening that we have both a tremendous opportunity and an obligation to be able to contribute to the feeding of the ever-increasing number of people on this earth and indeed those who are not yet satiated in terms of their hunger.

Thirdly, coal seam gas should not occur close to existing residential areas. It is
obviously the case. A person's home is their castle, and they should have a reasonable expectation that it should not be the subject of any deleterious activity as a result of extraction of, for example, coal seam gas. Landowners in this country are entitled to appropriate remuneration or compensation for access to their land, particularly where it interferes with their legal activities on that land, especially should it be associated with agriculture. It should not just be compensation; it should be a reward for the inconvenience suffered. And those regions that develop so much of the wealth from coal seam gas developments do expect and should receive some fair return to their communities.

Those are the principles upon which we should be examining this legislation. The bill and its objectives are to add yet another national environmental item of significance to the EPBC Act, an act which I remind you was introduced by the coalition under Prime Minister Howard and the then Minister for the Environment Senator Robert Hill. What this will do is create a new subdivision within the act, which, if passed, would require environmental impact assessments in those areas involving coal seam gas and would create civil penalties and offences for those who fail to comply with the provisions of the act.

But there are negatives, of course, and one of them goes immediately to the point of the Constitution—a matter which will be the subject of further debate in this place later this week when we come to look at questions associated with the arguments for or against a referendum to change the Constitution. It goes the fact that in this country, under the Constitution as it exists, so many of these matters are the province of the states and the territories. It is critically important that we avoid wherever possible the cost, the time and the lost energy associated with duplication. Indeed, the proposed legislation simply introduces a new layer of bureaucratic red tape which industry can ill afford. Communities do not wish to see the related confusion and it is not good for the parliamentary process. I go back to the comments with which I introduced my contribution, which were the Prime Minister's remarks associated with transparency.

We have a circumstance, then, where protection of water and water tables is already covered, firstly, by state legislation and, secondly, by the impositions of an expert panel. The opposition supported the development by the government last year of an independent expert panel to advise parliament, government and communities. So the question must be asked: why, indeed, are we now introducing a new element? It smells like a quick political fix, simply because it is only in the early part of this year that the government itself rejected many of the proposals similar to those that are now contained in this legislation, which were essentially to establish, as Senator Birmingham said in his contribution earlier, a water trigger in the EPBC Act, to be added to the range of triggers on matters of national environmental importance which exist in the act as it is now.

So we must ask the question: why are we considering it at all? Needless to say, as has been the case so often with this government and that that preceded it between 2007 and 2010, politics always takes precedence over good policy. In this particular case, of course, it was the member for New England, Mr Windsor, who came along and imposed on the government his will, at which time it did a complete change-about and has now introduced these amendments.

What have the stakeholders said in all of this? I will come back in a few moments to
some of those stakeholders who were not ever in fact consulted when this amendment was first proposed. Let me demonstrate, if I can, the disappointment when, as part of this rushed and ill-considered move by the government in introducing this amendment, it completely and utterly overlooked the regulatory impact statement. The Prime Minister exempted this from a regulatory impact statement. I can only ask you: where does that fit in? In something as important as we all agree are matters associated with environmental concerns, particularly in those states of Queensland and New South Wales, which are so heavily impacted, I ask where that sits with the Prime Minister's statement on 31 August 2010, in which she said:

I believe Australians want greater scrutiny of their government and greater accountability to parliament.

You cannot just say these things as a political leader or as the Prime Minister of this country and then fail to implement them and see them through. The words are as hollow as the meaning.

In this particular case, in addressing this issue, a group that was not consulted, the Minerals Council of Australia, said that the legislation:

... shows that the Federal Government is more focused on increasing the bureaucratic constraints on the coal sector rather than creating the right regulatory environment to expand the industry; creating more jobs and national income.

They say:

The proposed changes will do nothing to enhance Australia's reputation as an investment destination. Project approval times in Australia are already well in excess of the international average and the plan put forward today will simply add to those delays for no environmental gain.

I mentioned earlier the dual role of the states in this. I go to the New South Wales Minerals Council CEO, Mr Galilee. His recommendation to the federal government was to reconsider its backward decision on this legislation, and he said:

It's extremely disappointing that in an election year the Federal Government and Tony Windsor are seeking to create the impression that the State based assessment process isn't good enough. This is completely wrong. Water is already a fundamental aspect of the assessment process for mining projects in New South Wales.

The National Farmers Federation equally expressed its concern over the possibility of the targeting of one industry, in this case the extractive industry of coal seam gas, and the prospect of it then being redirected to agriculture and what the implications might be.

The National Farmers Federation made this observation:

Water is a critical factor for our farmers and our strong concern is that this bill could actually have a perverse negative outcome for our agricultural sector. What may on first glance look like a win for farmers in the short term could actually have long-term unintended consequences for our current and future farmers.

I and many others stand up in this place and talk about the pressures on agricultural production and on agribusiness in this country at this time and it does not need the further burden of unnecessary bureaucratic red tape. The Business Council of Australia warned that the legislation would duplicate state and territory processes while adding costs and increasing uncertainty in the sector. They said that it flies in the face of what makes sense for jobs and the economy while offering no tangible benefit to the environment. How often do we have to hear this message coming through?

Let me go to the Labor government to see where they have stood on this before they wobbled and shifted. The ALP have made very sympathetic noises to business and industry. They pretended to be also
concerned about the risks of investment not coming into this country and about the risks of investment leaving this country, and about jobs and regional Australia. It was only about six to nine months ago now that Minister Burke rejected an amendment to regulate coal seam gas, claiming that the Commonwealth had no constitutional powers to make such laws.

Ms Gillard, at COAG, no less, in April of last year said: 'What we want to work towards here is a streamlined system so that projects do not go through two layers of assessment for no real gain.' Those are the words of the Prime Minister. She then said:

And so the classic examples that are brought by business is where people have gone through sequential assessments, so it's double the time, things that have been required for the first assessment are required in a slightly modified form for the second assessment ...

How true that has been with this Labor government in an unrelated area. In fact, it was Minister Burke. A circumstance in Western Australia was brought to me. It was about a tourism development in the south-west of the state. Eventually, after nine years, that development successfully went through an assessment at state level. It was required to go to federal assessment. The previous federal minister was about to sign it when Minister Burke came in as the minister. He said: 'No, no, no; I'm putting a halt to all that. I want a complete environmental reassessment.' Prime Minister Gillard knows where the problems are. She knows how to espouse the solutions. What she is unable to do is to effect them. She said, 'So clearly that is an inefficient system.' Having said that, she then said 'Australians do want to see good environmental protection and good environmental outcomes'. Of course they do; we all do. Then she went on to say:

So taking those two things—how can we best design a system that works, works in a streamlined fashion, works quickly, so people don't have these sequential assessments, but is still rigorous enough to ensure that we meet environmental standards.

I return to Minister Burke, who on 2 November last year said:

This is about lifting the States up to the level of environmental protection provided by the Commonwealth, not letting Commonwealth standards drop. We can keep stringent environmental standards while simplifying an overly complex process—and we are.

Minister Burke, no, you are not. Therein lies the challenge.

We have seen the establishment of the independent expert scientific committee. That is the appropriate place for this. The best scientific minds should be brought to bear on the situation to examine it and then come back and advise. They should go to the community and to business and to industry—to all the stakeholders—to seek their input. They should come to parliamentarians: 'We want your views. We will now apply the rigour of good science and come up with advice and recommendations.' The coalition supported that process when it was first put into place. But at the first hurdle—the first time that the committee was asked to address itself to an issue like this—the government has simply sidelined it.

Then there was the Hawke review of the act that was initiated by the Labor government. Most of the recommendations of the Hawke review were simply put to one side and ignored or cherry picked. Those particularly applying to this area have been ignored.

We have a circumstance in which two states, Queensland and New South Wales, would appear to be the targets. The question then becomes: are the regulatory processes in those two states rigorous enough? Is it
necessary for all six states and the two territories to be the subject of what many would claim is unnecessary interference, simply to give effect to this?

It is interesting that at the Senate committee that met on this and reported to the Senate the Australian Network of Environmental Defenders Offices’ Ms Walmsley, said in evidence:

I think the clear example of an ideal process would be the Hawke review.

... ... ...

So, no, I do not think it is ideal that the EPBC Act is being amended by piecemeal bills. I think we should embrace the opportunity to follow the Hawke review and actually do a proper amendment of the act itself to strengthen the Commonwealth role. The problem with that is that the government response cherry-picked aspects of the Hawke review and did not support some of the more important reforms that were recommended.

So we have a circumstance in which major stakeholders were not consulted. We have a circumstance in which the scientific committee put forward for the purpose of evaluating these sort of activities has been largely ignored. We have a circumstance now in which there is expensive time-wasting duplication of state and territory processes. And should the people of Australia on 14 September accord the privilege to the coalition of governing this country beyond that date, it is certainly an area in which our leader, Mr Abbott, has said we will address this unnecessary duplication.

I go to the fact that something as apparently as important as this was exempted from a regulatory impact statement. I go to the broken promises of the government as a result of that circumstance. And of course the end result is a complete lack of confidence by the community, by the states, by business and industry, by investors and, largely, by parliamentarians in the ability of this government to even elect and undertake its own processes with regard to these amendments.

Senator CORMANN (Western Australia) (12:37): This is a bad piece of legislation from a bad government. If this bill is passed it will weaken our economic growth prospects while doing nothing for the environment. It will weaken our energy security, moving forward, while doing nothing for the environment. It will impose more red and green tape on an important industry for Australia, because that is what one of the key Independents and the Greens want this Labor government to do. This is not about science. This is not about good environmental policy. This is all about politics. Labor is weak, it is dysfunctional and it is deeply divided. And Labor is clearly unable to stand up for the national interest. That is why we get presented with a political fix like this, even though it is bad for Australia. It is all about hanging onto government for one more day, one more week and one more month, no matter what the consequences for the country.

The amendments in this bill will create a new subdivision of the EPBC Act that, if passed, will in effect add a ninth area of national environmental significance. It will put in place environmental impact assessment processes for actions involving coal-seam gas or large coal mining development that is likely to have a significant impact on a water resource. It will create civil penalty and offence provisions for taking an action involving coal-seam gas or large coal mining development that is likely to have an impact on a water resources, without an approval or exemption from obtaining approval. Of course, in doing so, this bill ensures that the Commonwealth will duplicate state activities. The legislation adds another layer of bureaucratic red tape, it will increase approval times and it will make
Australia a less desirable place in which to invest, even though the things it is trying to do are already happening. We, the smart guys here in Canberra, know better than the government in New South Wales; we know better than the government in Queensland—that is what this arrogant, out-of-touch, increasingly desperate Gillard government, under pressure and egged on by key Independents and the Greens, is doing.

The truth is that the coal industry and the coal seam gas industry are very important industries for Australia. Coal is our largest export, providing affordable and reliable access to energy and helping to develop economies around the world. Coal seam gas has huge potential to help us ensure reliable and affordable access to an important energy supply domestically as well as develop another export industry. These industries are important for economic prosperity, jobs and our living standards. They do not deserve the outrageous treatment they are getting from this dysfunctional, divided and incompetent government.

Senator Back just pointed out that, yet again, this is a massive regulatory change which did not go through a regulatory impact assessment process. Supposedly, under this government we were given the assurance that there would be a proper cost-benefit analysis. Whenever there was to be regulatory change, through the independent Office of Best Practice Regulation there was going to be rigorous assessment to ensure that regulatory changes would make things better, not just more complex and more expensive, and that the additional costs were going to be proportionate to the benefit that was being sought. But of course every single time that it is likely that the government will fail to get a regulatory change through that process, they write themselves an exemption. If you write yourself an exemption for a regulatory impact assessment every single time you are likely to fail it, you may as well throw the whole process overboard: it is not worth it.

The whole reason you have a regulatory impact assessment, the whole reason you have a process like a best practice regulation process, is so that you can put up a red flag whenever a regulatory change is going to be so expensive, so costly, with so much added red tape and without delivering proportionate benefits—put up a stop sign and say, 'This particular proposal has failed our rigorous regulatory impact assessment processes and therefore it should not proceed.' But of course every time there is a risk that a proposal would fail and the obvious conclusion in the national interest would be and should be that a proposal should not proceed, the government just writes itself an exemption. Why go through all of the carry-on and why spend all of the money on running through regulatory impact assessment processes for those proposals you know in advance are going to be okay? You need that sort of process as part of the checks and balances for proposals that are likely to be borderline or are going to make things more expensive without making them better.

This government has form. Over nearly six years, this government has introduced more than 21,000 new pieces of red tape. No wonder the cost of doing business is going up and up and up under this government. No wonder our international competitiveness is going down and down and down. No wonder that our economy is not growing as strongly as it could have and should have in the absence of all of this additional red and green tape that is being put forward by this government.

When the economy does not grow as fast as it could have, what is one of the consequences? As well as meaning that our economic prosperity and our living standards
grow less fast, one of the consequences is that the government collects less revenue from the taxes it has on the books. This is why the government always has to come up with new or increased taxes—to chase its tail, which, in turn, has an impact on our economic growth. It means that our economy grows less fast, which means we raise less revenue from the taxes that are on our books, which means the government has got to come up with new taxes again or borrow more and ramp up the debt and deficits. This sort of bill is at the core of Labor’s economic and fiscal mismanagement.

This bill will, yet again, increase approval times, which are already among the highest in the world. In New Zealand, you can get all of the approvals for a resource project within less than a year. In Australia, you would be lucky if you got through the process in five or six years. Of course, that is not enough. We have got to add more and more burdens. We have got to put more and more lead in our saddlebag because things are going so well—there are no economic challenges coming our way at all! We just take everything for granted. No matter how much more lead we put in our saddlebag—that is what this government thinks—it will not make any difference. The Greens, at least, are consistent. They want to shut the mining industry down. They are very clear about this. But people across Australia could have and should have expected better from the Labor Party.

We are all in favour of the appropriate protection of our water and water tables, but, of course, that is already covered by relevant state legislation and state processes. We are all in favour of appropriate environmental safeguards. We are all in favour of making sure our resources sector and our rural communities can coexist in harmony, delivering net benefits to the communities in which they operate. We are all in favour of evidence based decision making—decision making based on the science. But this bill does not do that. This bill is all about the politics of a weak government trying desperately to hang on to government for one more day, one more week, one more month.

Any legislative approach in this area should be carefully calibrated and be focused on getting the balance right. We need to protect the environment without unnecessarily and recklessly hurting our economy. This bill will do nothing to help protect our environment, yet it will hurt our economy. This legislation is all about pre-election politics from a desperate government led by an increasingly desperate Prime Minister. This is about a government with its back against the wall giving in to unreasonable demands from the key Independents they need to stay in government.

The truth is that we need to continue to go down the path of developing the resources sector, including and especially the coal seam gas sector, in a socially and environmentally sustainable way. We need to make sure that any additional regulation is actually making things better, not just more complex and more expensive for everyone. The truth is that there is already massive regulation in this area. There is already massive red tape and green tape from both the federal and state levels. There is absolutely no case to expand that further by listing a ninth matter of national environmental significance in the EPBC Act, triggering federal bureaucratic involvement to come on top of what is already happening at the state level.

In fact, we should simplify things. We should cut red tape and green tape. We should focus on bringing down the cost of doing business in Australia. We should focus on getting Australia back onto the global
competitive edge. We have to make sure that we are in a position where we can take full advantage of the opportunities that will present themselves to us in the fastest growing part of the world, the Asia-Pacific. We need to make sure that we put ourselves in a position where we are as resilient as possible to deal with the challenges which are coming our way from ongoing circumstances in Europe and the United States. But of course, this government just does not seem to care. With this government it is all just blatantly about their political survival instead of focusing on good public policy in the national interest. The coalition has been very clear: should we be successful on 14 September—or whatever the date is going to be, on any revised timetable for the election—

Senator Xenophon interjecting—

Senator CORMANN: Yes, Senator Xenophon: who knows? I do not think even the Labor Party knows what is going on with the government at the moment. But whenever the election is going to be—whether it is on 14 September or earlier or later—whatever the government decides, the coalition will be totally committed to policies that will actually strengthen our economy, that will strengthen our economic prosperity moving forward, that will focus on bringing down the cost of doing business in Australia and focus on making us more competitive internationally, that will actually make it easier to get businesses off the ground instead of putting more and more lead into their saddlebag.

One of the things we will do is make a serious effort to cut red and green tape instead of continuously adding to it as this government has done. One of the policies we have put forward in the environmental approvals area is our proposal for a one-stop shop for environmental approvals as part of our efforts to cut green tape. We will offer to establish a one-stop-shop process for both environmental applications and approvals whereby states would be able to opt in to the scheme. Where appropriate, matters will be referred back to the government. But, as a matter of principle, the states would actually be administering environmental approvals under both state and federal legislation. Existing environmental standards will be retained and rolled into a single process. By cutting green tape we would achieve better environmental outcomes as well as better economic outcomes—a more efficient and a more productive economy that would allow for better living standards greater resources for practical action to protect the environment. It is true that the increasing complexity and multilayered approvals system has led and continues to lead to inconsistencies in decisions and extra costs for no environmental gains. Deadlines should be set for decisions to be made, with the potential for penalties on government where there is unnecessary delay. This is going to be a very important reform should the coalition be successful at the next election.

But I will finish where I started: this is a very bad piece of legislation from a very bad government. I am very pleased that the Leader of the Government has arrived to listen to this. Perhaps he can throw some of these issues that we are debating here today back into the internal debates that are happening inside the Labor Party at the moment about the future direction of the government. This is very much a government that has lost its way. This is a government that is putting more and more lead into the saddlebag of our economy, that is making it harder and harder for people across Australia to be successful for no positive upside. This piece of legislation is going to weaken our economic growth prospects recklessly and
irresponsibly without doing anything for the environment. Why would any government that cares about the national interest do that? And why would any government recklessly and irresponsibly make it harder for us to pursue an additional resource in terms of the coal seam gas opportunities—which will help ensure a reliable and affordable energy supply for us over the long-term future, which will help keep energy costs down, which will help ensure that in an environmentally efficient way we will be able to keep the lights on?

Of course we are all in favour of making sure that there are appropriate environmental safeguards. Of course we are all in favour of making sure that there are rigorous processes to ensure that all the risks are managed the way they ought to be. And I have confidence in the New South Wales state government and in the Queensland state government to manage those processes competently and properly. We do not need to second-guess the governments in New South Wales and Queensland in relation to these issues out of Canberra. These are good governments and they know what they are doing.

Let me just go to some of the stakeholder observations in relation to this, incidentally. This is what the Chief Executive Officer of the New South Wales Minerals Council, Mr Stephen Galilee, has said in relation to what he has describes as backward legislation: 'It is extremely disappointing that, in an election year, the federal government and Tony Windsor are seeking to create the impression that the state based assessment process is not good enough. This is completely wrong. Water is already a fundamental aspect of the assessment process for mining projects in New South Wales.' The National Farmers Federation has expressed deep concern about the potential for this bill to be extended to agriculture in the future: 'Water is a critical factor for our farmers, and our strong concern is that this bill could actually have perverse negative outcomes for our agricultural sector. What may on first glance look like a win for farmers in the short term could actually have long term unintended consequences for our current and future farmers.' And so it goes on.

This is a terrible piece of legislation. It is legislation that is not focused on our national interest. In fact, it is purely about the politics of a minority government desperately trying to hang on, irrespective of how bad this legislation is for Australia. And that is not the way things should be. Australians deserve much better than this. Australians deserve a government that makes the right thing for the right reasons, that does not just get pushed around because it is threatened or bullied by one of the Independents, whom they need to keep them in government. We have never had this sort of culture here in the Senate. Here in the Senate, Independents negotiate better outcomes in legislation, but it does not go the existential nature of the government. What has been happening in the House of Representatives has been very bad for Australia. Any of these Independents are, figuratively speaking, able to put a gun to the government’s head. That is when they can achieve these sorts of very bad outcomes. It really should not be going ahead. *(Time expired)*

**Senator XENOPHON** (South Australia) (12:57): I will not be existentialist in my contribution. I will not even mention Albert Camus! I just want to refer to the legislation. I indicate my support for this bill. I will not even mention Albert Camus! I just want to refer to the legislation. I indicate my support for this bill. There has been a significant amount of research done on the impact of coal seam gas mining on the environment, particularly in relation to groundwater and water supply. Several years
ago I spoke at a groundwater conference in Adelaide and there was a real concern that this precious natural resource, this natural treasure, must be protected at all costs. We must be very careful not to impact on it in an undue sense. It is an issue because, by virtue of the Great Artesian Basin, it impacts on a number of states. South Australia, as always, is particularly vulnerable when it comes to the issue of water. It has been estimated that, over the next 20 years, there will be 40,000 coal seam gas wells in Australia. Conservative estimates suggest that coal seam gas wells could suck 300 gigalitres of water from the ground each year, which is a significant diminution of groundwater in this country.

I understand where the clash is here. There is a need for the Murray-Darling Basin to continue to be the food bowl of Australia. That prime agricultural land provides a future not just for this nation but for overseas as well, exporting into Asia in particular, in terms of clean green produce. That is very important. But there are also increasing demands in terms of energy needs, and that is a factor that needs to be considered as well. The problem is that, if we do anything to compromise our prime agricultural land production, that is something that cannot be fixed easily, and that really concerns me.

I note that Senator Birmingham and Senator Cormann, among others, have commented about the level of red tape—green tape, if you like—in relation to this. They are matters that I think ought to be dealt with appropriately. Obviously, if there are appropriate approval processes, they must be streamlined, efficient and effective. It is important that we have an extra layer of protection for our prime agricultural land and for our water resources.

Because the Great Artesian Basin impacts on a number of states, one state could do something in its approval process that could impact on another state—South Australia, for instance. That concerns me significantly. If we rely simply on state or territory approval, we risk the same problems we have seen with the Murray-Darling Basin. One state's actions can impact on the whole system and others are left to clean up the mess, which they have no control over, down the track. So there are some important safeguards for our environment. There is a big debate about what the rights of landholders are in relation to mining projects. It is not commonly understood that farmers' rights over their land are circumscribed by virtue of a clash with mining laws. There need to be greater safeguards for our farmers.

There are many unknowns about the process of coal seam gas mining. I am concerned about its impact on the water table. We have set up a $250 million fund for expert scientific advice and I note that that legislation was improved as a result of the intervention of Senator Heffernan and others in considering issues of salinity and the impact of land use. As a result, an amendment was put forward, which I co-sponsored with Senator Heffernan, my colleagues in the Australian Greens and the DLP senator, Senator John Madigan. These are important issues that we must consider.

In South Australia we can see only too clearly what happens when environmental resources are sacrificed for short-term gain.

The Great Artesian Basin is one of the largest underground water reservoirs in the world. It underlies approximately 22 per cent of Australia, occupying an area of over 1.7 million square kilometres beneath the arid and semi-arid parts of Queensland, New South Wales, South Australia and the Northern Territory. The total value of all agricultural production supported by the basin was estimated back in 2007 at $3.5
billion per year. That is why it is important that we are very cautious when it comes to the use of our precious groundwater resources. That is why I support this bill. It is incumbent on this government and any future government to look at issues of dealing with red tape and streamlining approval processes, but at this stage the important factors to consider are the protection of our water resources and the impact on my home state of South Australia if we simply leave this up to the states.

Senator McLUCAS (Queensland—Minister for Human Services) (13:02): I thank all senators for their contribution to the debate on the Environment Protection and Biodiversity Conservation Amendment Bill 2013. The bill will amend the Environment Protection and Biodiversity Conservation Act 1999, the EPBC Act, to create a new matter of national environmental significance for coal seam gas and large coal mining developments which have or are likely to have a significant impact on a water resource, providing a strong legal basis for protection. When enacted, the bill will enable the robust assessment of a significant impact on a water resource arising from coal seam gas and large coal mining developments. It will also ensure that there are appropriate measures in place to manage those impacts before future coal seam gas and large coal mining projects proceed.

In addition, the bill includes an amendment to ensure the Commonwealth retains responsibility for undertaking environmental assessments in relation to the water trigger. This will provide the community with confidence that the impacts of these industries are being managed in a way that secures the long-term future of our vital water resources. The bill includes transitional provisions to minimise disruption to the assessment of existing projects as far as possible while also meeting the objectives of the amendments to provide robust assessments of coal seam gas and large coal mining on water resources.

Those that have opposed this bill have claimed that it will bring delays and increased green tape for industry in an already challenging economic climate. The Behre Dolbear report 2013 Ranking of countries for mining investment: “where not to invest” tells a different story. The report indicates that Australia has ranked first for the last two years based on conditions that promote investment growth in the mining sector. The report shows that Australia continues to have the fewest permitting delays of the 25 countries reviewed.

In conclusion, the changes to the EPBC Act proposed by this bill will provide a national approach for protection of water resources where they are impacted by coal seam gas and large coal mining, ensuring water resources receive the highest possible level of protection. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator WATERS (Queensland) (13:05): I would like to go on record thanking the government for finally acting on the issue of coal seam gas and its effect on aquifers. It is not before time. As folk in this chamber and anyone listening will know, the Greens have moved several bills to address this issue in the last 18 months to two years. That is not only because of community concern but also because of significant scientific concern. Fundamentally, we simply cannot surmount the fact that we do not know enough about aquifers and their interaction between coal seams, and possible connections that can be created once a hole is punched through an
aquifer to get to a coal seam in order to extract the gas. We cannot be sure that we are not then making connections that will see the groundwater table drop or that will see groundwater contaminated, either by the residual fracking fluids that are left in the coal seam or indeed by naturally occurring BTEX, which, in a very scary development, we now learn can be mobilised by the process of hydraulic fracturing. So unfortunately we still know that coal seam gas is not safe in the long term for water. We do not know the quantum of risk associated with that, but frankly we should not take the risk. In the driest inhabited continent on the planet, we need to make sure that we will still be able to supply the water needed for us to continue to be a net food exporter in this growing age of food insecurity.

We welcome the new powers that will be given to the federal environment minister to at last take into account the impacts of water when thinking about approving coal and coal seam gas mining. Of course, that is no guarantee that the minister will actually come to the correct decision. It simply arms him or her—it is Minister Tony Burke at the moment—with information to make, hopefully, a correct decision. There is huge discretion in the act. The minister is empowered to make a decision to approve a project even if it is going to have significant impacts on a matter of national environmental significance. So I am afraid this bill, whilst being a good step, is certainly no panacea. It is going to take a courageous minister who is prepared to listen to the science and listen to the community to actually protect this country from coal seam gas and the risks that it poses.

While I am on the risks, it is not just risks to water that we are talking about here; it is also risks to the climate. Finally CSIRO is now doing some independent studies into how much this stuff leaks. The only other independent science that has been done indicates that, where coal seam gas extraction is occurring, ambient levels of methane are about three times above what they are elsewhere. So we have some quantification on an independent basis already that shows that coal seam gas leaks like a sieve. And this is methane, which, as a greenhouse gas, is 26 times more powerful than carbon dioxide. We know this is dangerous for the climate. We know it risks long-term damage to our aquifers. That is why it is long past time that we had some federal oversight. The states have failed in properly looking after land and water. We have heard lots and lots of discussion today about the state laws that apply to coal seam gas. Unfortunately they are simply not adequate. In Queensland we have seen an unseemly rush, and coal seam gas has been approved on our best food-producing land.

I have talked about aquifer and climate impacts, but there are also surface impacts. I was pleased to start off my term in this place as a participating member in the Senate inquiry into coal seam gas, during which we learned that it can interfere with surface operations. Farmers were saying that they wanted to buy, or had purchased, new equipment which required certain turning circles which required the layout of their farm to be a certain way, and the coal seam gas wells threatened to interfere with that. We saw a potential threat, by coal seam gas wells, to more progressive technologies being used to apply fewer inputs to farmland. So there are not just water and climate impacts but also surface operation impacts.

That is why I will be moving amendments on behalf of the Australian Greens to give landholders the right to say no to coal seam gas. Why should landholders have to take the risk of long-term damage to aquifers? Why should they bear that risk? The amendments that I will move to this bill will allow the
landholder to say no to coal seam gas. They will say that the minister is not actually able to approve coal or coal seam gas until he has before him the consent of the landholder, after the landholder has got both legal advice and scientific advice. That is crucial because, as we have seen, the coal seam gas companies are effectively trying to bully people into being bought off, with sometimes ample, sometimes pitiful, levels of compensation. Of course, the amount is kept confidential so nobody knows whether they are being ripped off or not. This tactic is being used in relation to landowners because they know they cannot say no.

This is exactly why we need to respect the fact that landholders do not want to take that risk with their land. It should be the government that bears that risk. These amendments will not change the ownership of the minerals. The Crown will still own those minerals, as has been raised today. If the government deems those resources so important that they need to be extracted then the government can use its acquisition powers, as it can in any other instance under the Constitution and as many state governments can under their state acquisition laws. This does not change the ownership of the minerals and nor does it sterilise the resource—a point I hope the coalition appreciates. It simply gives landholders a better bargaining position.

I ask the minister: why has it taken the government so long to finally move on coal seam gas, when you have had your own CSIRO and National Water Commission and now the independent expert scientific committee advising for many years on the uncertainties about groundwater impacts, and when CSIRO have not even finished looking at the climate impacts? Why is there this unseemly haste to approve everything? Why did Minister Burke tick off, within the first six months of his being the environment minister, on those three big Queensland projects? He is currently considering a fourth. Why in February this year did Minister Burke tick off on Gloucester, Boggabri, Maules Creek and Tarrawonga and then several days afterwards suddenly decide to regulate water? Why the timing here, why the delay and why the continued refusal to properly consider the scientific advice about the uncertainties of this industry?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:13): The government will not be supporting the amendments. The proposed amendments would broaden the scope of the water trigger so that it may apply to shale gas, tight gas and underground coal gasification projects. The water trigger is intended to build on the objectives of the national partnership agreement, which is limited to coal seam gas and large coalmining. The proposed water trigger is also intended to build on the established role of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development. As noted in the Senate committee's report on the bill, the rapid and extensive development of coalmining and CSG mining, in particular, and the great community concern that these activities have raised require that concerns about these activities should be addressed. I will see if there is any further information. I suspect some of the questions you asked were slightly rhetorical, Senator, but, if there is any further information I can gather on those, I will seek to do so.

The TEMPORARY CHAIRMAN (Senator Bernardi): I just point out for the benefit of senators that we have not actually had an amendment moved as yet. Senator
Waters is still to do that. We are having a general discussion about this bill.

**Senator WATERS** (Queensland) (13:14): Thank you, Chair, and thank you, Minister, for your rhetorical flourish. I would appreciate a little bit more detail as you have taken that on notice. I will move these amendments in due course but first I have a few more questions. Why the restriction to just coal seam gas and coalmining and why these very creatively crafted commencement provisions which effectively give you one foot in one camp and one foot in the other? At what point did Minister Burke formulate the intention to introduce the water trigger? Was it before or after he approved those four New South Wales projects I mentioned earlier—Gloucester, Maules Creek, Boggabri and Tarrawonga?

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:18): I am advised that the guidelines are being put together and will include the quality and quantity of surface water and groundwater. I hope that assists you.

**Senator WATERS** (Queensland) (13:18): I am hoping to get a little more detail than that if you are able to provide it. Clearly a water trigger would require consideration of the quality and quantity of both surface water and groundwater. Your answer does not really shed any light on the criteria which will be used to determine what constitutes a significant impact for the purposes of enlivening the trigger. The other part of my question was about the process of the formulation of those significant impact guidelines. What stage are they at? Is there going to be public consultation on them? How far progressed are those guidelines?

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:19): On the question of the criteria, I am advised that aquifer connectivity as well as groundwater and surface water interaction works under the EPBC Act is left to the definition of 'significant impact', can the minister explain how the definition of significance will be developed in the administrative guidelines and what sorts of parameters are being considered by the minister to guide its application? This goes to the very application of the bill itself—not just the content but also the process of consultation for the formulation of those guidelines.
will be considered. I understand consultation has already occurred in May with NGOs, industry and the states. I am not sure if the consultations have been completed, but certainly they started occurring in May.

Senator WATERS (Queensland) (13:20): When are they due to be completed? When can we see a draft of those significance guidelines?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:20): I understand that they are not completed yet. Discussion papers have been circulated for comment and we have already received some comments. We would hope and expect to get draft public consultation documents out within about a month.

Senator WATERS (Queensland) (13:21): I am now starting to feel a little alarmed about the pace of that process. If the drafts are due to be circulated in a month, when is it anticipated that the final significance guidelines for the water trigger will be completed?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:22): The drafts will be finalised and circulated as soon as the bill passes, and the final guidelines will be issued within a month. As to when that process is complete, I am still seeking further information on that. About a month from now, hopefully, we will have the draft and then the final version about a month after that. So it is about a two-month process overall.

Senator WATERS (Queensland) (13:24): Minister, that is very interesting, given that the bill commences on royal assent, as is the normal process. How do you envisage the bill will be given effect to in that two-month period, given that folk who need to comply with it will not know what the goalposts are in terms of that definition? It is a fundamental definition that goes to when the trigger will apply at all. If you could shed some light on that, that would be very helpful.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:24): The department will act in accordance with the draft guidelines, which will be out very shortly.

Senator WATERS (Queensland) (13:24): To put an issue to bed that is bothering perhaps not me but clearly the opposition, could the minister, for the benefit of the chamber, outline the constitutional basis of this bill?


Senator WATERS (Queensland) (13:25): Has the government sought advice on the constitutionality of any of the proposed and circulated amendments?


Senator WATERS (Queensland) (13:25): And is the government confident that those amendments are constitutional?
Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:26): We do not often bring forward amendments that we believe are unconstitutional! So I will hazard a guess that the answer is yes.

Senator WATERS (Queensland) (13:26): Minister, they are not your amendments; they are amendments being circulated by other folk in the chamber. My question was about whether you have sought advice on the constitutionality of those circulated amendments.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:26): My advice is that your amendments would rely on the same constitutional power as the actual bill.

Senator BIRMINGHAM (South Australia) (13:27): While we are on general questions to the minister in relation to this bill, I wonder if the minister could inform the chamber, of the cost of the implementation of this bill to government.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:27): I understand you were seeking that information in Senate estimates and got an answer in Senate estimates, Senator Birmingham. But I am told it is approximately $10 million per year. But I understand you sought and were given that information at estimates.

Senator BIRMINGHAM (South Australia) (13:27): I understood that to be the case, but it is always useful to get this level of detail in the chamber debate as well so that it is transparent for all those who may not have tuned into the Senate estimates hearings. As I understand it, the budget papers allocate an additional $38.5 million over the forward estimates. Can you confirm as well that the number of staff required within the department of the environment purely to administer this new legislation rises by around 50 additional staff members in the coming years?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:28): That is correct.

Senator BIRMINGHAM (South Australia) (13:28): Noting the $10 million per annum cost to government purely to administer the bill and the 50 additional staff in the department of the environment required to administer the bill, has the government undertaken any analysis of what the cost of compliance with this bill is to industry?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:29): My understanding is the intention is to use the information already provided as much as possible.

Senator BIRMINGHAM (South Australia) (13:29): I am not quite sure what that answer actually means, Minister Conroy: 'My understanding is the intention is to use the information already provided as much as possible.' Obviously, if there is a $10 million per annum administrative cost to government, if there are 50 additional staff required, if indeed this bill has any meaningful effect—and one assumes it must,
give the administrative cost to government of its implementation—then surely there is a flow-through cost to business and usually, one would expect, a compliance cost that would be some multiple of the administrative cost to the government. Has the government undertaken any analysis of what the cost will be to industry and to business? If so, can the government share the findings of that analysis with the chamber, please?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:30): To repeat something I have already said, this is about using information already provided by state governments. It is state government information probably using language you and I often use in another debate. Data mining of existing information can be very worthwhile. It does require that internet thingy you are not so keen on called the NBN—data mining of the existing information that is provided by the states.

Senator BIRMINGHAM (South Australia) (13:30): So, Minister, are you suggesting that applicants for EPBC approvals will not be expected to provide additional analysis or information to comply with the amended requirements of the EPBC Act once this new trigger is established?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:31): If the assessment is adequate for the states, it should be adequate for the Commonwealth. You are supporting an approach that ensures that there has to be a duality of assessment processes, a duality of approvals processes, in relation to this new trigger but you are saying if it is adequate for the states, it should be adequate for the Commonwealth. That is a remarkable admission from the government. It seems to be acknowledging that there is an inherent duplication in terms of the legislative framework it is applying to projects, a duplication of state laws and now federal laws, should this pass.

But, Minister, my question was going to the matter of whether the Commonwealth would expect applicants to provide additional information to the Commonwealth to clear the assessments and approvals framework that will be mandated by the Commonwealth. Is it your contention that the Commonwealth would routinely be satisfied or potentially always be satisfied by the information provided by applicants to states to get their state approvals and the Commonwealth therefore would not be seeking any additional information from applicants to ascertain Commonwealth approvals?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:32): On your basic question you are entirely on your own; you are verballing what I said 30 seconds beforehand. You will obviously end up being up a creek without a paddle. I said 'should be' satisfactory. When you check Hansard, you will see that that is what I said. Your question unravels into irrelevance when you use the words I used, rather than inventing some words I did not use and then building your question on them.

Senator BIRMINGHAM (South Australia) (13:31): That is quite an admission—'If the assessment is adequate for the states, it should be adequate for the Commonwealth.' You are supporting an approach that ensures that there has to be a duality of assessment processes, a duality of approvals processes, in relation to this new trigger but you are saying if it is adequate for the states, it should be adequate for the Commonwealth.
Senator BIRMINGHAM (South Australia) (13:33): Thanks for the condescending remarks, Minister. On the basis that the Commonwealth 'should' be satisfied by the information provided to the states, we come back to the conclusion that the Commonwealth does not always expect it will be satisfied, that the Commonwealth may be expecting to get additional information from applicants at some stage. I will come back to the very direct question that I asked at the outset: has the Commonwealth undertaken any assessment of the implementation and administrative costs of these changes for industry?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:34): I have already said and been advised that if you meet the state test you should meet the Commonwealth test. If you do not, there will probably be further information required. I do not think I can be any clearer than that. It indicates that in some circumstances other information may be required, but only in cases where people fail the state as well as the Commonwealth.

Senator BIRMINGHAM (South Australia) (13:34): What arrangements has the Commonwealth put in place with different states who may be undertaking approvals under different state laws to ensure that information passed by the states to the Commonwealth to allow you to have this apparently streamlined approvals process in place is adequate and satisfactory and presented in a consistent manner across different jurisdictions to the Commonwealth for those assessments to be undertaken?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:35): There are bilateral agreements in place with all bar New South Wales and there are discussions in train with New South Wales.

Senator BIRMINGHAM (South Australia) (13:35): Do those bilateral agreements cover the possibility of the amendments that are being considered by the Senate today or will those bilateral agreements require some form of updating to encompass the new triggers and amendments to the EPBC Act that will occur should this legislation pass?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:36): They will not require updating; they update automatically, I understand.

Senator BIRMINGHAM (South Australia) (13:36): Back to the issues of the cost of implementation: why was this legislation excluded from the application of a regulatory impact statement?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:36): It was urgent.

Senator BIRMINGHAM (South Australia) (13:36): What was the particular urgency that saw this legislation being very rare in terms of having no RIS applied to it?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:36): You have probably noticed that it is the last two weeks of sitting before parliament rises. So I would have thought it would be very
urgent to pass a bill as significant as this as quickly as possible. It could be that that does not occur, but I would have thought there was a self-evident case for urgency, given the conclusion of this parliament.

Senator LUDLAM (Western Australia) (13:37): I would like to address Greens amendment (1) on running sheet 7377. I would like to put to Senator Conroy, and, though I know it is slightly unorthodox, to the coalition as well, whether or not either of the major parties are in support of Greens amendment (1) on running sheet 7377, on schedule 1, item 1, which is intended, as I addressed in my second reading debate contribution, to close a loophole. I do not assume any malice on the part of either the crossbenchers in the other place or the government in bringing this bill to the Senate, but in effect it excludes the western third of the continent. We do have unconventional gas reserves in Western Australia. We have massive reserves on a national scale in the Canning Basin, in the Perth Basin and possibly elsewhere in central Western Australia. Yet Western Australia, in effect, by not having coal seam gas reserves but having their reserves defined by the different forms of geology in which they occur, would be excluded from the provisions of this bill. So my question to you, Minister, is: do we have government support for this amendment? As I say, we believe it is to amend what is simply a drafting error or perhaps the provision occurred in ignorance of the different geological forms in which these reserves occur. And, if there is no government support for this amendment, why on earth not?

The TEMPORARY CHAIRMAN (Senator Bernardi): Senator Ludlam, just for your information, the amendment has not yet been moved. It may facilitate things if you would like to actually move the amendment.

Senator LUDLAM: Thank you, Temporary Chairman; I will take your guidance on that. I move Australian Greens amendment (1) on sheet 7377:

(1) Schedule 1, item 1, page 3 (before line 11), before section 24D, insert:

24CA Extended meaning of coal seam gas development and large coal mining development

In this Subdivision:

coal seam gas development has the meaning it would have if, in the definition of coal seam gas development in section 528, the reference to coal seam gas extraction included a reference to shale gas extraction and tight gas extraction.

large coal mining development has the meaning it would have if, in the definition of large coal mining development in section 528, the reference to coal mining activity included a reference to underground coal gasification mining activity.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:39): Senator Ludlam; I think you were out of the chamber when I jumped ahead and indicated that the government would not be supporting it and the reasons why, but I will happily read them out again for you. The proposed amendment would broaden the scope of the water trigger so that it may apply to shale gas, tight gas and underground coal gasification projects. The water trigger is intended to build on the objectives of the national partnership agreement which is limited to coal seam gas and large coal mining. The proposed water trigger is also intended to build on the established role of the independent expert scientific committee, which provides advice on coal seam gas and large coal mining development. As noted in the Senate committee's report on the bill, the
rapid and extensive development of coal mining and CSG mining in particular and the great community concern that these activities have raised require that concerns about these activities should be addressed.

Senator LUDLAM (Western Australia) (13:39): What the minister has done is to explain, probably more eloquently than I could have, the existence of the loophole without justifying why it should not be closed. Can the government please express why it believes that shale gas formations or tight gas formations should not be subject to this trigger—which the government is supporting, which we welcome—in Western Australia whereas the rest of the continent will be covered? We do not have coal seam gas formations. The extraction technology is identical. The chemicals that you inject into the fracking wells to get the resources to the surface are either identical or very similar. The damage that is done, to water formations and agricultural country, and the methane leakage are all common right across the unconventional gas industry. Can the government explain? Senator Conroy, you have just given me a reasonably lucid description of the loophole. I want to know and understand why the government refuses to close it.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:40): I do not accept your characterisation that the government is not interested in the views of Western Australians; I reject that completely, Senator Ludlam. The government has put forward the bill as it stands before the chamber.

Senator LUDLAM (Western Australia) (13:42): I will happily sit here patiently if you want to seek advice from the advisers, who have come all the way from the other side of the building to help us out here, as to why community concern in Western Australia is of any less note or value to the Australian government than that in south Queensland or northern New South Wales? I am very happy to wait if you want to seek advice as to why this loophole will not be closed by the Australian government. If it is simply that there is no reason, then I will take that back to Western Australia. But I think it is worth making one last inquiry to see if there is in fact any reason at all. If there is not, then we will have to make of that information what we can.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:42): I do not accept your characterisation that the government is not interested in the views of Western Australians; I reject that completely, Senator Ludlam. The government has put forward the bill as it stands before the chamber.

Senator Ludlam interjecting—

Senator CONROY: I just reject your assertion that we are not interested in the views of Western Australians so you will not be able to draw on the Hansard to suggest any such thing when people read this debate. The bill deals with the issues before us, and we believe that it satisfactorily deals with them.

Senator LUDLAM (Western Australia) (13:42): I will not detain the chamber any further. I will give the minister one last opportunity so that, when we do check the Hansard, there will be a very clear response to my very clear question: is there any
reason, at all—political, geological, engineering, community consent, environmental or any reason at all—why the government is insisting that Western Australia not be covered by this legislation and that these particular kinds of gas formations be outside the ambit of the legislation? Is there any reason at all?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:43):

As the senator knows, shale is a developing industry but coal and CSG are well developed. We believe that this deals with the issues necessarily.

Senator BIRMINGHAM (South Australia) (13:43): Perhaps I can help Senator Ludlam by providing an answer to his repeated questions to Senator Conroy. I am sure that Senator Ludlam, deep down, knows the answer to his questions but is trying to get a genuine policy rationale from the government as against what the real answer is. The real answer, Senator Ludlam, as to why the government has defined it this way—and, I am pleased to see, is at least not accepting your amendment—is politics.

We all know this bill has been brought to the parliament purely to satisfy the wishes of the member for New England. That is the real reason it is urgent. It is not urgent, as the minister proclaimed before, because of the pending election, necessarily; it is urgent because the member for New England said it was urgent. The real reason that it covers coal seam gas and large coal developments and not shale gas developments is because there are coal seam gas and large coal developments in the electorate of New England; there are not shale gas developments in the electorate of New England. These are the reasons the government has brought this legislation on; these are the reasons the government has defined it as it has; and these are the reasons the government is opposing your amendments, Senator Ludlam.

Of course, the problem is that the government has been making this up as it has gone along, every single step of the way. That is because, with this bill, the government is suddenly and urgently—so Senator Conroy has outlined—enacting changes to the Environment Protection and Biodiversity Conservation Act that it had previously, repeatedly, argued against and said were unnecessary. In arguing against those changes, it repeatedly said that they were unnecessary because state governments already had laws that covered these types of issues and that the state approvals processes already addressed the concerns around water.

Already, in this debate, we have heard from Senator Conroy that the government expects to rely in its assessments and approvals upon information provided to state governments for their own assessments processes. So the loop has already been closed in terms of the argument about this duplicating process already. It is very clear that these amendments will simply duplicate what is already going to occur at the state level. So the government has rushed in this legislation—legislation that does things the government previously said did not need to occur—to keep the member for New England, Mr Windsor, happy; to ensure his vote in the House of Representatives; for the confidence of the government; for the supply of the budget; and to prop up the very shaky leadership of the Prime Minister, to make sure it remains intact. That is what this is all about.

The government has rushed it in, waving it past and exempting it from the usual regulatory impact assessment processes. So
the RIS has been forgotten about and cast to one side, because the government has made it up as it has gone along. It has made it up so much as it has gone along—it has been running on the spot and changing so dramatically—that in the House of Representatives it reversed not just its arguments that this bill was unnecessary, but also its previous arguments that the Commonwealth should retain the opportunity to engage in bilateral approvals with state governments. It adopted, in the House of Representatives, amendments from Mr Windsor that fly in the face and go directly against what the Prime Minister herself was seeking to have implemented for the bulk of last year, in terms of bilateral approvals regimes with state governments.

So we can have little doubt here that this legislation—the process of its development and the approach it seems to have to amendments today—is all driven by politics of how the government needs to keep the member for New England happy. And that is disturbing. It is disturbing to hear there is no regulatory impact statement; because we hear that the cost to government and to taxpayers of administering this bill is one extra trigger to the Environment Protection and Biodiversity Conservation Act at a cost of around $10 million, which is a significant additional cost. The budget papers indicated $38.5 million extra was being budgeted over the forward estimates; additional bureaucratic costs for the administration of the EPBC Act, with around 50 additional staff required per annum to administer these changes.

Now, the minister comes in here and tries to suggest—despite the absence of a regulatory impact statement—that there is no real cost to industry, because the government will just rely on the assessments, processes and information already contained at the state level. It just beggars belief to think that a new piece of regulation—a new piece of legislation and an expansion of this act to cover a new area—would somehow cost the government $10 million per annum to administer, yet it does not really cost industry anything to comply with it. That just flies in the face of all logic or common sense. Obviously, there would be costs to industry. If the government had done a regulatory impact statement, we would have had some understanding of what those costs may be. But they did not do that, they skipped on that because—of course—they needed to adhere not just to the demands of Mr Windsor of what should be legislated, but they also needed to adhere to his demands of how it should be legislated.

So we end up with this very unseemly and messy process where the government rushes in ill-considered legislation and pushes it through. You, Senator Ludlam, rightly pick up on the fact that there may be discrepancies in some of the definitions; certainly, I have concerns about some of the others. But the coalition does not support your amendment and I will tell you the reason we will not support your amendment: it is because we think it would be terribly unfair of the Senate to—at the eleventh hour of debating legislation like this—expand the definition of what sectors are encompassed with zero consultation, zero opportunity for engagement with those sectors and zero chance for those sectors to comment on what the implications for them would be. Despite the rushed nature of this bill, despite the absence of a regulatory impact statement and despite the fact there was no real consultation with industry on the measures within it, at least it has gone through the proper parliamentary processes. At least it was subjected to a Senate inquiry where those in the coal industry and those in the coal seam gas industry could make their submissions, give their evidence if they so
wished and have their voices heard. At least those affected by it could have a say at some point, thanks to the parliamentary processes, even if the government ignored their views and snubbed them along the way.

If we were to adopt your amendment to now include shale gas, we would be roping in another sector of industry at the eleventh hour without giving them any opportunity to have a say and without giving them any chance to tell you, me, Senator Conroy or anyone else in this place what the impacts on their sector would be, and what are the concerns and problems they may see in this regard. So, if you want to expand the definition of this, then by all means bring in a private member's bill. Once this bill is passed, as I expect it will be, bring in a private member's bill to expand the definition of what sectors are encompassed. But we are not going to support, on the floor of the House, measures that would expand coverage to sectors who have no forewarning in any serious way that they can expect to be included, and who certainly have had no proper process to be consulted or engaged in decision making about their inclusion in this definition.

Senator Ludlam, your concerns about these definitional issues go very much to the heart of the problems with the type of approach the government is taking here, because it is changing dramatically the intent and the approach of the Environment Protection and Biodiversity Conservation Act. This act has previously treated matters of national environmental significance in a uniform way across industries and across sectors of the economy, whatever they may be. The eight matters of national environmental significance under the jurisdiction of the EPBC Act are: world heritage sites, national heritage sites, wetlands of international importance, nationally threatened species and ecological communities, migratory species, Commonwealth marine areas, the Great Barrier Reef Marine Park, and nuclear actions. Only the last one could be said, even remotely, to be singling out an industry for treatment. All of the others—and it does not matter whether you are mining coal or coal seam gas, whether it is iron ore or whatever it might be that you are digging out of the ground; it does not matter whether you are building a tourism development or dredging something for a harbour; it does not matter what the industry, what the action, what the sector you may come from is—have to comply with the EPBC Act as matters of national environmental significance.

This bill, if passed, will change the fundamentals of the EPBC Act by making amendments that will ensure two industries are singled out for one particular new trigger, the so-called water trigger, which will apply exclusively to coal seam gas and to large coal developments—just those two industries. And you make the point, Senator Ludlam: 'Well, what about shale gas?' Others will no doubt come into this place and say, 'Well, what about X, Y or Z?' The Farmers Federation has rightly expressed concerns, saying that water is a pretty important fundamental in a lot of farming practices—it is worried that the precedents set by this legislation will potentially open it up so that down the track somebody will one day say: 'Hmm. Perhaps we should have a water trigger, as it applies to the farming sector as well'. And they will come in here—as you have just done, Senator, for shale gas—and argue to expand it into that sector too. These are the principles under which the EPBC Act has been developed and which are being undermined by the approach taken in this legislation of singling out certain industries.

Senator Ludlam, those are the reasons why the coalition opposes your amendment—and I have given you the
reasons, I think, why the government opposes your amendment as well, at that pure political level. However, I do welcome the fact that the government has at least decided to oppose this Greens amendment. In the time that is remaining, I would invite the minister to put to bed the suggestions in the media that the government is looking to embrace other Greens amendments—in particular, the suggestions in the media that the government is looking to embrace the amendments that would prohibit bilateral agreements on a far wider scale, or the amendments in relation to national parks—because these amendments would expand the scope of this legislation quite dramatically. These amendments, frankly, are a Trojan Horse for far wider reform to the application of the EPBC Act than what is before the chamber. This goes way beyond coal seam gas, large coal developments or the impacts on water; how these amendments would operate would instead mean a far more significant impact across the entire economy. And so, Minister, the opportunity is here for you to make clear to all and sundry that the government will not be supporting any of the Greens amendments, in particular those two, and for you to ensure that there is certainty, going through this debate, that at least this bill only goes as far as what is on the paper in front of us.

Senator BIRMINGHAM (South Australia) (13:58): I notice that Senator Conroy has ignored the opportunity to clarify for the committee where the government stands across the raft of expansionary Greens amendments that are before the committee with regard to this legislation. Senator Conroy had the chance after I finished speaking, and he had the chance after Senator Ludlam finished speaking, to tell the chamber whether or not the government intends to use this legislation as a Trojan Horse to strip away any future opportunities to make environmental regulation more efficient in this country, and to manage to eliminate the duplication that exists between the states and the Commonwealth in so many areas. Senator Conroy has already acknowledged in this debate that the Commonwealth government expects to rely largely holus-bolus on state assessments when it comes to this new environmental trigger. If they are going to rely on state assessments so much it is obvious there is inherent duplication in these laws as there is in environmental laws more broadly. The government was once upon a time going to embrace the opportunity for greater efficiencies; instead, the government rejected that and did an about-face last year, and Senator Conroy has missed the opportunity to—

Progress reported.
QUESTIONs WITHOUT NOTICE
Asylum Seekers

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:00): My question is to the minister representing the Prime Minister, Senator Conroy. Is it government policy not to turn back asylum seeker boats, even if it is safe and possible to do so?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:00): I thank the senator for his question. I guess when you are digging a hole, they usually tell you to stop digging, but those opposite have been exposed cruelly by the utter incompetence of their shadow foreign minister. Let's put on the record the position of the Indonesian government. In an interview just recently with the Vice President, the host asks: 'But that stops the territorial integrity and Indonesia will not accept Australian vessels trying to return asylum seekers to Indonesian ports.' To which the Vice President replied: 'Well, that is the position at the moment.' The host goes on to ask: 'What do you think will happen?'

Senator Abetz interjecting—

Senator CONROY: Senator Abetz, you are again trying to help out Ms Bishop, who makes such a fool of herself. The host said: 'What do you think would happen to relations between Jakarta and Canberra if an Australian government did try to have boatloads of asylum seekers returned to Indonesian territory?' 'I would hope we would talk about that before it happens,' he said.

Indonesia's ambassador—one person else who has also exposed what a complete and utter charlatan and incompetent the shadow foreign minister is—said: Indonesia is a transit country and we are also the victim of this situation. I think it's not possible for the Coalition to say that it has to go to Indonesia. That is because Indonesia is not the origin country of these people. He went on the say: 'No such collaboration will happen between Indonesia and Australia to bring back the people to Indonesia.' (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:02): Personal abuse is never a substitute for an answer. Mr President, I ask a supplementary question. Given that more than 44,000 people have arrived on more than 724 boats since Mr Rudd and Labor abandoned the policies the Howard government had successfully instituted to stem the flow of asylum seekers to this country, why does the government continue to refuse to turn back boats, even if it is safe and possible to do so?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:03): It is again another excellent question; when you are digging a hole, just keep digging, Senator. I thank my colleague, Senator Carr for this: what happened on the weekend in the Australian Financial Review? The opposition immigration spokesman, Scott Morrison, was asked about this very issue. What was his response? Scott Morrison refused to outline how the policy would be implemented except to say it would 'not violate the territorial integrity of Indonesia's waters'. Your own policy has been shredded not once or twice, but you do not even have the guts to stand up and tell the truth to the Australian people that your policy cannot work. It goes even to Mr Michael Keenan, who has said that the boats will be turned...
back to Indonesian ports. This is what he actually said— *(Time expired)*

**Senator ABETZ** (Tasmania—Leader of the Opposition in the Senate) (14:04): Mr President, I ask a further supplementary question. Is it not a fact that, having abandoned the Howard government’s successful border protection policies, the government has simply thrown up its hands, given up the fight and abrogated its responsibilities by letting the people smugglers, not the government, decide who comes to this country and the conditions on which they come?

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:04): The person who abandoned John Howard's policy is named Scott Morrison. On the weekend he had every opportunity to tell the truth about how those opposite intended to deliver on their policy. And he refused. As I was saying, when Mr Keenan comes to turning these boats back around it will be sending Indonesian flagged boats with an Indonesian crew back to the Indonesian port from which they left. That is the stated policy, except that Mr Morrison will not back that up. Senator Abetz will not back that up. Even the Indonesian government is saying, in black and white, ‘That it is not going to happen; not now and not ever’. There is no towing back into territorial waters, but Mr Morrison had the chance to put some substance into Senator Abetz's question and he refused. He ran away like the coward that he is.

**The PRESIDENT:** Senator Conroy, you should withdraw that.

**Senator CONROY:** I withdraw, Mr President.

**Climate Change**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:06): My question is to the minister representing the minister for climate change, Senator Lundy. Minister, the Climate Commission has said in its latest report:

> From today until 2050 we can emit no more than 600 billion tonnes of carbon dioxide to have a good chance of staying within the 2°C limit.

Based on estimates by the International Energy Agency, emissions from using all the world’s fossil fuel reserves would be around five times this budget. Burning all fossil fuel reserves would lead to unprecedented changes in climate so severe that they will challenge the existence of our society as we know it today.

*Honourable senators interjecting—*

**The PRESIDENT:** Just a moment, Senator Milne. You are entitled to be heard in silence.

**Senator MILNE:** And finally:

> It's clear that most fossil fuels must be left in the ground and cannot be burned.

Does the government agree with the Climate Commission?

**Senator LUNDY** (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:07): We as a government are extremely concerned about the impacts of climate change, which is why we have put in place a carbon price. It has been operating since 1 July 2012 and we are already seeing an impact in cleaning up Australia's economy. There are a number of factors and contributions to how we will achieve this. Indeed, one of those is that electricity emissions are down. Electricity accounts for the majority of emissions covered by the carbon price, and emissions from the National Electricity Market fell by 7.4 per cent in the first 11 months of carbon
pricing. That is a reduction of almost 12 million tonnes of pollution.

Senator Milne: Mr President, I rise on a point of order on relevance. The minister was asked whether fossil fuels should be left in the ground and not burned and whether the government agrees with the commission. I would ask her to answer that.

The PRESIDENT: The question was far wider than that. The minister is answering the question.

Senator Lundy: As I was saying, coal fired generation is also down and the amount of electricity generated by burning coal is down over seven per cent in the National Electricity Market.

The updated The critical decade report by the Climate Commission shows that there is now even stronger evidence than ever before of a rapidly changing climate. It finds that greenhouse gas emissions are now at their highest level in over one million years and are increasing at a faster rate than ever recorded. This report is a stark reminder that this is a critical decade for Australia and the world, and we take its advice extremely seriously. That is why we are taking the action we are to transition to cleaner energy sources and why we have set up an independent Climate Change Authority to make recommendations about the right pollution cap and carbon budget for our country.

The report urges government to make the switch from emissions intensive fossil fuel sources to renewable energy, and that is exactly what our clean energy future package is doing, combined with Labor's renewable energy target. I have already outlined some of the positive results we are seeing. (Time expired)

Senator Milne (Tasmania—Leader of the Australian Greens) (14:10): Mr President, I ask a supplementary question. I note the minister has avoided the question, so I will ask her: does the government agree that the huge coalmines proposed for the Bowen and Galilee basins should not now proceed and that the coal ports proposed for construction should be stopped given that, if that coal were burnt, they would be equivalent to the seventh-biggest emitter in the world? Will you stop those ports and those mines in the Galilee and Bowen basins?

Senator Lundy (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:10): As I said, we are seeing positive results. Coal is making up a declining proportion of our nation's electricity market. It is down seven per cent since the carbon price began. At the same time, electricity generated from renewable sources has increased almost 30 per cent. Treasury modelling shows that under a carbon price the transformation of the electricity sector will continue, with renewable energy making up an increasing proportion of the energy mix. In combination with our carbon price, the Renewable Energy Target, the Clean Energy Finance Corporation and the Australian Renewable Energy Agency will continue to drive the transition of our emissions intensive energy network to a more suitable path.

Nations around the world accept the science of climate change and are taking domestic measures to move to clean energy sources. The growth of Australia's significant export coal industry will be determined by the energy needs and policies of its customers, the efficiency of their operators and competition with clean energy technologies—(Time expired)

Senator Milne (Tasmania—Leader of the Australian Greens) (14:11): Mr President, I ask a further supplementary
question. Minister, do you concede that the policy you have to expand coalmines and to have that coal burnt is completely contrary to the Climate Commission's report and indicates that you do not accept the climate science?

Government senators interjecting—

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

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:12): No, we certainly do not concede that, Senator Milne. In the longer term these issues will be influenced by the extent to which the industry can commercialise carbon capture and storage technologies. Countries are responsible for their domestic emissions and how they meet their national targets which contribute to the global carbon budget. Australia is therefore responsible for emissions from coal combusted in Australia and for fugitive emissions arising from both domestically consumed and exported coal. For example, the cost of fugitive emissions from an open cut coalmine in Queensland is currently around 39c per tonne, and there is almost $100 billion worth of coalmining investment at various stages of the investment pipeline. When it comes to exports, the majority of Australia's coal exports go to Japan, South Korea, China and the European Union. All of these countries have introduced or plan to introduce a price on carbon through emissions trading schemes or carbon taxes that will apply to coal consumption in these countries.

DISTINGUISHED VISITORS

The PRESIDENT: Order! I draw the attention of honourable senators to the presence in my gallery of former Deputy Prime Minister Tim Fischer. Welcome. We trust you will enjoy question time today.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Science and Research

Senator McEWEN (South Australia—Government Whip in the Senate) (14:14): My question is to the Minister for Science and Research, Senator Farrell. Can the minister explain to the Senate how the Gillard government is supporting Australia's world-class science and research sector?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:14): I thank Senator McEwen for her question and note her ongoing interest in the science and research sector. Last Saturday I joined Prime Minister Julia Gillard, South Australian Premier, Jay Weatherill, Minister for Finance and Deregulation, Penny Wong, and Senator McEwen in Adelaide. We announced $100 million in federal funding for world-class education and health science research facilities. The facilities will be part of the new South Australian health and biomedical precinct at the brand-spanking-new Royal Adelaide Hospital site. The amount of $60 million will go to the University of Adelaide's new medical school, which is next door to the new hospital, and the South Australian Health and Medical Research Institute.

The facility, which is modelled on leading international university hospital precincts, will represent a new frontier in Australian medical education. Also, $40 million will go to the University of South Australia's Centre for Cancer Biology to house 250 researchers investigating blood cancers such as leukaemia and lymphoma. The precinct will be a world leader in the provision of modern education, health and medical research,
commercialisation and clinical service delivery.

The projects are part of ongoing support for world-class science research and tertiary education, and complement infrastructure such as the South Australian nodes of the Australian Phenomics Network and the European Molecular Biology Laboratory of Australia. Integrating medical institutions with research communities promotes a smarter way of approaching the future of medical research and education.

**Senator McEWEN** (South Australia—Government Whip in the Senate) (14:16): I thank the minister for his answer. I ask a supplementary question. How does the Gillard government's investment in South Australia's biomedical precinct benefit all Australians?

**Senator FARRELL** (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:17): I once again thank the senator for her question. This government is pleased to provide $60 million towards the University of Adelaide's $120 million medical school. Bringing together the medical school with the new Royal Adelaide Hospital follows the worldwide-proven model of co-locating teaching hospitals with world-class clinical schools to deliver high-quality learning and clinical practice. It will provide the next generation of healthcare professionals with the skills, the knowledge and the capabilities they need to deliver world-class healthcare services to all Australians.

We have also contributed $40 million towards a new $100 million home for the Centre of Cancer Biology at the University of South Australia. The centre studies the fundamental causes of cancer in order to find a new way to treat those diseases. *(Time expired)*

**Senator McEWEN** (South Australia—Government Whip in the Senate) (14:18): Mr President, I ask a second supplementary question. How does this funding support the Australian government's commitment to the creation of high-quality jobs?

**Senator FARRELL** (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:18): Once again I thank Senator McEwen for her question. Investing in these new facilities not only is supporting biomedical research and innovation but also is creating jobs in South Australia. These jobs in the facilities we will create, together with the students and the staff they will attract, will support South Australia's economic growth into the future.

In the 2013-14 budget the Gillard government has committed $321 million to continuing support for Australian research. We have committed $185 million over two years to continue the national collaborative research and infrastructure strategy. These NCRIS projects support important research that will benefit future generations. We have also committed $135 million over five years to extend the Future Fellowships scheme.

**Asylum Seekers**

**Senator SCULLION** (Northern Territory—Deputy Leader of The Nationals) (14:19): My question is to the minister representing the Prime Minister, Senator Conroy. I refer the minister to the fact that illegal boats are now arriving at a rate of 1,000 times greater than when Mr Rudd became Prime Minister. Does the minister now accept that Prime Minister Rudd's decision to abolish the Howard government's successful border protection policies was a catastrophic mistake, and does the government still stand by its support for this decision?

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for
Faced with the opportunity—clearly sometime on Friday, as it was in Saturday's paper—Mr Morrison had the chance to endorse the Howard government policy agenda. Faced with that, he refused to outline how the policy would be implemented, except to say it would not be—a direct contradiction—

Senator Scullion: Mr President, I have a point of order on relevance. My question was very clear and was not particularly wide ranging. I simply asked: does the government still stand by its support for the decision that led to the catastrophic outcome of a 1,000-fold increase in the amount of boats arriving? I wonder if you could draw his attention to the question, Mr President.

The PRESIDENT: Order! The minister has been talking for only 28 seconds. The minister still has one minute 32 seconds. I am listening closely to the minister's answer, and I draw the minister's attention to the question.

Senator CONROY: Thank you, Mr President. I can understand why the questioner just completely reworded his question on his feet to avoid mentioning the Howard government policies in his point of order. What we know about the Howard government policies is that the former Defence Chief Admiral Chris Barrie said turning back boats is not fair to the Navy and will mean asylum seekers will simply sink the boats. We stand by our policy agenda. We stand by the expert panel on asylum seekers that reported on 13 August and put forward a range of measures. Senator Scullion cannot airbrush out of his question his reference to Mr Howard's policies, because what did Defence Force Chief Admiral Barrie say?

Opposition senators interjecting—

Senator CONROY: 'You can imagine that the opposition in government might be able to secure an arrangement with Indonesia.' What did Mr Barrie say? 'It's filthy, dirty work for the Navy.'

Opposition senators interjecting—

Senator CONROY: Of course it is traditional. He went on to say, The engines had to be rebuilt because they were destroyed as soon as the boats sighted one of our vessels. He said, 'You put all that into the equation and you ask yourself: what are asylum seeker boats going to do if this is the policy'—a return to the Howard government policy, as championed by those opposite—'when they sight one of our vessels on the high seas?' (Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:22): Mr President, I ask a supplementary question. I remind the minister that the first public commitment the Prime Minister made following her political execution of former Prime Minister Rudd was, 'I understand the Australian people want strong management of our borders, and I will provide it.' After 44,219 illegal arrivals on 724 boats, does the minister believe that the Prime Minister has delivered on that commitment?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:23): When it comes to this issue, those opposite are truly the ultimate hypocrites and ultimate cynics. The Houston government expert panel put forward a range of recommendations. We committed to every single one of them. The government, the party, have not always supported all of those positions, but those over there are more interested in cheap politics than they are in
the facts of how to stop refugees getting on boats and risking their lives. What did Mr Barrie also say this morning? He said: 'I think we're going to see a lot more of the sinking of boats and other issues. I don't think that's really fair on our people, who have to go out and do this job.' So the man who is actually in charge has called it 'filthy, dirty work'. He also said: 'It's not going to work. I don't think that's really fair on our people. I think we're going to see a lot more sinking of boats.' (Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:24): Mr President, I ask a further supplementary question. I also remind the minister of the Prime Minister's catchcry, when shadow minister for immigration, of: 'Another boat, another policy failure'. Given that since 24 June 2010, the day that Ms Gillard formally executed former Prime Minister Rudd, 585 boats carrying 37,667 people have arrived. Why should the Australian people have any confidence in a Prime Minister who, according to her own test, has had 585 policy failures in the last three years? (Time expired)

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:25): A set of proposals that contained some very tough measures were put forward. Those opposite continue to refuse to support the implementation of them, because they do not want to solve this problem. Those opposite want to keep playing politics. (Time expired)

The PRESIDENT: Order! When we have silence we will proceed.

Senator CONROY: Mr President, those opposite want to keep playing politics. While they are playing politics, lives are being lost. People are jumping on unsafe boats in seeking to come to Australia. If they were being returned to Malaysia, the incentive would shut down the people-smuggling business. A Malaysian solution would have seen that trade brought to an end, and yet for nothing but cowardly, manipulative political reasons those opposite are not prepared to introduce it. (Time expired)

National Security

Senator LUDLAM (Western Australia) (14:26): My question is to the Minister representing the Attorney-General, who, I believe, is Senator Ludwig. Minister, are Australian authorities and agencies receiving huge volumes of information from the United States through the warrantless, real-time surveillance program known as PRISM? Are the audio and video chat logs, photographs, emails, documents, connection logs and locational data of Australians being provided to Australian authorities, thereby circumventing such due process as does exist in this country? Minister, to what degree is the Australian government therefore complicit in this unprecedented intrusion into the private lives and data of ordinary citizens?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:27): I thank Senator Ludlam for his continued interest in this area. I am aware of the recent media reports concerning allegations about sensitive United States National Security Agency intelligence collection operations. I will preface my remarks with that as a matter of principle—a longstanding one at that. The government does not comment on intelligence matters. I can refer, of course, to statements made by President Obama and other senior figures in the US administration who have reaffirmed in their strongest terms...
that the US intelligence agencies do operate within the law and are subject to strict congressional and judicial oversight. The US administration has, as I understand it, confirmed that all intelligence activities are carefully targeted against serious threats to national security, including terrorism, espionage and cyberattacks. The Australian government does work closely with its allies on intelligence matters. This is to protect our national interests, including the security of Australians both at home and overseas. In terms of our intelligence activities and intelligence relationships with our close allies, they are about the protection from threats such as terrorism, and to achieve this we work closely with our allies on intelligence matters and we are confident that they understand and respect our legal framework as well. Again, could I just re-emphasise the point that, consistent with the longstanding practice, I will not and neither will I on behalf of the Attorney-General go into the detail of such arrangements, since to do so would potentially expose these important capabilities. (Time expired)

Senator LUDLAM (Western Australia) (14:29): That was suitably evasive and chilling. I ask a supplementary question. The UK parliament's Intelligence and Security Committee has demanded a report from GCHQ and will visit Washington to convey their concerns directly. Other governments, particularly across Europe, have expressed extreme concern at the scope and apparently warrantless nature of this real-time surveillance program. Does the Australian government have any concerns whatsoever—anything at all—over the scope of this project and, if so, have you communicated such concerns to the US? (Time expired)

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:30): As I said in answer to the first question—Senator Ludlam ought be careful about pre-preparing questions—the relevant Australian agencies are discussing with their US counterparts any possible implications the NSA disclosure may have for the Australian government. There is, can I be plain about this, no basis for claiming that Australian agencies get access to information from the US that would not otherwise be legal in Australia, and the intelligence activities of all Australian government agencies are conducted in strict accordance with Australian law. What I did say of course was that the Australian government does work closely with our allies on intelligence matters because it is about protecting our national interests, including the security of Australians both home and overseas. So I do reject the premise of the question that was put by Senator Ludlam on this matter. (Time expired)

Senator LUDLAM (Western Australia) (14:31): Mr President, I ask my final supplementary question of the minister. The National Security Agency of the US has acknowledged that it has interpreted surveillance law to permit many thousands of low-ranking analysts to eavesdrop on calls without authorisation. In addition to the almost 300,000 information requests granted last year to Australian agencies for metadata, will the government categorically affirm whether or not ASIO and DSD are now interpreting surveillance law to allow warrantless eavesdropping?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:31): To be clear about this, it is one of those questions to which a negative response obviously creates more interest for the people that Senator Ludlam is interested in.
But can I say the intelligence activities of all Australian government agencies are conducted in strict accordance with Australian law. Australian law vigorously protects the rights and privacies of every Australian, including in relation to any communications interception activity. Intelligence agencies are required by law to obtain specific authorisation, either from the Minister for Defence or the Minister for Foreign Affairs, to produce intelligence on any Australian, and for matters relating to threats to security the Attorney-General must also support the approval. All such activities are subject as well to independent review by the Inspector General of Intelligence and Security. (Time expired)

**Economy**

Senator CAMERON (New South Wales) (14:33): My question is to the Minister representing the Treasurer, Senator Wong. Can the minister update the Senate on the latest national accounts and what they say about the strength of our economy?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:33): I thank Senator Cameron for his question. Like all senators on this side, he takes a strong interest in job creation and the continued management of the Australian economy, unlike those opposite, who are happy to talk the economy down because they think it is in their interests. So they probably will not be interested in the fact that the national accounts for the March quarter highlighted the resilience of the Australian economy in the face of difficult conditions abroad and of course big economic transitions here in Australia.

Our economy continues to expand at a solid pace, growing by 0.6 per cent in the March quarter to be 2.5 per cent larger than a year ago. This is three times OECD average growth. Remember that next time you see Mr Abbott or Mr Hockey on national television talking down the Australian economy—in our last national accounts, the Australian economy grew by three times the OECD average. But it is the case that Australia faces global uncertainty and that we are making some very significant economic transitions here at home. The resource sector, as we know, is transitioning from unprecedented growth and investment towards growth in production and exports, and more broadly the economy is making the transition to non-mining sources of growth, aided of course by the record low interest rates that we see at the moment here in Australia. We have mining investment close to its peak, private investment still at around 50-year highs and an economy that is 14 per cent larger than it was at the end of 2007, because this government has made the right economic calls.

*An honourable senator interjecting—*

Senator WONG: That is right, 14 per cent larger than in 2007. (Time expired)

Senator CAMERON (New South Wales) (14:35): Mr President, I ask my first supplementary question. Can the minister outline to the Senate how our economic performance compares to that of other developed economies?

Senator Brandis: What about compared to Greece?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:35): I will take the interjection from the Deputy Leader of the Opposition in the Senate, who is again comparing Australia to Greece. How irresponsible! All of those employees and business firms who do want to see confidence in the economy will not thank the
opposition for their continued attempt to trash talk the Australian economy. This opposition, more than any opposition that I have seen, have been prepared to put their political interests ahead of the national interests and have been prepared to talk down the economy, regardless of the risk to jobs, regardless of the risk to growth, regardless of the risk to confidence, simply because they believe it is in their political interest. The reality is that Australia continues to outperform most other economies and has grown at around three times the OECD national average.

Senator CAMERON (New South Wales) (14:36): Mr President, I ask a further supplementary question. Can the minister update the Senate on how the underlying resilience of the Australian economy, shown in the latest national accounts, is reflected in employment?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:36): I am sure the unemployment figures released last week will be something that most Australians will be pleased about, will be relieved about, but of course those opposite were disappointed, because what they wanted to see—as we know from the way they talk about the economy; they always talk it down—what they no doubt would have championed, was a rise in unemployment. That is the nature of this opposition. What we saw was an unemployment rate that remained low, at 5½ per cent. We have seen about 960,000 jobs created since the Labor government came to office in November 2007, around 480 jobs per day. This stands in stark contrast to the millions of jobs that were lost all over the world as a result of the global financial crisis and stands in contrast to the hundreds of thousands of Australians who would have lost their jobs had the economic prescriptions of those opposite been followed then, and now, because we know that the economic prescriptions of those opposite lead to higher unemployment. (Time expired)

Asylum Seekers

Senator CASH (Western Australia) (14:38): My question is to the Minister representing the Prime Minister, Senator Conroy. I refer to the government's key immigration detention values, specifically No. 3, which states:

Children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre (IDC).

Given that more than 1,600 children are currently held in formal detention having arrived illegally by boat, which is a record number under any government, will the minister now concede that there are more children in formal detention than in October 2010, when the previous minister for immigration announced that the majority of children would be removed from formal detention?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:38): The Gillard government is the only party in this chamber committed to stopping people drowning at sea at the hands of people smugglers. It is the only party in this chamber committed to that—with apologies to the Greens. We asked three experts—Angus Houston, Paris Aristotle and Michael L'Estrange—to come back to us with a plan. The Houston report contains 22 recommendations, a suite of measures which the experts believe, once implemented as a whole, will drive down the number of people risking their life at sea.
Senator Brandis: Mr President, I rise on a point of order on the issue of direct relevance. The question pointed out that there were 1,600 children in detention under Senator Conroy's government, when there had been no children in detention under the previous Howard government. He was asked to concede whether the policy had failed. You should direct him to the question.

Senator Wong: Mr President, on the point of order: the question went wider than that, and, on the allegation of policy failure, the minister is entitled, quite relevantly, to respond.

The PRESIDENT: There is no point of order at this stage. I am listening closely to your answers, Senator Conroy. You have one minute and 16 seconds remaining.

Senator CONROY: As I said, there were 22 recommendations, a suite of measures which the experts believe, once implemented as a whole, will drive down the number of people risking their life at sea and reduce the number of boat arrivals. If we exclude families from certain measures such as transfers to Manus or Nauru, we will be encouraging parents to put their children on boats to avoid the no-advantage rule. We are committed to doing everything the experts recommended to discourage people from making a dangerous—

Senator Cash: Mr President, I too rise on a point of order in relation to direct relevance. My question was actually quite narrow in its focus, the question being: will the minister now concede that there are more children in formal detention, being the number of 1,600, than in 2010, when the previous minister announced that all children would be removed from formal detention? I too ask that you direct the minister to the question.

The PRESIDENT: I believe the minister is answering the question. The minister still has 42 seconds remaining to answer the question.

Senator CONROY: The Australian government is committed to ensuring that children are accommodated in the community where appropriate. There will always be a period of time immediately after arrival when children and their parents and carers will be placed in APODs while initial identity, health and character checks are undertaken. These checks include assessing whether or not it is reasonably practicable to take an offshore entry person to Manus or Nauru. The average period that families with children are in held detention is around 120 days. There are a small number of children—(Time expired)

Senator CASH (Western Australia) (14:42): Mr President, I ask a supplementary question. I remind the minister that 44,219 people on 724 illegal boats have so far arrived on this government's watch. Given that in 2007 there were just four people in immigration detention who had arrived by boat, and none of these were children, will the minister now concede that Labor's decision to wind back the proven policies of the former Howard government has been directly responsible for the placing of over 1,600 children in immigration detention facilities?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:43): There are a small number of children who may not be able to be placed in the community due to particular risks associated with their parents or carers. In these circumstances, they remain in low security risk alternative places of detention. People arriving irregularly by boat are placed in held detention, as I said, until the necessary
health, security and identity checks are completed and until they can be assessed for placement in community detention or out into the community on a BVE. Those opposite once again today demonstrate their complete hypocrisy. Those opposite keep trying to pretend that their policies would have worked and would work today. The expert panel has put forward 22 recommendations. (Time expired)

Senator CASH (Western Australia) (14:44): Mr President, I ask a further supplementary question. After more than 44,000 people arriving illegally, more than 1,000 confirmed drownings and 724 illegal boats, what does it take for this government to admit that it got it wrong when it wound back the proven border protection policies of the former Howard government?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:44): That is a question entirely aimed at achieving political advantage for those opposite. It is a question driven by nothing more than a cynical political game. If their tears were genuine tears rather than crocodile tears, those opposite would be backing each and every one of the Houston expert panel's 22 recommendations. But those opposite have chosen to put politics ahead of people's safety. They have chosen to encourage people to get on those boats. They have an opportunity—and have had for the last three years—to take a stand against people-smuggling operations but instead do nothing but tacitly encourage them. They have taken every opportunity to block measures to stop people-smuggling operations. They have done so time after time. (Time expired)

Iran

Senator MARK BISHOP (Western Australia) (14:45): My question is to the Minister for Foreign Affairs, Senator Bob Carr. Can the minister inform the Senate of the outcome of the recent elections in Iran?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:45): The Australian government congratulates the people of Iran on their strong and peaceful participation in the vote held on 14 June. The people of Iran chose their President, and Hassan Rohani is the declared winner with around 51 per cent of the vote in a turnout estimated by state media at 70 per cent.

Images of Iran's last presidential elections, held in 2009, have been hard to forget. Peaceful protesters in 2009 took to the streets in their thousands. Neda Agha-Soltan, a 27-year-old student, was shot dead. Footage of her final moments was broadcast across the world by social media. Again this year there was a crackdown on freedom of expression, freedom of the media and other civil liberties in the lead-up to the presidential poll. Iran's leadership determined which candidates could run. But the Iranian people have chosen a new President and it is now time to examine the country's future.

Dr Rohani must show leadership and follow the wishes of the Iranian people in finding a new direction for their country. We hope that this includes constructive engagement in international negotiations on Iran's nuclear future. During his election campaign, Dr Rohani said:

I will pursue a policy of reconciliation and peace. We will also reconcile with the world.

He also said that there is no use in centrifuges spinning if the economy is not. It is vital that the new Iranian government addresses the international community's deep and legitimate concerns about Iran's nuclear
program and that that is part of the new government's engagement with the world.  

(Time expired)

Senator MARK BISHOP (Western Australia) (14:48): Mr President, I ask a supplementary question. Can the minister provide an update for the Senate on the implications of Iran's election outcome for its nuclear program and outline Australia's sanctions?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:48): It is simply too early to tell what effect, if any, this election will have on Iran's nuclear policy. To date, Iran has refused to abide by its international obligations or by its own international commitments. It has failed to engage seriously and constructively with the international community. Diplomatic engagement, backed by robust sanctions, is the best way to resolve the Iranian nuclear issue. Australia maintains UN mandated sanctions and our own autonomous sanctions targeting Iran's nuclear and ballistic missile programs and its oil, gas, financial, transport and petrochemical sectors. Australia chairs the Iran sanctions committee in the UN Security Council and we are working to strengthen the implementation of international sanctions. We will continue these efforts until Iran can give the international community confidence about its nuclear intentions.

Senator MARK BISHOP (Western Australia) (14:49): Mr President, I ask a further supplementary question. Can the minister outline to the Senate the Australian government's concerns about the human rights situation in Iran?

Senator BOB CARR: Twenty members of the Baha'i community remain in prison, as do members of other religious minorities. Reports of human rights violations continue to flow from Iran. Authorities continue to target civil society, media and human rights defenders. According to Human Rights Watch, Iran carried out more than 600 executions in 2011. UN Secretary-General Ban Ki-moon's 2012 report on Iran raised concerns about torture, amputations, floggings, the increasingly frequent application of the death penalty, arbitrary detention and unfair trials. Australia co-sponsors annual resolutions on Iran in the UN Human Rights Council and the UN General Assembly. During the election campaign, Dr Rohani spoke about the need to respect freedom of speech and other freedoms and we will continue to press the Iranian government to respect those freedoms. (Time expired)

Education

Senator MASON (Queensland) (14:50): My question is to the Minister representing the Minister for School Education, Early Childhood and Youth, Senator Lundy. I refer the minister to reports in The Daily Telegraph that Labor MPs and senators were called on by the spin doctors in the caucus communications team to campaign for the government's schools strategy at school gates. Can the minister advise how many of her colleagues actually complied and campaigned at schools? Can the minister give the Senate an assurance that, in every case, the presence of a Labor politician at a school's gates had the permission of the school?

Senator LUNDY: I thank Senator Mason for the opportunity to speak today about our National Plan for
School Improvement. Along with many of
my colleagues in the government, we are
proud to be campaigning on this policy. This
policy will transform education in Australia.
The Gonski review has provided the
framework and we are enacting those
recommendations. Why? Because Labor has
always been the party for improving
education in Australia. We have a plan to
improve our schools—

Opposition senators interjecting—

The PRESIDENT: Order! Senator
Lundy is entitled to be heard in silence.

Senator LUNDY: It is only Labor in
government that chooses a stronger, smarter
and fairer Australia, and that comes about in
part by investing in education.

Senator Brandis: Mr President, a point
of order on the question of direct relevance:
the minister is not quite halfway through her
answer. She was asked how many of her
colleagues engaged in a particular piece of
political theatre and whether, in each case, it
had the permission of the school authorities.
A wide answer about the Gonski report is not
directly relevant to either of those two topics.

Senator Ludwig: I am a bit rusty, Mr
President, but on the point of order: Senator
Lundy was answering the question. The
question was far broader than that. It also
went to issues around how this government
is campaigning for better schools, and of
course that is what Senator Lundy is also
advising the Senate about.

The PRESIDENT: There is no point of
order.

Senator LUNDY: As I have said, I join
many of my colleagues in visiting schools,
and one of the reasons for that is that I am
incredibly proud of the $9.8 billion that our
budget delivers to the National Plan for
School Improvement over the next six years.
We want to see funding to schools increase,
and the issue for Labor is very much about
the extent to which the opposition seems
hell-bent on preventing this unprecedented
level of investment in Australian schools.

We have the opportunity of a generation.
We have received the independent advice
from Gonski and we are implementing it. We
are proud to campaign on these issues. It is
incredibly important that the people of
Australia understand the breadth and
dimension of this investment. We have also
seen a number of states—

Senator Ian Macdonald: Mr President, I
rise on a point of order on the grounds of
relevance. The minister was asked: did those
who attended get the permission of the
schools involved? I am waiting to hear that
answer.

The PRESIDENT: The question was
broader than that. But you are quite correct;
that was part of the question. There is no
point of order at this stage.

Senator LUNDY: I presume all of the
participants who made those visits put in
place the appropriate procedures. Regardless
of that, it does not detract from the point that
this is the best the opposition can do in
making a contribution to education policy.
This is the best they can do. (Time expired)

Senator MASON (Queensland) (14:55):
Mr President, I ask a supplementary
question. Given that the government says
that its Gonski school reforms are crucial and
need to be urgently signed up to by all states
by the end of this month, why isn't the
government introducing the bills that it says
will free up funding for this policy, such as
amendments implementing the $2.3 billion
higher education cuts announced in April?

Senator LUNDY (Australian Capital
Territory—Minister Assisting for Industry
and Innovation, Minister for Multicultural
Affairs and Minister for Sport) (14:55):
Again I say to the opposition: we have a
once-in-a-generation opportunity to improve school funding, through our National Plan for School Improvement. Obviously, to legislate for these changes we need to identify the sources of funds that will help fund this unprecedented opportunity and, in doing so, we will bring forward the legislation.

What I find unfathomable and what the Australian people are asking of the opposition is why on earth they would reject such a visionary plan for our schools. Why are they so intent on unpicking the plan that is now before us? We have already seen their New South Wales counterparts come on board with the National Plan for School Improvement. We have seen their colleagues in the South Australian government come on board. I am very proud to see the ACT government has come on board, and we know that other states are actively contemplating the merits of the National Plan for School Improvement. (Time expired)

Senator MASON (Queensland) (14:57): Mr President, I ask a further supplementary question. Given the government’s own figures show schools will be waiting until 2019 for the rivers of gold that Labor is promising to start flowing—that is, six years and three elections away—instead of ambushing parents and students shouldn’t Labor MPs and senators be lobbying for a better deal for their schools outside the Prime Minister’s front gate?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:57): Reform of the magnitude that we are embarking on takes time, and it is very important to get it right. The Prime Minister has put in place an offer to those states that are now contemplating that agreement. We know that schools will start to see the increases in funding from 2014 and we would like to get this program started as soon as possible. Why? Because it is important. As a nation we need to keep pace with the challenges of the future, and that includes ensuring that we have a productive and highly skilled workforce for the future. This means education is now the right place to make our investment as a nation. That is what we are trying to achieve with our National Plan for School Improvement. We are seeking to put that plan in place now and we are saying to the opposition: take some leadership from the New South Wales government; sign up now. (Time expired)

Broadband

Senator THORP (Tasmania) (14:58): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister advise the Senate how many Australian homes and businesses will be connected to fibre-to-the-home under Labor’s National Broadband Network?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:59): I thank Senator Thorp for her question. By June 2021, NBN Co. fibre will be available to 12.2 million Australian homes and businesses. The rollout of the NBN is continuing its ramp-up phase with new premises being added every week. Just last week we switched on the first 2,500 premises in Darwin, as well as additional premises in Aspley and Townsville in Queensland. Construction will be commenced or completed to a total of 4.8 million homes and businesses by June 2016. That includes all of the 200,000 premises in Tasmania, which will be the first state where
fibre construction will be completed by the end of 2015. The only threat to the rollout is those opposite, who plan to stop the rollout of NBN Co. fibre. The member for Wentworth has said that he will honour existing contracts, but that will not save the rollout in Tasmania. The Hobart Mercury reported on 5 April that Tasmanians face the prospect of two-speed broadband. The member for Wentworth has been quoted as saying:

… areas still without the national broadband network will be provided with a lower cost version, using existing copper wires between homes and exchanges.

Everybody in Australia should understand that even if you are on a three-year plan like Tasmania, your fibre is not guaranteed. (Time expired)

Senator THORP (Tasmania) (15:01): Mr President, I ask a supplementary question. Can the minister advise which regional towns will have fibre to the premises connected?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (15:01): NBN Co. fibre to the premise will be provided to every town with over 1,000 premises, as well as to those with over 500 premises which have available fibre backhaul. Mr Turnbull and his colleagues continue to mislead the Australian public about their plans for regional Australia. This month, Mr Turnbull told ABC Radio in Victoria that under the coalition plan many country towns with less than 1,000 premises will get a fixed line broadband service. Mr Turnbull’s policy states that the number of premises covered by fixed wireless and satellite is exactly the same as Labor’s. There are no additional towns to receive a fixed line broadband under their plan. Mr Turnbull is once again misleading the Australian public. (Time expired)

Senator THORP (Tasmania) (15:02): Mr President, I ask a further supplementary question. Can the minister advise on what the cost will be of building the NBN Co. fibre network?

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (15:02): The coalition attempt to hide the deficiencies of their own policies by misleading the Australian public. They work on the basis that, if you are going to tell a lie, you should tell a big one. That is their strategy. The member for Cowper recently claimed that NBN Co. is running $10 billion over budget. The member for Moncrieff has written to constituents claiming that the coalition plan will cost $60 billion less. Let me give you the truth about the coalition plan. The coalition plan is to borrow $29 billion. Senator Joyce must have missed that shadow cabinet. The dog must have eaten his homework that day. You are borrowing $29 billion for your NBN; what are we borrowing? Thirty billion dollars. Wow! Extravagance on the Labor side, but $29 billion worth of borrowing is okay.

Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Asylum Seekers

Senator CASH (Western Australia) (15:04): I move:

That the Senate take note of the answers given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) and
Senators Cash and Scullion today relating to asylum seekers.

When it comes to border protection failure in this country, the policy failure of those on the other side, those currently in government, knows no bounds. Nor does their continual hypocrisy. In 2010, the former minister for immigration made a big announcement—that they were going to take women and children out of formal detention. Why? Because women and children should not be locked up in formal detention. Jump forward 2½ years and what are we faced with today? We are faced with the alarming statistic that under this government, under the government that bleats to Australians that it is the party that holds the moral high ground in Australia, we are now faced with a situation where 1,600 children are now in formal detention in Australia. This is coming from a party which, in 2010, said, ‘We’re going to make sure that our policies will see no women and children in formal detention.’ One can only say that, without a doubt, that is a gross failure of policy. Compare that, the 1,600 children who are in formal detention, with the fact that when those on the other side assumed office in November 2007 there were but four people in immigration detention—that is right, just four people who had arrived illegally by boat to this country were in immigration detention and none of those were children.

The hypocrisy of the other side continues. In one week Australia will celebrate a first in this country, a first which none of us should be proud of—the political execution by the Labor Party of a sitting Prime Minister, the former Prime Minister Mr Rudd. When Mr Rudd, on 24 June 2010, was politically executed, what was the reason given by the current Prime Minister, Ms Gillard? This is the reason: she stood before the Australian people and proclaimed that, unlike Mr Rudd, she would fix the problem of asylum seeker arrivals that he, Mr Rudd, had created. In fact, so sure was Ms Gillard that with a click of her fingers she could do that, she went on to say this:

… I can understand that Australians are disturbed when they see boats arrive on our shores unannounced. I can understand that Australians are disturbed by that. I can understand that sense of anxiety. This country is a sanctuary, it’s our home so we’ve got a responsibility to manage our borders and manage the question of asylum seekers in the best possible way.

By that stage the Prime Minister was on a roll, and she went on to say this:

… I am full of understanding of the perspective of the Australian people that they want strong management of our borders and I will provide it.

Quite frankly, she was either delusional at the time—maybe because of the amount of Mr Rudd’s blood that she had consumed—or she was blatantly misleading the Australian people, or—the third alternative—she was never going to be able to do it because she is politically incompetent. The facts would support all three of those propositions because, under the current Prime Minister—who said, ‘I will stop the boats that Mr Rudd could not stop’—these are the facts: since 24 June 2010, under Ms Gillard, 584 boats have arrived carrying 37,667 people. That is under the watch of Ms Gillard, the same person who said, on 24 June 2010, when she politically executed the former Prime Minister, that he had failed to stop the boats.

If Mr Rudd failed to stop the boats, I can only ask: what has Ms Gillard done? When she was the shadow minister for immigration, under the former Howard government, when we had but a trickle of boats arrive under our watch compared to what the current government have had under their watch, her famous pronouncement was:

Another boat … Another policy failure

Based on that reasoning, we are now looking at 584 policy failures carrying 37,667
people, at a cost to the Australian people of what is now in excess of $10 billion. If that is not bad enough, Australia is currently trending at the rate of 100 arrivals per day under Ms Gillard. So much for Mr Rudd's political execution! *(Time expired)*

Senator PRATT (Western Australia) (15:09): What a performance from Senator Cash! This question time has highlighted the complete lack of credibility of the opposition's policies on asylum seekers. Why? Because they have nothing but shallow rhetoric to guide them on this question. They put forward policies that are, in effect, non-policies—policies that are completely un-implementable, as our speakers have highlighted.

Labor has put forward policies. This government has put forward policies which those opposite have refused to implement. They have refused to implement them. Why? Because it is politically convenient for them not to do so. It is politically convenient to those opposite to allow boats to continue to arrive. We have confidence in our border protection policies, but the simple fact is that you have refused to let us implement them. You have refused to allow this parliament to sign up to the Malaysia agreement, which means that this country continues to be subjected to the arrival of the flow of asylum seekers. You have refused to let us implement the recommendations of the Houston panel. You have refused to allow Australia to do a people swap with Malaysia, to take away the incentives for people to get on boats.

We have a credible suite of policies which you have refused to help us implement, which is exactly the opposite approach to that which, for example, Kim Beazley took as opposition leader. You have never, ever allowed this parliament, this government, to govern on this question. And why? Because the fear mongering that you perpetuate about the arrival of boats of what you call illegals suits you politically. It suits your political dramatisation of these issues. You can see it in the coalition's language on these questions, day after day. Your alternative policies are, however, dangerous. Every credible analyst says so. Credible analysts say: we will see a lot more sinking of boats if the coalition get their way.

As question time highlighted this afternoon, this is filthy, dirty work. We have been in this place before. We have seen this before. We have seen boats sabotaged so that even more lives are at risk. We have seen people drown when boats have been sabotaged. And we know that this is a likely outcome of a boat turn-back policy. There is a reason that credible analysts say this. Why? Because we have seen it before. This is what happens when you turn back boats: there are desperate acts undertaken by people desperate not to be turned back. Then there is no choice but to pluck people from the water from sinking boats under very dangerous circumstances, placing our own personnel at risk. What is more, Indonesia has consistently said it wants no part of this policy.

Let us have a look at one of the other alternative policies that the coalition has put on the table: temporary protection visas. I know that Senator Cash has put forward policies in this parliament, but, if you look at the success of temporary protection visas, a total of around 11,200 TPVs were granted between the period of the introduction of visa subclasses and their abolition. How many people departed in that time? Three hundred and seventy-nine. It was not a credible policy. It is not an effective policy. Why? The facts speak for themselves; the statistics speak for themselves. We know that the vast majority—95 per cent—of people on TPVs were ultimately granted a permanent
visa. As a device to return asylum seekers, that policy was a complete failure. In the year they were introduced by the Howard government, there were 3,722 unauthorised arrivals—(Time expired)

Senator JOHNSTON (Western Australia) (15:14): The only way you could categorise what we would have to clean up if we win the next election is: 'filthy, dirty work'. There will be filthy, dirty work across the economy, across all aspects of public policy, across border protection and across defence. It is going to be filthy, dirty work, because the mess that these people have delivered upon ordinary, hardworking Australians is going to require a lot of cleaning up. We are on track for 25,000 people coming to Australia on board boats. That is more people than you find in Kalgoorlie in Western Australia or Albany in Western Australia. We are getting 3,000 people a month. We have had 12,000 people so far this year. We had 11 boats last week. Labor's response was to actually take $14 million from the operating budget of Border Protection Command in the last budget.

Where on earth do these people get their ideas from? We have had 45,000 people on 730 boats since Labor has been in charge of our borders. We find out today, thanks to Senator Cash, that there are 1,600 children in detention. This policy failure, the hypocrisy of this government and the absolutely hopeless capacity in public policy administration has no bounds—it has no bounds. We have had boats sailing into Broome harbour; we have had boats at Croker Island and Vashon Head. We have had a boat sail right opposite the Dome Cafe in Geraldton. I have had to look at boats on the Swan River several times, just to make sure that they are not asylum seeker boats—because that is what is next.

Yet they say, 'It is your fault, because 800 people—in a people-swap with Malaysia—has not been allowed to go ahead.' That is two weeks' worth of people. They stand there, look you in the eye and say, 'It is all the opposition's fault.' My goodness, we are really plumbing the depths of credibility with these people. Their public policy capacity is less than zero. What they have done—in their fabulously unskilled, heavy-handed, stupid and incompetent way—is completely alienate our most important neighbour. They have completely alienated them.

There we have a minister for agriculture—who has never been into an agricultural district in his life—saying to Indonesia: 'Your primary source of meat and your primary source protein has stopped, and I am not even going to tell you about. We will issue a press release; you can read it about it somewhere and somehow. But you cannot get any more live cattle from Australia.' I think Indonesia would be pretty upset by that and I am right. Can I say that 12,000 people this year bear it out. This problem requires diplomacy, understanding and respect—all the things that this government do not bring to the game and do not bring to the table. They have given Indonesia two fingers on live export. That is what they have done.

So we have now got 12,000 people—11 or 13 boats a week—and the government says, 'It's all the opposition's fault, because you would not allow us to do a swap of 800 people with Malaysia.' Give me a break! Your credibility is pathetic. You are an incompetent government and you will be destined for the dustbin of history at the next election. (Time expired)

Senator THORP (Tasmania) (15:19): I can just imagine the scenario this morning at whatever hour the strategy committee—I presume it is called the 'strategy committee' over the other side—got together and
decided: 'We've got question time. We've got taking note. We've got MPIs and we've got all these opportunities to really, hammer the government. We are going to really knuckle them. We are going to get them every way, coming and going. What will we start with? Will we start with getting them on the economy? Yes, let's do that. Hang on; we can't do that. This is the country that has got one of the best economies in the world; this is the country that has survived the GST; and this is the country that has got the highest ratings through Standard & Poor's and other ratings agencies throughout the world. We are doing very, very well; so we better not hammer them on that, because that will make us look foolish.'

'I know. We'll have a go about education. That's a really important issue. Let's have a go at education. No, we can't do that, because this is the government that is introducing some of the biggest revolutionary reforms into education that this country has seen.'

This is a government that is recognising that, for our future to be secure, we need to make sure that every child in our community has a decent start in life. One of the surest ways you can do that is to make sure that you have equity when it comes to receiving an education. Everybody with half a brain knows that there are groups in the community who are disadvantaged—whether it is because they come from a family that has a language other than English spoken at home; whether it is because they have a child living with a disability; whether it is because they are Aboriginal, which can have an effect; whether it is because socioeconomic status; or whether it is because they live in a remote area. What do the Gonski reforms brought in by this government do? They address that. 'So we better not have a go at the government about that.'

'What else could we have a go at? I know: disability funding. Hang on a minute; we can't do that either, because this is the government that is introducing that National Disability Insurance Scheme—DisabilityCare—and this is the country that, through its government, is finally going to have one of the best systems available to make sure that all of our citizens, regardless of the disability that they have, have a good shake at life.'

Having been a teacher of teenagers, particularly those who have some difficulties, I know how invaluable the launch in Tasmania will be for 15- to 25-year-olds. This is going to make a difference to lives that is beyond our comprehension, unless we have personally been there. NDIS will mean that when a young man is hurt—

The DEPUTY PRESIDENT: Senator Thorp, I do not like to interrupt but I have given you over half your time and you have not really addressed the issue of what taking note is about. I know it is a long lead-up into it, but I will just ask you to move into it now.

Senator THORP: The point I was trying to get to, Mr Deputy President—and I did note that the comments of some of the senators opposite ranged fairly wide and free, talking about the demise of this government and all sorts of other issues—is the fact that, given the opportunity, the only thing that those on the other side seem to be able to come up with is: 'boat people'. We keep hearing this dreadful language—'illegal boats'; please tell me, Mr Deputy President, if you are able: what is an 'illegal boat'? A boat is a boat; it is not legal or otherwise. These people are refugees; they have the right to come to this country whichever way they will.

I find it absolutely appalling that in the last couple of weeks in this place before we
go to an election, when those opposite have an opportunity to really have a go at the government in any one of several important areas—and I did not get around to talking about some of the others, like additions to pensions and support for families, and other good things you could have a go at—can't those opposite up and use that opportunity to say what they would do, should they ever have the privilege of being in government? Don't insult Australians by saying, 'How can we spook the life out of them and frighten them? We will talk about all these Muslims coming in illegal boats and frighten the life out of people.' It is absolutely disgraceful. Is that the best they can do? I would like to finish with a little quote from Robert Macklin, in Opinion:

That’s summed up this week in a memorable phrase from New York Times columnist Frank Bruni: ‘The sideshow swallows the substance’.—
And that is what we have going on here: the sideshow swallowing the substance—

Policies are ignored. Instead, the ‘news’ all about fripperies, trivia and the seven-second grab. If you doubt it, aside from the gold-plated parental leave scheme – and slashing at least 12,000 public servant jobs – try to think of a single Abbott plan for Australia.

Oh, that’s right: “Stop the boats”.

(Time expired)

Senator SMITH (Western Australia) (15:24): We just heard briefly from Senator Thorp, from Tasmania, about sideshows over substance, but I think we have seen very clearly that the Labor Party cannot even bring itself to conduct a decent sideshow, let alone bring about decent policy initiatives in the important area of border protection. We heard from my Senate Labor colleague from Western Australia, Senator Louise Pratt, who talked about the poor performance of previous speakers, and we heard from her about the shallow rhetoric of the coalition. We heard a very strong and articulate performance by my fellow Liberal senators from Western Australia, Senator Cash and Senator Johnston. From Senator Cash, we clearly heard a clear plan that had courage at its core to address this very important issue affecting our nation. We heard accusations of poor performance and shallow policy making, which are more aptly put at the feet of this Labor government. We heard—it was surprising to hear—a defence of the Malaysian solution from one former Labor senator, when we know that that was struck down not by electors but by the High Court. What we do not have in this Labor government is any sense of a credible suite of policies to tackle what is a very critical issue.

We heard from my Western Australian Labor Senate colleague about the coalition's plans being dangerous. I know Australians will be very confident that the coalition's plans will instead be very effective and will not put at risk the lives of many people who are trying to come to this country. We also heard from Labor senators that the statistics speak for themselves. Senator Johnston was quite right to draw the Senate's attention to what those statistics really are: 724 illegal boats since this government was elected; 44,219 people arriving in Australia on those 724 illegal boats—this is just one amongst a litany of dangerous and appalling policy initiatives of this government, and one that they have clearly not been able to tackle. This is a government that continues to break records. Sadly, for Australia and its people, this is something of which we cannot be proud. On Saturday, my colleague Senator Cash and I were in Kwinana attending a Liberal Party State Council meeting in support of our excellent candidate in the federal electorate of Brand, Donna Gordin. The city of Kwinana gained its cityhood only weeks ago as a result of having reached 30,000 people, and it is a collection of
communities south of Perth—but already we have almost 45,000 people arriving here illegally in Australia as the result of this government's poor policy initiatives.

In opposition, Julia Gillard said, 'another boat, another policy failure'. By her own words then, the Prime Minister is responsible for 724 policy failures. Her failures have resulted in unprecedented costs, and chaos and tragedy on our borders—billions and billions of dollars in budget blowouts. As the number grows, what is the government's solution? Put simply, it is to run up the white flag. Labor has no plans, no ideas, and clearly no strategy to stop the flow of boats. Indeed, the Labor Party would prefer to focus on its own internal squabbles rather than on the increasingly difficult issue of border protection. We see week in, week out at the moment an increasingly unedifying political death march being walked between the Prime Minister and the member for Griffith, Mr Rudd. Australia is on track to reach 25,000 people arriving illegally by boat in this financial year alone, another record of which the Labor government cannot be proud.

It is with some irony that we now recall that the Prime Minister used the flow of boat arrivals as one of her primary reasons for stabbing Kevin Rudd in the back. Remember? To knock him off, she said that Mr Rudd could not solve the problem. Here we are, almost exactly three years later and the problem has grown significantly worse. That is the Prime Minister's record and that will be her legacy when her time in office ends—whether that is today, tomorrow, next week or in 89 days' time. As we know, this government took a solution and created a problem. The Howard government had solved the problem, thanks to its tough stance on the use of temporary protection visas. Under that arrangement people had ceased risking— (Time expired)
motion that will require a vote in this chamber tomorrow. So the coalition might also want to think about whether they wish to join the government in bipartisan dismissal of the consequences of surveillance overreach that would require the Attorney-General before the end of this parliamentary sitting week to stand on his feet in the other place and give the Australian people an explanation of exactly how much the government knows and how much it is willing to share of the consequences of this surveillance overreach on the Australian people.

This is not some fringe concern, as I think the Australian government might be hoping—imagining that this is some marginal concern, that this is cohorts of people wearing tinfoil hats worried about some gargantuan conspiracy theory. If you had said a few weeks ago that the US National Security Agency was able to read your emails as you wrote them in real time or tap live video streams on Skype and other video conferencing services or map your social networks and your private messaging on Facebook—all of these things that perhaps so-called conspiracy theorists might have put into the public domain as a possibility—the real situation is larger and worse than that. It has caused a furore around the world. The Australian Greens would appear to be the only Australian parliamentarians who are concerned about this surveillance overreach over Australian citizens which probably renders the Australian privacy principles not worth the paper they are printed on.

Minister Carr responded to a question over the weekend about whether Australians should be concerned. 'Oh, no, I wouldn't think so,' said Minister Carr. Senator Ludwig just now got through a response that he probably had not even read before it was put into his folder to read into the Senate—no actual response to the questions I put to him. Australian authorities appear to be on Serepax while other parliamentarians and representatives in other parts of the world are actually alert and alarmed about this warrantless, real-time mass surveillance. What sort of tranquilisers are the Australian government on? The UK equivalent to our Joint Committee on Intelligence and Security is going to the United States to ask their questions and put their concerns in person. The European Commission has written to the US Attorney-General. Canada's Privacy Commissioner has launched an inquiry. Germany's justice minister has put their concerns on the record. The Republican author of the PATRIOT Act itself says that the NSA PRISM surveillance system goes too far. He said:

We've gotten used to what "Big Government" looks like – Washington's unchecked deficit spending, the Obama administration's policing of the press and the IRS's targeting of conservative groups. But the problem is bigger than we thought.

This is the author of the PATRIOT Act. He also says:

"Big Brother" is watching. And he is monitoring the phone calls and digital communications of every American, as well as of any foreigners who make or receive calls to or from the United States. The Australian government might think it can dodge the issue in question time in the Australian Senate, but this is just the beginning of this issue, not the end.

Quite frankly, Minister Ludwig made the government look like muppets today. There is a serious issue to answer here, and tomorrow a vote will be taken which calls the coalition's credentials as liberals into question. (Time expired)

Question agreed to.
NOTICES

Presentation

Senator Siewert: To move:

That the time for the presentation of reports of the Community Affairs References Committee be extended as follows:

(a) sterilisation of people with disabilities—to Wednesday, 17 July 2013;
(b) impacts on health of air quality—to Monday, 12 August 2013; and
(c) care and management of dementia—to Monday, 12 August 2013.

Senator Wright: To move:

That the Legal and Constitutional Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 19 June 2013 from 11.30 am.

Senator Heffernan: To move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Wednesday, 19 June 2013, from noon for its inquiry into the Foreign Investment Review Board national interest test.

Senator Heffernan: To move:

That the time for the presentation of the reports of the Rural and Regional Affairs and Transport References Committee on the following inquiries be extended to Friday, 19 July 2013:

(a) New Zealand potatoes import risk analysis;
(b) fresh pineapple imports; and
(c) fresh ginger import risk analysis.

Senator Nash: To move:

That the Parliamentary Joint Committee on Law Enforcement be authorised to hold a public meeting during the sitting of the Senate on Monday, 24 June 2013, from 10 am, to take evidence for the committee's inquiry into the spectrum for public safety mobile broadband.

Senator Cameron: To move:

That the Joint Select Committee on Broadcasting Legislation be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 19 June 2013, from 3.30 pm, for a private briefing

Senator McEwen: To move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Monday, 24 June 2013, from 5.30 pm, to take evidence for the committee's inquiry into Australia’s relationship with Timor-Leste.

Senator Bishop: To move:

That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) followed by public hearings, during the sittings of the Senate as follows:

(a) on Wednesday, 19 June 2013, from 11 am; and
(b) on Wednesday, 26 June 2013, from 11 am, followed by a private meeting otherwise than in accordance with standing order 33(1).

Senator Abetz, and Senators Birmingham, Kroger, Payne, Ronaldson and Smith: To move:

That the Senate—

(a) notes:

(i) that although nearly 70 years have passed since the end of World War II and the Holocaust, antisemitism still exists,

(ii) the vital work of the London Declaration on Combating Antisemitism in drawing the attention of the democratic world to the resurgence of antisemitism in international affairs, politics and society, and

(iii) that more than 125 parliamentarians in over 40 countries have signed the Declaration;

(b) recognises the vast contributions made by the Jewish people to Australian society;

(c) expresses its solidarity with the Jewish people;

(d) affirms that antisemitic prejudice, rhetoric and hate campaigns, such as the Boycott, Divestments
and Sanctions campaign, utterly contradict the democratic values Australian society and the Parliament hold dear; and

(e) encourages all senators, regardless of party or politics, to sign the Declaration and so assist to combat antisemitism across the globe.

**Senator Kroger:** To move:

That the Senate—

(a) notes that:

(i) Melbourne is suffering from a traffic congestion problem across the city and particularly on the Eastern Freeway and the Monash-CityLink-West Gate corridor,

(ii) without better infrastructure, this problem will worsen as Melbourne is experiencing the largest growth of all capital cities,

(iii) by 2020 it is estimated by the Bureau of Transport and Regional Economics that the cost of traffic congestion in Melbourne will be $6.1 billion, double what it is today, and

(iv) as well as being an economic cost, congestion impacts on quality of life, including time spent with family;

(b) recognises that:

(i) the Victorian Government has proposed the development of an East West Link which would provide an alternate route across the city by connecting the Eastern Freeway with the Western Ring Road,

(ii) this East West Link would have significant benefits for Melbourne and Australia, as it would:

(a) relieve bottle necks on the Eastern, Monash and West Gate Freeways and provide an alternative to the West Gate Bridge,

(b) improve freight efficiency by catering for growth at the ports of Melbourne and Hastings and increase productivity by improving travel time reliability for freight,

(c) enhance Victoria’s competitive advantage globally, improve the key industry centres and support the knowledge precinct in Carlton and Parkville,

(d) complete missing links between freeways to alleviate congestion and ensure travel time reliability for families and freight, and

(e) reduce travel times, particularly for residents in Melbourne’s east and west who travel to Melbourne to work, and

(iii) the Federal Coalition has committed $1.5 billion towards the construction of the East West Link; and

(c) calls on the Australian Government to match the commitment of the Federal Coalition towards the construction of the East West Link as a vital piece of economic infrastructure for Melbourne.

**Senator Furner:** To move:

That the Senate—

(a) recognises:

(i) the accomplishments of 50 years of fruitful diplomatic relations between Peru and Australia,

(ii) the continuing friendship between our nations, and

(iii) the contribution of Peruvian migrants in our nation building; and

(b) notes:

(i) the reopening of our Embassy in Lima in September 2010;

(ii) our shared democratic values in the context of a strong commitment to transparency, well-established policy credibility and good governance structure and quality of institutions,

(iii) our mutual emphasis on multilateral involvement exemplified by Peru’s membership of the United Nations, World Trade Organization (WTO), Organization of American States, Asia-Pacific Economic Cooperation (APEC), Community of Latin American and Caribbean States, Pacific Alliance, and Forum for East Asia and Latin American Cooperation,

(iv) the roles of Dr Herbert Vere Evatt and former United Nations Secretary-General Javier Pérez de Cuéllar point to our mutual activity,

(v) our similar activity on the free trade front and common membership of the Cairns Group, WTO and APEC,

(vi) the visits to Peru by former Prime Minister, Mr Gough Whitlam, in 1975 and former Prime Minister, Mr Kevin Rudd, in 2008 and the visit of former President Alan Garcia Pérez to Australia in 2007,
(vii) the November 2011 framework to promote Bilateral Consultations and Cooperation;

(viii) the presence at the 2011 census of 8,441 Peruvian-born citizens in Australia and attraction of Peru to Australian visitors totalling 30,000 in 2011, and

(ix) the longstanding Australian mining endeavours in Peru, the growth of Peruvian student numbers in Australia and 56 Australian companies having an office in Peru or investment in a Peruvian project.

Senator Milne: To move:

That the Senate—

(a) notes that:

(i) 14 February marked 2 years since the outbreak of the 2011 period of major unrest in the Kingdom of Bahrain,

(ii) this period has been characterised by a mass protest movement calling for constitutional, political and election reform,

(iii) since then, there have been reports of ongoing human rights violations against opposition figures, demonstrators and medical practitioners at the hands of the authorities, including fatalities and arbitrary political arrests, and

(iv) there have also been reports of rare acts of violence against the state, and claims that they have resulted in injury, and in some cases, fatalities;

(b) welcomes the resumption of Bahrain’s National Dialogue on 10 February 2013 as a positive step towards political and related reform and reconciliation and urges all parties to commit fully to the process and to reject violence; and

(c) appeals to the Australian Government to call on the Kingdom of Bahrain to:

(i) follow through on its commitment to full implementation of the recommendations of the November 2011 Report of the Bahrain Independent Commission of Inquiry on human rights violations during the 2011 unrest,

(ii) release political prisoners who were arrested arbitrarily, investigate new reports of human rights abuses and bring the perpetrators to justice,

(iii) respect the human rights of its people, including the right to freely protest, and the right of medical staff to give unhindered treatment to those injured while protesting, and

(iv) commit to genuine reform that addresses the legitimate concerns and aspirations of the people of Bahrain.

Senator Ludlam: To move:

That the Senate—

(a) notes:

(i) revelations that the PRISM program has been used by the United States of America’s National Security Agency to conduct warrantless real time surveillance via the servers of nine companies, including Apple, Microsoft, Google and Facebook,

(ii) recent reports suggesting that Australian agencies are receiving information through the PRISM program to access emails, audio and video chats, photographs, documents, connection logs and location data of Australians, and

(iii) that strong concerns have been expressed by the United Kingdom’s Intelligence and Security Committee, Canada’s Privacy Commissioner, Jennifer Stoddart, and the German Minister of Justice, Sabine Leutheusser-Schnarrenberger; and

(b) calls on the Attorney-General (Mr Dreyfus) to table in Parliament a ministerial statement of explanation before Thursday, 20 June 2013 on the vulnerability of Australian legislated privacy protections and government information to PRISM.

Senator Ludlam: To move:

That the Senate—

(a) notes:

(i) 80 per cent of Australians surveyed believe the Australian Broadcasting Corporation (ABC) is balanced and even-handed when reporting news and current affairs and 83 per cent of Australians regard the ABC to be distinctively Australian and contributing to Australia’s national identity,

(ii) the motion put to the Victorian Liberal Party Council conference on 25-26 May by the Warragul branch, urging an examination of the
feasibility of partial or full privatisation of the ABC and Special Broadcasting Service (SBS) was deferred to the next conference, and

(iii) that the ABC and SBS are vital public news, information, education and entertainment services for the benefit of citizens and audiences rather than advertisers and shareholders; and

(b) calls on:

(i) the Liberal Party to categorically reject the motion put by Warragul branch, and

(ii) all parties to commit to maintaining the ABC and SBS as properly funded public broadcasters with independent boards free from political interference.

Senator Ludlam: To move:

That the following bill be introduced: A Bill for an Act to amend the Telecommunications (Interception and Access) Act 1979, and for related purposes. Telecommunications Amendment (Get a Warrant) Bill 2013.

Senator Collins: To move:

That, after the motion for the second reading of the Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013 and the Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013 has been moved, they may be taken together for their remaining stages with the government business order of the day relating to the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:35): I move:

That the following general business orders of the day be considered on Thursday, 20 June 2013 under the temporary order relating to the consideration of private senators' bills:

No. 119 Marriage Act Amendment (Recognition of Foreign Marriages for Same Sex Couples) Bill 2013; and


Question agreed to.

Leave of Absence

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:35): by leave—I move:

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

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reporting Date

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:36): by
At the request of Senator Heffernan, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on beef imports into Australia be extended to Friday, 5 July 2013.

Question agreed to.

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:37): by leave—At the request of Senator Heffernan, I move:

That Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 18 June 2013 from 4 pm to take evidence for the committee's inquiry into the ownership arrangements of grain handling.

Question agreed to.

Broadcasting Legislation Committee

Reference

Senator McEWEN (South Australia—Government Whip in the Senate) (15:38): by leave—On behalf of Senator Cameron, I move that the amended terms of reference of the Joint Select Committee on Broadcasting Legislation be transmitted to the House of Representatives for concurrence:

That paragraph (16) of the resolution of appointment of the Joint Select Committee on Broadcasting Legislation be amended as follows:

Omit paragraph (16), substitute:

(16) the committee may report from time to time but that it make a final report no later than 24 June 2013.

Question agreed to.

Foreign Affairs, Defence and Trade Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:39): by leave—On behalf of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, Senator Stephens, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the Export Market Development Grants Amendment Bill 2013 be postponed until a later hour of the day.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Government business notice of motion no. 1 standing in the name of the Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) for today, proposing
the approval of the Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 1), postponed till 18 June 2013.


General business notice of motion no. 1076 standing in the name of Senator Madigan for today, proposing the introduction of the Fair Trade (Workers’ Rights) Bill 2013, postponed till 20 June 2013.

General business notice of motion no. 1188 standing in the name of Senator Whish-Wilson for today, proposing the introduction of the Mutual Recognition Amendment (Northern Territory Beverage Containers and Plastic Bags) Bill 2013, postponed till 20 August 2013.

General business notice of motion no. 1233 standing in the name of Senator Rhiannon for today, proposing the introduction of the Overseas Aid (Millennium Development Goals) Bill 2013, postponed till 25 June 2013.


MOTIONS

Gender Biased Sex Selection

Senator MADIGAN (Victoria) (15:40): I seek leave to amend general business notice of motion No. 1244 standing in my name for today related to gender biased sex selection.

Leave granted.

Senator MADIGAN: I move the motion as amended:

That the Senate—

(a) notes that:

(i) five United Nations agencies: the Office of the High Commissioner for Human Rights, the United Nations Children’s Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and the World Health Organization, have issued a combined report calling for urgent steps to be taken to address gender-biased sex selection, including:

(a) the collection of more reliable data on the extent of the problem,

(b) guidelines on the use of technology,

(c) supportive measures for girls and women, and

(d) other legal and awareness-raising actions,

(ii) in its 2010 report the UNFPA states that, according to the 2000 United States Census, immigrants to the United States of America from China, India and the Republic of Korea had a sex ratio at birth almost as skewed as in their countries of origin, and

(iii) at the UN Conference on Population and Development (ICPD) (1994) in Cairo and at the 4th World Congress on Women (1995) in Beijing, Australia committed ‘to enact and enforce legislation protecting girls from all forms of violence ... including prenatal sex selection’;

(b) condemns the practice of gender-biased sex selection in abortion or infanticide whether in Australia or overseas; and

(c) encourages the Government to support the recommendations of the interagency statement of the five UN agencies and uphold its commitments to the ICPD 1994 and the 4th World Congress on Women.

Senator RHIANNON (New South Wales) (15:41): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RHIANNON: The Australian Greens condemn the practice of gender biased sex selection abortions. We do not support this motion as the tactic behind the motion is to wind back a woman's right to access abortion services. Senator Madigan's motion in part (a)(i) states that various international bodies have called for 'urgent
steps' on gender based sex selection. But there has been no such call. What these organisations are calling for is urgent action on the root cause of some preference. It is made clear that this means addressing violence against women and gender inequality and advancing women's human rights. If you vote with Senator Madigan, you are voting for a motion based on inaccurate information. This motion is about stigmatising abortion and should not be supported. It is about stigmatising women who seek an abortion.

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

The Senate divided. [15:46]

(The Deputy President—Senator Parry)

Ayes.................37
Noes..................9
Majority..............28

AYES
Abetz, E
Bernardi, C
Cameron, DN
Colbeck, R
Cormann, M
Edwards, S
Fifield, MP
Gallacher, AM
Lines, S
Lundy, KA
Marshall, GM
McLuscas, J
Parry, S
Pratt, LC
Ryan, SM
Smith, D
Sterle, G
Thorp, LE
Williams, JR

NOES
Waters, LJ
Whish-Wilson, PS

Question agreed to.

James Price Point

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:50): I move:

That the Senate—

(a) notes the decision of Woodside Energy Ltd and its joint venture partners to process Browse gas offshore rather than at James Price Point, in the Kimberley; and

(b) calls on the Western Australian Government to end its efforts to compulsorily acquire the land at James Price Point from the Traditional Owners for the purpose of industrialising the Kimberley and to withdraw its application for a strategic assessment under the Environment Protection and Biodiversity Conservation Act 1999 of the James Price Point Browse gas processing site.

Question negatived.

International Day Against Homophobia, Biphobia and Transphobia

Senator HANSON-YOUNG (South Australia) (15:51): I move:

That the Senate—

(a) notes:

(i) that 17 May is International Day Against Homophobia, Biphobia and Transphobia on which individuals and organisations are encouraged to take a stand against sex and gender based prejudice in the community, and

(ii) the physical and psychological harm caused by harassment and discrimination, including much higher rates of anxiety, depression, self harm and suicide in the lesbian, gay, bisexual, transgender and intersex community compared with the general population; and

(b) calls on senators and other members of Parliament individually to commit to the 'No to Homophobia' campaign pledge to always stand up
against homophobia, biphobia and transphobia and to promote this campaign within the Australian community.

I note that this motion has been moved late because it was left over from the last session.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:51): Thank you. Irrespective of the substantive merits of this motion, the government does not support it on procedural grounds with respect to point (c). The motion seeks to direct senators on how to interact with their communities on a particular issue. I do not think the senator herself would be comfortable promoting the views of other members of this place within her community if it were imposed upon her. It is for these reasons that the government will not be supporting the motion.

Senator HANSON-YOUNG (South Australia) (15:52): Mr Deputy President, I just want to clarify: there is no (c).

The DEPUTY PRESIDENT: Senator Hanson-Young, I allowed you to speak last time without seeking leave. Do you want to seek leave?

Senator HANSON-YOUNG: I seek leave.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator HANSON-YOUNG: Thank you. I am perplexed as to the minister’s comments, because there is no (c) as printed in the Notice Paper. All I can assume is that perhaps the minister is referring to (b), which ‘calls on senators and other members of Parliament individually to commit to the ‘No to Homophobia’ campaign’. If you cannot bring yourselves to do that, you are even more gutless than we thought.

The DEPUTY PRESIDENT: Order! The question is that the motion moved by Senator Hanson-Young be agreed to.

The Senate divided. [15:54]

(The Deputy President—Senator Parry)

Aye ................. 9
Noes ................... 32
Majority ............. 23

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

NOES
Back, CJ
Bernardi, C
Bilyk, CL
Cameron, DN
Carr, KJ
Cash, MC
Collins, JMA
Cormann, M
Crossin, P
Edwards, S
Feeney, D
Fifield, MP
Furner, ML
Gallacher, AM
Kroger, H (teller)
Lines, S
Ludwig, JW
Lundy, KA
Madigan, JJ
Marshall, GM
McEwen, A
McLucas, J
Moore, CM
Parry, S
Polley, H
Ruston, A
Singh, LM
Stephens, U
Sterle, G
Thistlethwaite, M
Thorp, LE
Urquhart, AE

Question negatived.

Great Barrier Reef World Heritage Area

Senator WATERS (Queensland) (15:56): I move:

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CHAMBER
That the Senate—

(a) notes:
   
   (i) the World Heritage Committee's draft decision on the Great Barrier Reef states that to avoid the reef being added to the World Heritage in Danger list, Australia must turn around the 'limited progress' to date, and take 'urgent and decisive' action on its earlier recommendations to prevent new ports in pristine areas, and reject damaging port expansions,

   (ii) the World Heritage Committee specifically identifies that the Fitzroy Delta, including Port Alma and Balaclava Island, should not be developed,

   (iii) that Queensland's draft Ports Strategy considers Port Alma and Balaclava Island part of the Gladstone Port available for development, and

   (iv) that Glencore Xstrata has just withdrawn its plans to develop a major coal port on pristine Balaclava Island; and

(b) calls on the Government to:

   (i) implement the World Heritage Committee's recommendations regarding ports immediately so that Australia does not become the only developed country with a site on the World Heritage in Danger list, and

   (ii) immediately rule out any industrial development in the Fitzroy Delta and reflect this in our national environment laws.

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

Senate divided. [15:57]

(The Deputy President—Senator Parry)

Ayes.................9
Noes....................34
Majority.............25

AYES

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

NOES

Bernardi, C  
Bilyk, CL

Carr, KJ  
Collins, JMA
Edwards, S  
Fifield, MP
Gallacher, AM  
Lines, S
Lundy, KA  
Marshall, GM
McLucas, J  
Nash, F
Pulley, H  
Ruston, A
Smith, D  
Sterle, G
Thorp, LE  
Williams, JR

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Gillard Government

Senator PARRY (Tasmania—Deputy President of the Senate and Chairman of Committees) (15:59): The President has received a letter from Senator Fifield:

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

The failure of the Gillard Government to focus on the business of government.

Is the proposal supported?

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

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (16:00): I rise to make some comments this afternoon on the failure of the Gillard government to focus on the business of government. Nothing could be more obvious than a government that simply has no idea how to run the country. We have seen year after year of policy failure from this Labor government. It is extraordinary
how absolutely completely unable this government is to run the country properly. As somebody said to me the other day, regardless of which side of politics you support, you expect the government of the day to properly be able to run the business of government, to properly be able to run the process of government, and this Labor government simply has absolutely no idea how to do that.

What do we see? We see this consistent bickering from the other side over who should be leader. First of all we had Kevin Rudd and now we have Julia Gillard, and are we going back to Kevin Rudd? First of all we had Kevin Rudd and now we have Julia Gillard, and are we going back to Kevin Rudd? It is no wonder the Australian people have absolutely had a gutful. What they want to see is a government that is committed to good policy for the Australian people, a government that is committed to the future sustainability of the nation, not this self-indulgent navel gazing from the Labor Party that we consistently see. Quite frankly, I do not think it matters if Ms Gillard, the Prime Minister, leaves the position and somebody else takes it, be it Mr Rudd or Mr Crean or whoever else it may be. I do not think it matters. This party simply is incapable of running the country. It does not matter a toss who is leading this party, who is leading this government, because they are systemically unable to run the country properly, right through the ranks. So it simply does not matter who is at the helm, in my view. We are going to get the same shambolic government from the other side that we have seen today.

The lack of any ability to run the country is so obviously seen in the lack of attention to policy, particularly when it comes to regional students. We have seen this government consistently ignore the issue of inequity for regional students compared to city students when it comes to accessing tertiary education. Indeed, we recently got some data from the department. Many would know that there is a target to have 40 per cent of people in the 25- to 34-year-old age bracket holding a degree. What we see from this data is that, in the cities, 36 per cent of people in that age bracket have a degree, compared to regional communities, where that figure is only 17 per cent, and remote communities, where it is only 15 per cent. That is an absolute indictment of this government for their failure to address this inequity for regional students. A financial burden sits on these regional students because they so often have no choice but to relocate to attend university, and that comes at a huge financial cost. This government has no ability whatsoever to understand that. It has no idea what is occurring out there in regional communities and how so many regional students are being precluded from attending university because of its failure to act, its failure to properly put in place a policy to assist regional students. It is just not right. It is not fair that regional students simply do not have the same opportunities as city students.

This Labor government chose to put in a parental income test cap on independent youth allowance, which is one of the very few ways that our regional students have to access some financial assistance. These students, who are proving themselves independent of their parents, get hit with the government saying, 'By the way, if your parents earn a combined before-tax income of $150,000’—we are effectively talking a police officer and a schoolteacher—'sorry, you are not even able to apply for financial assistance through independent youth allowance.' So often that is the only financial assistance that makes attending university available. It is simply wrong. The failure of this government to focus on the business at hand and on the policy that is actually needed to make regional communities
sustainable is simply appalling. We know that regional students are far more likely to come back to regional communities and work or practice a profession, which is exactly what we should be encouraging. We should be providing those opportunities, not putting up more barriers, which is consistently what this Labor government continues to do.

This government has no vision for the future when it comes to agriculture and rural Australia, none whatsoever. You never hear them talk about how they want agriculture to look and how they want rural communities to look in 2030 or 2040 or how they want to shape the nation to make that happen. We get absolutely nothing. Instead, we get things like the export ban on live cattle. This knee-jerk reaction from the Labor government caused the decimation of families and businesses across the north of Australia, and it is now coming right down the country, flowing from north to south. The ramifications of that stupid decision now affect more than just the north of Australia. It was appalling to see at the beginning of the year the Prime Minister, in an answer to a question after a Press Club address, refer to that snap live export ban as short-term pain. That is appalling. That is wrong.

**Senator Sinodinos interjecting—**

**Senator NASH:** Thank you, Senator Sinodinos. I will take that interjection of 'shame'. It was shameful that this government reacted to an email campaign. They did not think it through. So often this comes from people who simply have no understanding of the industry and how it operates. Not long after that, the Prime Minister was asked some questions on radio in South Australia about the dairy industry. A dairy farmer raised the issue of the carbon tax. Of course, the Prime Minister had said, 'There will be no carbon tax under a government I lead,' but we do now have a carbon tax, which affects agriculture and rural Australia probably more than anywhere else. When the Prime Minister was asked by the dairy farmer about the costs and the impost of the carbon tax, the Prime Minister said, 'The industry will not only survive; it will thrive under the carbon tax.' How disconnected from the real world can a Prime Minister become if that is her view of the dairy industry under the carbon tax? It is simply appalling and unacceptable that this Prime Minister and this government are so disconnected from rural Australia, what we need and what we should be doing.

In my view, the Treasurer should be coming out now with regard to the issue of the potential takeover of GrainCorp by Archer Daniels Midland and saying that, regardless of any recommendation by FIRB, he absolutely does not see this as being in the national interest. I can tell you, Mr Acting Deputy President, that this is not in the national interest. We are talking about GrainCorp, which on the eastern seaboard holds a virtual monopoly of our grain storage, handling and logistics. It has seven out of the nine ports. That virtual monopoly on the eastern seaboard now potentially will go into the hands of one of the largest grain-processing giants in the world, operating in 140 countries and six continents. Australian grain-handling and logistics processes will become a cog in the giant multinational company of ADM. I have to declare—although many would already know—that I am a grain grower. This is not in the grain growers' interests, and it is most certainly not in the national interest. We are potentially going to lose control of that virtual monopoly of grain handling, storage and logistics on the eastern seaboard. We have no certainty around the operation of the receival sites. We have no certainty at all around the buyers and around how that
process is going to work. It is not in the national interest for that to go ahead.

The government should pay more attention to issues out there in our communities and—from our perspective in the coalition—our regional communities. The Nationals and my regional Liberal colleagues understand what is needed in those regional communities. Perhaps if this government started paying a bit more attention to the business of government instead of this constant self-indulgent navel-gazing—who should be leader and who is going to run around with all the lollies—we might have a government that could actually start delivering something for the nation, particularly for the regional communities. But I suspect that is not going to happen. We are going to continue to watch this soap opera of a government. At the end of the day, the sad fact is that this nation is losing out and this nation is suffering as a result of this Labor government.

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (16:10): Well, here I am again, responding once more to another incredible accusation from an opposition that has been aggressively pursuing a cynical, policy-free platform for several years now. To suggest that the Gillard government is not focused on the business of governing is to ignore the groundbreaking legislative reforms that this government has achieved, many of which were long overdue after close to 11½ years of inaction, delay and apathy from the Howard government.

Let me just focus on a handful of the Gillard government's many and varied achievements. Our economy has continued to grow and avoid recession, even through the aftermath of the global financial crisis, a crisis that continues to plague almost every other developed nation. We have real action on climate change, with a price on carbon soon to transition to a full emissions-trading scheme. Already this has seen a considerable drop in carbon emissions by the electricity sector and more energy produced by renewables such as hydro and wind power. Australia is set to achieve renewable targets that looked impossible not that long ago.

The National Broadband Network continues to be rolled out, an immense infrastructure achievement that many regard as on a par with the Snowy Mountains Hydro-Electric Scheme. We have the introduction of the National Disability Insurance Scheme, which will remove the cruel lottery that currently determines what sort of support people with disabilities receive. We have the introduction of Australia's first paid parental leave scheme. We have plain packaging on cigarette packages. We have a rise in the age pension. There have been a series of agreements signed with China, including a currency convertibility deal that will cut the cost of doing business as well as a formal commitment to annual leadership talks. At a time when countries across the world are crawling over each other to gain access to the globe's second-largest economy, our Prime Minister executed this game-changing foreign policy triumph. We now have a seat on the United Nations Security Council and have taken an assertive yet reasonable stand on a range of global issues, including the conflict in Syria.

We have achieved all of this despite an opposition hell-bent on destructive Tea Party-style political tactics. Let me be clear. The Gillard government has fought a war of attrition with the Tony Abbott led opposition to achieve changes that needed to happen. It is a war of attrition that many Australians, even those on the conservative side of politics, have found distasteful and more suited to politics in the
United States. We have fought the Leader of the Opposition issue by issue, inch by inch, because these reforms are part of the DNA of the Labor Party and they just could not wait any longer.

Politically speaking, it might have been far easier for us to succumb and pursue a policy-free agenda such as the one favoured by the opposition. The very least, we would have been saved some of the arrogant, dishonest taunts from sections of the News Limited media that have become a daily reality. But the Labor Party does not exist to maintain the status quo, to allow the wealthy elite to grow in power, to ignore necessary legislative changes, to delay, to hesitate, to ponder, to dog whistle. No. We are here to govern. We are here to lead. We are here to tackle the challenges that Australia will face in a fluid and ever-changing 21st-century economy. We are here to take on the problems that are difficult to confront and even harder to solve, problems which are impossible to avoid for a political party concerned with the nation's interests. As Matthew Donovan noted in Independent Australia earlier this year:

All over the world reformist governments face fierce opposition from the conservative forces and large vested interests.

We have seen this played out repeatedly in Australia. ... whether it be the slick ... advertising blitz against the mining tax and the constant attacks from mining billionaires crying poor, the sustained campaign by the tobacco industry against the plain packaging legislation ... ...

Major reform is risky. It is easy for little things to go wrong and be blown out of proportion by those who oppose it.

Despite all of that, the Gillard government has gone for it. We are doing it all, negotiating with a wilfully stubborn opposition intent on obstructing at all costs, dealing politically with a conservative media which has not given us an inch of latitude and pleading with Australians to consider the agendas of those who control the front pages of The Daily Telegraph and The Herald Sun. We are doing it all. It is not something we can avoid—because working together, constructive change and fighting for the neglected elements of our society are what we are about.

To demonstrate conclusively that this government is governing for all Australians, let us revisit the events of just a few weeks ago. The Prime Minister, speaking on legislation to raise the Medicare levy to make the NDIS a reality, broke down in tears in the chamber when she said:

The people who've gathered here today from around the country to witness this debate know what this means ... there will be no turning back. The Prime Minister was moved to tears because, like me, she is passionate about the NDIS. She knows just what it would mean for Australians who have been unable to realise their full potential to live with dignity, to live full lives, to gain part-time or full-time employment, to contribute or to feel whole. This is a sign of a Prime Minister governing for all Australians. This is a sign of a Prime Minister who cares about achieving lasting reforms.

Whilst the Prime Minister is busy governing, fighting tooth and nail to get the job done, just consider what she has to face. Aside from the resistance of the Liberal Party and its media ring, News Limited, to everything the government has attempted, there is also the personal dimension of all of this. A hostile media, at times cheered on by members of the opposition, has focused not on the Prime Minister's policy agenda but on her appearance, her hair, her dress, her shoes, her voice, her unmarried status, her childlessness, her fashion accessories and her partner. It has been nothing short of demeaning.
I do not need to remind anyone that this was brought into the sharpest possible focus last week. We witnessed a Perth radio host, Howard Sattler, ask the elected sovereign leader of Australia whether her partner was a homosexual—because of his career as a hairdresser. Can you imagine John Howard being asked that? I am honestly not sure many politicians could have retained their dignity and stayed as cool and collected as the Prime Minister did during that interview.

It did not matter where I went over the last week, the issue raised with me was the lack of respect which has been shown to the elected leader of this country. The lack of respect which has been too often demonstrated to the elected Prime Minister of this country is unprecedented. It is not only people on this side of the chamber who are shaking their heads; all good Australians are shaking their heads in fear at how much further these sorts of personal attacks are likely to go.

I still have faith in the Australian electorate. I think that, when 14 September rolls around, they will ignore this fixation on the Prime Minister's dress, hairstyle and voice. Instead, they will see something the opposition do not want the Australian people to see—they will see that they have a real choice. They will see that they have a real choice at this election, a choice between a Prime Minister whose legislative accomplishments, from the NDIS to historic pacts with the Chinese government, will stand the test of time and an opposition leader who has shown no interest in policy or substance, who is concerned more about his own ambitions than governing for all Australians, who has no interest in economics and who is concerned more with the past than with the future.

I guarantee you this: we will face challenges this century which are not immediately apparent in this golden age we are currently experiencing. We need to start planning now. We need to plan now to figure out what part we will play in the Asian century, how changes in the global economy will affect us and how changes in the global climate will affect us. To confront these challenges, Australians need a leader as Prime Minister who will govern for all, a leader intent on making tough decisions and a leader with courage and style—a leader like Julia Gillard.

It is all very well for Senator Bernardi. He knows firsthand all about the Tea Party. He knows all about their tactics. He is one of the leaders on that side who has used those tactics—not only in this chamber but out in the community. Through his blogs, where he stands is well known.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order, Senator Bernardi!

Senator POLLEY: On 14 September, those Australians who go to the polls will be faced with a clear choice. On the one hand is a government which has delivered on real reformist issues, such as the NDIS reforms and the reforms and investments in education. They will remember that it was us who gave the pensioners—(Time expired)

Senator BERNARDI (South Australia): (16:20): That was an impassioned defence by Senator Polley of perhaps the worst Prime Minister we have ever seen in this country. It is interesting that whilst Senator Polley is defending the Prime Minister, she and her colleagues are plotting to assassinate
the Prime Minister politically. There is no doubt about that. You can read about that—

Senator Polley: On a point of order, Mr Acting Deputy President: it is quite improper for the good senator to mislead the Senate. I ask him to ponder the assertions he is making, which are quite unfounded.

The ACTING DEPUTY PRESIDENT: There is no point of order. It was not an imputation of improper motives.

Senator BERNARDI: Indeed it is not. The Labor Party have form in plotting and scheming against their Prime Ministers, particularly when they are doing well. It is not unprecedented.

Senator Polley interjecting—

The ACTING DEPUTY PRESIDENT: Order! I remind senators that, under standing order 197, a senator who is on his feet may not be interrupted except on a point of order.

Senator BERNARDI: We know how this Prime Minister came to be Prime Minister: she did so by knifeing Mr Kevin Rudd, the Prime Minister at the time. Mr Kevin Rudd was democratically elected—he was there—and, all of a sudden, there was a plot and a scheme and he was taken out by the faceless men in the dark of night. We know that is happening again. While Senator Polley made an impassioned plea to defend the Prime Minister and her track record, the evidence says something quite different. This Prime Minister's track record has been one of disingenuousness. It has been one of 'the real Julia' and 'the fake Julia'—and I am just quoting the words there; I am not referring to her improperly. That was how it was characterised during her last election campaign. We have never known who the real Prime Minister is. Is it because she is as tough as nails, determined or committed? Is it because she just does not tell the truth? These are the questions that the Australian people are asking themselves.

This is the lady, remember, who was the architect of the border protection farce that we now see. This is the lady who put forward Medicare Gold and went in to bat for Mark Latham. This is a lady whose error of judgement is so grievous that it has disrupted and hurt the Australian economy, it has discredited us internationally and it has the Australian people waiting for an election because they are desperate to see some adults and a responsible government back in charge of this country.

This motion is about governing. It is not about personalities. It is not about playing victim politics, finding and isolating men in blue ties. It is not about playing the victim and saying: 'Woe is me. You're picking on me because I'm a woman,' or 'because I'm tall', 'because I'm short', 'because I'm heavy' or anything else. This is about competency, and the government will be assessed on their competency—or their incompetency, I should say, including that of the Prime Minister. They cannot hide behind claims of misogyny. If the Prime Minister and her coterie were competent and had delivered policies, then we would have very little complaint. But they have not done that.

Need I remind this chamber and the schoolchildren in the gallery that this Prime Minister's office was responsible for sparking a race riot on Australia Day of last year, where they pitted Aboriginal Australians against, and sent them to protest and endanger not only the Leader of the Opposition but also the Prime Minister's own welfare? Have we ever seen such a reprehensible action sanctioned by a prime minister's office? I would suggest no; it was a new low point in the history of government in this country. I could go on, but the fact is that the policy decisions of this government suggest that we have not been governed appropriately.
With the Prime Minister's political assassination being plotted as retribution for her own engagement in such an act, it reminded me of another politician. A Roman philosopher and statesman, he was a lawyer, an orator, a political theorist, a consul and constitutionalist. I am of course talking about Marcus T Cicero. In commenting to his friend and colleague about government, he said, and I paraphrase, that the budget should be balanced, the treasury should be refilled, public debt should be reduced and the arrogance of officialdom should be tempered and controlled. They are wise words from ancient Rome. If you use those as the measuring stick for good government, this government has failed again and again, because in the six years of this government, six long and torturous years, we are yet to see a budget balanced. We had a country which had no net debt. It had money in the bank and investments for the future. We have now seen our national credit card limit run up to nearly $300 billion. That is $300 billion that we will be forced to repay—probably not me but my children and maybe even my children's children. That is the great tragedy: we now have intergenerational debt as a result of the spendthrift policies of this government.

We do need to refill our treasury, because if we do not, as the demographics change in this country, the fewer workers we will have and we will be forced to pay ever more tax to support this bloated and growing government. So we have to reduce our public debt. In order to do that, we have to reduce, as Cicero said, the arrogance of officialdom. We have to temper it and control it, because it is the arrogance of the Labor Party and their ilk that makes them say they know what is good for the country better than individuals do: 'Give us your money; we'll take it from you and we'll then determine what is good for you.' That is no way in which to govern a nation. The government of the day should have confidence in the decisions of the people. Unfortunately, one of the great travesties we have is that this government does not think that the Australian people are good enough to make their own determinations. We have seen it in any number of ways. Where they have tried to shape social policy, they have played one group of Australians against another, whether it be based on race, gender or ethnicity. This is a government that is simply trying to reinstate a class war. It is of no credit to Senator Polley, absolutely no credit, that she talked about the opposition being the party of billionaires—

An opposition senator: And class warfare.

Senator BERNARDI: And class warfare. It is extraordinary that someone like Senator Polley refuses to recognise the amazing contribution that wealthy people, who fund industry and provide the capital for it, have made to this country. There are hundreds and thousands of jobs that are provided, there are billions of dollars worth of taxes provided—yet somehow that is unfair. It is an amazing admission, showing that they have very little else to cling to.

I understand that Senator Polley, being from Tasmania, may feel deeply uncomfortable with the wealth of Western Australia, the potential of South Australia or what is happening in Queensland, but the point is that Tasmania can thrive and prosper only if the rest of the nation does. What we need to do is work cooperatively with the federation, not to set one Australian against another, not to set government against government, and for Labor not to mislead and cajole, with this false bonhomie, out of some sort of loyalty to a failed and continuing-to-fail Prime Minister. That is what the Australian people are demanding. I
think the greatest disappointment to the Australian people is that this government has not taken them into its confidence. This government has diminished parliamentary and political credibility to new levels.

The fact that Senator Polley comes in here and defends the actions, the incompetence, the deceptiveness, the disingenuousness of the Prime Minister, who has lowered our reputation at home and abroad, is quite extraordinary. It is very disappointing for the people of Australia to have to listen to a defence when it is quite simply indefensible. This country is not on the right track. When you speak to people out in the community, they do not feel the country is doing well. They do not feel comfortable in their own lives. They worry about what next this government is going to do. They are desperate for an election so that they can render their verdict on the Prime Minister who Senator Polley has just so steadfastly defended. I find it extraordinary that we have come to this level where someone of Ms Gillard's stature is running the nation into the ground, yet the Australian people are prevented from having their say until the very last minute when the faceless men have determined who will be running the country.

Senator SINGH (Tasmania) (16:31): The Gillard Labor government have focused on governing and legislating in the interests of the nation and their record speaks for itself. Senator Polley went through a number of achievements and one of those achievements which cannot be ignored is the number of jobs which have been created. Some 960,000 jobs have been created since we were first elected while 28 million people have been added to unemployment queues around the rest of the world. That is incredibly significant because in the Labor Party we know that, through having a job, you can have a livelihood and a level of prosperity, a social and economic stability in your life and for your family. That comes from employment and the dignity that work provides. Our record on jobs speaks for itself and shows very much how good governance leads to good outcomes for people right across Australia.

On the economic front there have been a number of achievements by this government—low interest rates, tax cuts, low inflation, low spending, savings, seizing the opportunities which have come about from living in the Asian century. That is very significant for Australia, as we find ourselves in the Asian region. Also there is greater protection, more agreements and fewer disputes with workers. We have given unfair dismissal protection to some 4.5 million Australian workers, many of whom are often women. There are 3.3 million Australians covered by over 24,000 agreements and industrial disputes on average are about one third of the rate they were under the John Howard Work Choices era. Those are just a few of the incredible achievements.

I want to compare the Gillard Labor government's focus on governing and legislating in the interests of the nation compared to the Liberal-National alternative. They govern by slogans which ignore the complex issues with platitudes and empty rhetoric. We have seen slogans bandied across various places thus far, and some members—the more intelligent members of the Liberal and National parties—must cringe when they see complex policies delivered in three-liner slogans. This has in no place been clearer than in the opposition ignoring the expert advice of military, civil society and policy experts who say that the old and cruel approach the Howard government took to people smuggling not only will not work but also will endanger our relationship with our nearest neighbour and will treat our most important regional partner with contempt, all for the sake of trotting out
a simple issue that completely ignores the complex issue of asylum seekers and people-smuggling. In doing so, the Liberal-National party goes further, to treat the electorate with contempt, to ignore the fact that the electorate cannot deal with anything more than a slogan. Not only do they treat with contempt our regional partner, with whom we need to continue to develop our bilateral relationship in a positive way, but also they treat the electorate with contempt.

The Liberals advocated for government to abdicate its environmental responsibilities not so long ago by opposing sensible reform of the Environmental Protection and Biodiversity Conservation Act. They are content to ignore the role federal government has to play to ensure that developments are environmentally sound, all for the sake of at any cost pleasing their Liberal Premier mates. This is another clear area where the opposition have it wrong.

Let us move to some of the more recent rhetoric—it is not even recent; it has been going on for some time—concerning respect. Probably the most damaging of all the Liberal and National policies has been the denigration of government, not just of this government but of the office of government. Under the leadership of Mr Abbott, Senator Abetz and Mr Hockey, the Liberal-National party has made acceptable, and has made ordinary, language and conduct that is as extraordinary as it is appalling. Mr Hockey, a man who would purport to be the alternative or next Treasurer of this country, said of the Prime Minister on Twitter that she has never deserved respect and will never receive it. That is absolutely abhorrent. It is appalling language to be used not only by people who hold office themselves but against the Prime Minister, the highest level office in this nation.

I believe that everybody is entitled to basic levels of respect and dignity. Every person is entitled to basic levels of civility. It is our responsibility as community leaders not just to maintain that level of civility but to model appropriate behaviour. It is our responsibility to hold ourselves to higher standards—to show that we can disagree without denigrating others, and that policy can be bigger than a person.

In this climate, where the supposed leaders in the Liberal-National party are telling people that they need not respect the holders of the highest public offices in this land, is it any wonder that we hear from others, such as shock jocks like Howard Sattler and Alan Jones, who feel that they can also abandon their own responsibility?

The question is: where does it start? It starts with comments and slogans coming out of the opposition. They then get repeated on the airwaves right across the country, and repeated continuously by some of those shock jocks—people who need to take a good look at themselves as well, when we talk about respect and about how they contribute to this denigration of the offices of government, because they certainly do. While I do recognise the recent sacking of Howard Sattler, I think Alan Jones has had equally bad if not worse things to say in relation to the office of Prime Minister in this country.

There has been an ongoing denigration of that office. This has been done by the opposition. It has been done by those shock-jock media outlets, as I call them, and it is absolutely appalling. It is appalling for us as citizens of Australia who listen to this day in, day out, but it is also appalling for the next generation of young Australians to learn that that is the bar for the way we treat each other and how we show respect for our democracy, our rule of law and our whole way of
operating our parliamentary system in Australia. It is pretty appalling, and I certainly feel embarrassed to see that kind of behaviour in our Australian political landscape.

When our always robust political debates move from wit and colour to pure and simple bottom-feeding, lowest-common-denominator insults, you know very much that there is a problem. When the Leader of the Opposition feels entitled to stand in front of a banner outside Parliament House that describes the Prime Minister as a witch and thereby legitimises those words, you know that there is a problem. When the most disgusting insults are circulated as an in-joke on a menu at a Liberal Party fundraiser and the member responsible for either the event or happily taking the money says, 'No questions asked; thank you very much,' you know there is a problem. When shock jocks are content to question the most personal aspects of a Prime Minister's life, or to use incendiary language that urges violence—

(Time expired)

Senator SMITH (Western Australia) (16:41): Today we commence the final sitting fortnight of the 43rd Parliament, a parliament that will live long in the memory of all Australians—though, sadly, for all the wrong reasons. As I look into the gallery and see a number of young Australians, a number of young visitors, I wonder how they will reflect on this moment in their history—on these dark days that have marked this particular Australian government. Perhaps fittingly, it seems that this parliament is destined to end very much as it began, with a desperate Prime Minister doing deals left, right and centre to maintain her hold on office; members of the ALP opposed to her leaking to the media; and the business of the nation put on hold as the Labor Party engages in a round of navel-gazing, focusing on its own priorities and not the nation's.

If you want an example of the type of thing I am referring to, you need look no further than today's disgraceful announcement that the government will grant $10 million to the yes campaign at the upcoming referendum while providing a mere $500,000 to the no campaign. I will not dwell on the matter at length now; there will be plenty of opportunities over coming days. I will say, however, that it is a dark day for Australian democracy when the government uses taxpayers' money to subvert the democratic process in such a fashion. What the government is doing is trying to stack the deck in favour of its preferred outcome. This is truly scandalous and will be met with great rejection by the Australian people. This Prime Minister's grubby tactics, advanced by her Labor peers, stand in stark contrast to those of former Prime Minister John Howard, who gave equal funding to the yes and no campaigns at the 1999 public referendum, despite his strong personal views on that specific matter.

On the day she became Prime Minister, Ms Gillard told the people of Australia this: 'There will be some days that I delight you; there may be some days I disappoint you.' The hearts of many Australians are heavy with the daily disappointments that mark this government's performance. She was not kidding, clearly, about the second half of that sentence, though I suspect most Australians would have a hard time calling to mind any of the days on which this Prime Minister would have delighted them.

This Prime Minister has governed—and I use the term advisedly—in a state of perpetual crisis. What makes her so unique, however, is that these crises have been almost entirely of her own making. The boats continue to arrive in Australia week after week because the Rudd government, in which Julia Gillard was the Deputy Prime Minister, weakened Australia's border
protection laws. The budget is now in deficit because the Rudd government indulged in reckless spending, an approach which Julia Gillard enthusiastically supported as Deputy Prime Minister and wholeheartedly embraced as the fiscal model for her own government once she had knifed the member for Griffith. Of course it is the mutual suspicion, loathing and contempt that exist between the Prime Minister and the member for Griffith that have now completely paralysed this Labor government, and it is our nation that is paying the price.

It is quite extraordinary to see the member for Griffith parading himself around the nation, almost as a shadow Prime Minister, bobbing up in front of television cameras with a few well-chosen words designed to plunge the knife a little deeper into this Prime Minister's back. Australian politics have never witnessed such a protracted, toxic intraparty feud. The Howard-Peacock rivalry was genuine, but at its core lay an actual philosophical debate, a genuine discussion, about policy directions and the future path of the Liberal Party. Likewise, the Hawke-Keating battle seems positively benign compared with what we are now being forced to endure. Paul Keating may well have been capable of some superb parliamentary invective, but it is hard to imagine him setting out to deliberately sabotage his own party's election campaign as the member for Griffith did in 2010. It is equally hard to imagine Bob Hawke being so paranoid, so utterly consumed by his vendetta against Paul Keating, that he would scale his media appearances right back, refuse to answer questions and, instead, issue self-produced videos to get his lines out. Talk about a bunker mentality!

Please do not think for a moment that I am exaggerating. Twice in the past week, the Prime Minister's office has banned the media from covering events she attended. First, the media was prevented from attending the Women for Gillard launch, presumably out of fear that the number of attendees would be unflattering to the Prime Minister. Then, again, in Adelaide yesterday, I understand the media pack was told that the Prime Minister would not be doing any media events—that was until the member for Griffith got live coverage of his participation in a fun run in Brisbane, after which a single ABC camera was hastily summoned to capture the Prime Minister serving coffee at Adelaide's Farmers Market on the condition that she would not have to answer any tough questions. This is now what the government of our country has unfortunately been reduced to—a photo opportunity war between the Prime Minister and her predecessor.

I am not a great supporter of the Labor Party, obviously, but I do pity those many thousands of Labor supporters around the country and the decent Labor members and senators in this place and the other place who are being caught up in a poisonous political duel. I think particularly of the member for Hotham, a former Labor leader, who set out in March to rescue his own party. At the time he said:

This is an issue that has to be resolved. There is too much at stake.

...  ...  ...

For me, the position itself ... is not a personal one ... I'm doing this in the interests of the Labor Party and, in turn, the nation.

Now, to me, those sound like the noble sentiments of a party statesman, wanting to save his party from the maelstrom in which it finds itself and to get this government to actually focus on governing—and the reward for such nobility in the Gillard-led ALP? The sack. One of Labor's most experienced and respected figures was relegated to the back bench because he dared to tell the truth; he dared to speak his mind.
We likewise heard from the member for Batman in the last sitting week in the House that he would be moving on at this election. He, too, is a man considered even by his opponents to be a good minister, a decent person, with the best interests of his nation at the core of his heart. Under this Prime Minister, there is no room for such an honourable man. Principles must give way to pragmatism, and policy must take a back seat to politics. The swelling number of former cabinet ministers now lurking on the back bench and the total inability of this government to focus on governing says so much about the blind alley into which both the current Prime Minister and her predecessor, the member for Griffith, have led a once formidable Australian Labor Party.

In 89 days, the people of Australia will have the chance to again elect a government that will actually focus on implementing its real plans and addressing the policy questions that face our nation. Given the poisonous atmosphere that now paralyses this government and the lost opportunities for our country, it is no wonder that more and more Australians are actively counting down the days until 14 September.

Senator FAULKNER (New South Wales) (16:49): It is another Senate sitting day and another predictable matter of public importance. This time the opposition has asked us to debate: The failure of the Gillard Government to focus on the business of governing.

In order for us to debate this matter of public importance an hour of the Senate's valuable time to consider government legislation has been lost. I predict that not a word of the desultory opposition contributions in this debate from Senator Nash, yourself, Mr Acting Deputy President, and Senator Smith will be worth reporting on the news bulletins tonight. In fact, I predict that this debate will amount to nothing more than yet another waste of the Senate's valuable time.

We have only eight sitting days left of the 43rd Parliament. The opposition could play a more responsible role. The opposition could make a more serious contribution to the work of the Senate. As you know, Mr Acting Deputy President, the Senate workload is immense. A cursory read of today's Senate Notice Paper shows that government bills number 27. According to today's Order of Business the number of bills to be introduced this Monday is another 41. Even with Senator Sinodinos's rudimentary arithmetic skills, I think, he could even work out that that makes the total number of bills to be dealt with a whopping 68 bills.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Resume your seat, Senator Faulkner. Senator Sinodinos.

Senator Sinodinos: Mr Acting Deputy President, I rise on a point of order. Casting aspersions on other members of the chamber without knowledge of their arithmetic capabilities and degrees in economics is, I think, beyond the pale of what should be an opportunity for a reasonable exchange of views on important topics of the day. While I am on my feet may I add—

The ACTING DEPUTY PRESIDENT: No, you cannot debate the point, Senator Sinodinos. I will draw Senator Faulkner's attention to the sensitivity that you have displayed and ask Senator Faulkner to continue.

Senator FAULKNER: I take Senator Sinodinos's word for the fact that he does not have rudimentary arithmetic skills. Of course, apart from that whopping 68 bills, I do not want to ignore the disallowance motion on charities regulation to be debated, either.
Many of these bills are urgent; many of them are of immense importance. They deserve more time and more consideration than does this inane matter of public importance. Of these bills eight, including the Asbestos Safety and Eradication Agency Bill and the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill, require passage on or before tomorrow to allow Executive Council action on 28 June. The aged-care package, including the Aged Care (Living Longer Living Better) Bill, requires passage before 21 June. Passage of the Corporations and Financial Sector Legislation Amendment Bill is required on or before 23 June. Passage of the National Disability Insurance Scheme Legislation Amendment Bill is required on or before 26 June. Passage of the Family Assistance and Other Legislation Amendment Bill 2013, the Tax laws Amendment (2013 Measures No. 2) Bill and the Sugar Research and Development Services Bill and related bills are required on or before 27 June.

In addition to those bills another 20 bills require passage by 30 June. These include Appropriation Bill (No. 1) and Appropriation Bill (No. 2), the Appropriation (Parliamentary Departments) Bill (No. 1), the Environment Protection and Biodiversity Conservation Amendment Bill, the Private Health Insurance Amendment (Lifetime Health Cover Loading and Other Measures) Bill and the Social Security Amendment (Supporting More Australians into Work) Bill. All of these bills are priorities. All of these bills deserve serious Senate review. All of these bills deserve debating time in this chamber, and all of these bills are, of course, so much more important than this time-wasting exercise of the matter of public importance today.

One critically important piece of legislation requiring the Senate's attention relates to the National Disability Insurance Scheme. I believe that the establishment of DisabilityCare Australia is our nation's most significant social reform since Medicare. DisabilityCare Australia will ensure that Australians with significant and permanent disabilities get the support they need and allow them to live their lives with choice and dignity. To provide a stable and reliable revenue stream for DisabilityCare Australia and to provide certainty to people with a disability and their families and their carers the government is increasing the Medicare levy by half a percentage point. All revenue raised from increasing the Medicare levy will be placed in a special fund, the DisabilityCare Australia Fund, which is established by the DisabilityCare Australia Fund Bill and the DisabilityCare Australia Fund (Consequential Amendments) Bill. Let's pass these critically important bills assisting some of the most vulnerable members of the Australian community because they also require passage by 30 June this year before the parliament gets up. I say to the opposition: get on with it. These bills are all so much more important than this time-wasting, desultory matter of public importance debate.

Of course, in addition to this huge legislative program, we have the Australian Education Bill which provides the foundation for a legislative framework that will deliver vital increases in funding for schools around the country. That bill enshrines the government's commitment to ensure an excellent education for all school children regardless of their background and circumstances. The bill sets out a national vision for the development of an ambitious National Plan for School Improvement that will see Australia placed in the top five countries in reading, science and mathematics by 2025. I say again, let's not have this bill, another critically important
piece of legislation, delayed by more time wasting from the opposition.

I want to say, finally, it really does appear to be an irony of today's MPI, obviously totally lost on Senator Fifield, that the opposition has wasted an hour of the Senate's precious time to accuse the government of a failure to focus on the business of governing. Instead of lecturing the government, perhaps, just perhaps, for once, they should take their own advice.

The ACTING DEPUTY PRESIDENT: This discussion has concluded, and so I will call on any ministerial statements.

MINISTERIAL STATEMENTS

Detainee Management in Afghanistan

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (17:00): On behalf of the Minister for Defence, I table a ministerial statement on detainee management in Afghanistan.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:00): I present documents listed on today’s Order of Business at item 12 which were presented to the President, Deputy President and Temporary Chairs of Committees after the Senate adjourned on Thursday, 16 May 2013.

The list read as follows—
Committee reports
1. Education, Employment and Workplace Relations References Committee—Report—Teaching and learning – maximising our investment in Australian schools—Erratum (received 17 May 2013).
2. Rural and Regional Affairs and Transport References Committee—Report—Aviation accident investigations (received 23 May 2013).
   Third interim report.
6. Environment and Communications References Committee—Interim report—The effectiveness of current regulatory arrangements in dealing with the simultaneous transmission of radio programs using the broadcasting services bands and the Internet (‘simulcast’).
8. Environment and Communications Legislation Committee—Interim report—The effectiveness of current regulatory arrangements in dealing with the simultaneous transmission of radio programs using the broadcasting services bands and the Internet (‘simulcast’).
10. Legal and Constitutional Affairs References Committee—Interim report—Framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements.
13. Legal and Constitutional Affairs References Committee—The impact of federal court fee increases since 2010 on access to justice in Australia—
   Interim report.
   Second interim report.
15. Rural and Regional Affairs and Transport References Committee—Interim report—The Auditor-General's reports on the Tasmanian Forestry Grants Programs.
18. Environment and Communications Legislation Committee—Report, together with the Hansard record of proceedings, documents presented to the committee, additional information and submissions—Environment Protection and Biodiversity Conservation Amendment (Great Barrier Reef) Bill 2013.
20. Foreign Affairs, Defence and Trade Legislation Committee—Report, together with the Hansard record of proceedings, additional information and submissions—Export Finance and Insurance Corporation Amendment (New Mandate and Other Measures) Bill 2013 [Provisions].
22. Foreign Affairs, Defence and Trade References Committee—Report, together with the Hansard record of proceedings, additional information and submissions—Importance of the Indian Ocean rim for Australia's foreign, trade and defence policy.
23. Legal and Constitutional Affairs Legislation Committee—Report, together with the Hansard record of proceedings, additional information and submissions—Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013 [Provisions].

Government responses to parliamentary committee report
1. Finance and Public Administration References Committee—Report—Medicare funding for Hyperbaric Oxygen Treatment.
3. Environment and Communications References Committee—Report—Sustainable management by the Commonwealth of water resources.
5. Rural and Regional Affairs and Transport References Committee—Report—Implications for the long-term sustainable management of the Murray-Darling Basin system.
7. Select Committee on Agricultural and Related Industries—Report—Pricing and supply arrangements in the Australian and global fertiliser market.

Reports of the Auditor-General


**Letters of advice relating to Senate orders**

1. Letters of advice relating to lists of departmental and agency appointments and vacancies:
   - Attorney-General’s portfolio.
   - Broadband, Communications and the Digital Economy portfolio.
   - Defence portfolio.
   - Department of Agriculture, Fisheries and Forestry.
   - Department of Education, Employment and Workplace Relations.
   - Department of Families, Housing, Community Services and Indigenous Affairs.
   - Department of Foreign Affairs and Trade.
   - Department of Human Services.
   - Department of Immigration and Citizenship.
   - Department of Veterans’ Affairs.
   - Finance and Deregulation portfolio.
   - Health and Ageing portfolio.
   - Office for Sport.
   - Office for the Arts.
   - Prime Minister and Cabinet portfolio.
   - Regional Australia, Regional Development and Local Government portfolio.
   - Resources, Energy and Tourism portfolio.
   - Sustainability, Environment, Water, Population and Communities portfolio.
   - Treasury portfolio.

2. Letters of advice relating to lists of departmental and agency grants:
   - Arts portfolio.
   - Australian National Preventive Health Agency.
   - Broadband, Communications and the Digital Economy portfolio.
   - Cancer Australia.
   - Defence portfolio.
   - Department of Education, Employment and Workplace Relations.
   - Department of Families, Housing, Community Services and Indigenous Affairs.
   - Department of Foreign Affairs and Trade.
   - Department of Health and Ageing.
   - Department of Human Services.
   - Department of Immigration and Citizenship.
   - Department of Veterans’ Affairs
   - Finance and Deregulation portfolio.
   - Office for Sport
   - Organ and Tissue Authority
   - Prime Minister and Cabinet portfolio
   - Regional Australia, Regional Development and Local Government portfolio
   - Regional Development and Local Government portfolio
   - Resources, Energy and Tourism portfolio.
   - Sustainability, Environment, Water, Population and Communities portfolio.
   - Treasury portfolio.
The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:00): In accordance with the usual practice and with the concurrence of the Senate the government responses will be incorporated in Hansard.

The responses read as follows—

Government response to the Senate Finance and Public Administration References Committee Report on the Medicare Funding for Hyperbaric Oxygen Treatment

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<thead>
<tr>
<th>Recommendation</th>
<th>Response</th>
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<tbody>
<tr>
<td><strong>Recommendation 1</strong></td>
<td>Noted</td>
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<tr>
<td>The committee recommends that the Government continue Medicare Benefits Schedule interim funding for Hyperbaric Oxygen treatment for non-diabetic wounds until the current randomised control trial is completed and assessed by the Medical Services Advisory Committee.</td>
<td>The decision to remove funding for Hyperbaric Oxygen Therapy (HBOT) for non-diabetic wounds from the Medicare Benefits Schedule (MBS) is consistent with the Government's commitment to evidence based decision making. As noted within the Dissenting Report, the applicants for HBOT services have been provided with opportunities spread over a decade, to meet the criteria for ongoing Medicare funding and have been unsuccessful on all three occasions. Continuation of MBS funding even for the purpose of supporting service provision while a randomised control trial (RCT) is conducted may not provide any clearer evidence for Medical Service Advisory Committee's (MSAC's) consideration. The MBS is not a vehicle for public funding of clinical research. Public funding for clinical research is provided principally though the National Health and Medical Research Council (NHMRC).</td>
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| **Recommendation 2** | Noted |
| The committee recommends that an independent review process be established for decisions by the Medical Services Advisory Committee using a similar approach to the independent review of the Pharmaceutical Benefits | In February 2010, the then Minister for Health and Ageing, the Hon Nicola Roxon, and the then Minister for Finance and Deregulation, the Hon Lindsay Tanner, publicly released the Report of the Review of Health Technology Assessment in Australia ("the HTA Review"), and announced the government's acceptance of 13 (of 16) recommendations. |
Recommendation | Response
--- | ---
Advisory Committee. | The HTA Review suggested that "all processes align their review processes with a set of shared principles. These principles could include:

- Whenever possible, encourage resolution informally. The review should be limited to considering information provided as part of the initial application.
- The review process should not create any opportunities for sponsors or others to manipulate the system. It would be better to encourage a re-submission with a more favourable case for listing than to stagnate in a review process over a less favourable case.
- The results of independent reviews should be provided back to the primary committee responsible for providing advice to the Minister, to enable re-consideration of the original matter.

As review mechanisms can be resource intensive, reducing resources available for HTA of other new technologies, it may be reasonable for an appropriate fee to be charged where a sponsor seeks a review”.

In line with the HTA Review's recommendations, the decision to remove funding for HBOT for non-diabetic wounds from the MBS has already gone through a number of informal review mechanisms including review by the NHMRC. The applicants have also been encouraged to re-submit when new evidence is available.

Government response to the Senate Finance and Public Administration References Committee Report on the Medicare Funding for Hyperbaric Oxygen Treatment

Conclusions of Dissenting Report

The Dissenting Report supports the decision to withdraw Medicare funding for HBOT for non-diabetic wounds.

It was the view of the dissenting Senators that:

- the decision is consistent with the Government”’s commitment to evidence based decision making;
- the department has gone out of its way to assist the applicants, including the special review by the National Health and Medical Research Council and other follow-up activities;
- interim funding has been provided for around a decade to enable new evidence to be obtained to determine if HBOT for non-diabetic wounds can meet the effectiveness test, but such evidence still has not been provided; and
- even though a new trial is underway, it does not appear to provide a reasonable prospect of better evidence

Government Response to Dissenting Report

The Government notes and agrees with the conclusions of the Dissenting Report.
Government Response
Joint Select Committee on Gambling Reform: Fourth Report; and Community Affairs Legislation Committee of the Senate Inquiries into the National Gambling Reform Bill 2012 and related bills

The Australian Government (the Government) welcomes the opportunity to respond to these reports and recognises the important work of both the Parliamentary Joint Select Committee on Gambling Reform, and the Community Affairs Legislation Committee of the Senate (together referred to as 'the Committees').

The Government has responded in full to the two inquiry reports in one combined response. Where recommendations differ between reports, this has been identified in the response.

The Government released exposure drafts of the national gambling reform legislation for comment and consultation on 17 February 2012. Extensive consultations were conducted with industry groups, manufacturers, the community sector and state and territory governments in the development of the draft legislation. As a result of these consultations and prior to the introduction of the bills into the Parliament, amendments to the draft bills were made.

The Government was pleased to introduce the National Gambling Reform Bill 2012 and related matters bills into the Parliament on 1 November 2012. The legislation was then referred to the Committees for inquiry and report.

As a result of recommendations made by the Committees, in conjunction with consultations with other stakeholders, the Government made a number of amendments to the legislation. The Member for New England, Mr Tony Windsor MP also proposed amendments to the legislation which were supported by the Government.

Following debate in both Houses of the Parliament, the legislation with amendments was passed by the Parliament on 29 November 2012. The National Gambling Reform Act 2012 and related matters Acts commenced on 11 and 12 December 2012, after receiving Royal Assent.

The National Gambling Reform Act 2012 and related matters Acts deliver on the Government's commitment to reduce the harm caused by gaming machines to problem gamblers, and to the families, friends and communities of problem gamblers and those at risk of developing gambling problems, as announced on 21 January 2012. This legislation represents the first time that a national government has legislated to help tackle problem gambling. The reforms in the Acts will help those who may have problems with gambling take control of their gambling behaviour and take back control of their lives.

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<th>Main report - Recommendations</th>
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<td><strong>Recommendation 1</strong></td>
<td>Agree</td>
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<tr>
<td>The committee recommends that the ban on the use of biometrics be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment.</td>
<td>The Government amended the legislation so that this issue will be examined by the Productivity Commission as part of the scope of the Productivity Commission's review of other matters, in line with the recommendation of the Committee. This appears in the National Gambling Reform Act 2012 in paragraph 194(1)(b).</td>
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<td><strong>Recommendation 2</strong></td>
<td>Agree</td>
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<td>The committee recommends that the linking of pre-commitment to loyalty schemes be included as an issue for the Productivity Commission to</td>
<td>The Government amended the legislation so that this issue will be examined by the Productivity Commission as part of the scope of the</td>
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| **Recommendation 3**  
The committee recommends that the issue of whether there are grounds for further exemptions for smaller venues in regional and remote areas should be included as an issue for the Productivity Commission to consider in its review of assessment of progress in complying with the requirements around pre-commitment. | Productivity Commission's review of other matters, in line with the recommendation of the Committee. This appears at paragraph 194(1)(c) of the National Gambling Reform Act 2012. Agree  
The Government understands that small hotel and club venues, many in regional areas, are not the same as big gaming venues. In recognition of this, the Government amended the legislation to provide longer implementation timeframes for all venues. Venues with between 11 and 20 gaming machines have an additional four years (until 2022) to implement pre-commitment technology. This accounts for around 26 per cent of venues nationally. Venues with more than 20 machines (around 48 per cent nationally) will have until 2018 to implement pre-commitment technology. Small venues with 10 machines or fewer (around 26 per cent nationally) will be able to implement these changes as they replace their gaming machines. This will remove any upfront implementation costs for these venues. The Government does not want to see small gaming machine venues disadvantaged. The Government amended the legislation so that this issue will be examined by the Productivity Commission as part of the scope of the Productivity Commission's review of other matters, in line with the recommendation of the Committee. This appears in the National Gambling Reform Act 2012 in paragraph 194(1)(e). |

| Recommendation 4 | 
The committee recommends that the government develop an appropriate national education and social marketing campaign for voluntary pre-commitment and work with industry to develop training for staff. | Agree in principle  
Education within gaming venues will be an integral component of initiatives to support the introduction of the Government's gambling reforms, including pre-commitment. The Government recognises the importance of encouraging player take up of pre-commitment, and how this can be achieved through various methods, including interactions between venue staff and players. In January 2012, the Government made a commitment to improving training for staff in |
### Senate

**Monday, 17 June 2013**

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<tr>
<td><strong>Recommendation 5</strong>&lt;br&gt;The committee recommends that the members of the ATM Industry Reference Group be given until the end of 2013 to implement the $250 daily withdrawal limit on ATMs in gaming machine premises should the government believe such an extension would assist with the transition.</td>
<td>Agree&lt;br&gt;The Government acknowledges that implementation timeframes were compressed due to delays in securing parliamentary support for the legislation.&lt;br&gt;The automatic teller machine (ATM) industry raised the need for 12 months lead time to implement the $250 per day withdrawal limit.&lt;br&gt;The Government agrees with the recommendation of the Committee to provide additional time to implement ATM withdrawal limits.&lt;br&gt;Section 14 of the National Gambling Reform Act 2012 was amended by the Government, extending the application date of this legislative provision to 1 February 2014, giving the industry over 12 months to implement the $250 limit.</td>
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<td><strong>Recommendation 6</strong>&lt;br&gt;The committee recommends that the issue of including EFTPOS transactions in the $250 per day ATM withdrawal limit be considered by the Productivity Commission in its review of assessment of progress in complying with the requirements around the ATM withdrawal limits.</td>
<td>Agree&lt;br&gt;The National Gambling Reform Act 2012 does not include a withdrawal limit for electronic funds transfer at point of sale (EFTPOS) withdrawals. However, the Government has amended the legislation so that this issue will be examined by the Productivity Commission as part of the scope of the Productivity Commission’s review of other matters, in line with the recommendation of the Committee. This appears in the National Gambling Reform Act 2012 in paragraph 194(1)(d).&lt;br&gt;For consideration by the AGRC&lt;br&gt;The National Gambling Reform Act 2012 establishes the Australian Gambling Research Centre (AGRC) as an independent national centre for gambling policy research and evaluation. The AGRC is established in section 196 of the Act. Although the research agenda of the AGRC may align with government policy work, this will be determined by the Director of the AGRC and remain independent from government. However, future research may include the conduct of a</td>
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**Recommendation 7**<br>The committee recommends that the Australian Gambling Research Centre should, as a priority, conduct a national prevalence study of problem gambling to establish baseline data (using best practice screening tools) that will enable comparison between jurisdictions and will include as many at risk groups as possible. |
The AGRC aims to provide a forum for experts to shape and inform the direction of gambling research in Australia. In this way, the research agenda will also be shaped by an Expert Advisory Group on Gambling, with membership by appointment of the Director of the AGRC. Under the Act, appointments must only be made if the Director is satisfied the person has relevant expertise and satisfies the Director's terms and conditions of appointment.

Recommendation 8
The committee recommends that the bills be passed.

Recommendation 1
I recommend that the independence of members of the expert advisory group from the interests of the gambling industry should be a pre-requisite for appointment. In addition, researchers should be required to declare any existing or previous funding or relationships with the gambling industry, including publishing the details of such relationships.

Recommendation 2
I recommend that the government take action to ensure that the funding for the Australian Gambling Research Centre is increased to be a more realistic figure and that it makes explicit publicly that the funding is ongoing.

**Main report - Recommendations**

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<td>Recommendation 8</td>
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<td>Recommendation 2</td>
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**Joint Select Committee Chair's Additional Comments - Recommendations**

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<tr>
<td>Recommendation 1</td>
<td>For consideration by the AGRC The National Gambling Reform Act 2012 establishes the AGRC as an independent national centre for gambling policy research and evaluation. Section 197 of the Act establishes an Expert Advisory Group on Gambling. Members of the Expert Advisory Group on Gambling will be appointed by the Director of the AGRC. Under the Act, appointments must only be made if the Director is satisfied the person has relevant expertise and satisfies the Director's terms and conditions of appointment. The Government agrees that appropriate mechanisms should be put in place to promote transparency around research findings.</td>
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<tr>
<td>Recommendation 2</td>
<td>Disagree The AGRC will be an independent national centre for gambling policy research and evaluation, funded by the Government at a level required for the AGRC to undertake the functions outlined in the legislation. The AGRC will be adequately funded by the Government, with approximately $1.5 million allocated per annum to establish and run the Centre, commencing 1 July 2013.</td>
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### Recommendation 1
Coalition committee members recommend that the different technical situations in jurisdictions, which will directly affect timelines and costs for implementation, be taken into consideration by moving the timelines from the legislation to the regulations to allow greater flexibility and more time.

**Government Response**
Disagree
The timelines for implementing the requirements were considered in detail, through extensive consultations conducted on the exposure draft of the legislation with industry, state and territory governments and interested stakeholders.
All timelines in the *National Gambling Reform Act* 2012 were extended through amendments.
For example, the Government amended the Act to provide venues with between 11 and 20 gaming machines an additional four years (until 2022) to implement pre-commitment technology. This accounts for around 26 per cent of venues nationally.
The Government also amended the Act to give venues with more than 20 machines (around 48 per cent nationally) until 2018 to implement pre-commitment technology.
The Act was amended to allow small venues with 10 machines or fewer (around 26 per cent nationally) to implement these changes as they replace their gaming machines.
In addition, section 14 of the Act was amended by the Government, extending the application date of the ATM withdrawal limit to 1 February 2014, giving the industry over 12 months to implement the $250 limit.

### Recommendation 2
Coalition committee members recommend that existing pre-commitment systems that meet the minimum requirements specified in the legislation should be recognised as compliant as quickly as possible in order to provide regulatory certainty for venues.

**Government Response**
Agree in principle
The Government has intentionally not been prescriptive about particular systems or technologies in the legislation to provide flexibility for industry to choose systems that suit their particular operating environment.
Instead the *National Gambling Reform Act* 2012 sets out the broader functionality to be satisfied in order for a system to be approved.
This approach also allows for new systems to be developed over time, in addition to those currently available, providing greater compatibility with future technology and opportunities for innovation.
The Australian Government is undertaking consultations with state and territory government
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<th>Coalition members' dissenting report - Recommendations</th>
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<td>Recommendation 3</td>
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<td>Coalition committee members recommend that further consultation with industry take place to ensure the timelines proposed in the bill can take further consideration of the ability of smaller venues, those in regional and rural areas and those in financial distress to comply with the requirements. This should include the suggestions put forward by industry and the placement of deadlines in regulations.</td>
<td>The Government recognised the concerns of industry during consultations on the exposure draft of the legislation, in particular, that small hotel and club venues, especially those in regional areas, are not the same as big gaming venues. Consequently, the <em>National Gambling Reform Act 2012</em> was amended by the Government to provide longer implementation timeframes for all venues. Venues with between 11 and 20 gaming machines have an additional four years (until 2022) to implement pre-commitment technology. This accounts for around 26 per cent of venues nationally. Venues with more than 20 machines (around 48 per cent nationally) will have until 2018 to implement pre-commitment technology. Small venues with 10 machines or fewer (around 26 per cent nationally) will be able to implement these changes as they replace their gaming machines. Additionally, the <em>National Gambling Reform Act 2012</em> was amended by the Government to have the Productivity Commission consider further exemptions for small venues in regional and remote areas as part of the review of other matters. This is detailed in paragraph 194 (1)(e) of the Act.</td>
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<td>Recommendation 4</td>
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<td>Coalition committee members recommend that there should be a lead time of not less than 12 months from the date of the bills passing parliament for the proposed daily withdrawal limit to apply.</td>
<td>The Government acknowledges that implementation timeframes were compressed due to delays in securing parliamentary support for the legislation. The ATM industry also raised the need for 12</td>
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Coalition members' dissenting report - Recommendations

Recommendation 5
Coalition committee members recommend that measures around ATM use targeted specifically to help problem gamblers, such as lowering their daily withdrawal limits and/or the use of self-exclusion ATMs, should be pursued in preference to causing inconvenience to all patrons. However, if implemented, the proposed daily limit should be increased to at least $400 to take account of the issues raised by industry.

Recommendation 4
Coalition Senators recommend the daily withdrawal limit for ATMs be raised from $250 to $400 and that attention be given to use of self-exclusion mechanisms on ATMs for problem gamblers.

Recommendation 6
Coalition committee members recommend that the bills not be passed in their current form.

Government Response
months lead time to implement the $250 per day withdrawal limit.
The National Gambling Reform Act 2012 was amended by the Government to provide additional time to implement ATM withdrawal limits. This measure will commence on 1 February 2014, giving the industry more than 12 months to implement the limit from the time of the enacting of the legislation.

Disagree
The Government has considered the points raised by industry around alternative measures to limit ATM withdrawals for problem gamblers, specifically the use of self-exclusion on ATMs.
Advice to the Government is that the technology for self-exclusion on ATMs does not currently exist, and that there is no evidence indicating that this tool would be effective in minimising harmful gambling behaviour.
The Government supports the recommendation of the Productivity Commission to prescribe an ATM daily withdrawal limit of $250 in gaming venues, as this limit could help address gambling harms without unduly affecting most patrons of clubs and hotels. The Productivity Commission found that nearly 85 per cent of ATM withdrawals in hotels and clubs are already less than $250 per card per day.
The withdrawal limit does not apply to EFTPOS which will continue to be available to patrons.

Disagree
The National Gambling Reform Act 2012 and related matters Acts were passed, with amendments, on 29 November 2012. The legislation received Royal Assent on 11 and 12 December 2012.
### Dissenting Report by Senator Xenophon - Recommendations

**Recommendation 1:**
That the bills not be passed unless amended to include provisions for the implementation of maximum $1 bets and hourly losses of $120 on all gaming machines in Australia.

**Government Response**
Disagree

The Government does not support the implementation of a $1 bet limit on all gaming machines.

The Government's technical advice on $1 bet limits and other low intensity parameters is that as a harm minimisation measure, it is not as simple and affordable as some have suggested.

The *National Gambling Reform Act 2012* implements a pre-commitment system, a key recommendation of the Productivity Commission.

**Recommendation 2:**
That there be a plebiscite to be held at the next Federal Election to determine the will of the Australian people on the maximum $1 bet and $120 hourly loss recommendation of the Productivity Commission.

**Government Response**
Disagree

The Government has enacted Australia's first national legislation to tackle problem gambling, including a staged, evidence-based pathway to pre-commitment.

Pre-commitment was recommended by the Productivity Commission as it assists players in making their own choices about how much they can afford to lose on gaming machines, and stick to these limits.

### Australian Greens Additional Comments— Recommendation (Joint Select Committee only)

**Recommendation 1**
That the Australian Gambling Research Centre should prioritise research into the effectiveness and cost of implementing national bet limits on poker machines in Australia.

**Government Response**
For consideration by the AGRC

The AGRC will be an independent national centre for gambling policy research and evaluation, and established within an independent statutory agency.

Although the research agenda of the AGRC may align with government policy work, it will be set by the Director of the AGRC and will remain independent from government.

### Australian Government response to the Senate Environment and Communications References Committee report: Sustainable management by the Commonwealth of water resources

The Australian Government welcomes the Senate Environment and Communications References Committee's final report for the inquiry *Sustainable Management by the Commonwealth of Water Resources*. The final report was presented on 7 October 2010. The report made four recommendations. The Government's response to each of these recommendations is set out below.
Following these responses is the Government's response to one recommendation for the Government in the minority report by Independent Senator Nick Xenophon.

On 13 September and 1 November 2012, the Minister for Water, the Hon Tony Burke MP made suggestions for changes to the Proposed Basin Plan under section 44(1) of the Water Act 2007. The suggestions have taken full account of the recommendations from jurisdictions, parliamentary committees and community meetings.

The final Basin Plan was signed into law by the Minister on 22 November 2012 and tabled in the Parliament on 26 November 2012.

Government Response to the Committee Report

Recommendation 1
The government should prepare an annual report of the Sustainable Rural Water Use and Infrastructure Program, detailing projects completed, in progress and planned, including for each project information on costs and timelines, water savings, and the share of water savings dedicated to the environment, extractive uses or other purposes.

Agree in principle.

The Government will report on progress under the Sustainable Rural Water Use and Infrastructure Program annually commencing with a report for the 2012-13 financial year.

Recommendation 2
The government should commit to making community impact statements for Commonwealth water purchases from each sub region of the Murray Darling Basin.

Agree in principle.

The Australian Government supports the principle of examining the impact of water reform at a regional level, and considers this is being addressed through work of the Murray-Darling Basin Authority (the MDBA) and the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC).

The MDBA has commissioned detailed economic modelling of the impacts of Basin water reform. This modelling indicates the Basin Plan will have a modest impact on food production at the Basin level, with the Government investment under the 'Water for the Future' initiative substantially offsetting the impacts of reduced water availability.

This modelling is discussed in more detail in the Basin Plan Regulation Impact Statement, released in November 2012, and the report Socioeconomic Analysis and the Draft Basin Plan, published by the MDBA in May 2012. These reports are available from the MDBA website. These reports are complemented by a recently released survey of more than 500 people who participated in the Commonwealth's water purchase program. The survey showed the water purchase program was seen to be beneficial for 80 per cent of those surveyed, the majority of proceeds from water sales are spent within the local region and almost all who exited farming found alternative local employment, or retired in their local community.


The Government will continue to monitor the impact of Basin water reform on the Basin economy and food production. This will be supported by the regular monitoring and evaluation reports required by the Basin Plan, in particular the requirement for reports into the effect of the Basin Plan on social, economic and environmental outcomes.

Recommendation 3
The Commonwealth should fund a structural adjustment package, based on the needs identified by community impact statements, for communities affected by reduced water availability resulting from the Commonwealth's water buyback system.

Agree in principle.

The former Minister for Regional Australia, the Hon Simon Crean MP, announced $100 million of Federal Government funding for community-driven economic diversification projects in the Basin which will assist Basin communities to adjust to a future with more sustainable water use.
Recommendation 4

The Commonwealth with the states and territories should give priority to developing a more efficient and transparent water market, including setting best practice standards or regulations for water brokers or intermediaries.

Agreed in principle.

The Australian Government is pursuing a number of initiatives to improve the performance of water markets.

The Government is working with Basin states to reform barriers to water trade, facilitate the introduction of appropriate water market regulation and develop a National Water Market System (NWMS) that will improve management of water registries, transactions and market information. Basin states have also agreed to implement, and report on, faster processing of water trades.

A key initiative of the NWMS is the Common Registry System (CRS). The Government is progressing the first phase with the selected Implementation Partner.

The Government introduced water market rules and three sets of water charge rules under the Water Act 2007 to reduce barriers to trade and promote greater rigor, transparency and consistency in the way charges for rural water infrastructure services and water planning, and management activities are levied across the Basin.

The Basin Plan contains rules, known as water trading rules, specifically for the trade or transfer of tradable water rights in relation to Basin water resources.

The Government will undertake a Council of Australian Governments (COAG) Regulation Impact Statement (RIS) to examine options to regulate the conduct of water market intermediaries. The RIS process will examine a number of options and will include stakeholder consultation.

Government Response to the Minority Report by Independent Senator Xenophon

Recommendation

That there is an immediate full federal takeover of the Murray-Darling Basin to ensure that there is a uniform and consistent approach to water licences in the Basin.

Disagree.

The Water Act 2007 as amended extends Commonwealth management of the Murray-Darling Basin (the Basin) to new levels. The Government will use the powers it now has to ensure good management of the Basin.


The report made four recommendations, with a further five by Senator Nick Xenophon. The Government's response to each of these recommendations is set out below.

The final Basin Plan was signed into law by the Minister on 22 November 2012 and tabled in the Parliament on 26 November 2012.

Recommendation 1

The committee recommends that the Adjustment Mechanism bill as amended in the House of Representatives on 30 October 2012 be passed.

Agreed.

This Bill was passed by the Parliament on 21 November 2012.
Recommendation 2
The committee recommends that the words ‘up to’ are removed from paragraph 86AA(3)(b) of the Special Account bill.
Agreed.

The Government introduced amendments to this Bill to clarify the outcomes to be achieved by funds in the Special Account. These amendments removed the words ‘up to’. The House of Representatives agreed to these amendments on 28 November 2012.

Recommendation 3
The committee recommends that the Special Account bill is amended to include the intended outcomes listed by the minister in his second reading speech.
Agreed.

The Government introduced amendments to this Bill to include the Minister’s intended outcomes

Recommendation 4
Subject to the preceding recommendations, the committee recommends that the Special Account bill be passed.
Agreed.

The Government welcomes the support of the Committee.

Senator Xenophon
Recommendation
Clause 86AA(3)(b) of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended so as to ensure 450 gigalitres is a minimum amount rather than a maximum amount to be returned to the environment.
Disagreed.

The Government is committed to acquiring 450GL of additional water for the environment. The Government has amended this Bill to reflect that commitment by removing the words ‘up to’.

Recommendation
Clause 88AD of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to ensure that funding priority is given to projects with maximum guaranteed water returns to the system within the shortest timeframe, taking into account social and economic factors, as well as early adopters of water efficiency measures.
Disagreed.

In relation to the use of funds from the Special Account, the Government is committed to acquiring additional water for the environment in a way that maintains or improves social and economic outcomes for Basin communities. It is the Government’s intention that these funds will be targeted primarily at on-farm irrigation efficiency projects which return greater volumes of water per dollar than off-farm efficiency projects while maintaining productive capacity at the farm gate scale.

Recommendation
Urgent modelling is undertaken to establish the comparative efficiencies of irrigation communities in the Murray-Darling Basin to ensure fair treatment of irrigators.
Disagreed.

Funds will be allocated on a competitive basis to those projects that deliver the greatest volume of socio-economically neutral water at least cost.

Recommendation
Clause 86AD(2)(a) of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to include projects in Research and Development or projects using emerging technologies and to acknowledge and reward early adopters of water efficiency measures.
Disagreed.

Funds will be allocated on a competitive basis to those projects that deliver the greatest volume of socio-economically neutral water at least cost.

Recommendation
The Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to require the ANAO conduct an audit of the Special Account after the first year of operation, the third year of operation, and every three years after that, with specific attention to:

- The financial performance of the account;
The projects funded under the account, and the robustness of the funding process;  
The performance of these projects in relation to the outcomes under 86AA;  
Any related matters.

Agreed in principle.

The Special Account is subject to public annual performance based reporting. The Government has also amended the Bill to include a requirement for two reviews to be conducted by an independent panel into the adequacy of program design and sufficiency of funds in the Special Account to acquire 450GL and remove key constraints. These reviews will occur by 30 September in 2019 and 2021. As with all Government programs, the Special Account is subject to financial reporting and ANAO audit.

MARCH 2013

The Australian Government welcomes the Senate Rural and Regional Affairs and Transport References Committee's second interim report for the inquiry Management of the Murray-Darling Basin system—the Basin Plan which was presented on 3 October 2012. The report made eight recommendations, with a further seven each by the Australian Greens, and Senator Xenophon respectively. The Government's response to each of these recommendations is set out below.

On 6 August 2012, the Murray-Darling Basin Authority (MDBA) released the altered Proposed Basin Plan, taking into account the views of the Murray-Darling Basin Ministerial Council.

On 13 September and 1 November 2012, the Minister for Water, the Hon Tony Burke MP made suggestions for changes to the Proposed Basin Plan under section 44(1) of the Water Act 2007. The suggestions have taken full account of the recommendations from jurisdictions, parliamentary committees and community meetings.

The final Basin Plan was signed into law by the Minister on 22 November 2012 and tabled in the Parliament on 26 November 2012.

Recommendation 1

The committee recommends that the Murray-Darling Basin Authority (MDBA) publicly release a succinct, non-technical explanation of the assumptions used to develop the 2750 gigalitres per year (GL/y) figure.

Agree.

The Murray-Darling Basin Authority (MDBA) has published a range of documents that explain the assumptions used to develop the 2750 gigalitres (GL) per year figure, including the following:

- Delivering a Healthy Working Basin, Chapter 4, pages 20–34;
- Frequently asked question: How did you determine the limits on water use?;
- Fact sheet—The proposed environmentally sustainable level of take for surface water of the Murray–Darling Basin;
- Proposed Basin Plan consultation report (s43 report), May 2012, p37–39; and
- The Basin Plan Regulation Impact Statement, November 2012, Chapter 4.

The above documents are in addition to the detailed explanations in the document The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes, November 2011, and the document, Hydrologic modelling to inform the proposed Basin Plan: Methods and results.

Recommendation 2

The committee recommends that the MDBA consider modelling several alternative scenarios other than the 2750 GL/y. All relevant results (including the allocation of different water types) from any modelling must be publically released. The CSIRO must be commissioned to review the effectiveness of any scenario to reach the Water Act's required ecological outcomes. Finally, the socio-economic impacts of any scenario must be independently modelled and the results publicly released.
The MDBA has modelled the scenarios of 2400 GL, 2800 GL and 3200 GL with the present operating constraints. The results of this modelling were published by the MDBA in 'The proposed environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes (MDBA 2011), available on the MDBA's website.

The MDBA has also modelled the 2800 GL and 3200 GL scenarios with key constraints relaxed. Results indicated the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this further (relaxed constraints) modelling was published by the MDBA in Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (MDBA 2012), which is available on the MDBA's website.

In conjunction with this hydrological modelling, the MDBA also commissioned modelling of the social and economic impacts of water recovery of 2400 GL and 3200 GL. The outcomes of this modelling are summarised in the report Socioeconomic Analysis and the Draft Basin Plan, published by the MDBA in May 2012 and the Basin Plan Regulation Impact Statement, released by the MDBA in November 2012. These reports and the detailed modelling are available on the MDBA's website.

In June 2011, the CSIRO was invited to lead a team of experts to review the MDBA's methods to determine the Environmentally Sustainable Level of Take (ESLT). The report, Science review of the estimation of an environmentally sustainable level of take for the Murray–Darling Basin (Young WJ, Bond N, Brookes J, Gawne B and Jones GJ 2011), is available on the MDBA's website.

**Recommendation 3**

The committee recommends that the MDBA publicly release a succinct, non-technical explanation of its climate change projections and the resulting effects to each Basin catchment's water harvesting potential. This should also include considerations of forest interception of water in the modelling for the return of water to the Murray-Darling Basin system.

Agreed in part.

The MDBA is a partner of the South Eastern Australian Climate Initiative (SEACI). SEACI has produced two succinct, non-technical explanations of climate change projections at the Basin scale, with the final report, Climate and water availability in south-eastern Australia: A synthesis of findings from Phase 2 of the South Eastern Australian Climate Initiative, released on 21 September 2012.

The Basin Plan (section 6.06(3)) requires that future reviews of the Basin Plan should give further consideration to the management of climate change risks and consider all relevant knowledge about the connectivity of surface and groundwater.

The MDBA has taken into consideration forest interceptions in developing SDLs for the Basin Plan. The Basin Plan (Section 4.03(3)(h)(i)) provides that the MDBA must have regard to improve knowledge of the impact of interception activities and land-use change on Basin water resources. Under section 10.24 and 10.25, Basin states must also monitor the impact of significant interception activities in their jurisdiction, and identify actions to be taken if that interception activity compromises meeting the environmental objectives of the Basin Plan.

**Recommendation 4**

The committee recommends that the Government commit immediate resources to addressing the information gaps in scientific knowledge in surface and ground water connectivity particularly in the Murray-Darling Basin.

Agree in principle.

The Australian Government considers it has, and continues to commit significant resources to increasing scientific knowledge. The Government has undertaken, commissioned and/or consulted on significant quantities of scientific work, utilising various respected and expert sources. Information gaps in scientific knowledge, particularly in respect of Basin connectivity, do not require the further commitment of "immediate resources" beyond the
significant commitment the Government continues to make in respect of this issue.

The Basin Plan (section 6.06(1)) states the MDBA may conduct research and investigations into aspects of the work underpinning SDLs or other aspects of the Basin Plan. This work may inform future reviews and will allow the MDBA to address information gaps in scientific knowledge in surface and groundwater connectivity.

**Recommendation 5**

The committee recommends that the MDBA further articulate the reasoning for the changes in groundwater SDLs that have occurred over the various iterations of the Basin Plan. This should include details of all individual resource units and the aggregate for the Basin.

Agree.

The MDBA has publicly detailed the changes to groundwater SDLs over the various iterations of the Basin Plan. The following explanatory documents have been published:

- **The proposed Groundwater Baseline and Sustainable Diversion Limits: methods report** provides the general reasons for changes between the Guide and the November 2011 version of the draft Basin Plan. Importantly, this document provides a baseline for subsequent changes;

- **The Addendum to the proposed Groundwater Baseline and Sustainable Diversion Limits: methods report** provides the basis for the revision made between the November 2011 and May 2012 versions of the draft Basin Plan. This revision was largely a response to submissions on the draft Basin Plan as well as consultation with Basin states and advice from groundwater experts; and

- **The Proposed Basin Plan consultation report** released in May 2012 provides an explanation of Basin scale changes to groundwater SDLs from the November 2011 to May 2012 versions of the draft Basin Plan.

In developing groundwater extraction limits for the Basin Plan, the MDBA has worked with groundwater experts from organisations including the CSIRO and hydrogeology associations. A recharge risk assessment method, originally developed by CSIRO for the MDBA, has been applied where numerical groundwater models have not been available. The same modelling and risk assessment methods have been applied to determine groundwater SDLs in each iteration of the Basin Plan, and these will continue to be applied to any future proposals and assessments relating to adjusting groundwater limits.

The Basin Plan (section 6.06) allows for a review of specified groundwater baseline diversion limits (BDLs) and SDLs in NSW and Victoria within two years of commencement of the Basin Plan. The MDBA also intends to conduct research and investigations by 2015 in the Northern Basin, including the basis for the surface and groundwater SDLs, drawing on community input from relevant local bodies.

**Recommendation 6**

The committee recommends that the MDBA clearly and publicly explain whether the 2750 GL/y target, and any subsequently modelled targets, meet the water requirements of key environmental assets and key ecosystem functions which are set out in the Basin Plan and to what extent they are met.

Agree.

The MDBA has explained the results and anticipated environmental outcomes with respect to 2400, 2800 and 3200 GL per year water recovery amounts in the documents:

- **The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes** (November 2011);

- **Hydrologic modelling to inform the proposed Basin Plan: Methods and results** (February 2012); and

- **Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results** (September 2012).

The Water Act 2007 does not identify, nor require the identification of, key environmental assets or key ecosystem functions in the Basin Plan. The Basin Plan does not set out key environmental
assets and key ecosystem functions; rather it specifies management objectives and outcomes to be achieved by the Basin Plan. The Basin Plan requires the states to develop watering plans that identify priority environmental assets and ecosystem functions and their watering requirements (consistent with objectives and criteria contained in the Basin Plan).

The MDBA has released modelling for 3200 GL and 2800 GL scenarios after key constraints in the system had been relaxed. The modelling indicated relaxing constraints provides some benefits at 2800 GL, while the removal of constraints at 3200 GL significantly increased environmental benefits, including the meeting of 17 out of 18 key indicator targets, compared to 13 targets met without the removal of constraints.

The Basin Plan requires the MDBA to prepare a Constraints Management Strategy within 12 months of the Basin Plan commencing, in close consultation with Basin jurisdictions. Further, the MDBA must annually give a report to the Murray Darling Basin Ministerial Council on progress on the matters covered by the strategy.

**Recommendation 7**
The committee recommends that the MDBA clearly and publicly explain the socio-economic impacts of the 2750 GL/y target and any subsequently modelled targets.

Agree.


**Recommendation 8**
The committee recommends that when the final Basin Plan is being implemented that the Government introduce support programs for Basin communities that are disproportionately affected by reduced water entitlements.

Agree.

The former Minister for Regional Australia, the Hon Simon Crean MP, announced $100 million of Commonwealth Government funding for community-driven economic diversification projects in the Basin which will assist Basin communities to adjust to a future with more sustainable water use.

This is in addition to the already substantial funding commitments to reduce the possible impacts of the Basin Plan, particularly by investing over $12 billion in assisting irrigators and communities to adjust to a future with less water. The Government's investments in more efficient irrigation infrastructure form the bulk of this funding and will help place irrigators, irrigation industries and communities on a better footing to deal with reduced water availability.

The SDL adjustment mechanism will also assist in reducing the impacts of water reform, by allowing Basin states to develop projects, such as environmental works and measures, that deliver the environmental outcomes required by the Basin Plan but with less water. It will also support the Government's objective of recovering additional environmental water through projects that maintain or improve social and economic impacts.

In addition, implementation of SDLs will not take effect until 2019, providing more time for communities to adapt.

**Australian Greens:**

**Recommendation**
The Australian Greens recommend that the MDBA model several alternative scenarios above 2750 GL/y including 4000 GL/y and above, with major system constraints removed. All relevant results (including the allocation of different water types) from the modelling must be publically released. The CSIRO must be commissioned to review the effectiveness of each scenario to satisfy the Water Act's required ecological outcomes.

Agreed in part.

The MDBA has modelled the 2800 GL and 3200 GL scenarios with key constraints relaxed. Results indicated the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this
Further (relaxed constraints) modelling were published by the MDBA in *Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results* (MDBA 2012), which is available on the MDBA's website.

**Recommendation**

The Constraints Management Strategy should be provided to Parliament for consideration prior to the tabling of the final Basin Plan by the Minister so that Parliament may make an informed decision.

**Disagree.**

The Basin Plan requires the MDBA to prepare a Constraints Management Strategy within 12 months of the Basin Plan commencing, in close consultation with Basin jurisdictions. Further, the MDBA must annually give a report to the Murray Darling Basin Ministerial Council on progress on the matters covered by the strategy.

**Recommendation**

The Basin Plan must set appropriate salinity targets and provide for a minimum annual allocation of environmental water for the Coorong, Lower Lakes and Murray Mouth including during dry periods.

**Agree in principle.**

The Basin Plan includes clauses that provide for appropriate salinity and water levels in the Coorong, Lower Lakes and Murray Mouth including during dry periods.

Section 8.06(3) of the Basin Plan states that an overall objective for the protection and restoration of ecosystem functions of water dependent ecosystems is to protect and restore connectivity within and between water-dependent ecosystems, including by ensuring that:

1. the Murray Mouth remains open at frequencies, for durations, and with passing flows, sufficient to enable the conveyance of salt, nutrients and sediment form the Murray-Darling Basin to the ocean; and

2. the Murray Mouth remains open at frequencies, and for durations, sufficient to ensure that the tidal exchanges maintain the Coorong's water quality (in particular salinity levels) within the tolerance of the Coorong ecosystem's resilience; and

   **Note:** This is to ensure that water quality is maintained at a level that does not compromise the ecosystem and that hydrologic connectivity is restored and maintained.

3. as far as practicable, water levels in the Lower Lakes are maintained above 0.4 metres Australian Height Datum for 95 per cent of the time and as far as practicable maintain levels above 0.0 metres Australian Height Datum all of the time.

The Government has committed funding to recover an additional 450 GL of water, including for the Coorong, Lower Lakes and Murray Mouth, through efficiency savings.

**Recommendation**

The Basin Plan should not increase groundwater extraction unless it can demonstrated on a case by case basis, with independent scientific assessment of connectivity and ecological outcomes, that the proposed increase in extraction is sustainable and justified.

**Agree.**

Changes to groundwater extraction limits should be addressed on a case-by-case basis to ensure any changes are sustainable and justified.

In developing groundwater extraction limits for the Basin Plan, the MDBA has worked with groundwater experts from organisations including the CSIRO and hydrogeology associations. A recharge risk assessment method, originally developed by CSIRO for the MDBA, has been applied where numerical groundwater models have not been available. The same modelling and risk assessment methods have been applied to determine groundwater SDLs in each iteration of the Basin Plan, and these will continue to be applied to any future proposals and assessments relating to adjusting groundwater limits.

The Basin Plan allows for a review of specified groundwater base line diversion limits (BDLs) and SDLs in NSW and Victoria within two years of commencement of the Basin Plan. The MDBA also intends to conduct research and investigations by 2015 in the Northern Basin, including the basis for the surface and groundwater SDLs, drawing on community input from relevant local bodies.
Recommendation
The Basin Plan must incorporate climate change modelling as forecast by the best available scientific data.
Agreed in principle.
Climate change science was taken into consideration in developing the Basin Plan.
The MDBA is a partner of the South Eastern Australian Climate Initiative (SEACI). SEACI has produced two succinct, non-technical explanations of climate change projections at the Basin scale, with the final report, *Climate and water availability in south-eastern Australia: A synthesis of findings from Phase 2 of the South Eastern Australian Climate Initiative*, being released on 21 September 2012.
The Basin Plan (section 6.06) requires that future reviews of the Basin Plan should give further consideration to the management of climate change risk and that the MDBA may conduct research and investigations into aspects of the work underpinning SDLs or other aspects of the Basin Plan. This work may inform future reviews of the Basin Plan and will allow the MDBA to address information gaps in scientific knowledge in surface and groundwater connectivity.

Recommendation
The adjustment mechanism should be structured to better accommodate the removal of constraints and to facilitate a future decrease in SDLs but not to facilitate any less water being returned to the river.
Agree in part.
The SDL adjustment mechanism guarantees a minimum level of environmental outcomes and provides a pathway for improved environmental outcomes in a way that works for communities. This will allow the amount of water for the environment to increase if projects are put forward that make irrigation more efficient and still maintain the social and economic outcomes of the Basin Plan. The Government has committed $1.77 billion over ten years from 2014 to relax priority river constraints and to provide for 450 GL of additional environmental water recovery without adverse social and economic impacts.

Recommendation
The adjustment mechanism should be altered to facilitate and encourage future buybacks where they are strategic and voluntary as buybacks are proven to be the most cost-efficient and secure manner of recovering water from consumptive use.
Agreed in part.
The Basin Plan provides for a SDL adjustment mechanism that provides greater flexibility in the volume of water recovered for the environment, while maintaining or improving social and economic outcomes. There is no single preferred method of recovering water for the environment using the adjustment mechanism, and any such water acquisition must be in accordance with the requirements of the criteria as set out in the Basin Plan.
The role that water buybacks play in recovering water for the environment is outlined in the Commonwealth's draft Environmental Water Recovery Strategy. The Government's approach to water purchasing will also include a new program which integrates water purchasing with strategic opportunities to reconfigure inefficient or underutilised irrigation delivery infrastructure. If the volume of SDL offsets is less than 650 GL, any shortfall will be recovered between 2016 and 2019 using the approaches, outlined in the draft Environmental Water Recovery Strategy.

Senator Xenophon:
Recommendation
The MDBA publicly release a non-technical explanation of the assumptions used to develop the 2750 GL/y.
Agree.
The MDBA has published a range of documents explaining the assumptions used to develop the 2750 GL per year figure, including the following:
- Document - *Delivering a Healthy Working Basin*, Chapter 4, pages 20–34;
- Frequently asked question - *How did you determine the limits on water use*;
• Fact sheet - The proposed environmentally sustainable level of take for surface water of the Murray Darling Basin;

• Document - Proposed Basin Plan consultation report (s43 report), May 2012, p37–39; and

• The Basin Plan Regulation Impact Statement, November 2012, Chapter 4.

The above documents are in addition to the more detailed explanations in the document The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes, November 2011, and the document, Hydrologic modelling to inform the proposed Basin Plan: Methods and results.

Recommendation
The MDBA conduct urgent modelling of a number of figures above the 2750 GL/y figure, up to 4000 GL/y. This modelling must be publicly released with both a technical and non-technical explanation and conducted in a timely manner.

Agreed in part.

The MDBA modelled the scenarios of 2800GL and 3200GL with the present operating constraints. The results of this modelling were published by the MDBA in The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes (MDBA 2011), available on the MDBA's website.

The MDBA also modelled these scenarios with key constraints relaxed, and found the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this further (relaxed constraints) modelling have been published by the MDBA in Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (MDBA 2012), which is available on the MDBA's website.

Recommendation
The Murray-Darling Basin Plan is delayed until such modelling is completed.

Disagree.

The MDBA has publicly detailed the results and anticipated environmental outcomes with respect to 2400, 2800 and 3200 GL per year water recovery amounts in the following documents, available on the MDBA website:

• The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes, (November 2011);

• Hydrologic modelling to inform the proposed Basin Plan: Methods and results (February 2012); and

• Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (September 2012).

Further, the MDBA undertook and publicly released modelling for 3200 GL and 2800 GL scenarios after key constraints in the system had been relaxed. The modelling indicated relaxing constraints provides some benefits at 2800 GL, while the removal of constraints at 3200 GL significantly increased environmental benefits, including the meeting of 17 out of 18 key indicator targets, compared to 13 targets met without the removal of constraints.

The Basin Plan was made on 22 November 2012.

Recommendation
The MDBA must urgently provide advice as to the methodology for the setting of the BDL.

Agreed in part.

The MDBA has already provided information about the methodology for the setting of the baseline diversion limits (BDL) in several reports, which are publicly available on the MDBA website. In addition, the MDBA has engaged the CSIRO and other independent experts to review the models and methodology used to determine BDLs.

The MDBA acknowledges that further communication on this matter would be beneficial for the broader Basin community. Consequently, the MDBA is preparing a series of fact sheets which set out the methodology in clear and concise language. These fact sheets will be available on the MDBA's website in the near future.

Further information and links to the relevant reports is set out below. These reports are all available on the MDBA website:
• Hydrologic modelling to inform the proposed Basin Plan: Methods and results.

• Comparison of watercourse diversion estimates in the proposed Basin Plan with other published estimates. This document summarises and explains the main differences between the diversion estimates under baseline development conditions used in the draft Basin Plan and estimates published in the past.

• Independent review of models to assess their representation of the baseline conditions specified in the Basin Plan and estimating BDL. The models were assessed regarding their ability to generate a robust BDL estimate and how they represent BDL definition presented in the proposed Basin Plan.

• River system modelling for the Basin Plan assessment of fitness for purpose. The MDBA engaged CSIRO to conduct this assessment of the without-development and baseline models. This study found that the baseline models reliably represent the Basin at its current level of development.

Recommendation
Urgent modelling is undertaken to establish the comparative efficiencies of irrigation communities in the Murray-Darling Basin. The results of such modelling can be used to fairly determine Baseline Diversion Limits, and take into account such comparative efficiencies to ensure fair treatment of irrigators.

Disagree.

The approach used to determine the BDLs has been applied in a fair and equitable manner. The MDBA has adopted a consistent approach to defining and quantifying the BDLs across the Basin. These are set out in Schedule 3 of the Basin Plan.

BDLs provide a common baseline against which the introduction of the requirements of the Basin Plan can be assessed. These requirements include the setting of SDLs. The BDLs reflect the water sharing arrangements that were in place in June 2009. In most cases the BDL reflects the diversion limit established under the Murray-Darling Basin cap arrangements, unless there is a state water resource plan that sets the limit lower than the cap.

The consistent settings and assumptions for BDLs include:
• using the most up-to-date means of quantifying the baseline (typically using a model)
• using the same climate period (1895-2009)
• accounting for certain environmental water as outside the baseline (including the Living Murray and Water for Rivers), and
• adjusting for permanent trade to 30 June 2009.

Recommendation
Irrigators must receive recognition for their past water efficiencies. In the absence of any prior recognition for past water-saving efforts, the guidelines for the Sustainable Rural Water Use and Infrastructure Program and other similar programs should be amended to allow irrigators to apply for funding for research and development purposes.

Disagree.

The Australian Government recognises the initiative demonstrated by early adopters to improve rural water use efficiency, however the Sustainable Rural Water Use and Infrastructure Program (SRWUIP) does not provide funding to cover expenditure already incurred or committed.

The argument of early adoption and efficiency is often linked to irrigators in South Australia. As at 31 January 2012, the Government had committed almost $1.6 billion under Water for the Future (which commenced in 2007-08) to South Australian projects, including major investments to improve ecological outcomes in the Coorong and Lower Lakes, as well as funding for irrigation-related projects (both on and off-farm) and the Adelaide Desalination Plant. Subject to due diligence, the total funding also includes up to $180 million from SRWUIP for the South Australian River Murray Improvements Program, as well as up to $85 million for research, development and industry redevelopment in regional South Australia.

Recommendation
The MDBA provide urgent evidence that the current market-based buyback approach will not distort the water and commodity market. In the absence of any available evidence, the MDBA
conducted urgent modelling on the impact the market-based buyback approach will have on those who have not accessed funds under the Federal Government's $5.8 billion Sustainable Rural Water Use and Infrastructure Program and other similar programs.

Agreed in part.

In June 2011, the Government released a survey of more than 500 irrigators who had applied to sell or sold water to the Commonwealth between 2008-09 and late 2011. Almost 80 per cent of those interviewed said that selling water to the Commonwealth was a positive decision for them. The majority of proceeds from water sales are spent within the local region. Less than 5 per cent of survey respondents said that most of the money they had received from Commonwealth water sales had been spent outside their region. Almost all of those who sold their entitlement to the government and exited farming found alternative local employment, or retired in their local community.

Entitlement holders are able to choose whether to participate in either, or both, of the Government's water buybacks, or Government programs investing in more efficient irrigation infrastructure.

On 13 September and 1 November 2012, the Minister for Water, the Hon Tony Burke MP made suggestions for changes to the Proposed Basin Plan under section 44(1) of the Water Act 2007. The suggestions have taken full account of the recommendations from jurisdictions, parliamentary committees and community meetings.

The final Basin Plan was signed into law by the Minister on 22 November 2012 and tabled in the Parliament on 26 November 2012.

Recommendation 1

The committee recommends that the Murray-Darling Basin Authority (MDBA) publicly release a succinct, non-technical explanation of the assumptions used to develop the 2750 gigalitres per year (GL/y) figure.

Agree.

The Murray-Darling Basin Authority (MDBA) has published a range of documents that explain the assumptions used to develop the 2750 gigalitres (GL) per year figure, including the following:

- *Delivering a Healthy Working Basin*, Chapter 4, pages 20–34;
- Frequently asked question: *How did you determine the limits on water use?*
- Fact sheet—*The proposed environmentally sustainable level of take for surface water of the Murray–Darling Basin*;
- *Proposed Basin Plan consultation report* (s43 report), May 2012, p37–39; and

The above documents are in addition to the detailed explanations in the document *The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes*, November 2011, and the document, *Hydrologic modelling to inform the proposed Basin Plan: Methods and results*.

Recommendation 2

The committee recommends that the MDBA consider modelling several alternative scenarios other than the 2750 GL/y. All relevant results...
(including the allocation of different water types) from any modelling must be publically released. The CSIRO must be commissioned to review the effectiveness of any scenario to reach the Water Act's required ecological outcomes. Finally, the socio-economic impacts of any scenario must be independently modelled and the results publicly released.

Agree.

The MDBA has modelled the scenarios of 2400 GL, 2800 GL and 3200 GL with the present operating constraints. The results of this modelling were published by the MDBA in The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes (MDBA 2011), available on the MDBA's website.

The MDBA has also modelled the 2800 GL and 3200 GL scenarios with key constraints relaxed. Results indicated the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this further (relaxed constraints) modelling was published by the MDBA in Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (MDBA 2012), which is available on the MDBA's website.

In conjunction with this hydrological modelling, the MDBA also commissioned modelling of the social and economic impacts of water recovery of 2400 GL and 3200 GL. The outcomes of this modelling are summarised in the report Socioeconomic Analysis and the Draft Basin Plan, published by the MDBA in May 2012 and the Basin Plan Regulation Impact Statement, released by the MDBA in November 2012. These reports and the detailed modelling are available on the MDBA's website.

In June 2011, the CSIRO was invited to lead a team of experts to review the MDBA's methods to determine the Environmentally Sustainable Level of Take (ESLT). The report, Science review of the estimation of an environmentally sustainable level of take for the Murray–Darling Basin (Young WJ, Bond N, Brookes J, Gawne B and Jones GJ 2011), is available on the MDBA's website.

Recommendation 3

The committee recommends that the MDBA publicly release a succinct, non-technical explanation of its climate change projections and the resulting effects to each Basin catchment's water harvesting potential. This should also include considerations of forest interception of water in the modelling for the return of water to the Murray-Darling Basin system.

Agreed in part.

The MDBA is a partner of the South Eastern Australian Climate Initiative (SEACI). SEACI has produced two succinct, non-technical explanations of climate change projections at the Basin scale, with the final report, Climate and water availability in south-eastern Australia: A synthesis of findings from Phase 2 of the South Eastern Australian Climate Initiative, released on 21 September 2012.

The Basin Plan (section 6.06(3)) requires that future reviews of the Basin Plan should give further consideration to the management of climate change risks and consider all relevant knowledge about the connectivity of surface and groundwater.

The MDBA has taken into consideration forest interceptions in developing SDLs for the Basin Plan. The Basin Plan (Section 4.03(3)(h)(i)) provides that the MDBA must have regard to improve knowledge of the impact of interception activities and land-use change on Basin water resources. Under section 10.24 and 10.25, Basin states must also monitor the impact of significant interception activities in their jurisdiction, and identify actions to be taken if that interception activity compromises meeting the environmental objectives of the Basin Plan.

Recommendation 4

The committee recommends that the Government commit immediate resources to addressing the information gaps in scientific knowledge in surface and ground water connectivity particularly in the Murray-Darling Basin.

Agree in principle.

The Australian Government considers it has, and continues to commit significant resources to increasing scientific knowledge.
The Government has undertaken, commissioned and/or consulted on significant quantities of scientific work, utilising various respected and expert sources. Information gaps in scientific knowledge, particularly in respect of Basin connectivity, do not require the further commitment of "immediate resources" beyond the significant commitment the Government continues to make in respect of this issue.

The Basin Plan (section 6.06(1)) states the MDBA may conduct research and investigations into aspects of the work underpinning SDLs or other aspects of the Basin Plan. This work may inform future reviews and will allow the MDBA to address information gaps in scientific knowledge in surface and groundwater connectivity.

**Recommendation 5**

The committee recommends that the MDBA further articulate the reasoning for the changes in groundwater SDLs that have occurred over the various iterations of the Basin Plan. This should include details of all individual resource units and the aggregate for the Basin.

Agree.

The MDBA has publicly detailed the changes to groundwater SDLs over the various iterations of the Basin Plan. The following explanatory documents have been published:

- **The proposed Groundwater Baseline and Sustainable Diversion Limits: methods report** provides the general reasons for changes between the Guide and the November 2011 version of the draft Basin Plan. Importantly, this document provides a baseline for subsequent changes;

- **The Addendum to the proposed Groundwater Baseline and Sustainable Diversion Limits: methods report** provides the basis for the revision made between the November 2011 and May 2012 versions of the draft Basin Plan. This revision was largely a response to submissions on the draft Basin Plan as well as consultation with Basin states and advice from groundwater experts; and

- **The Proposed Basin Plan consultation report** released in May 2012 provides an explanation of Basin scale changes to groundwater SDLs from the November 2011 to May 2012 versions of the draft Basin Plan.

In developing groundwater extraction limits for the Basin Plan, the MDBA has worked with groundwater experts from organisations including the CSIRO and hydrogeology associations. A recharge risk assessment method, originally developed by CSIRO for the MDBA, has been applied where numerical groundwater models have not been available. The same modelling and risk assessment methods have been applied to determine groundwater SDLs in each iteration of the Basin Plan, and these will continue to be applied to any future proposals and assessments relating to adjusting groundwater limits.

The Basin Plan (section 6.06) allows for a review of specified groundwater baseline diversion limits (BDLs) and SDLs in NSW and Victoria within two years of commencement of the Basin Plan. The MDBA also intends to conduct research and investigations by 2015 in the Northern Basin, including the basis for the surface and groundwater SDLs, drawing on community input from relevant local bodies.

**Recommendation 6**

The committee recommends that the MDBA clearly and publicly explain whether the 2750 GL/y target, and any subsequently modelled targets, meet the water requirements of key environmental assets and key ecosystem functions which are set out in the Basin Plan and required by the Water Act 2007 and to what extent they are met.

Agree.

The MDBA has explained the results and anticipated environmental outcomes with respect to 2400, 2800 and 3200 GL per year water recovery amounts in the documents:

- **The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes** (November 2011);

- **Hydrologic modelling to inform the proposed Basin Plan: Methods and results** (February 2012); and

- **Hydrologic modelling of the relaxation of operational constraints in the southern
connected system: Methods and results (September 2012).

The Water Act 2007 does not identify, nor require the identification of, key environmental assets or key ecosystem functions in the Basin Plan. The Basin Plan does not set out key environmental assets and key ecosystem functions; rather it specifies management objectives and outcomes to be achieved by the Basin Plan. The Basin Plan requires the states to develop watering plans that identify priority environmental assets and ecosystem functions and their watering requirements (consistent with objectives and criteria contained in the Basin Plan).

The MDBA has released modelling for 3200 GL and 2800 GL scenarios after key constraints in the system had been relaxed. The modelling indicated relaxing constraints provides some benefits at 2800 GL, while the removal of constraints at 3200 GL significantly increased environmental benefits, including the meeting of 17 out of 18 key indicator targets, compared to 13 targets met without the removal of constraints.

The Basin Plan requires the MDBA to prepare a Constraints Management Strategy within 12 months of the Basin Plan commencing, in close consultation with Basin jurisdictions. Further, the MDBA must annually give a report to the Murray Darling Basin Ministerial Council on progress on the matters covered by the strategy.

Recommendation 7

The committee recommends that the MDBA clearly and publicly explain the socio-economic impacts of the 2750 GL/y target and any subsequently modelled targets.

Agree.


Recommendation 8

The committee recommends that when the final Basin Plan is being implemented that the Government introduce support programs for Basin communities that are disproportionately affected by reduced water entitlements.

Agree.

The former Minister for Regional Australia, the Hon Simon Crean MP, announced $100 million of Commonwealth Government funding for community-driven economic diversification projects in the Basin which will assist Basin communities to adjust to a future with more sustainable water use.

This is in addition to the already substantial funding commitments to reduce the possible impacts of the Basin Plan, particularly by investing over $12 billion in assisting irrigators and communities to adjust to a future with less water. The Government's investments in more efficient irrigation infrastructure form the bulk of this funding and will help place irrigators, irrigation industries and communities on a better footing to deal with reduced water availability.

The SDL adjustment mechanism will also assist in reducing the impacts of water reform, by allowing Basin states to develop projects, such as environmental works and measures, that deliver the environmental outcomes required by the Basin Plan but with less water. It will also support the Government’s objective of recovering additional environmental water through projects that maintain or improve social and economic impacts.

In addition, implementation of SDLs will not take effect until 2019, providing more time for communities to adapt.

Australian Greens:

Recommendation

The Australian Greens recommend that the MDBA model several alternative scenarios above 2750 GL/y including 4000 GL/y and above, with major system constraints removed. All relevant results (including the allocation of different water types) from the modelling must be publically released. The CSIRO must be commissioned to review the effectiveness of each scenario to
satisfy the Water Act's required ecological outcomes.
Agreed in part.
The MDBA has modelled the 2800 GL and 3200 GL scenarios with key constraints relaxed. Results indicated the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this further (relaxed constraints) modelling were published by the MDBA in Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (MDBA 2012), which is available on the MDBA's website.

Recommendation
The Constraints Management Strategy should be provided to Parliament for consideration prior to the tabling of the final Basin Plan by the Minister so that Parliament may make an informed decision.

Disagree.
The Basin Plan requires the MDBA to prepare a Constraints Management Strategy within 12 months of the Basin Plan commencing, in close consultation with Basin jurisdictions. Further, the MDBA must annually give a report to the Murray Darling Basin Ministerial Council on progress on the matters covered by the strategy.

Recommendation
The Basin Plan must set appropriate salinity targets and provide for a minimum annual allocation of environmental water for the Coorong, Lower Lakes and Murray Mouth including during dry periods.

Agree in principle.
The Basin Plan includes clauses that provide for appropriate salinity and water levels in the Coorong, Lower Lakes and Murray Mouth including during dry periods.

Section 8.06(3) of the Basin Plan states that an overall objective for the protection and restoration of ecosystem functions of water dependent ecosystems is to protect and restore connectivity within and between water-dependent ecosystems, including by ensuring that:
1. the Murray Mouth remains open at frequencies, for durations, and with passing flows, sufficient to enable the conveyance of salt, nutrients and sediment from the Murray-Darling Basin to the ocean; and
2. the Murray Mouth remains open at frequencies, and for durations, sufficient to ensure that the tidal exchanges maintain the Coorong's water quality (in particular salinity levels) within the tolerance of the Coorong ecosystem's resilience; and

Note: This is to ensure that water quality is maintained at a level that does not compromise the ecosystem and that hydrologic connectivity is restored and maintained.

3. as far as practicable, water levels in the Lower Lakes are maintained above 0.4 metres Australian Height Datum for 95 per cent of the time and as far as practicable maintain levels above 0.0 metres Australian Height Datum all of the time.
The Government has committed funding to recover an additional 450 GL of water, including for the Coorong, Lower Lakes and Murray Mouth, through efficiency savings.

Recommendation
The Basin Plan should not increase groundwater extraction unless it can demonstrated on a case by case basis, with independent scientific assessment of connectivity and ecological outcomes, that the proposed increase in extraction is sustainable and justified.

Agree.
Changes to groundwater extraction limits should be addressed on a case-by-case basis to ensure any changes are sustainable and justified.

In developing groundwater extraction limits for the Basin Plan, the MDBA has worked with groundwater experts from organisations including the CSIRO and hydrogeology associations. A recharge risk assessment method, originally developed by CSIRO for the MDBA, has been applied where numerical groundwater models have not been available. The same modelling and risk assessment methods have been applied to determine groundwater SDLs in each iteration of the Basin Plan, and these will continue to be applied to any future proposals and assessments relating to adjusting groundwater limits.
The Basin Plan allows for a review of specified groundwater base line diversion limits (BDLs) and SDLs in NSW and Victoria within two years of commencement of the Basin Plan. The MDBA also intends to conduct research and investigations by 2015 in the Northern Basin, including the basis for the surface and groundwater SDLs, drawing on community input from relevant local bodies.

**Recommendation**
The Basin Plan must incorporate climate change modelling as forecast by the best available scientific data.

Agreed in principle.

Climate change science was taken into consideration in developing the Basin Plan.

The MDBA is a partner of the South Eastern Australian Climate Initiative (SEACI). SEACI has produced two succinct, non-technical explanations of climate change projections at the Basin scale, with the final report, *Climate and water availability in south-eastern Australia: A synthesis of findings from Phase 2 of the South Eastern Australian Climate Initiative*, being released on 21 September 2012.

The Basin Plan (section 6.06) requires that future reviews of the Basin Plan should give further consideration to the management of climate change risk and that the MDBA may conduct research and investigations into aspects of the work underpinning SDLs or other aspects of the Basin Plan. This work may inform future reviews of the Basin Plan and will allow the MDBA to address information gaps in scientific knowledge in surface and groundwater connectivity.

**Recommendation**
The adjustment mechanism should be structured to better accommodate the removal of constraints and to facilitate a future decrease in SDLs but not to facilitate any less water being returned to the river.

Agree in part.

The SDL adjustment mechanism guarantees a minimum level of environmental outcomes and provides a pathway for improved environmental outcomes in a way that works for communities. This will allow the amount of water for the environment to increase if projects are put forward that make irrigation more efficient and still maintain the social and economic outcomes of the Basin Plan. The Government has committed $1.77 billion over ten years from 2014 to relax priority river constraints and to provide for 450 GL of additional environmental water recovery without adverse social and economic impacts.

**Recommendation**
The adjustment mechanism should be altered to facilitate and encourage future buybacks where they are strategic and voluntary as buybacks are proven to be the most cost-efficient and secure manner of recovering water from consumptive use.

Agreed in part.

The Basin Plan provides for a SDL adjustment mechanism that provides greater flexibility in the volume of water recovered for the environment, while maintaining or improving social and economic outcomes. There is no single preferred method of recovering water for the environment using the adjustment mechanism, and any such water acquisition must be in accordance with the requirements of the criteria as set out in the Basin Plan.

The role that water buybacks play in recovering water for the environment is outlined in the Commonwealth’s draft Environmental Water Recovery Strategy.

The Government's approach to water purchasing will also include a new program which integrates water purchasing with strategic opportunities to reconfigure inefficient or underutilised irrigation delivery infrastructure. If the volume of SDL offsets is less than 650 GL, any shortfall will be recovered between 2016 and 2019 using the approaches, outlined in the draft Environmental Water Recovery Strategy.

Senator Xenophon:

**Recommendation**
The MDBA publicly release a non-technical explanation of the assumptions used to develop the 2750 GL/y.

Agree.
The MDBA has published a range of documents explaining the assumptions used to develop the 2750 GL per year figure, including the following:

- Document - Delivering a Healthy Working Basin, Chapter 4, pages 20–34;
- Frequently asked question - How did you determine the limits on water use?;
- Fact sheet - The proposed environmentally sustainable level of take for surface water of the Murray Darling Basin;
- Document - Proposed Basin Plan consultation report (s43 report), May 2012, p37–39; and
- The Basin Plan Regulation Impact Statement, November 2012, Chapter 4.

The above documents are in addition to the more detailed explanations in the document The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes, November 2011, and the document, Hydrologic modelling to inform the proposed Basin Plan: Methods and results.

Recommendation
The MDBA conduct urgent modelling of a number of figures above the 2750 GL/y figure, up to 4000 GL/y. This modelling must be publicly released with a both a technical and non-technical explanation and conducted in a timely manner.

Agreed in part.

The MDBA modelled the scenarios of 2800GL and 3200GL with the present operating constraints. The results of this modelling were published by the MDBA in The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes (MDBA 2011), available on the MDBA's website.

The MDBA also modelled these scenarios with key constraints relaxed, and found the 3200 GL scenario with relaxed constraints could deliver increased environmental benefits. The outcomes of this further (relaxed constraints) modelling have been published by the MDBA in Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (MDBA 2012), which is available on the MDBA's website.

Recommendation
The Murray-Darling Basin Plan is delayed until such modelling is completed.

Disagree.

The MDBA has publicly detailed the results and anticipated environmental outcomes with respect to 2400, 2800 and 3200 GL per year water recovery amounts in the following documents, available on the MDBA website:

- The proposed 'environmentally sustainable level of take' for surface water of the Murray–Darling Basin: Method and outcomes, (November 2011);
- Hydrologic modelling to inform the proposed Basin Plan: Methods and results (February 2012); and
- Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results (September 2012).

Further, the MDBA undertook and publicly released modelling for 3200 GL and 2800 GL scenarios after key constraints in the system had been relaxed. The modelling indicated relaxing constraints provides some benefits at 2800 GL, while the removal of constraints at 3200 GL significantly increased environmental benefits, including the meeting of 17 out of 18 key indicator targets, compared to 13 targets met without the removal of constraints.

The Basin Plan was made on 22 November 2012.

Recommendation
The MDBA must urgently provide advice as to the methodology for the setting of the BDL.

Agreed in part.

The MDBA has already provided information about the methodology for the setting of the baseline diversion limits (BDL) in several reports, which are publicly available on the MDBA website. In addition, the MDBA has engaged the CSIRO and other independent experts to review the models and methodology used to determine BDLs.

The MDBA acknowledges that further communication on this matter would be beneficial for the broader Basin community. Consequently,
the MDBA is preparing a series of fact sheets which set out the methodology in clear and concise language. These fact sheets will be available on the MDBA’s website in the near future.

Further information and links to the relevant reports is set out below. These reports are all available on the MDBA website:

- **Hydrologic modelling to inform the proposed Basin Plan: Methods and results.**
- **Comparison of watercourse diversion estimates in the proposed Basin Plan with other published estimates.** This document summarises and explains the main differences between the diversion estimates under baseline development conditions used in the draft Basin Plan and estimates published in the past.
- **Independent review of models to assess their representation of the baseline conditions specified in the Basin Plan and estimating BDL.** The models were assessed regarding their ability to generate a robust BDL estimate and how they represent BDL definition presented in the proposed Basin Plan.
- **River system modelling for the Basin Plan assessment of fitness for purpose.** The MDBA engaged CSIRO to conduct this assessment of the without-development and baseline models. This study found that the baseline models reliably represent the Basin at its current level of development.

**Recommendation**

Urgent modelling is undertaken to establish the comparative efficiencies of irrigation communities in the Murray-Darling Basin. The results of such modelling can be used to fairly determine Baseline Diversion Limits, and take into account such comparative efficiencies to ensure fair treatment of irrigators.

**Disagree.**

The approach used to determine the BDLs has been applied in a fair and equitable manner. The MDBA has adopted a consistent approach to defining and quantifying the BDLs across the Basin. These are set out in Schedule 3 of the Basin Plan.

BDLs provide a common baseline against which the introduction of the requirements of the Basin Plan can be assessed. These requirements include the setting of SDLs. The BDLs reflect the water sharing arrangements that were in place in June 2009. In most cases the BDL reflects the diversion limit established under the Murray-Darling Basin cap arrangements, unless there is a state water resource plan that sets the limit lower than the cap.

The consistent settings and assumptions for BDLs include:

- using the most up-to-date means of quantifying the baseline (typically using a model)
- using the same climate period (1895-2009)
- accounting for certain environmental water as outside the baseline (including the Living Murray and Water for Rivers), and
- adjusting for permanent trade to 30 June 2009.

**Recommendation**

Irrigators must receive recognition for their past water efficiencies. In the absence of any prior recognition for past water-saving efforts, the guidelines for the Sustainable Rural Water Use and Infrastructure Program and other similar programs should be amended to allow irrigators to apply for funding for research and development purposes.

**Disagree.**

The Australian Government recognises the initiative demonstrated by early adopters to improve rural water use efficiency, however the Sustainable Rural Water Use and Infrastructure Program (SRWUIP) does not provide funding to cover expenditure already incurred or committed.

The argument of early adoption and efficiency is often linked to irrigators in South Australia. As at 31 January 2012, the Government had committed almost $1.6 billion under Water for the Future (which commenced in 2007-08) to South Australian projects, including major investments to improve ecological outcomes in the Coorong and Lower Lakes, as well as funding for irrigation-related projects (both on and off-farm) and the Adelaide Desalination Plant. Subject to due diligence, the total funding also includes up
to $180 million from SRWUIP for the South Australian River Murray Improvements Program, as well as up to $85 million for research, development and industry redevelopment in regional South Australia.

Recommendation

The MDBA provide urgent evidence that the current market-based buyback approach will not distort the water and commodity market. In the absence of any available evidence, the MDBA conduct urgent modelling on the impact the market-based buyback approach will have on those who have not accessed funds under the Federal Government's $5.8 billion Sustainable Rural Water Use and Infrastructure Program and other similar programs.

Agreed in part.

In June 2011, the Government released a survey of more than 500 irrigators who had applied to sell or sold water to the Commonwealth between 2008-09 and late 2011. Almost 80 per cent of those interviewed said that selling water to the Commonwealth was a positive decision for them. The majority of proceeds from water sales are spent within the local region. Less than 5 per cent of survey respondents said that most of the money they had received from Commonwealth water sales had been spent outside their region. Almost all of those who sold their entitlement to the government and exited farming found alternative local employment, or retired in their local community.

Entitlement holders are able to choose whether to participate in either, or both, of the Government's water buybacks, or Government programs investing in more efficient irrigation infrastructure.

Government Response

Inquiry into the pricing and supply arrangements in the Australian and global fertiliser market

Report of the Senate Select Committee on Agricultural and Related Industries

The Australian Government welcomes the Senate Select Committee on Agricultural and Related Industries report into pricing and supply arrangements in the fertiliser market. The fertiliser industry is an important contributor to the Australian economy, underpinning much of our agricultural production. Fertiliser is a critical agricultural input. According to farm surveys data collected by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES), in 2011-12 fertilisers represented 11 per cent of total cash costs for broadacre farms.

The Australian Government notes that its role in fertiliser regulation is facilitative, with responsibility for regulation lying with the state and territory governments. The Australian Government will continue to work with the fertiliser industry and state and territory governments to ensure standards, specifications and labelling requirements for chemical fertilisers are consistent across Australia and support the safe and effective use of fertilisers in agriculture.

The Australian Government also publishes information on fertilisers, including pricing, through the ABARES website. The ABARES annual Australian Commodity Statistics publication provides quarterly and annual international fertiliser price data and annual average prices paid by Australian farmers for a number of fertiliser types, as well as quarterly and annual fertiliser import volumes and values by state and generic fertiliser type.

The Australian Government additionally promotes competition, fair trading practices, consumer protection and transparency in the market place, in particular through the provisions of the Competition and Consumer Act 2010 (CCA) (formerly the Trade Practices Act 1974).

The Australian Government thanks the committee and the stakeholders who contributed to this report.

Recommendation 1

The committee recommends that the states and territories should consider, as a matter of priority, adopting uniform description and labelling of fertiliser products to ensure consistency between jurisdictions.

Noted

The Australian Government notes that this recommendation is primarily for the
consideration of state and territory governments as the jurisdictions responsible for regulation.

The Australian Government supports a nationally consistent approach to fertiliser regulation. The Australian Government has engaged with state and territory governments and the fertiliser industry on fertiliser issues through the Primary Industries Standing Committee (PISC).

In 2002 the PISC established a Fertiliser Working Group (FWG) which developed a policy framework to progress a nationally consistent approach to fertiliser regulation. The framework included the setting of a national standard for contaminants and the requirement that all fertiliser product labels contain accurate and nationally consistent information about the product and its use.

As part of its involvement in the FWG, the Fertiliser Industry Federation of Australia (FIFA) developed a Code of Practice for Fertiliser Description and Labelling designed to harmonise these elements of fertiliser regulation across state jurisdictions. The code was circulated to all states and territories for comment and, following a number of revisions, was accepted by the FWG in March 2011.

The code has yet to be considered by the PISC as progression of the COAG Agvet reform work has taken priority. The Australian Government understands that PISC consideration of the code is expected soon. Formal adoption by all states and territories is expected to follow PISC acceptance of the code.

**Recommendation 2**

The committee recommends that all state and territory agriculture departments should consider undertaking regular sample testing for specified ingredient levels, such as nitrogen/phosphorus/potassium (NPK) levels, in fertiliser products.

**Noted**

The Australian Government notes that this recommendation is for the consideration of state and territory governments, with monitoring of specified ingredients being the responsibility of the states and territories.

Consultation by the Australian Government with state and territory agricultural departments has indicated that the issue of specified ingredient levels is already addressed under the respective fair trading legislation of each state and territory. The state and territory department representatives also noted that the committee reported only a small number of instances where ingredient levels did not match the levels specified in the labels. The state and territory department representatives therefore suggested that these isolated incidents did not reflect a widespread problem nor warrant the imposition of regular testing.

From the Australian Government perspective, consumers are protected from misleading or deceptive conduct and false or misleading representations under sections 18 and 29 of the Australian Consumer Law (ACL). The ACL is located in Schedule 2 of the CCA. The ACL is based on the consumer protection provisions of the former Trade Practices Act 1974 and draws on provisions in State and Territory fair trading laws. The ACL applies in all States and Territories and is administered jointly by the Australian Competition and Consumer Commission (ACCC) and the State and Territory fair trading agencies.

Section 18 of the ACL prohibits a supplier from engaging in misleading or deceptive conduct or conduct that is likely to mislead or deceive. Section 29 of the ACL provides that a supplier must not falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use. The ACCC, consumers and competitors can bring legal action for breaches of the ACL.

Additionally, the ACL contains a statutory guarantee that goods supplied to consumers by description must correspond with their description. Consumers and the ACCC can bring legal action to enforce this guarantee.

**Recommendation 3**

The committee recommends that the Commonwealth review Part IV of the Trade Practices Act 1974 relating to restrictive trade practices with a view to amending these provisions of the Act so as to more effectively regulate anticompetitive practices and prevent abuse of market power.
The Australian Government notes the Committee's recommendation. The Government believes it is important that Australia's competition laws provide a strong, robust framework that guards against anti-competitive conduct, but otherwise leaves businesses free to act as they see fit. The Government considers it unacceptable for businesses to engage in any conduct in breach of our competition or consumer laws.

Since 2007, the Australian Government has made significant reforms to Australia's competition laws, including:

- Amendments to the prohibition on misuse of market power to strengthen the laws against predatory pricing by: clarifying that there is no need for a corporation to demonstrate that it can recoup its losses from predatory pricing; and, amending the definition of 'take advantage' to ensure that it was not interpreted unduly narrowly.
- Making it a crime to engage in serious cartel conduct—individuals and companies that fix prices or reduce choice by distorting competition now face some of the toughest penalties in the world for cartel behaviour, including jail terms for individuals.
- Clarifying the mergers and acquisitions provisions in relation to 'creeping acquisitions'.

It is only after the laws have been suitably tested in the Courts that a review of current provisions should be considered.

The Australian Competition and Consumer Commission (ACCC) has publicly stated that it is currently investigating claims regarding the potential misuse of market power and unconscionable conduct in other sectors of the economy which may provide further guidance as to the application of Australia's Competition and Consumer Act 2010 (CCA).¹

Recommendation 4

The committee recommends that ABARES:

- disseminate this information widely to farmers through the ABARES website, farmers' organisations, the rural press and other appropriate avenues.

Recommendation 5

The committee recommends that in the interests of transparency the industry improve its business practices to ensure that fertiliser companies:

- publish general information, including arrival of shipments, detailing the amount of fertiliser available in stock; and
- provide greater certainty in the filling of orders, especially orders for fertiliser products placed earlier in the season.

Agree in principle

The committee recommends that fertiliser companies provide greater certainty in the filling of orders, the Australian Government notes section 36 of the ACL prohibits a supplier from accepting payment for goods where there are reasonable grounds—of which the supplier is
aware or ought to be aware—for believing that it will not be able to supply the goods within the period that the supplier has specified or within a reasonable time. Like the other provisions of the ACL, this prohibition applies in all States and Territories.

Recommendation 6

The committee recommends that, wherever possible, supply agreements between suppliers and customers be more structured and equitable, and, where appropriate, include standard contractual terms and conditions.

Agree in principle

The Australian Government considers the content and structure of fertiliser supply agreements to be a matter for individual companies and their clients provided the agreements do not breach the CCA.

The Australian Government currently provides general protection for consumers in their dealings with business through the ACL including through its provisions prohibiting unconscionable conduct and voiding unfair contract terms in standard form consumer contracts. The government notes the role of the ACCC in providing guidance to consumers and businesses about fair trading. In particular, the Australian Government notes the ACCC’s general guidance for consumers entering into contracts, which is available on the ACCC website.

The Australian Government strongly encourages businesses and consumers who believe the ACL may have been breached to contact the ACCC.

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1Sims, R. Current ACCC priorities Australia Israel Chamber of Commerce, Western Australia, Business Leaders Lunch (13 September 2012).

Senator MOORE (Queensland) (17:01):

I move:

That the committee documents be printed in accordance with the usual practice.

Question agreed to.

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COMMITTEES

Environment and Communications References Committee

Legal and Constitutional Affairs References Committee

Rural and Regional Affairs and Transport References Committee

Reporting Date

Senator MOORE (Queensland) (17:01):

I move:

That the time for the presentation of the final reports of the Environment and Communications References Committee on its inquiry into the regulatory arrangements in dealing with the simultaneous transmission of radio programs be extended to 12 July 2013; that the Legal and Constitutional Affairs References Committee on its inquiry into the current framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements be extended to 24 June 2013; that the Rural and Regional Affairs and Transport References Committee on Auditor-General’s reports nos 26 of 2007–08 and 22 of 2012–13 in relation to the Tasmanian forestry industry to 19 June 2013; and that the Legal and Constitutional Affairs References Committee on its inquiry into court fees be extended to 17 June 2013

Question agreed to.

Environment and Communications Legislation Committee

Rural and Regional Affairs and Transport Legislation Committee

Economics Legislation Committee

Report

Senator MOORE (Queensland) (17:02):

I move:

That the reports of the Environment Communications Legislation Committee, Rural, Regional Affairs and Transport Legislation Committee and Economics Legislation Committee on time critical legislation be adopted.

Question agreed to.
Legislation and References
Committees

Senator MOORE (Queensland) (17:03):
I move:

That consideration of each of the committee reports tabled earlier today be listed on the Notice Paper as separate orders of the day.

Question agreed to.

Responses to Senate Resolutions
Tabling

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:04): I present the following responses to Senate resolutions, as listed at item 13 on today's Order of Business:

(a) Response from the Premier of Western Australia (Mr Colin Barnett) to a resolution of the Senate of 13 March 2013 concerning the Northern Territory Container Deposit Scheme;

(b) Response from the Minister for Foreign Affairs (Senator Bob Carr) to a resolution of the Senate of 14 March 2013 concerning torture in Fiji; and

(c) Response from the Premier of Western Australia (Mr Colin Barnett) to a resolution of the Senate of 21 March 2013 concerning the Grandcarers Support Scheme.

Senator WHISH-WILSON (Tasmania) (17:04): I seek leave to move a motion in relation to the response by the Premier of Western Australia, Mr Colin Barnett, to the resolution concerning the Northern Territory Container Deposit Scheme.

Leave granted.

Senator WHISH-WILSON: I move:

That the Senate take note of the document.

This is the second response that we have had to the Senate resolution passed on 13 March 2013, asking all state and territory governments to expedite giving the Northern Territory a permanent exclusion from the mutual recognition act in relation to the container deposit scheme, after the loss of the court case against Coca-Cola in the Northern Territory. I thank Mr Colin Barnett, the Premier of Western Australia, for his letter, following on from the letter from the South Australian Premier. It is concerning to me that, after nearly three months, we have not seen more responses from state governments. My understanding is—and, certainly, assurances have been coming forward to that effect—that it should not be an issue to get unanimous agreement from the states.

I would just like to highlight that, after I wrote to the Prime Minister asking why we were getting delays in the exemption, which essentially gives the government of the Northern Territory autonomy over its own recycling scheme for things such as plastic bottles, cans and containers, the Hon. Dr Andrew Leigh wrote back to me and said:

The Northern Territory's request is currently under out-of-session consideration by the Council of Australian Governments, along with a Regulation Impact Statement provided by the Northern Territory to inform decision-making. The Commonwealth will be able to finalise the regulation to give effect to the permanent exemption once all state and territory governments have considered the Northern Territory RIS and given their formal endorsement via the publication of a notice in their official gazettes.

This is the standard process, but today I would like to say to the other states that have not yet put this through: please do expedite this process. It is unacceptable that the Northern Territory government is saving to provide short-term funds—that is, short-term taxpayer funds—to actually pay for this scheme to keep it operating, to keep the businesses in business and to give them the certainty they need to see recycling rates increase in the Northern Territory and, obviously, give those social and economic returns to communities.
It still concerns me that we have not seen a second COAG decision on getting a national container deposit scheme up and running. This has been going for three years through the COAG process and for 16 to 20 years for various environmental and community groups that have been pushing for a national scheme. The letter to me from the Parliamentary Secretary to the Prime Minister also says:

In addition, work continues on national options to better address packaging waste and litter. Addressing the problems of packaging waste and litter remains a priority for all jurisdictions and further information can be found on this website ...

The key alternative that is being pushed at the COAG level and certainly in the media by the Food and Grocery Council and the beverage companies themselves is to provide a national bin network. Now, the National Bin Network is an alternative to container deposit schemes, but I would like to highlight something directly from the Australian Food and Grocery Council’s own website. This document was put up in June 1997 and is entitled Understanding litter behaviour in Australia. It says:

- A lack of bins was not a major factor in littering; most littering occurred within five metres of a bin. This was particularly the case for cigarettes.

My question is: what is the use of a national bin network, then, and why is this organisation promoting it? I have some comparisons between a national bin network and a container deposit scheme that I would like to go through, but first I would like to read from a little article from The Daily Telegraph entitled 'Litterbugs do their dirty deeds on our most famous bit of sand, Bondi Beach':

BONDI Beach has 10 times as much rubbish as Parramatta Mall, a damning new survey had found.

Despite having 212 bins—including 37 public recycling bins—it was found to be more polluted than La Perouse and 10 times as dirty as Parramatta Mall, with an item of rubbish every step taken along the sand—even after up to four cubic meters is collected each day by a council beach rake.

Topping the list of Sydney’s dirtiest places were Darling Harbour and Circular Quay, followed by the Cooks River foreshore—which I personally helped clean about five or six weeks ago, not that it would have done much good, because the next day it would have been just as filthy and polluted as it was the day I was there—the F3, and the New England Highway.

Recently, the Boomerang Alliance put out an information document comparing bin networks to a container deposit scheme. For public litter space—yes, bins have more capacity for other litter in public litter spaces, but they are not suitable in applications for a national bin network, and there has been no offer to put bins in these areas. Highways, beaches, parks and rivers—yes, container deposits work in those areas, but, once again, no national bin networks have been provided for those areas either. Sports ground litters—yes, bin networks have been provided; however, bins are also useful there for collecting for container deposit schemes. Shopping centres, airports et cetera—yes, a national bin network has provided bins in those areas. Do they produce clean recycle? Yes, for container deposit schemes, that is one of the key factors in the economics of this system. There are serious contamination issues with the national bin network. Growing recycling industry—yes, a high volume of quality material for high-value product, and a low level under a national bin network, with a low volume of material as well. Reduced council litter and kerbside recycling costs—yes, proven under a container deposit
scheme; no, under a national bin network. Financially sustainable under the new model that was put up to COAG—yes, but needs government and ongoing industry grants for a national bin network.

It is clear to me, and to others that have been focusing on this area, that the information is not in. The truth is not in on a national bin network. But we know that in South Australia, where you are from, Mr Acting Deputy President Bernardi, we have a very high recycling rate and a state that is very proud of its container deposit scheme. We would like to see the Northern Territory have a fair go in getting their own scheme up and running as well.

I want to highlight a couple of other quick things while I have some time. Another question that often gets asked is: will a container deposit scheme harm kerbside collections and hit ratepayers? The report for government found a net financial gain for councils and ratepayer savings taking into account the loss of recyclable material from kerbside, reduced collection and processing costs, and deposits on containers left in kerbside. There are seven points here that indicate the economic advantages to councils under a container deposit scheme.

The Australian Food and Grocery Council talk about a gross cost to the Australian taxpayer of $1.7 billion. While their study, which was put to COAG, has been thoroughly discredited, let us assume for a minute that it is correct and that a new national container deposit scheme would cost $1.7 billion. The scheme is set over 20 years and, if you break that down, it is $85 million a year. Per person per week in this country, that amounts to 7c or $3.70 per annum, or about half a cent per container. Even if the Food and Grocery Council's numbers were correct—and I do not believe they are; I think they have been thoroughly discredited—it is a small price to pay to provide a benefit to the community and a benefit to the environment by pushing recycling rates for our most obvious, visible and damaging form of litter, particularly plastic bottles, and to see recycling rates go up over 85 per cent.

The last thing I would like to highlight is an article on Sunday in the _Sun-Herald_ about an email rort in a political campaign on the Food and Grocery Council's website. A number of businesses were contacted that had sent emails about a great big new tax, a tax on plastic. Business owner Tony Gavaghan was one of at least five people who had checked their email addresses and said that they were used to send the email without consent. He said:

I'm not all that pleased, particularly when I don't know a lot about the topic to start, I don't know any details of what they're opposing. Whether it was this or anything else I guess I don't like anyone using my name for anything.

Five other business owners also complained that there were emails being sent on their behalf by the Food and Grocery Council website. Of course, the FGC denied that there had been any misuse of that website.

This is an organic issue. It is a very important issue for the community and it is very important to the Northern Territory that we get them back their national— (Time expired)

Question agreed to.

**BUSINESS**

**Rearrangement**

Senator RHIANNON (New South Wales) (17:15): Mr Acting Deputy President, I seek leave to make a statement on one of the documents that was tabled outside of sitting to do with the inquiry into the provisions of the Export Finance and Insurance Corporation Amendment (Finance) Bill, known as the EFIC bill.
Leave not granted.

AUDITOR-GENERAL’S REPORTS

Report No. 45 of 2012-13


COMMITTEES

Constitutional and Legal Affairs Committee Report

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:16): I present a report on access to documents from a 1978-79 inquiry of the Senate Standing Committee on Constitutional and Legal Affairs.

DisabilityCare Australia Committee Appointment

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (17:16): The President has received a message from the House of Representatives transmitting for concurrence a resolution proposing the formation of a joint select committee. Copies of the message have been circulated in the chamber.

The House of Representatives message read as follows—

Mr President,

The House of Representatives acquaints the Senate of the following resolution which has been agreed to by the House of Representatives, and requests the concurrence of the Senate therein:

That:
(1) a Joint Select Committee on DisabilityCare Australia be appointed to inquire into and report on the implementation progress with the rollout of DisabilityCare Australia, and related matters;
(2) the Committee:
   (a) may report from time to time but that it present a preliminary report on the rollout of DisabilityCare Australia after 12 months of operation, and a final report after 24 months of operation;
   (b) will have particular reference to reports each six months from DisabilityCare Australia on implementation progress on reforms to services for people with disability under the National Disability Insurance Scheme Act 2013, which address:
      (i) average expenditure on package costs;
      (ii) sector capacity and workforce issues;
      (iii) client take-up rates; and
      (iv) differences between the child, adolescent and total population launches; and
   (c) consist of twelve members, three Members of the House of Representatives to be nominated by the Government Whip or Whips, two Members of the House of Representatives to be nominated by the Opposition Whip or Whips, three Senators to be nominated by the Leader of the Government in the Senate, two Senators to be nominated by the Leader of the Opposition in the Senate, one Member of the House of Representatives or Senator to be nominated by the Australia Greens Whip, and one Member of the House of Representatives or Senator who is an Independent or from another party;
(3) every nomination of a member of the Committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives;
(4) the members of the Committee hold office as a joint select committee until presentation of the Committee’s report or the House of Representatives is dissolved or expires by effluxion of time, whichever is the earlier;
(5) the Committee elect a Government Member as its Chair;
(6) in the event of an equality of voting, the Chair has a casting vote;

CHAMBER
(7) five members of the Committee constitute a quorum of the Committee provided that in a deliberative meeting the quorum shall include one Government Member of either House and one non-Government Member of either House;

(8) the Committee:
   (a) have power to appoint subcommittees consisting of three or more of its members and to refer to any subcommittee any matter which the Committee is empowered to examine; and
   (b) appoint the Chair of each subcommittee who shall have a casting vote only, and at any time when the Chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as Chair at that meeting;

(9) the quorum of a subcommittee be two members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise one Government Member of either House and one non-Government member of either House;

(10) the Committee or:
   (a) any subcommittee have the power to call for witnesses to attend and for documents to be produced;
   (b) any subcommittee may conduct proceedings at any place it sees fit; and
   (c) subcommittee have the power to adjourn from time to time and to sit during any adjournment of the House of Representatives and the Senate;

(11) the Committee be:
   (a) provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the Committee with the approval of the Presiding Officers; and
   (b) empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public;

(12) the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (16:35): I move:

That the Senate concurs with the resolution of the House of Representatives contained in message No. 678 relating to the appointment of the Joint Select Committee on DisabilityCare Australia.

Question agreed to.

Corporations and Financial Services Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (17:17): On behalf of the Deputy Chair, Senator Boyce, I present the report of the Parliamentary Joint Committee on Corporations and Financial Services on the regulatory framework for tax (financial) advice services, previously Tax Laws Amendment (2013 Measures No. 2) Bill 2013, schedules 3 and 4.

Ordered that the report be printed.

Senator BACK: by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

National Capital and External Territories Committee Report

Senator PRATT (Western Australia) (17:18): I present the report of the Joint Standing Committee on the National Capital and External Territories of the visit to Norfolk Island on 29-30 April 2013.

Ordered that the report be printed.

Senator PRATT: by leave—I move:

That the Senate take note of the report.

The purpose of our committee's visit was to examine progress recently made under the
Norfolk Island road map and expectations of further progress going forward. It was an important visit to a unique and vibrant community. I thank all those who facilitated our visit and note that we held discussions with the Administrator, the Commonwealth finance officer, the Chief Secretary of the Norfolk Island government, members of the Norfolk Island Legislative Assembly, the chamber of commerce, the government tourist bureau, the accommodation and tourism association and, importantly, a wide range of women's and social welfare groups, who were able to talk to us about the social situation on Norfolk Island. Our trip was worthwhile and I thank everyone who worked with the committee, provided documents or met with us. In particular, I thank Neil Pope, the Administrator, and his staff.

The Norfolk Island road map, an agreement between the Norfolk Island government and the Australian government, sets out a process which will transform the Norfolk Island community and see it more closely integrated with Australia. The road map provides a path to reform for the governance of the Norfolk Island economy. It is being progressed through a series of agreements which have allowed the Norfolk Island government to receive funding and administrative support from the Australian government in return for achieving goals set out in the road map.

The Joint Standing Committee on the National Capital and External Territories has an important role to play because external territories of Australia do not have the same rights as states under our Constitution. That means it is particularly important that there is some parliamentary oversight of the conduct of affairs between the Commonwealth and territories such as Norfolk Island. Our committee has taken a strong interest in the welfare of Norfolk Island over many years now and is closely following progress under the road map.

There was an election on Norfolk Island in March this year and the committee was concerned that it could be a potential turning point in this reform process. We therefore resolved to visit Norfolk Island after the election to check on how the process was going. I thank my committee colleagues for their engagement. The committee takes a bipartisan approach which I think reflects well on parliament's committee system.

The Norfolk Island election campaign did see the road map widely debated. These are important issues for Norfolk Island and both supportive and opposing views were put forward by candidates. The result of the election saw a new Norfolk Island government formed with the Hon. Lisle Snell as Chief Minister. A number of ministers and members of the assembly were on record as opposed to or ambivalent about parts of the road map. This was of concern to the Australian government, which required a clear statement about the meeting of milestones under the road map by the new Norfolk Island government.

This is important for a number of reasons. The Norfolk Island government does not have a sustainable income base and is not currently part of our tax and transfer system. Citizens on Norfolk Island do not have access to entitlements which most Australian citizens take for granted—Medicare, Newstart or family payments, for example. It would be a great surprise, I think, to the majority of Australians to know that there are Australian citizens who do not have access to any of these basic entitlements. The historical reason is that the Norfolk Island government made a very deliberate choice to opt out. It wanted to exercise its
independence and offer its own services to the Norfolk Island people. Historically, the government had some economic base for doing that, with tourism and its own GST. But my opinion is that when the GST came in what happened was that luxury taxes came off a lot of the goods that people were travelling to Norfolk Island to buy, and from that point in time you can see a significant decline in the Norfolk Island economy.

It is really important that Norfolk Island is integrated into the Australian community, for the welfare of Norfolk Islanders, so that they can have access to the basic entitlements that other Australians take for granted. So the Norfolk Island government has undertaken the reform of immigration, making it easier for people to move to and invest in Norfolk Island. Likewise, the assembly there has passed laws which will enable the evaluation of land for municipal tax rating purposes, with a view to implementing a land tax or rates from July 2014. And I note that this bill awaits Commonwealth assent.

The reason that this is important is that, if Norfolk Island is to come into the Australian system, Norfolk Island needs to be seen to be not just resting on its laurels and waiting for handouts from the Commonwealth in order to get these benefits back but actually doing its own revenue raising.

You can look, for example, to the principles of horizontal fiscal equalisation that apply to other state and territory jurisdictions, and that is that these territories and jurisdictions need to raise their own revenue so that they can then in turn look to the Commonwealth for support. So it would be unreasonable for Norfolk Island to come in to the Australian system, unless of course the Norfolk Island community has made its own commitment to revenue raising, which means that basic things like local municipal rates need to apply. That is why it is important that they are making progress on their collection of local land taxes, and the Commonwealth is working with them to do that. Open immigration needs to succeed on the island to rejuvenate the economy of Norfolk Island so that Australians have the capacity to live and settle there and have access to the same services and benefits that are available on the mainland.

In the short time that is available to me this afternoon, I really only have time to highlight a few of the critical issues that are confronting Norfolk Island and, indeed, the Australian nation’s relationship to Norfolk Island. It is good to know that the current Norfolk Island government acknowledges that its current situation is financially unsustainable. It has chronic shortfalls in government revenue and a serious decline in private sector activity. The government there is unable to meet its own needs, but I am pleased to say that it is working on solutions. The private sector there, principally tourism, is suffering from a prolonged downturn in visitor numbers, as I highlighted before, and that is, in turn, impacting on government revenue. It does mean that Norfolk Island citizens, who do not have access to the mainland’s welfare systems—Medicare, unemployment benefit, family payments et cetera—are relying on charity, and it is putting a great number of families in dire need.

That really underscores the important point on which I would like to end my remarks today. Our committee’s recommendations are to keep both the Norfolk Island government and the Australian government on track to meet the milestones within the roadmap, because things will not improve for people on Norfolk Island until those things that we need to do, step by step, are put in place. I seek leave to continue my remarks later.
On behalf of the Chair of the Parliamentary Joint Committee on Intelligence and Security, I present the review of Administration and Expenditure: No. 10—Australian Intelligence Agencies.

Ordered that the report be printed.

Senator FAULKNER: by leave—I move:

That the Senate take note of the report.

I am pleased to present the committee's 10th review of the administration and expenditure of the Australian intelligence community, which covers the 2010-11 financial year. This review examined a wide range of aspects of the administration and expenditure of the six intelligence and security agencies, including: the financial statements for each agency, and their human resources management, training, recruitment and accommodation. In addition, the review looked at issues of interoperability between members of the Australian intelligence community. Submissions were sought from each of the six intelligence and security agencies, from the Australian National Audit Office and from the Inspector General of Intelligence and Security.

The submissions from ANAO and six intelligence agencies were all classified as confidential, restricted or secret and therefore were not made available to the public. As has been its practice for previous reviews, ASIO provided the committee with both a classified and an unclassified submission. The unclassified submission was made available on the committee's website. Each of the defence intelligence agencies provided the committee with a classified submission. The agencies marked each paragraph with its relevant national security classification. This has enabled the committee, for its 2010-11 review, to directly refer in this report to unclassified information provided in the submissions of the defence agencies.

In relation to the organisation of agency structures, the director-general of ASIO—Mr David Irvine—told the committee about ASIO's internal reform program. He stated that the point of the reform program was, and I think it is best to quote him here:

not simply to meet the demand for efficiency dividends and so on; it is to address what I think is a key responsibility of anyone in a position of leadership within the intelligence community today, and that is to make sure that the intelligence community is prepared for tomorrow.

One agency introduced a new and expanded organisational structure to ensure appropriate focus and risk management across all aspects of that agency's expansion in operational activities. Another agency combined two areas of its responsibilities into one, so as to better focus on challenges in the current geopolitical environment.

Out of the six agencies, four reported having to accommodate legislative changes in 2010-11. In general, all agencies again stated their commitment to ensuring that their staff are informed of the legislative requirements—as they relate to agency functions and operations—and that, where applicable, they receive targeted training to ensure understanding and compliance. Apart from ASIO, those agencies experiencing growth in their workforce characterised it as marginal growth and some agencies actually decreased their full-time equivalent staffing levels.

The significant organisational growth experienced by some agencies has now abated and all agencies have succeeded in integrating large increases in staffing over recent years. ASIO, as recommended by the review of ASIO resourcing conducted by the
late Mr Allan Taylor AM in 2005, did increase its staffing levels. In addition to the Taylor review, ASIO also experienced significant growth during 2010-11. This was due to the inclusion of border and territory sovereignty under the definition of security in the ASIO Act.

In relation to recruitment, the committee was satisfied that each of the agencies reviewed approached recruitment in a way that is sensitive to the national security issues that they deal with, whilst being open to attracting the best candidates from the diverse Australian community. I might say here that linguistic skill is important to all members of the Australian intelligence community and forms a vital part of workplace planning for agencies. It is very clear to our committee that linguistic skills are one of the key areas that intelligence agencies must develop and maintain. The committee did raise concerns with agencies in relation to some particular language groups. The committee was assured that those concerns were already being acted upon by the agencies in question.

The committee received an unclassified submission from the Inspector General of Intelligence and Security, in which she raised some significant concerns about the administrative functions of the Australian intelligence community agencies. The committee very much values the input from the IGIS. Her contribution provided us with invaluable and well-informed, third party commentary on matters before the committee. The committee was satisfied that the administration of the six intelligence and security agencies is sound. Noting the evidence from the Australian National Audit Office, and within the constraints imposed by the Intelligence Services Act, the committee was satisfied that all agencies are appropriately managing the expenditure of their organisations. Needless to say, and as I have done before on behalf of the committee, we thank the heads of agencies who appeared before the committee and all those others who contributed to our review. I commend this review to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Edwards): Senator Faulkner, are you seeking leave to continue your remarks later?

Senator FAULKNER: I do, if the chamber would wish me to do so—but people are shaking their heads. I will seek your guidance on that, Mr Acting Deputy President: over to you. I am happy to seek leave to continue my remarks, if it assists.

The ACTING DEPUTY PRESIDENT: Yes.

Senator FAULKNER: I will seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Joint Committee

Report


Leave granted.

Senator STEPHENS: I move:

That the Senate take note of the report.

On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report entitled *Australia’s trade investment relationship with Japan and the Republic of Korea*. The committee welcomed the opportunity to examine Australia’s relationship with two of our most important trading partners. I will just speak briefly to the report now.
I will turn first to Japan. The importance of the Australia-Japan relationship should not be obscured by the rise of other countries. Japan was actually Australia's No. 1 trading partner for over 40 years and today remains second only to China. In that time, Japan has made a significant contribution to Australia's prosperity, originating with its investment in the Australian resources and energy sector in the 1960s. Today, Japan is Australia's third-largest source of foreign investment, totalling $123.4 billion in 2011. It is also Australia's second-largest market for food and agricultural products, with safe, high-quality food and reliable supply from Australia making a significant contribution to Japan's food security. On the other side of the ledger, Japan is Australia's third-largest source of imports, with products such as cars and manufactured goods in high demand by Australian consumers.

Today Japan is moving towards trade liberalisation and agricultural reform, including negotiating a free trade agreement with Australia. This agreement is a significant milestone: Japan's first with one of its top six trading partners and first with a major developed economy. The committee strongly supports the free trade agreement negotiations. The services sector is one area expected to benefit from the FTA. Education and tourism are two of Australia's most important service exports. The committee supports efforts to attract more visitors and more international students to Australia. The committee heard that Australia's particular expertise in financial services is increasingly being recognised in Japan, a country with the world's second-largest pool of investible wealth. Both countries' expertise is also being capitalised upon in investment projects, and in particular through joint ventures in third countries. The committee has recommended that the government showcase the marketing of Meat & Livestock Australia in its export facilitation activities. In the committee's view, approaches like that of the MLA's 'Aussie beef' promotion can reduce competition between individual Australian brands, improve customer awareness, and tap into Japanese perceptions of Australian food as safe, high-quality products.

Let me now turn briefly to Korea. Korea is Australia's fourth-largest trading partner and a country with which Australia shares a longstanding and complementary relationship. After the Korean War, the Australian exports of raw materials supported Korea's industrial development from the 1960s onwards; indeed, energy, minerals and metals exports continue to be the bedrock of that ongoing relationship. The committee heard about significant growth in Korean investment to secure Korea's ongoing energy needs. Korean companies are taking increasingly larger stakes in a number of Australian resource projects. With 70 per cent of its food needs met from imports, Australia also has a very important role to play in Korea's food security, providing safe, high-quality food to our fifth-largest agricultural export market. In turn, Australia continues to demand Korea's consumer products, including cars, electronics and refined fuels.

Korea's active free trade agreement schedule, including negotiations with Australia, occupied a central role in our inquiry. With Korea's FTAs in force with the United States and the European Union, the committee was concerned about the implications of ongoing delays in concluding our own agreement. Considerable attention has been given to the implications for Australia's beef exports to Korea, our third-largest beef export market, as well as to other outstanding issues such as investor-state dispute settlement. Korean importers told the committee during our visit to Seoul that,
while they value Australian products for many reasons, they will be forced to look to other markets if an agreement is not concluded soon. The committee supports a comprehensive and liberalising agreement that is advantageous to all sectors, and has called for the negotiations to be prioritised. Australian businesses face a number of difficulties in Korea, including language and cultural barriers and a lack of understanding of the market. The committee considers that the importance of this market warrants priority assistance for exporters from the Australian government.

As with other areas where the relationship is overlooked, the committee has also recommended that the significance of the Australia-Korea relationship should be more widely recognised and promoted. And, finally, the committee considers that the implementation of the recommendations of the Joint Standing Committee on Foreign Affairs, Defence and Trade's report into Australia's overseas representation would help promote Australia's trade interests.

Mr Acting Deputy President, I commend the report to the Senate and seek leave to continue my remarks.

Leave granted; debate adjourned.

National Broadband Network Committee Report

Senator CAMERON (New South Wales) (17:45): On behalf of the Joint Committee on the National Broadband Network I present the fifth report of the committee and seek leave to move a motion in relation to the report.

Leave granted.

Senator CAMERON: I move:
That the Senate take note of the report.

I present the fifth report of the Joint Committee on the National Broadband Network, entitled Review of the Rollout of the National Broadband Network. This covers the period 1 July to 31 December 2012, as well as other current issues reported after this period. During its fifth review, the committee examined: the NBN rollout of fibre, fixed wireless and satellite services; performance reporting; the potential of private equity to fund the NBN; and Telstra workforce issues associated with the retraining funding bid under the Telstra agreement.

The committee made five recommendations. Chapter 1 sets the scene for the fifth review and provides commentary on the timing and quality of information provided to the committee. Chapter 2 provides analysis of the NBN rollout key performance indicators, an overview of the remaining regulatory matters associated with the ACCC's consideration of the NBN Co. special access undertaking, continued discussion on the connection of multidwelling units to the NBN and an overview of matters relating to the costing of alternative NBN models. Chapter 3 of the committee's report looks at the NBN rollout in regional and remote Australia. A combination of the three NBN technologies—fibre, fixed wireless and satellite—will be rolled out to regional and remote communities. This provides significant opportunities for communities in regional Australia. The committee was therefore interested in how NBN is balancing construction of the network across metropolitan and regional locations. The committee felt it would be useful to hear more about the regional aspects of the rollout and made a recommendation to that effect.

The committee was also interested in the rollout of the fixed wireless and satellite networks in regional and remote Australia. It noted that in February 2013, NBN Co. announced plans for a new, faster tier that is
25 megabits down and five megabits up for its fixed wireless and long-term satellite services for regional and remote communities. This is a quantum leap in service delivery for regional and remote Australia. It means that regional and rural Australians can access higher speeds than anyone in metro Australia can over the ADSL network.

Chapter 4 considered private equity engagement and workforce issues. The committee has investigated the points of entry for private investment in the NBN in all five of its reports to date. The committee recommended the government continue to consider investor interest in the NBN and the optimum capped capital structure for NBN Co. On the matter of NBN workforce issues, the committee continued to be interested in progress under the Telstra Retraining Funding Deed. Under this deed the government has committed to provide $100 million to Telstra to support the availability of an appropriately trained workforce.

The committee also heard that NBN Co. and the Department of Broadband, Communications and the Digital Economy had undertaken a number of initiatives to ensure an appropriately skilled workforce to support the NBN rollout. On this important area the committee recommended the NBN Co. continue to work with contractors to ensure sufficient mobilisation of skilled labour to meet NBN rollout targets. It also recommended that the NBN Co. continue to update NBN workforce modelling data to assist with planning for changing NBN training needs and workforce demand.

I would also like to say a few words about the dissenting report tabled by the coalition. Those opposite certainly know the adage, 'If you are going to tell a lie, tell a big one.' When it comes to the NBN, they tell a series of crackers. In their dissenting report to the fifth report of the joint committee on the NBN, the coalition continued this tactic. They assert—

Senator Ronaldson: On a point of order, I am sure Senator Cameron was not reflecting on my colleagues who submitted that report and calling them liars. If he was, I ask him to withdraw. If he was not, it can go through to the keeper.

The ACTING DEPUTY PRESIDENT (Senator Edwards): Senator Cameron, are you prepared to withdraw?

Senator CAMERON: I was not seeking to reflect on any of the senators who engaged in the committee. NBN Co. has made clear on a number of occasions that it has signed agreements with utilities, yet the coalition senators have indicated in their report that NBN Co. has failed to secure agreement with electricity utilities to use their poles. Agreements have been reached in all states and territories required for the aerial rollout with the exception of New South Wales and the only reason for this exception is the unreasonable commercial terms being demanded by the New South Wales government. The coalition has also misrepresented NBN Co.’s performance against its rollout targets, constantly using the forecast from NBN Co.’s 2011-13 corporate plan. Those opposite know full well that the 2011-13 corporate plan was produced before the definitive agreements were finalised, before the deal with Optus was contemplated and before the full impact of the ACCC’s decision on 121 points of interconnect was known.

The coalition is desperate to cast the rollout of the NBN in a poor light. This is the only way they can attempt to justify their substandard copper based broadband network. The truth is that the rollout of the NBN is happening in every state and territory across Australia. So far this year
NBN fibre has been switched on in sites all over the country, including Aspley, Bacchus Marsh, Blacktown, Coffs Harbour, Darwin, Gosford, Gungahlin, Hobart, Launceston, Toowoomba and Townsville, and to over 300 new developments all over the country.

The only thing those opposite dislike more than seeing progress in the rollout of the NBN is the take-up rates on the fibre network. This is because NBN's take-up rates are world records. The take-up rate is nearly 40 per cent across the country in areas connected for more than 12 months, with more than 66 per cent of households connecting in some areas.

The constant stream of misrepresentation from the coalition is not surprising given its form on the NBN. It was not too long ago that the coalition asserted it would save $50 billion to $60 billion by not proceeding with Labor's NBN. The truth is that the investment by this government in the National Broadband Network is $30.4 billion. Compare that to the coalition proposing to borrow $29.5 billion to build a network that will be obsolete by the time it is built. The coalition policy also requires duct and pit access in a number of cases, such as for running fibre between three million and four million homes. They will also run fibre to the basement in apartment blocks. With fibre on demand, the coalition plans to charge Australians up to $5,000 to connect to fibre. It is untrue to say that the coalition's proposal will mean that asbestos will not be disturbed. It will be disturbed. It is clear that this is part of the coalition's tactic to try to discredit the NBN, to try to destroy the NBN—one of the best, most visionary and most productive public works that this country has ever seen. On that basis, I commend the report to the Senate.

Human Rights Committee Report

Senator STEPHENS (New South Wales) (17:56): On behalf of the Parliamentary Joint Committee on Human Rights, I present the seventh report of 2013 of the committee on the examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011.

Ordered that the report be printed.
Senator STEPHENS: I move:

That the Senate take note of the report.
I seek leave to incorporate a short statement in Hansard.

Leave granted.

The statement read as follows—

The Parliamentary Joint Committee on Human Rights' seventh report of 2013 sets out the committee's consideration of 29 bills introduced during the period 14 to 16 May 2013, 122 legislative instruments registered with the Federal Register of Legislative Instruments during the period 20 April to 17 May 2013 and eight responses to the committee's comments in previous reports.

The committee has identified 15 bills that it considers require further examination and for which it will seek further information. The remaining 14 bills do not appear to give rise to human rights concerns.

The committee has identified six legislative instruments for which it will seek further information before forming a view about their compatibility with human rights. The committee has decided to consider one instrument as part of its examination of the Migration (Regional Processing) package of legislation.

The remaining 115 instruments considered do not appear to raise human rights concerns and are accompanied by statements of compatibility that meet the committee's expectations. The committee notes that the general standard of statements of compatibility for legislative instruments has improved significantly in recent months.

In this report the committee has continued its consideration of the human rights implications of appropriation bills. I drew the attention of the Senate to the committee's initial views in this regard when I tabled the committee's third report of 2013.

Appropriation bills, like all other bills, are subject to the requirements of the Human Rights (Parliamentary Scrutiny) Act 2011. In its third report of 2013 the committee noted that it does not anticipate it will generally be necessary for it to make substantive comments on appropriation bills. However, the committee stated that it would find it helpful if the statements of compatibility that accompany appropriation bills identify any proposed cuts in expenditure which may amount to retrogression or limitations on human rights.

In its consideration of appropriation bills in this seventh report of 2013, the committee recognises the technical and particular nature of appropriation bills and the fact that they frequently include appropriations for a wide range of programs and activities. The committee notes the minister's advice that the explanatory memoranda to appropriation bills address technical aspects of the operative clauses of the bills, not the policy aspects of proposed government expenditure.

The committee accepts the minister's explanation that the detail about specific appropriations is mainly contained in the individual agency's portfolio budget statement, rather than in the appropriation bill itself.

The committee considers that while appropriation bills may not create any statutory rights or duties, they may nevertheless have an impact on the implementation of international human rights obligations, including the obligation to progressively realise economic, social and cultural rights using the maximum of resources available.

The committee therefore considers that statements that routinely conclude that appropriation bills do not engage any human rights may not be accurate in a strict sense, particularly where specific appropriations may involve reductions in expenditure which could amount to retrogression or limitations on rights.

The committee recognises that in many cases relevant questions of human rights compatibility are likely to have been taken up under the legislation to which appropriations relate, although this may not be the case where the legislative framework predates the commencement of the Human Rights (Parliamentary Scrutiny) Act 2011.

The committee considers that the most practical way to address the compatibility of appropriation bills is to ensure that human rights are appropriately incorporated in the underlying
budget processes. The committee encourages the government to consider this proposition, not least as it would be consistent with the government's policy objectives in implementing Australia’s human rights framework to ensure appropriate recognition of human rights issues in policy and legislative development.

On behalf of the committee I would like to thank the Minister for Finance and Deregulation for her response to the committee’s comments in its third report of 2013. I would also like to acknowledge the constructive discussions on this issue between her department and the committee’s secretariat and I thank the minister for her offer for departmental officials to brief the committee. While the committee's commitments may not permit it to take up this offer during this parliament, it considers that there would be benefit in continuing this dialogue in the next parliament.

I commend the committee’s seventh report of 2013 to the Senate.

**Public Accounts and Audit Committee Report**

Senator MARK BISHOP (Western Australia) (17:57): On behalf of the Joint Committee of Public Accounts and Audit, I present two reports of the committee as well as the executive minutes on various reports. I move:


I would like to provide some comments on the report as tabled. This was the fifth annual major projects report to be produced by the ANAO and the Defence Materiel Organisation. The report covers 29 major defence projects with a combined budget of over $47 billion. The committee’s aim in reviewing the MPR is to help maximise transparency and accountability in the defence acquisition and procurement process.

The committee’s review examined the presentation in the report of financial information, project schedule slippage, and DMO governance and business processes. The committee has made recommendations aimed at supporting the development of meaningful project financial insurance statements, improving public reporting on the DMO’s sustainment of capability functions, improving consistency in the application of project maturity scores and taking a more strategic approach to business system improvements.

The committee also examined the issue of publicly disclosing information on project contingency funds, and I will focus my remaining comments on this topic. The MPR currently discloses DMO’s total contingency spending across 29 major projects. However, it does not provide any project-specific information. The 2011-12 MPR disclosed around $1.1 billion has been drawn upon from project contingency budgets in the last year in order to 'retire project risk'. Given the committee's role of overseeing the spending of public money, transparency in the use of contingency budgets is a key area of interest.

In response to a question on notice, the DMO told the committee that:

*Public release of details regarding project contingency provisions could be prejudicial to taxpayers' interests. DMO experience indicates that knowledge of contingency provisions encourages some contractors to find ways to gain access to the funds, which can have negative implications for good project governance.*

The committee had previously raised the transparency issue with DMO privately, and was given a similar response.

At a public hearing in March this year the committee asked the DMO to explore how the use of contingency budgets could be better disclosed in the MPR, including the amount spent, why and when it was spent, and to whom the money went. In response the DMO undertook to look at the issue and come back to the committee with a proposal.
At the time our report was completed we had not yet received the DMO's response. In our report the committee suggested that, while the DMO may have legitimate concerns about the amount of contingency budget available not being disclosed to contractors, there would be less danger in disclosing information about funds that had already been spent. We recommended that, at a minimum, projects that have used contingency funds during the previous financial year, or that are anticipated to use contingency funds in the forthcoming financial year, along with the amount of such funds, should be identified in the MPR.

After the committee's report was finished, and shortly before tabling, we received a response from DMO about how the level of disclosure could be increased. The DMO has offered no further transparency in relation to contingency funds. The DMO continues to claim that any public disclosure of contingency information at the project level would jeopardise the Commonwealth's commercial position. But this does not address the question of why details of contingency spending could not be disclosed after it has already occurred. It also does not provide a strong case for keeping roughly $1 billion of annual contingency spending from public scrutiny. It is a fool's paradise, this proposition advanced by the DMO.

Consider the multitude of primes around the world in Defence contracting, capitalised at a minimum in many tens of billions of dollars, employing tens of thousands of senior, experienced workers with knowledge of the industry—virtual heartlands of intellectual activity. In every country of the world at committee level, board level and director level these companies employ hundreds of retired senior officers, mostly at two-star levels and above. It is Alice in Wonderland stuff to think that these companies cannot model almost exactly the real costs of any and all projects. Yet, the DMO wants to keep secret levels of contingency expenditure exceeding $1 billion a year because it might, they say, give some unknown and unidentified commercial knowledge to Defence contractors. What utter rubbish, what nonsense, and what contempt do senior officers of Defence hold for the parliament when that is the best reason they bother to advance? It is a continuing scandal that the parliament regulatory agencies like the ANAO and executive agencies like the DMO countenance this situation where we cut the incomes of single mothers because of budgetary demands.

I hope that the DMO will give more consideration to points raised during the inquiry in response to the committee's report. On behalf of the committee, I sincerely thank the individuals who participated in this inquiry for their time and their input. I commend the report to the Senate.

Question agreed to.

Report


Leave granted.

Senator MARK BISHOP: I move:

That the Senate take note of the report.

Time is about to expire for discussion of this topic, so I seek leave to continue my remarks at a later stage.

Leave granted; debate adjourned.
DELEGATION REPORTS
Australian Parliamentary Delegation to South Africa and Zambia

Senator McEWEN (South Australia—Government Whip in the Senate) (18:04): by leave—On behalf of Senator Moore I present the report of the Australian parliamentary delegation to South Africa and Zambia, which took place from 13 to 22 April 2013.

DOCUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

Details of the documents also appear at the end of today’s Hansard.

BILLS
Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

Not-for-profit Sector Freedom to Advocate Bill 2013

Returned from the House of Representatives

Message received from the House of Representatives returning the bill without amendment.

Tax Laws Amendment (2013 Measures No. 2) Bill 2013

Reference to Committee

Message received from the House of Representatives transmitting a resolution referring the creation of a regulatory framework for tax financial advice services based on schedules 3 and 4 to the first reading of Tax Laws Amendment (2013 Measures No. 2) Bill 2013 to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report.

COMMITTEES
Intelligence and Security Committee

Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mr Jenkins to the Parliamentary Joint Committee on Intelligence and Security in place of Mr Danby.

BILLS
Aged Care (Living Longer Living Better) Bill 2013

Australian Aged Care Quality Agency Bill 2013

Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013

Aged Care (Bond Security) Amendment Bill 2013

Aged Care (Bond Security) Levy Amendment Bill 2013

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:07): I move:

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

Question agreed to.

Bills read a first time.
Second Reading

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:08): 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—

AGED CARE (LIVING LONGER LIVING BETTER) BILL 2013

Today I am delighted to introduce five Bills that give effect to this Government's $3.7 billion commitment to aged care – a commitment described in the Living Longer Living Better aged care reform package that the Prime Minister and I announced in April last year, that provides a 10 year plan for building a new aged care system – a system for a 21st century Australia.

This Government has recognised that we must address head-on the challenges and opportunities of an ageing population – that we must implement reforms now that prepare the aged care system for the needs of the future generations of older Australians.

These Bills deliver on these reforms.

This is not change for change's sake – but change that will make a real difference to older Australians, the people who love them, the people who care for them, and the aged care workers who look after them.

Since the Government asked the Productivity Commission to report to us on caring for older Australians, I have consulted widely with consumers, workers and industry. I have talked and I have listened, so that we can build a better, fairer and more nationally consistent aged care system.

Getting the right aged care will no longer be left to chance. People will be able to get the aged care they want and need, no matter where they live and what their financial means.

People will have more choice, more control, more support and more independence. They'll be helped to stay in their own home for as long as they can and will have better access to residential care should they need it.

They'll be able to make their way more easily through what, to now, has been a complex, fragmented system.

Older Australians will be able to make more informed decisions knowing the aged care services that are available, the fees they may be expected to pay, and the quality of services they can expect to receive.

They will be serviced by a stronger workforce – a skilled, well qualified workforce, and, so importantly, an appropriately paid workforce. There will be better access and support for people with dementia and veterans with certain mental health conditions and a range of people with special needs.

We are supporting aged care providers to deliver the quantity, the quality and the diversity of care that we need now and that we're going to require even more of into the future.

With these Bills we are laying the foundation for a new era of aged care delivery for this nation.

Since the Aged Care Act 1997 first came into effect, the needs, demands and expectations of Australia's ageing population have changed markedly. So too has the network of aged care providers across residential and home care.

The pressures on the system to provide quality, affordable and appropriate care are far greater than ever before and will only increase over the coming decades. The system is now at a tipping point, faced with the pressure that comes from a population that is ageing and one which, quite rightly, has significant expectations and ideas about the aged care services they will receive. Doing nothing is not an option.

Making these changes to aged care legislation will better enable aged care providers to tackle these pressures and prepare with certainty for the future. It establishes the foundation that enables older Australians and their families to enter aged care, knowing that what they get will be quality care at the right price, and delivered where they
want it – either in the home or in a residential setting.

These five Bills comprehensively address the major areas of change.

The changes included in the Aged Care (Living Longer Living Better) Bill 2013 and related Bills implement reforms in four key areas:

- reforms that focus on end-to-end aged care
- reforms that provide greater choice and control for consumers
- reforms that provide more sustainable and modernised financing arrangements, and
- reforms that ensure independent advice and oversight to support the changes.

Starting with the focus on end-to-end aged care.

During my extensive conversations with older Australians, their families and carers – more than 4000 of them - one of their clearest messages was that we need a system that serves them consistently and seamlessly across the spectrum of aged care.

We need an end-to-end aged care system.

When the Aged Care Act 1997 was introduced over 15 years ago it recognised the emergence of community care as a viable alternative but residential care was one dominant form of care. 21st century consumers now have a clear preference for care delivered in their home and tailored to their needs, care that is consumer directed and that enables and supports recovery as well as long term care needs. And if, or when, the time comes, they want to be able to move to residential care with minimum fuss.

This is why we have established a new type of care - home care - to replace community care and certain types of flexible care delivered in the home.

As part of these reforms, this Government has already increased the number of home care places – with over 5,800 additional places available this year. This will continue to increase each year with the total allocation of home care places rising from around 60,000 to almost 100,000 over the next five years.

From 1 July 2013, four levels of home care will enable consumers to access the packages that best suit their needs. In addition, there will be two new supplements - a dementia supplement and a veterans' supplement. These supplements will be available across all care levels for consumers whose care needs might be greater due to dementia, and for veterans with mental health conditions who may also need greater support.

A new workforce supplement will also provide additional funding to eligible home care providers so that the workforce can better meet the needs of consumers. The new supplement will mean more workers can access more appropriate pay and improved training and development. The aged care workplace will be better and safer.

We will seek to ensure that the increasing numbers of elderly people remaining in their homes are not socially isolated – by extending the Community Visitors Scheme from residential care to home care.

Whilst Australians have sent us a resounding message of wanting to age at home, the need for residential care will continue to grow. To support this, from 1 July 2014 the different treatment for low level and high level residential care will be removed. There will only be one type of approval for permanent residential care.

Anyone assessed as needing permanent residential care will be able to access any residential care service that meets his or her needs at the time of entry into care. These approvals will not lapse, unless expressly time limited, so there will be fewer reassessments and it will be easier for consumers to access the care that they need.

These changes will mean continuity of services being available from home care to residential care. They will make it easier for people to move through the system.

Turning now to the second major area of reform - Greater choice and control for consumers

As I've mentioned, the message I received from consumers was that they really want to be able to exercise choice and have control as their care needs change with age.
In this context, I will highlight a few major reforms.

First - we are ensuring, by 1 July 2013, that all new home care places allocated to providers are offered on a consumer directed care basis. And from 1 July 2015 all new and pre-existing home care places will be offered on this basis. Consumer directed care is the future of aged care.

This means that consumers will work with their home care provider to choose the elements of care that best suit their needs and their home care package budget. This doesn't require legislation but will be a condition of the allocation of home care places.

Second - in residential care, care recipients and their families will be able to purchase additional amenities or supplementary care.

Through the Bills, we will continue to allow residential care places to be offered on a dedicated extra service basis, whereby an agreed set of extra services are paid for under one fee. Importantly care recipients, whether or not they are in an extra service place, will also be able to opt in and out of additional amenities offered by the provider.

Third - the Bills change the arrangements relating to accommodation payments for residential care. For the first time, consumers will have real choice and control.

Approved providers will continue to be required to enter into an agreement with each care recipient in relation to accommodation payments.

Importantly, care recipients who can afford to contribute to their accommodation costs will have real choice regarding how they pay for their accommodation. They will be given the choice to pay either, a fully refundable deposit, a periodic payment, or a combination of both. They will also be able to draw down periodic payments from their refundable deposit.

The amounts of the refundable deposits and periodic payments will be financially equivalent from a provider's perspective.

From 1 July 2014, aged care providers will not be able to distinguish between care recipients on the basis of how they elect to pay for their accommodation. Instead, care recipients will have 28 days upon entering the aged care service to decide how to pay their accommodation payment or contribution. Providers will be paid the agreed periodic payment during this election period.

If a care recipient can't make a contribution towards the cost of their accommodation, the Government will contribute the amount of the accommodation supplement applicable to the facility.

The next major area of reform is the creation of more sustainable and modernised financing arrangements.

Older Australians and their families have clearly told me that fees and charges across the aged care system are complex, confusing and often lead to inequities. Understanding how much they have to pay, for what and why, is a major concern for them.

It is also true that the current arrangements for Government subsidy and user contributions for home care and residential care differ greatly.

The Aged Care (Living Longer Living Better) Bill moves to better align these arrangements. For both residential care and home care, the maximum amount of Government subsidy will comprise calculation of a basic subsidy amount plus any supplements.

Three new supplements will be available in residential care – these are the dementia supplement, veterans' supplement and workforce supplement. I mentioned these supplements in the context of home care and I am pleased to confirm that they will also be available in residential care from 1 July 2013.

In addition to reforming the way that Government subsidy is calculated, the reforms also herald greater clarity in relation to the fees payable by consumers. Care costs and accommodation costs are much more clearly delineated.

In relation to care costs, the Bills ensure a more sustainable future for aged care funding by reforming the means testing arrangements. People who can afford to help pay for their care will be asked to do so, and those who can't afford to pay will still be able to access care.

In home care, the Bills introduce new income testing arrangements from 1 July 2014. In summary, all home care recipients may be asked
to pay a basic daily fee of up to 17.5 per cent of the single basic age pension amount as is the case now. In addition, those who can afford to may also be asked to pay an income tested care fee. There is already an income tested fee in community care. The new arrangements will ensure consistency and embed protections for consumers.

While some home care recipients will need to contribute more to the cost of their care through an income tested care fee, safeguards are being introduced. For example:

- No full rate pensioner will pay an income tested care fee.
- No care recipient will be asked to contribute more than the cost of their care.
- No care recipient’s home or other assets will be included in assessing their capacity to pay an income tested care fee for home care.
- There will be both annual and lifetime caps on income tested care fees. Once a person reaches the applicable annual or lifetime cap, they will pay no more income tested care fees. The annual cap in home care will be $5000 or $10,000 (depending on the income of the person) and the lifetime cap will be $60,000 (all caps will be indexed).

Appropriate changes will also be made, in line with the changes to home care, to implement new and fairer means testing arrangements in residential care from 1 July 2014.

The standard resident contribution to cover meals, utilities and the like of 85 per cent of the basic age pension amount, will continue. In addition, a new means-tested care fee will replace the existing income tested care fee. This addresses current inequities in the system and ensures that people with similar means are treated alike regardless of whether their wealth lies in income or assets.

As for home care – important safeguards will exist in residential care.

For example:

- Full rate pensioners will not pay a means-tested care fee.
- We will maintain current arrangements to exempt the principal residence from means testing if occupied by a spouse or other protected person.

- Here too there will be annual and lifetime caps on means tested care fees payable by the care recipient. An annual cap of $25,000 (indexed) on means tested care fees will protect care recipients with higher than average care fees. A lifetime cap of $60,000 (indexed) will protect care recipients who receive care for a longer than average period of time. These caps apply across both residential and home care, so any fees paid in home care count towards the lifetime cap.

A hardship supplement will also be available to care recipients who are unable to pay their fees in either home care or residential care.

So how will all of these changes to subsidy, fees and payments affect people who are in care when the changes take effect?

If a person is in residential care on 30 June 2014, there will be no change to the way their fees are calculated.

If the person moves to another aged care service (within 28 days of leaving the first service), their fees will continue to be calculated in accordance with the methods and calculators as at 30 June 2014 unless the person chooses to have the new rules apply to them. Again, this offers real choice and control for consumers.

These changes reflected in the Bills provide for a much fairer system. They will address the issue of asset-rich, income-poor residents paying for all of their accommodation and none of their care, and income-rich, asset-poor residents paying for their care but not for accommodation. They will also ensure equitable payment for care received at home.

Independent advice and oversight

I am pleased to advise that the Bills introduce a new Aged Care Pricing Commissioner. The Commissioner will make decisions where required on pricing issues, for example, regarding accommodation payments and extra service fees. This will increase the level of transparency and ensure that aged care recipients are charged fairly for their accommodation.
Further, and consistent with the Government’s commitment to increase transparency in the quality of aged care, I commend to you the two new Bills establishing a new Australian Aged Care Quality Agency.

This body will replace the existing Aged Care Standards and Accreditation Agency from 1 January 2014. The new Quality Agency will be established under the Financial Management and Accountability Act 1997 in line with the recommendations of the Uhrig Review. It will be a single body to assess quality across home care and residential care leading to greater efficiencies, reduced costs and a further commitment to an end-to-end aged care system.

Finally, the Bills require an independent review of the reforms within five years. This ensures that the momentum is maintained in these areas identified by the Productivity Commission as essential reform foundations. The review must include consultation with a broad range of people, including approved providers, consumers, workers, carers and families of care recipients. We want to know what works and what doesn’t. The review will need to consider whether further steps can be taken to move the system more towards a consumer entitlement model.

Given the significance of the amendments to the legislation that are required by the reforms, this Government is also taking the opportunity to make minor and technical changes to the legislation. This includes, for example, improving terminology or consistency, repealing redundant provisions, and consolidating existing delegated legislation, so the regulatory framework is more readily accessible and able to be understood. Even these minor changes have been the subject of consultation with stakeholders.

Subject to the passage of the Bills through Parliament and the development of associated changes to delegated legislation, it is proposed that the first package of reforms take effect from 1 July 2013, with a subsequent package effective from 1 January 2014, and the final package effective from 1 July 2014. This graduated introduction will ensure that aged care providers and consumers are able to prepare for, and become familiar with, the changes. It will also give certainty to the industry to assist in business planning knowing well in advance the changes that will take effect in mid-2014.

For some years now the sector has come together under the rubric of the National Aged Care Alliance (NACA) and has worked together to present to the Parliament, the community, the Productivity Commission and others, a united view about the major building blocks of aged care reform. The NACA, as well the expert group of people in the Productivity Commission, whom I must thank for having conducted such a comprehensive inquiry, helped frame the conversations I held directly with older Australians. This consultation has helped shape these Bills.

Consultations and collaborations will continue through the strong governance structure the Government has developed to support and guide the implementation of the Living Longer Living Better aged care reforms.

Conclusion

As you can see, these are historic changes - changes that aged care recipients, workers and providers alike, want and need to develop a modern, fit for purpose, aged care system.

This is just the start. We are building a new system that will have the capacity to provide quality, affordable, accessible and appropriate care to a rapidly growing population of older Australians over the coming decades.

These changes will benefit both those who provide aged care and those who receive it.

They strike the right balance: They support aged care providers to deliver the right quality, quantity and type of care. And they meet the increasing expectations of older Australians and their families to be cared for as long as possible in their own homes, moving into residential care if they need to – and all the time having choice and control over their decisions.

These Bills will fundamentally help to define our nation in the 21st century:

– a decent, dignified Australia
– a socially inclusive Australia
– an Australia that truly cares about its older citizens.
AUSTRALIAN AGED CARE QUALITY AGENCY BILL 2013

Today I am delighted to introduce the Australian Aged Care Quality Agency Bill 2013 which contributes to this Government's $3.7 billion commitment to aged care – a commitment described in the Living Longer Living Better aged care reform package that provides a 10 year plan for building a new aged care system – a system for a 21st century Australia.

Consistent with the Government's commitment to increased transparency in the quality of aged care, this Bill and the Australian Aged Care Quality Agency Bill 2013 establishes the new Australian Aged Care Quality Agency.

The Quality Agency will replace the existing Aged Care Standards and Accreditation Agency from 1 January 2014. It will be the sole agency for approved providers of home care and residential care to deal with quality assurance of their services. This will lead to greater efficiencies, reduced costs and a further commitment to an end-to-end aged care system.

This Bill:

- establishes the Quality Agency and proposes that it will become a prescribed agency under the Financial Management and Accountability Act 1997;
- describes the functions of the CEO of the Quality Agency and its advisory body (the Aged Care Quality Advisory Council);
- describes the appointment processes for the CEO and the Council members; and
- describes important operational matters relating to the Quality Agency including reporting requirements.

AUSTRALIAN AGED CARE QUALITY AGENCY (TRANSITIONAL PROVISIONS) BILL 2013

Today I am delighted to introduce the Australian Aged Care Quality Agency (Transitional Provisions) Bill 2013 which contributes to this Government's commitment to aged care – a commitment described in the Living Longer Living Better aged care reform package that provides a 10 year plan for building a new aged care system – a system for a 21st century Australia.

Consistent with the Government's commitment to increased transparency in the quality of aged care, this Australian Aged Care Quality Agency Bill 2013 establishes the new Australian Aged Care Quality Agency.

This Quality Agency will replace the existing Aged Care Standards and Accreditation Agency from 1 January 2014. It will be the sole agency for approved providers of home care and residential care to deal with quality assurance of their services. This will lead to greater efficiencies, reduced costs and a further commitment to an end-to-end aged care system.

This Bill will facilitate a smooth transition from the current arrangements to the new Quality Agency. This includes:

- transferring of assets and liabilities;
- transfer of custody of records of documents;
- transfer of office holders and staff; and
- handling of transitional matters.

AGED CARE (BOND SECURITY) AMENDMENT BILL 2013

Today I am delighted to introduce the Aged Care (Bond Security) Amendment Bill 2013 which contributes to this Government's commitment to aged care – a commitment described in the Living Longer Living Better aged care reform package that provides a 10 year plan for building a new aged care system – a system for a 21st century Australia.

This Bill amends the existing Aged Care (Bond Security) Act 2006 to:

- change the name of the Act to the Aged Care (Accommodation Payment Security) Act 2006; and
- extend the existing Accommodation Bond Guarantee Scheme for bond balances to refundable accommodation deposits and refundable accommodation contributions, which will be new types of lump sum accommodation payments from 1 July 2014. This ensures protection for all lump sum payments made by care recipients, regardless
of whether the lump sum payment was made before or after 1 July 2014.

AGED CARE (BOND SECURITY) LEVY AMENDMENT BILL 2013

Today I am delighted to introduce the Aged Care (Bond Security) Levy Amendment Bill 2013 which contributes to this Government's commitment to aged care – a commitment described in the Living Longer Living Better aged care reform package that provides a 10 year plan for building a new aged care system – a system for a 21st century Australia.

This Bill amends the Aged Care (Bond Security) Levy Act 2006 to:

- change the name of the Act to the Aged Care (Accommodation Payment Security) Levy Act 2006; and
- ensure that if the Accommodation Bond Guarantee Scheme is triggered and the Commonwealth repays accommodation bonds or the new types of payments (collectively known as accommodation payment balances), the Commonwealth is able to recover its costs, via a levy, from approved providers.

Debate adjourned.

Second Reading

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:09): 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—

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 1) 2013-2014

Appropriation (Parliamentary Departments) Bill (No. 1) 2013-2014 seeks approval for appropriations from the Consolidated Revenue Fund of just under $184.8 million.

Details of the proposed appropriations are set out in Schedule 1 to the Bill.

APPROPRIATION BILL (NO. 1) 2013-2014

Appropriation Bill (No. 1) 2013-2014 seeks authority for meeting the expenses of the ordinary annual services of the Government.

The Bill seeks approval for appropriations from the Consolidated Revenue Fund of just under $78.2 billion.

Details of the proposed appropriations are set out in Schedule 1 to the Bill.

APPROPRIATION BILL (NO. 2) 2013-2014

Appropriation Bill (No. 2) 2013-2014 seeks approval for appropriations from the Consolidated Revenue Fund of just under $4.8 billion.

The Bill seeks authority to meet expenses other than for the ordinary annual services of the Government.

Details of the proposed appropriations are set out in Schedule 2 to the Bill.

Debate adjourned.
Australia Council Bill 2013
Australia Council (Consequential and Transitional Provisions) Bill 2013

First Reading
Bills received from the House of Representatives.

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:10): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:10): I table a revised explanatory memorandum relating to Australia Council Bill 2013 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIA COUNCIL BILL 2013

When introducing the Australia Council Bill 1974 into Parliament on 23 July 1974, Prime Minister Whitlam, proclaimed that upon passage "...the Australian people as a whole will have new and wider opportunities to participate in the arts and enjoy the emotional, spiritual and intellectual rewards which the arts alone can provide."

We can now reflect on that statement with the perspective that nearly 40 years affords us and see that day was indeed the "...historic development in the promotion of the arts in Australia..." that Whitlam proclaimed it was.

The Council had five years earlier been created as a division of the Department of the Prime Minister and Cabinet by the then Prime Minister John Gorton, but this legislation sought to establish the Council as a separate agency, operating at arm's length from Government.

Since its inception the Council has supported Australian artists and organisations with two guiding principles – the pursuit of artistic excellence based on peer-review and funding decisions made at arm's length from government.

The Council has been critical to the shaping of Australia's cultural identity for nearly four decades.

Artists including David Gulpilil, Les Murray, Peter Carey, Tracey Moffatt, Dan Sultan, Thea Astley, Ross Edwards, Don Banks, Peter Tyndall and Peter Sculthorpe are among the artists and cultural leaders that the Council has supported over the years.

Now, each year, the Council delivers more than 1,900 separate grants, enables the creation of over 7,500 new artistic works and provides direct funding to more than 900 artists and 1,000 organisations.

However, during the consultation process around the development of Creative Australia: the National Cultural Policy, it became clear that it was time to re-examine the role and structure of the Australia Council. We now work with a sector that is globally engaged and confidently asserts Australian identity and creativity.

Back in 1975, we were emerging from the years of the cultural cringe, and there was much work needed to build artistic practice and organisations in an emerging cultural sector. It was only a little time after the controversy about Australia's purchase of Jackson Pollock's Blue Poles. It was initially seen as a major risk, but is now seen as a wise and confident statement that Australia was aiming at the highest possible levels of artistic achievement for its cultural sector.

In response to the issues raised in the consultations around the development of Creative Australia, the former Minister for the Arts, the Hon Simon Crean MP, established a review of the Australia Council in late 2011. The purpose of the
Review was to ensure that funding opportunities offered by the Australia Council reflected the diversity, innovation and excellence of Australia’s contemporary arts and cultural sector and that the Council was well placed to support the goals of *Creative Australia*. It should also continue to meet the needs of the arts community and the expectations of audiences.

The Review co-chairs, Ms Gabrielle Trainor and Mr Angus James, provided Review findings in mid-2012. Their report, based on further detailed consultations, confirmed that there is need for significant reform of the Council and the way in which it provides funding to the sector, including:

- an updated purpose;
- the introduction of a skills-based governing board;
- the reform of the Council’s art form board structure to allow for greater funding flexibility; and
- an updated and strengthened peer assessment process.

In introducing the Australia Council Bill 2013, the Australian Government is delivering on the key recommendations of the Review of the Australia Council and bringing about the first significant legislative reform of the Council in nearly 40 years.

And while some things will change – and need to change – there are some things that will remain the same.

Upon the passage of the *Australia Council Act 1973*, the core principles of the Council were enshrined in legislation. Namely, the principles of the pursuit of excellence and funding decisions made at arm’s length from government based on peer-assessed artistic merit and free from political interference. These principles have been the central tenet of the Council’s investments since day one under Nugget Coombs’ leadership and have enjoyed the support of successive governments ever since.

They remain core principles today. They are not only retained by this Bill, they are given further emphasis with the Council’s ability to self-determine its approach to peer assessment.

This importance of arm’s length decision making is supported by a new, clear and updated purpose for the Council – that it ‘…support and promote vibrant and distinctively Australian creative arts practice that is recognised nationally and internationally as excellent in its field’.

This updated purpose has informed the drafting of the revised functions of the Council in this Bill and sets the framework within which the Council will make funding decisions.

The new functions enhance the Australia Council’s capacity to collect and publish important data on the arts, the impact of its funding and the broader achievements of Australia’s artists and arts organisations.

The proposed changes to the Council’s governance arrangements will facilitate more flexible arrangements and encourage longer term strategic planning, while entrenching the principle of arm’s length decision making.

A key reform is the introduction of a skills-based board. This reform will bring the Council into line with other modern statutory authorities. Importantly, the new board will have strong arts expertise and will allow the Council to respond strategically to changes in the arts sector. The responsible Minister will appoint the Chair, and then make all appointments to the Board in consultation with the Chair.

The transitional Bill which accompanies this main Bill provides for the continuation of the existing appointments of the Chair and Deputy Chair of the Council to be carried over to the new Board. Ensuring the continuity of key governance roles during the organisation’s transition to a new operating environment will be important in the context of the implementation of the broader reform agenda. Mr Rupert Myer AM and Ms Robyn Archer AO are the ideal stewards of reform for the Council at this critical time. They have the right mix of skills required for the new Board of the Council; a critical mix of business acumen, and professional and practical experience, combined with a deep a passion for – and commitment to – the arts.

The legislated requirement that only the Minister can create and dissolve boards of the Council has been removed. The Bill replaces the...
existing art form board structure and gives the Board power to appoint committees. The Council can create advisory committees that it determines are necessary to deliver effectively on its functions and accountability requirements. This reform will empower the Council to appoint a greater diversity of artists as peers to help support strategic planning and assessment processes.

Existing art form boards were established before community cultural development emerged as an artistic focus, before the government moved to establish continuing funding for major performing arts organisations, and before digital media, let alone the new work coming out of the fusion and crossover between art forms. Currently, every member of the art form boards is appointed by the responsible Minister. This Bill devolves that power and gives the Council new flexibility to engage the expert peers in response to the demands in the sector.

As such, it will allow the Council to become increasingly responsive to the changing needs and demands of the arts sector, including supporting emerging areas of artistic practice.

This will support the Council to become a more nimble and agile organisation – while retaining and enhancing the experience and expertise that the Council has grown over many years. In this regard, this Bill embeds in the Council the flexibility and responsiveness that the sector so clearly called for in the consultation process around the Review.

In response to the proposed reforms, the Council is proposing an evolution of art form boards into artistic advisory committees with a more flexible, responsive and scalable assessment model.

All art forms will benefit from the Council having the power to engage peers to match specific genres in which artists are working. The opportunity to have peer panels directly matched to specific artistic genres, with artist peers involved in the process, will maintain essential and specialised peer assessment of grant applications.

The Australian Government envisages that these reforms will support improved collaboration between established and emerging artists and arts organisations and better serve the demands of 21st century audiences. In short, the Council will be better placed to meet sector needs, while firmly placing artists and support for existing – and emerging – arts practice at the centre of its activity.

Accountability standards will be strengthened through the introduction of corporate planning requirements. The Council will be required to identify strategic priorities and key performance indicators and submit these to the responsible Minister for endorsement. This corporate plan, and any variation, does not take effect unless it has been endorsed by the Minister.

The reform of the Australia Council is a key pillar of Creative Australia: the National Cultural Policy.

Creative Australia makes the point that culture is not created by government, but enabled by it. Its goals include support for excellence and the special role of artists and their creative collaborators as the source of original work and ideas, including telling Australian stories. The modernised Australia Council will continue to play a critical role in the arts, so that it has an active role in the life of every Australian.

With the announcement of the National Cultural Policy on 13 March this year, the Australian Government committed to immediately implementing structural reforms to the Australia Council so that it is resourced, re-focused and renewed.

This Bill, and new funding of $75.3 million over four years, delivers on this commitment. It heralds the most significant reform of the Council in nearly four decades and will bring the organisation into the 21st century.

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2 Ibid.
AUSTRALIA COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2013

This is a companion Bill to the Australia Council Bill 2013. The Australia Council (Consequential and Transitional Provisions) Bill 2013 contains consequential amendments and transitional arrangements related to the proposed reform of the Australia Council in line with the Australian Government's response to the 2012 Review of the Australia Council.

The key elements of the Bill provide for the continued operation of the Council during its transition to a new operating environment – as per its proposed new enabling legislation, the Australia Council Bill 2013. Significantly, this Bill provides for the repeal of the Australia Council Act 1975, an Act which, upon passage nearly 40 years ago, has only undergone minor amendment.

In the main, this Bill provides for business continuity for the Council, including its staff. Accordingly, provisions are included which allow for the appointments of the current Chair and Deputy Chair to be carried over into the new operating environment. Ensuring the continuity of key governance roles during the organisation’s transition to a new operating environment will be important in the context of the implementation of the broader reform agenda.

For similar reasons, transitional provisions will apply to the office of CEO. This will also allow time for the incoming Board to be appointed and convened to consider and appoint a longer-term CEO. As per the new enabling legislation, the longer-term CEO will be appointed by the Board after consultation with the responsible Minister.

The Bill also provides for continuity of the current employees of the Council on their existing employment terms and conditions.

Existing assets and liabilities will be assets and liabilities of the continued Council. To ensure Council continues to remain accountable for its expenditure and its operations, this Bill also spells out transitional reporting requirements.

As mentioned when the Australia Council Bill 2013 was introduced, we are presented with a once in a generation opportunity to reform the Australia Council. The reforms will revitalise the Council's role in supporting Australian arts practice that is recognised nationally and internationally as excellent in its field.

Together, with the Australia Council Bill 2013, this Bill will bring the Australia Council in line with other modern statutory authorities and into the 21st century. It will ensure that the transition to its new operational arrangements is seamless.

Debate adjourned.

International Interests in Mobile Equipment (Cape Town Convention) Bill 2013

International Interests in Mobile Equipment (Cape Town Convention) (Consequential Amendments) Bill 2013

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:11): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:12): 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—
INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (CAPE TOWN CONVENTION) BILL 2013

This bill is part of the Government's National Aviation Policy White Paper commitment to maintain a vibrant Australian-based aviation industry.

The purpose of the bill is to facilitate Australia's accession to the Convention on International Interests in Mobile Equipment and the associated Protocol on matters specific to aircraft equipment.

Together, these are known as the 'Cape Town Convention'.

The Cape Town Convention is an international legal system that protects secured lenders of aircraft objects such as aircraft, airframes, engines and helicopters and reduces the risk and cost associated with financing these objects.

The Cape Town Convention creates an international registry for lenders to register their interest in an object so that, in the event a borrower is unable to repay a loan, the lenders' claim has priority over any other claim registered thereafter.

It also outlines internationally-consistent remedies available to the lender in the event of default or insolvency.

They include the right to take possession of the aircraft without needing to seek approval of the courts.

This reduces the time it takes for a lender to be recompensed in the event of a default.

Registering a security interest under the Cape Town Convention is voluntary, so if parties to a transaction don't want the Cape Town Convention to apply, they need not register their interest.

Of course, with the security that the Convention and Protocol provides, most parties are expected to register.

The Cape Town system allows countries to make declarations under both the Convention and the Protocol.

These declarations help determine how the Cape Town Convention will apply in a particular country.

In Australia, for example, by making certain declarations, our airlines will be eligible for a discount of up to 10 per cent on their export finance arrangements for the purchase of an aircraft or aircraft object.

Actual savings will vary depending on the credit rating of the borrower and the purchase price of the aircraft, but it is estimated the airlines could save in the order of $2.5 million on the purchase of a new Airbus A380 or $330,000 on the purchase of a new ATR72 aircraft (currently operated by Virgin Australia).

Regional airlines and the general aviation sector will benefit too.

The Cape Town Convention applies to aircraft carrying as little as eight passengers or 2,750kg of goods, meaning that the discounts would be available to purchasers of many smaller aircraft and second hand aircraft.

As industry has noted, these discounts will ultimately enable airlines to accelerate the upgrade to safer, more fuel efficient fleets.

Fifty-one countries have signed up to both the Convention and the Protocol.

By acceding, we follow in the footsteps of countries such as New Zealand, Canada, and the United States.

This bill is required in order to make the benefits of the Cape Town Convention a reality.

Its primary function is to give the Cape Town Convention force of law in Australia.

This will include any declarations that we make under the Convention or the Protocol.

To ensure that Australia qualifies for the export financing discount, the Cape Town Convention will have precedence over other Australian law, to the extent that any inconsistency applies.

This approach also ensures harmony with Australia's domestic securities framework, the Personal Property Securities Act, meaning that the benefits of both systems will be available to parties involved in a transaction.

The bill will permit the Minister to make rules in order to give effect to the Cape Town Convention.
It is intended that these rules will be used to introduce a new function for the Civil Aviation and Safety Authority – the recording of an Irrevocable Deregistration and Export Request Authorisation or IDERA.

The IDERA is akin to a pre-nuptial agreement between the lender and the borrower.

The borrower agrees to lodge an IDERA with CASA in favour of the lender.

In the event of a default, the lender will be able to exercise the IDERA to secure de-registration and export of an aircraft.

This ensures that an aircraft can't legally be flown to another country to avoid recovery of the asset.

The bill confers jurisdiction on the Federal Court of Australia and the Supreme Courts of the States and Territories.

These are the appropriate courts for considering Cape Town matters.

The financial impact of the bill will be minimal. Individuals or companies seeking to register their security interests on the International Registry will need to pay a $200 setup fee and $100 to register.

In introducing this bill to the House, I note that our colleagues in the Joint Standing Committee on Treaties have recently tabled a report recommending we take binding treaty action in relation to the Cape Town Convention.

I also note the favourable responses from the airline industry and State Governments to our consultation papers in 2008 and 2010, seeking comment on whether Australia should accede to the Convention.

In summary, this legislation means that Australia would join the international community in having an internationally-recognised legal framework for aircraft assets that mitigates risks inherent with international aircraft finance.

INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT (CAPE TOWN CONVENTION) (CONSEQUENTIAL AMENDMENTS) BILL 2013

This bill supplements the International Interests in Mobile Equipment (Cape Town Convention) Bill.

The purpose of the bill is to make minor changes to the Air Services Act 1995, the Civil Aviation Act 1988 and the Personal Property Securities Act 2009.

These changes are necessary to help facilitate Australia’s accession to the Cape Town Convention and Protocol.

The Air Services Act 1995 provides for unpaid service charges from Airservices Australia to be recorded as a statutory lien against an aircraft.

These statutory liens have priority over a claim registered with Australia’s Personal Property Security Register if the statutory lien was recorded first.

The statutory lien also has priority over any other claims over the aircraft.

The proposed changes to the Air Services Act 1995 preserve this priority ranking system.

The statutory lien will have priority over interests registered under the Cape Town Convention, provided that the statutory lien was recorded first.

That is, where a statutory lien has been recorded under the Air Services Act before a party registers its security interest under Cape Town Conventions' International Registry, the statutory lien will have priority.

This approach is consistent with treatment of these charges under the current personal properties framework.

Amendments to the Civil Aviation Act 1988 will allow functions to be conferred on the Civil Aviation Safety Authority in relation to the operation of the Cape Town Convention.

Specifically, CASA will be requested to record, remove and exercise Irrevocable Deregistration and Export Request Authorisations, which is one of the remedies available under the Cape Town Convention.

The IDERAs will ensure that an aircraft can't legally be flown to another country to avoid recovery of the asset.

Lastly, the bill will include a provision in the Personal Property Securities Act 2009 to note that the Cape Town Convention will prevail over the PPS Act to the extent that an inconsistency applies.
When the PPS Act was first established, it was intended as a 'one-stop shop' for the creation and enforcement of security interests in personal property.

By including a provision in the PPS Act, we're increasing transparency for holders of a security interest in an aircraft asset to let them know that the Cape Town Convention exists and that it has primacy over the PPS Act.

Debate adjourned.

**Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013**

**Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013**

**First Reading**

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:13): I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:13): 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—

This bill amends various taxation laws to implement a range of improvements to Australia's tax laws.

Schedule 1 of this bill helps those nearing retirement to build the adequacy of their retirement savings. The Government is introducing a higher superannuation contributions cap of $35,000 for older individuals.

The Government believes that it is important to allow people who have not had the benefit of superannuation for their entire working lives to have the ability to contribute more to their superannuation as they near retirement.

Accordingly, the Government will bring forward the start date for the new higher cap to 1 July 2013 for people aged 60 and over. Individuals aged 50 and over will be able to access the higher cap from the current planned start date of 1 July 2014.

The Government has decided not to limit the new higher cap to individuals with superannuation balances below $500,000 in light of feedback from the superannuation sector that this requirement would be difficult to administer. The new simplified cap will make it easier for people to determine whether they are eligible for the higher cap. This will reduce the risk of people inadvertently exceeding their cap and improve confidence.

The higher cap is temporary and will cease when the general cap indexes to $35,000.

It is estimated that around 171,000 people will benefit in 2013-14 when eligibility is extended to individuals aged 60 and over and 363,000 will benefit in 2014-15 when eligibility is extended to individuals aged 50 and over when compared to the currently legislated caps policy.

This measure will save an estimated $365 million over the forward estimates compared to the previously announced caps policy.

Schedule 2 of this bill amends the Superannuation (Government Co-contribution for Low Income Earners) Act 2003 to ensure that the
low income superannuation contribution (LISC) operates effectively and as intended.

The LISC introduces greater equity in the superannuation system. The LISC effectively refunds, up to $500, the tax paid on concessional contributions such as superannuation guarantee contributions for around 3.6 million low income earners, including 2.1 million women.

These amendments ensure that the Commissioner of Taxation can estimate eligibility for this payment where there is insufficient information to make the payment under the existing rules. This will usually occur when individuals are not required to submit an income tax return as they are below the tax-free threshold.

These amendments also make a number of other technical amendments that will;

- ensure that all concessional contributions for a year attract LISC;
- enable the Commissioner to not rectify small overpayments and underpayments of the LISC;
- replace the existing minimum payment rule to ensure all eligible individuals receive the LISC; and

require tabling of quarterly and annual Parliamentary reports on the LISC with details to be specified in the regulations.

Schedules 3 and 4 of this bill will improve the fairness of the superannuation system.

Currently, higher income earners receive a significantly larger superannuation tax concession than average income earners.

Schedule 3 will effectively reduce the tax concession that individuals with income above $300,000 receive on their concessional superannuation contributions made from 1 July 2012 from 30 per cent to 15 per cent. This will ensure that the tax concession received by higher income earners is more closely aligned with the concession received by average income earners.

For constitutional reasons, and to ensure alignment with the proposed cap on the earnings tax exemption, there are some exemptions in respect of Commonwealth judges and justices, and certain State higher level office holders.

The definition of 'income' for the purposes of this measure includes taxable income, concessional superannuation contributions, reportable fringe benefits, total net investment loss and the net amount on which family trust distribution tax has been paid.

Some superannuation lump sum payments, including certain disability payments, death benefit payments to dependants and early release payments for terminal medical conditions, will be excluded from the income calculation.

The reduced tax concession will apply to all Federal politicians earning in excess of $300,000, including the Prime Minister and Deputy Prime Minister.

This measure complements the low income superannuation contribution measure, which, from 1 July 2012 effectively refunds the income tax paid by superannuation providers (capped at $500 each year) on concessional contributions for individuals with an income up to $37,000.

It is estimated that these changes will impact approximately 1.2 per cent of people—129,000 people—contributing into superannuation in 2012-13.

Schedule 4 will make amendments to Commonwealth defined benefit superannuation schemes by allowing a person, who is issued with an assessment from the ATO, to request that the superannuation fund pay a lump sum from their superannuation monies, when a superannuation benefit becomes payable from one or more of the person's defined benefit superannuation interests.

Full details of the measure are contained in the explanatory memorandum.

SUPERANNUATION (SUSTAINING THE SUPERANNUATION CONTRIBUTION CONCESSION) IMPOSITION BILL 2013

This bill will improve the fairness of the taxation of the superannuation system.

Higher income earners receive a higher superannuation tax concession than average income earners. This bill will impose a 15 per cent tax on concessional superannuation contributions made from 1 July 2012 of individuals with income above $300,000. This
reduced tax concession will be more closely aligned with the concession received by average income earners.

Full details of the measure are contained in the explanatory memorandum.

Debate adjourned.

Aboriginal Land Rights and Other Legislation Amendment Bill 2013
Asbestos Safety and Eradication Agency Bill 2013
Australian Citizenship Amendment (Special Residence Requirements) Bill 2013
Australian Education Bill 2013
Constitution Alteration (Local Government) 2013
Corporations Amendment (Simple Corporate Bonds and Other Measures) Bill 2013
Corporations and Financial Sector Legislation Amendment Bill 2013
Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013
DisabilityCare Australia Fund (Consequential Amendments) Bill 2013
Family Assistance and Other Legislation Amendment Bill 2013
Indigenous Education (Targeted Assistance) Amendment Bill 2013
International Fund for Agricultural Development Amendment Bill 2012
International Monetary Agreements Amendment Bill 2013
Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2013
Privacy Amendment (Privacy Alerts) Bill 2013
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013
Social Security Amendment (Supporting More Australians into Work) Bill 2013
Statute Law Revision Bill 2013
Statute Stocktake (Appropriations) Bill 2013
Tax and Superannuation Laws Amendment (2013 Measures No. 1) Bill 2013
Tax and Superannuation Laws Amendment (2013 Measures No. 2) Bill 2013
Tax Laws Amendment (2013 Measures No. 1) Bill 2013
Tax Laws Amendment (Medicare Levy) Bill 2013
First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:14): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the remaining bills listed separately on the Notice Paper. I move:

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

Second Reading

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:15): I table six revised explanatory memoranda relating to the bills and move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.
The speeches read as follows—

ABORIGINAL LAND RIGHTS AND OTHER LEGISLATION AMENDMENT BILL 2013

The Bill continues the Government's commitment to ensuring Aboriginal people's ongoing connection to their land is recognised, by scheduling further parcels of land as Aboriginal land.

It will benefit traditional owners, residents and business operators in Jabiru and the wider Kakadu region in the Northern Territory.

Importantly, it will also provide traditional owners with significant economic development opportunities.

Amendments relating to Jabiru

The Bill adds the existing Jabiru town land and certain adjacent portions of Northern Territory land to Schedule 1 to the Aboriginal Land Rights (Northern Territory) Act 1976. Related amendments are made to the Environment Protection and Biodiversity Conservation Act 1999.

These amendments arise from the landmark agreement struck in November 2009 to resolve the Jabiru native title claim, which is the longest running native title claim in the history of the Northern Territory.

The intention of this measure is to give effect to the settlement agreement reached between the parties to the native title claim. Importantly, this Bill recognises the traditional ownership of Jabiru by the Mirarr people.

The amendments relating to Jabiru allow for the transfer of ownership of the claimed land from the Director of National Parks to the Kakadu Aboriginal Land Trust, which will hold the land on trust for its traditional owners.

The Jabiru town land and certain adjacent portions of Northern Territory land will be scheduled under the land rights legislation to enable the land to be granted as Aboriginal land to the Kakadu Aboriginal Land Trust.

This Bill also provides that the land will not be granted as Aboriginal land until leaseback arrangements for the Jabiru town land and for the two adjacent non township portions are put in place.

The Mirarr traditional owners have agreed to lease back the Jabiru land immediately, through long-term leases to be granted to the Director of National Parks, the Northern Territory and an Aboriginal and Torres Strait Islander corporation nominated by the Northern Land Council. The two adjacent portions of land will also be leased to the Director of National Parks.

The land that will be scheduled by this Bill will remain part of Kakadu National Park and the Kakadu World Heritage Area. The Bill provides for the preservation of Kakadu's world heritage and other values in relation to the town. It requires the leases granted to the Northern Territory and the relevant Aboriginal and Torres Strait Islander corporation to be consistent with the protection of those World Heritage and other natural and cultural values.

The land to be leased to the Director of National Parks will be added to the Director's existing lease of adjacent park lands from the Kakadu Aboriginal Land Trust.

The Bill also makes amendments to the Environment Protection and Biodiversity Conservation Act 1999 relating to the proper development of Jabiru into the future in accordance with the leases, the management plan for Kakadu and a town plan approved by the Director of National Parks.

Jabiru has established itself as a thriving township that services Kakadu National Park as a
tourist destination as well as the nearby Ranger uranium mine. Business operators in Jabiru have, however, expressed legitimate concerns that, given the expiration of the current headlease in 2021, the future tenure arrangements for Jabiru are unclear. This has resulted in a reluctance to invest in the town.

This Bill will provide for long-term certainty and security of land tenure for Jabiru. Importantly, for current interest-holders in Jabiru, this Bill ensures that existing leases, subleases and other interests will be preserved following transfer of ownership to the Kakadu Aboriginal Land Trust.

This Bill builds on the Government's commitment to hand over land in the Northern Territory to its traditional owners. Since 2007, the Australian Government has handed back 42,225 square kilometres of land under the Land Rights Act, more than 12 times the area of land handed back between 2002 and 2007.

The Government is very pleased to be able to further the resolution of the Jabiru native title claim by introducing this Bill.

Other amendments

The Bill also adds a further parcel of land for Patta to Schedule 1 to the Aboriginal Land Rights (Northern Territory) Act 1976. The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Act 2010 previously inserted five portions of land, known as Patta in the Northern Territory, into Schedule 1.

This new amendment will enable the further parcel of land to be granted to the relevant Aboriginal Land Trust.

ASBESTOS SAFETY AND ERADICATION AGENCY BILL 2013

Ensuring the health and safety of our citizens is a fundamental role of government—and of this Parliament.

But there is a clear and present danger today to workers, tradespeople and to our domestic and public safety. I speak of asbestos. Asbestos is the worst industrial menace and it will go on killing for decades.

Based on International Labour Organization figures, every five minutes someone around the world dies of an asbestos-related disease.

This bill marks an historic step in Australia becoming the first nation to progress towards the ultimate elimination of asbestos-related diseases. Our aim needs to be to remove this menace once and for all, in tandem with local, state and territory governments, industry, unions and the community. We are working to rid the legacy of 50 years of asbestos use, a substance that was known even then to kill people; miners, workers, tradespeople, even householders.

We lead the world in mesothelioma rates. Today we have the chance to lead by action. The European Parliament has just this month resolved to eradicate asbestos by 2028, calling for the implementation of a coordinated strategy to remove all asbestos.

Australia was one of the highest per capita users of asbestos in the world until the mid-1980s. Approximately one in three of all homes in Australia built between 1945 and 1987 contain asbestos products. Materials containing asbestos were used in a wide range of manufacturing products.

It would surprise many people just how widely used asbestos has been.

There are literally acres and acres of asbestos around our nation, thousands of kilometres of asbestos cement pipes still delivering water, acres of Super Six corrugated roofs, whole factories riddled with asbestos, hospitals and hospital labs, hundreds of schools riddled with asbestos. Crushed masonry containing asbestos fibres is being reintroduced into the community as asbestos-containing product that has the potential to harm current and future generations.

Even though the mining and industrial use of asbestos has all been banned in Australia, asbestos still exists in our workplaces, public buildings and homes.

In 2010, 642 Australians died from mesothelioma. But for every death attributed to mesothelioma, it is estimated two more people will die from lung cancer caused by exposure to asbestos. Over the next 20 years, an estimated...
30,000 to 40,000 Australians will be diagnosed with an asbestos-related disease.

Until the Gillard government established the Asbestos Management Review in 2010, there was no coordinated or consistent national approach to handling asbestos beyond our workplaces.

The review makes it clear that we must act quickly to prevent further Australians from being exposed to asbestos. We must diminish and prevent a third wave of asbestos deaths, particularly as a result of people exposed to asbestos in their homes.

To do so, the review recommended the development of a new national strategic plan for asbestos eradication, awareness and handling.

The review also recommended that a new asbestos agency be established to have responsibility for coordinating and implementing the national strategic plan.

Stopping exposure to asbestos is the responsibility of all levels of government. While some jurisdictions have taken steps to minimise exposure, this is the first time a national approach to asbestos removal, management and awareness is being pursued. A 'business as usual' approach, the shield of risk assessments and codes has not resulted in a decline in asbestos-related deaths. Whole forests of trees have contributed to documents intended to control asbestos, whilst materials containing asbestos in our workplaces, homes and public buildings are getting older and more fragile.

The establishment of a new agency is an essential part of the Labor Government's commitment to reduce exposure to asbestos.

It will pave the way for a national approach to asbestos eradication, awareness and management in Australia, by taking responsibility for coordinating a national plan for action.

The Department of Education, Employment and Workplace Relations has already started working with all government counterparts and industry partners to develop the national strategic plan for asbestos awareness, management and eradication. This plan is due by 1 July 2013.

This input will be crucial to make sure the plan is practical and comprehensive in addressing:

- the identification of the presence asbestos containing materials (including in commercial and residential properties)
- asbestos removal, handling, storage and disposal
- asbestos awareness and education; and
- ways to achieve a coordinated approach across all levels of government.

In developing the plan, the recommendations and their implementation of the review will be considered.

Today, I introduce a bill which practically demonstrates and cements Labor's commitment to stop exposure to asbestos.

This bill establishes the Asbestos Safety and Eradication Agency as an independent body. It will be comprised of a Chief Executive Officer, supported by staff, who together will form a statutory agency. The body will be subject to Commonwealth governance regimes and will be a prescribed agency under the Financial Management and Accountability Act 1997.

The new agency will provide a focus on issues which go beyond workplace health and safety to encompass environmental and public health issues. It will ensure asbestos issues receive the attention and focus needed to drive change across all levels of government.

The functions of the new agency will include advocating, coordinating, monitoring and reporting on the implementation of the national strategic plan.

It will review and amend the national strategic plan as required by the plan or at the request of the Minister. And it will provide advice to the minister about asbestos safety.

The bill outlines the reporting arrangements for the new agency. It provides that the Minister approve the new agency's annual operational plan to support the implementation of the national strategic plan.

Further, the Minister will be required to table the agency's annual report in Parliament.

To support efforts to improve asbestos health and safety and successful delivery of the national
strategic plan, an Asbestos Safety and Eradication Council will be established.

The council will have the functions of providing advice to the agency's CEO, including through written guidelines, and providing advice to the Minister.

The council will consist of a chair, one member representing the Commonwealth and four members representing state, territory and local governments.

There will be four other members appointed by the Minister with knowledge or experience in asbestos safety, public health, financial management or, very importantly, the representation of people with asbestos-related diseases and their families. One of these members will be representing the interests of workers of Australia and one other member will be representing the interests of the employers of Australia.

The bill establishes the operational arrangements to support the agency as well as provisions relating to the nomination, appointment, and terms and conditions of council members, conflict of interest issues, and procedures relating to the conduct of meetings.

And this bill enables the CEO to constitute committees to draw upon a wide range of expertise and experience to assist the agency or the council in the performance of their respective functions.

With the passing of this bill, the Parliament can help prevent exposure to asbestos, so that we can ultimately eliminate the tragedy of asbestos-related disease and death.

There are children not yet born who will die of asbestos related diseases. We owe it to future generations to finally come to grips with the blight of asbestos in Australia.

As we debate this bill let me reinforce that it is an issue for all levels of government to tackle.

It is an issue that has been championed by unions, by individuals and families touched by asbestos related diseases, by asbestos advocacy groups, by the lawyers representing the victims, by health and safety activists and specialists and by some crusading journalists and by many of my colleagues here in the Parliament. To them I say thank you.

Many lives are counting on us.

AUSTRALIAN CITIZENSHIP AMENDMENT (SPECIAL RESIDENCE REQUIREMENTS) BILL 2013

The Australian Citizenship Amendment (Special Residence Requirements) Bill 2013 provides the Minister of Immigration and Citizenship with a power to apply alternative residence requirements to certain applicants for citizenship by conferral. It acknowledges the benefits that these people bring to Australia and provides them with a pathway to citizenship.

In 2009, the Government recognised the special needs of two sets of people who were unable to meet the general residence requirement of ‘four years lawful stay’ in Australia, including the final 12 months before application for citizenship as a permanent resident. These two groups of people were those who need to be an Australian citizen to engage in specified activities of benefit to Australia (section 22A of the Australian Citizenship Act 2007 (the Act)), and those whose work requires them to travel frequently outside of Australia (section 22B of the Act).

As of March 2013, section 22A had been used 14 times and section 22B had been used 84 times since September 2009. It has become apparent, however, that they do not adequately cover the field. The Bill addresses this gap.

Alternative residence requirement

The Bill proposes to give the Minister a personal, non-compellable discretionary power to substitute an alternative residence requirement in both sections 22A and 22B.

In relation to section 22A, the applicant must continue to meet the initial requirements of the section, which are that:

- they seek to engage in an activity specified in a legislative instrument;
- their engagement in that activity would be of benefit to Australia;
- they need to be an Australian citizen in order to engage in that activity;
there is insufficient time for them to satisfy the
general residence requirement; and
the head of a specified organisation or a person
holding a senior position in that organisation,
has given the Minister a notice in writing
stating that the applicant has a reasonable
prospect of being engaged in that activity.
In relation to section 22B, the applicant must
meet the following initial requirements:
• they are engaging in a kind of work, specified
in the legislative instrument, which requires
them to regularly travel outside of Australia;
• they have engaged in that work for at least two
of the four years immediately prior to
application;
• they regularly travelled outside of Australia for
the whole or part of that four year period prior
to application; and
• to be eligible for the discretion, the applicant
must be engaged in a kind of work of benefit
to Australia.

The new discretion provides that the Minister
could, in writing, determine that the following
alternative requirements apply instead of the
usual special residence requirements:
• the applicant was present in Australia for at
least 180 days during the 2 years prior to
application;
• the applicant was a permanent resident
throughout the 90 days immediately prior to
application; and
• the applicant was not present in Australia as an
unlawful citizen at any time during 180 days
immediately prior to application.

In order to reinforce the importance of
presence in Australia as a way of understanding
the Australian way of life and the commitment
made through the citizenship Pledge, the
applicant must give the Minister an undertaking
in writing that, if they acquire citizenship through
the exercise of the special power:
• they will be ordinarily resident in Australia
throughout the two years following acquisition
of citizenship;
• they will be physically present in Australia for
at least 180 days during that two year period; and
• they understand that their citizenship can be
revoked by the Minister if they do not comply
with this undertaking.

The ‘ordinarily resident’ criteria ensures that
those who obtain citizenship in these special
circumstances genuinely have their home or
permanent abode in Australia, and that absences
from Australia are only temporary in nature. For
example, a defence scientist who spends extended
periods of time outside Australia for the purpose
of their work, but who spends at least 180 days in
the two year period after acquiring citizenship in
Australia and whose home base is here, will
generally be assessed as ordinarily resident in
Australia. However, a defence scientist whose
home base is in a foreign country, and who is in
Australia for less than 180 days, would not be
fulfilling their commitment to Australia and
would not be considered to be ordinarily resident
in Australia.

This commitment is not unduly restrictive; it
requires the new citizen to spend approximately
one quarter of their time physically present in
Australia. This allows sufficient flexibility for
new citizens, such as elite athletes and
professionals, to spend time abroad and still
maintain their citizenship.

Procedural requirements
To reinforce what a great privilege is being
extended to an applicant through the alternative
residence requirements, the Minister’s power
cannot be delegated nor can the Minister be
compelled to use this power, whether or not
somebody has requested it.
To ensure transparency, the Bill provides that if the Minister exercises the power to apply the alternative residence requirements in favour of an applicant, and the applicant becomes an Australian citizen as a result, the Minister must table in each House of Parliament a statement that the Minister has exercised the power and sets out the reasons for so doing, including why the Minister considers that the engagement in that activity or kind of work by the person would be of benefit to Australia. To protect the privacy of the applicant, that statement is not to include the name of the applicant.

Revocation

Australian citizenship is not to be taken lightly. If, therefore, a person acquires citizenship through the Minister's use of the new discretion, they must comply with their undertaking to be resident in Australia for the specified period of time after acquiring citizenship. If they do not honour this commitment, the Bill provides that the Minister can personally revoke their citizenship. The Minister can also require the person to surrender any certificate of Australian citizenship which they have in their possession.

If the person is a responsible parent of a child aged under 18 at the time, the Bill also provides that the Minister can revoke the child's citizenship. However, this cannot be done if the child has another responsible parent who is an Australian citizen or that responsible parent who was an Australian citizen has died.

In order to honour Australia's commitments under the 1954 and 1961 United Nations Conventions on Statelessness, the Bill provides that the Minister must not revoke the citizenship of either the main applicant or their child if such revocation would render the person stateless.

Other eligibility requirements for citizenship

The Minister must be satisfied that the applicant meets the other requirements in subsections 21(2), (3) or (4) of the Act. Those subsections cover such matters as their age and the requirement that the applicant be of good character. Applicants meeting the alternative residence requirement must also pass the citizenship test.

Review of decisions

The Bill provides that the Administrative Appeals Tribunal cannot review a personal decision of the Minister in relation to whether the alternative residence requirements apply, nor can it make such a decision on its own account. Such powers would be inappropriate because the Minister alone can exercise the discretion as to whether those alternative residence requirements have been met, as well as the other relevant requirements including those relating to the character and identity of the applicant.

These decisions will be subject to judicial review, and to parliamentary scrutiny due to the tabling requirements where the power has been exercised.

Legislative instrument

A Legislative Instrument under section 22C of the Act specifies the activities which are of benefit to Australia covered by section 22A, and the kinds of work covered by section 22B. I have signed a new Legislative Instrument which extends the coverage of these provisions. The new Instrument will come into effect the day after it is registered.

Because the provisions in section 22A are limited to those who need Australian citizenship to carry out their activities, the relevant list is limited to those who require a high-level security clearance to work with the Commonwealth and elite athletes in a range of sporting competitions. The new Instrument will include international cricket competition as a specified activity and adds Cricket Australia to the list of organisations who may support an application.

The Gillard Government recognises that certain other people make a great contribution to Australia, even if they do not require citizenship to do so. We wish to assist them with the difficulties they face in becoming eligible for citizenship due to their work-related travel. Therefore, the new Instrument extends the category of people covered by section 22B, to include:

- Scientists employed by an Australian university and undertaking research and development of benefit to Australia, or
employed by CSIRO or a medical research institute;
- Medical specialists, internationally renowned in their field, who are fellows of a listed Australian Medical College;
- Writers or persons engaged in the visual or performing arts who are holders of, or have held, a Distinguished Talent Visa; and
- Chief Executive Officers and Executive Managers of an S&P/ASX All Australian 200 listed company.

The decision to include a category of persons within the Legislative Instrument is an important one and should not be taken lightly but the Government should be open to broadening its scope if there is a legitimate reason to do so.

Conclusion
In conclusion, the proposed amendments would give the Minister a discretion to provide a pathway to citizenship to a very small number of people in very exceptional circumstances, where their becoming a citizen would be of benefit to Australia. Australia should be proud to call these people their own.

I commend this Bill to the chamber.

AUSTRALIAN EDUCATION BILL 2012
The Australian Education Bill 2012 provides a historic opportunity to enshrine in legislation key principles and national goals to guide education reform and to build an education system that provides students with the knowledge, skills and abilities they need for the 21st Century.

The Bill is a vital part of the Australian Government's reform plans and continues the reform direction that began with the Review of School Funding (the Gonski Review), which was the first significant review of school funding in over forty years.

This Bill is about meeting the commitment to improve funding for schools and lifting student and school performance through the National Plan for School Improvement. But why is the government implementing the National Plan for School Improvement outlined in this Bill?

The Government has developed the National Plan for School Improvement in response to the recommendations from the Review of School Funding. The National Plan for School Improvement will enable schools to access the resources they need to get better results for the children they teach.

The independent Review of Funding for Schooling, led by the eminent Australian businessman David Gonski, found existing school funding arrangements were not meeting the education needs of all Australian children. Many schools, particularly those with disadvantaged students were missing out on necessary resources and falling behind.

Australia's outcomes in international testing have not kept pace over the last decade relative to other countries. One in twelve students is not meeting national minimum standards in reading, writing and numeracy.

There is also a persistent and significant gap between our highest and lowest performing students—and low performing students are disproportionately from disadvantaged backgrounds. The Government is determined to change this, providing additional resources to support these children.

To compete in the Asian century Australia needs a highly skilled and innovative workforce—and this begins with a high performing school system.

That is why the Government has announced the biggest overhaul of school funding in almost 40 years, and is implementing the education reforms needed to improve results. And that is why this Government has a National Plan for School Improvement, to deliver not only funding, but to link that funding to a plan to deliver improved outcomes.

Australia will now have a better and fairer way of funding our schools, together with new education reforms to lift student achievement.

Central to this Bill is the implementation of a needs-based funding model, which was a key recommendation of the Gonski Review. This Bill delivers a new funding standard for all schools, based on what it costs to educate a student at schools that were shown to be achieving strong results. This is the basis of the new funding arrangements to be delivered through this Bill.
This Bill will implement a truly needs based funding model, for all schools, government and non-government. It allocates funding so that the students and schools with greater need get more resources and it will provide a sustainable funding model for the provision of education into the future.

The Government is providing more than $9 billion additional funding over six years for the new needs-based school funding arrangements. This funding will fundamentally change the way resources are provided — better linking funding to each student’s needs. On top of this historic investment will be additional funding to ensure the smooth implementation of the reforms.

Under this new approach, funding for schools will be based on a Schooling Resource Standard (SRS), across all sectors. This gives effect to the core recommendation of the Schools Funding Review.

The Schooling Resource Standard has two core components: a base amount per student and additional funding through loadings based on educational disadvantage.

In 2014, the first year of this new approach, the ‘per student’ amounts will be $9,271 for primary school students and $12,193 for high school students. In addition to this base amount, extra funding through six loadings will help meet the needs of disadvantaged schools and students.

There is a loading for every student in the bottom half of socio-economic backgrounds. There is an Aboriginal and Torres Strait Islander loading for every Indigenous student in the country. There is a size loading to help meet the extra costs associated with providing a high quality education in a small school. A location loading will help meet the extra costs of providing a high quality education in regional and remote areas. There is also a loading for students with low English proficiency. There will be a loading for students with disability, once national data on these students is available. Until then schools will receive and interim loading for each student with disability in 2014 as prescribed in regulations, with further work to inform a more detailed loading from 2015.

Under this Bill, as is currently the case, all government schools will be fully publicly funded. Non-government schools will receive a proportion of the per student amount, based on the schools’ capacity to raise private contributions as is currently the case. All loadings to the base funding will be fully publicly funded for all schools – government and non-government.

These new school funding arrangements delivered through this Bill are a better deal for schools.

It means schools no longer have to rely on short-term programs like National Partnerships, or one-off injections of funding. The funding that is currently available for disadvantage will be permanently locked in. It means that schools will know every year that they will get increased funding and be able to invest in the programs and strategies that will help every student.

This Bill also reflects that this new funding approach will be phased in over the next six years, with additional funding starting to flow from next year, 2014. This transition phase provides schools and school systems the time to prepare and adjust. It ensures that the funding increases are sustainable and so can be guaranteed for the next six years.

Under the new arrangements (or the National Plan for School Improvement), in 2014 the funding on offer will ensure every school in Australia can receive at least the current funding they are receiving this year, plus indexation to cover actual increases in costs. Under this approach additional funding is prioritised for those schools that need extra resources the most, while ensuring that schools already at or above the SRS continue to see fair funding growth each year.

At the moment, some schools in Australia are currently funded above the Schooling Resource Standard – funding for these schools would be based on their 2013 funding levels plus 3 per cent indexation.

This approach means that no school will be worse off in real terms – as the current level of indexation is expected to be around 3 per cent next year. This way funding will continue to rise every year to keep up with the increase in costs.
while these schools transition to the new funding arrangements over time.

The majority of schools are currently below the level determined by the Schooling Resource Standard. These are the schools that need extra support the most. These schools will receive an increasing proportion of the gap between their current funding levels and amount determined by the Schooling Resource Standard. For some schools this will mean annual funding increases of at least 3 per cent, but for the majority it will be much higher than this.

This is the fairest way to implement the new system and distribute the extra funding according to the needs of students.

States and territories are required to commit to this additional investment to help schools and systems reach the national resourcing benchmark over time.

In April, the Prime Minister put $9.4 billion over six years on offer, committing 65 per cent of the $14.5 billion additional investment required to lift schools to at least 95 per cent of their Schooling Resource Standard by 2019. On top of this, we have committed to lock in Commonwealth indexation at 4.7 per cent at a time when the current approach to indexation has been falling and is predicted to go even lower. If states and territories sign up, this extra funding will see the Commonwealth government invest an estimated $104.3 billion in schools over the next six years.

But this Bill is not just about delivering more funding in a fairer more consistent and sustainable way.

This Bill also underpins the implementation of the most ambitious reform program in Australia’s history, through linking funding to school improvement, to improve the educational outcomes of students across five key areas that the evidence tells us are critical to improving student outcome - quality teaching; quality learning; meeting student need; empowered school leadership; transparency and accountability.

Greater flexibility in funding for schools will not mean less accountability. Under the National Plan for School Improvement, each State, system and school will have its own plan for how it will implement the reforms through school improvement plans.

What this will mean for schools will vary from school to school, depending on the needs of the students.

Schools will be able to decide what they need to do for their students, but it could include new or better ways of teaching – like working with literacy and numeracy specialists or more focus on tracking how kids are going every day and putting in intensive effort where it's needed. Or schools could implement more specialist programs that benefit students, like reading or maths recovery or extension activities for kids with special talents.

Schools could choose to employ more teachers, teacher aides, specialist support staff (like guidance counsellors, librarians, science laboratory technicians and language specialists) that can deliver a huge range of curriculum, learning and support programs. Schools can also focus investment in training, mentoring and release time for teachers, including to better plan and prepare classes under the new curriculum or extend their professional development.

New or expanded programs could be implemented that support and enrich learning and make the schools great places to be and learn, such as music, sport, drama or even growing vegetable gardens to teach kids about healthy nutrition.

The new accountability and transparency reforms in the National Plan for School Improvement will also build on My School to provide an unprecedented level of information to parents, schools and the broader community, allowing us all to track student outcomes and school performance.

School improvement will also be informed by enhanced national data collections, analysis and research capability. The implementation of the National Plan for School Improvement will be supported through funding of $64.7 million over five years to agencies including the Australian Curriculum, Assessment and Reporting Authority, the Australian Institute for Teaching.
and School Leadership, and Education Services Australia.

The National Plan for School Improvement will help every student and help every school. And it will help to take Australian schools into the top 5 in the world by 2025.

The National Plan for School Improvement will mean ALL schools will have the resources they need to give all students the chance to reach their full potential.

This government has listened - to the Schools Funding Review, and to education experts and organisations, to schools, parents, community groups and business, across the country, and in every state and territory.

It is now time to focus on what is most important in education, and that is to support passage of this Bill to provide the best possible start and opportunities in life for all Australian students.

This Bill recognises that every child is entitled to a base level of public funding towards their education. If Australia as a nation is going to continue to prosper there needs to be a genuine investment in education.

This government is fully committed to achieving high quality and highly equitable schooling for all Australian students regardless of the school that they attend. This government is committed to providing additional support to those students and schools that need it. This government will continue to place a high priority on school education and to provide record funding to all Australian schools and school children.

If the National Plan for School Improvement does not proceed, every school, in every state and territory and in every sector, will be worse off.

If the current broken school funding model continues, federal school funding will go backwards by a staggering $16.2 billion over the next six years. This is because of falling indexation and the Opposition's refusal to guarantee that the extra investment provided for schools in this year's Budget will be delivered.

As the National Plan for School Improvement is implemented, Australian schools will benefit from more than $15 billion in extra funding over the next six years, as well as higher teaching standards, a stronger focus on early years literacy, and more information for parents and the community.

When it comes to the future of the nation's schools, the choice is clear.

Under the National Plan for School Improvement being implemented through this Bill, Australian schools will be properly funded under a new and fairer funding system, based on the needs of every student in every classroom. There will be higher standards and better results.

CONSTITUTION ALTERATION (LOCAL GOVERNMENT) 2013

The Constitution Alteration (Local Government) 2013 is a bill to amend section 96 of the Australian Constitution to make specific provision in relation to the granting of financial assistance to local government bodies.

It will make a small but important change to the Constitution to reflect the modern structure of government in Australia.

Our Constitution has served Australia well for over 100 years. But many people would be unaware that the role of local government is not specifically referred to in the document – even though most Australians have daily contact with the services provided by their local council, through childcare, sporting fields, swimming pools, libraries, local roads and more.

When our Constitution was drafted, Australia was a very different place. Keeping streets clear of rubbish and the roads well-graded for horses and carriages were a local council’s main responsibilities.

In 2013, local councils provide an enormous range of services. There are childcare and employment services, aged-care hostels, disability programs, arts festivals and galleries, business incentive schemes, tourist centres – the list goes on and on.

Many of these council services are provided in partnership with the Federal Government, which has been common practice for a long time.

In just the last five years, the Commonwealth has partnered with local government to deliver over 6,000 community projects such as libraries,
indoor and outdoor sporting facilities, pools, walking trails, roads and bridges, in every single community.

This is in addition to the repair and upgrade work that has taken place on many thousands of roads across the country under the Roads to Recovery program.

In this Constitution Alteration bill, we are proposing a modest and common sense change to our Constitution to reflect this modern reality.

This is about saying ‘yes’ to important community benefits from the partnership between Federal and local spheres of government.

The change will not diminish the role of the States with regard to the administration of local government. Recognition in the Constitution does not alter the fact that local governments are created by and are accountable to State Governments.

The modest change we are putting forward to the Australian people is based on advice that the Government has received from the Expert Panel, led by the Honourable James Spigelman AC QC, and subsequently endorsed by a Parliamentary Joint Select Committee chaired by the Member for Greenway, and former Deputy Mayor of Blacktown City Council, Michelle Rowland.

Local government would be recognised in the Constitution by inclusion of an express statement that the Commonwealth can grant financial assistance to local government. This would include assistance for community and other services.

Through this proposed alteration, the Government and this Parliament will ask the Australian people to support a change to our Constitution so that the existing practice of Federal Government support for local communities is formally recognised in our Constitution.

The constitutional amendment mechanism established by section 128 of the Constitution requires majority support nationally, and majority support in a majority of States. States and Territories have been consulted on the wording of the draft bill and explanatory memorandum, as has the Federal Opposition. The explanatory memorandum addresses in detail the issues that have been raised through this process, including some elaboration of points in the draft released publicly on 16 May 2013.

In their authoritative commentary on the newly enacted Australian Constitution in 1901, John Quick and Robert Garran were alive to the constitutional balance that needs to be struck between stability and development.

They observed that a constitution should not be lightly or inconsiderately altered. However, they also recognised that a constitution which does not contain “provision for its amendment with the development, growth, and expansion of the community which it is intended to govern, would be a most inadequate and imperfect deed of partnership”.

From this statement, it seems clear that Quick and Garran would be surprised that Australian Constitution has only been amended 8 times in the intervening 112 years.

To remain relevant, the Constitution must be a living document that reflects the realities of modern Australia.

The Australian Constitution, and our system of federal relations, has supported one of the world’s most stable, prosperous and long-standing democracies.

But the fact we have a durable system is not a reason to stop considering reasonable, sensible reform. Local governments play an increasingly important role in Australian government relations and our daily lives. The fact they receive no constitutional mention, and that there is no express provision for local government bodies to receive financial assistance directly from the Commonwealth, is increasingly difficult to reconcile with the very document guiding government scope and powers.

The Government recognises that proposals to recognise local government as a third sphere of government in the Constitution have twice been rejected at a referendum, in 1974 and 1988.

The Constitution Alteration (Local Government Bodies) 1974 sought to give the Commonwealth Parliament powers to borrow money for, and to make financial assistance grants directly to, any local government. The Constitution Alteration (Local Government) 1988...
sought to give constitutional recognition to the institution of local government. However, the current proposal is different in important respects from those which preceded it.

In August 2011 the Australian Government appointed an Expert Panel on Constitutional Recognition of Local Government to identify options for the constitutional recognition of local government. The Expert Panel was chaired by the former Chief Justice of the Supreme Court of NSW, the Honourable James Spigelman AC QC.

In December 2011 the Expert Panel presented its final report to the Australian Government. A majority of Panel members concluded that financial recognition by amendment of section 96 of the Constitution was a viable option within the 2013 timeframe indicated by the Panel’s terms of reference.

On 1 November 2012 the Commonwealth Parliament established a Joint Select Committee on Constitutional Recognition of Local Government, chaired by the Member for Greenway, to inquire into and report on the majority finding of the Expert Panel. The Joint Select Committee presented a preliminary report on 24 January 2013 and a final report on 7 March 2013. In both reports the Committee recommended, consistent with the findings of the Expert Panel, that a referendum on financial recognition of local government be held at the 2013 federal election.

This follows the Government’s commitment to hold a referendum on constitutional recognition of local government in the 43rd Parliament.

The proposed constitutional alteration would amend section 96 of the Australian Constitution to make specific provision in relation to the granting of financial assistance to local government bodies. It involves changes to the existing wording of the heading and of the section itself. It would add four words to the heading and thirteen to the section.

Clause 1 of the bill states that the proposed law to alter the Constitution may be cited as the Constitution Alteration (Local Government) 2013.

Clause 2 states that the alteration would come into force on the date the Act receives the Royal Assent.

Clause 3 would alter the Constitution in accordance with Schedule 1.

Item 1 of Schedule 1 would alter the heading to section 96 of the Constitution by including at the end the words ‘and local government bodies’.

Item 2 would alter section 96 by inserting, after ‘to any State’, the text set out in the Schedule. As amended, section 96 would state that the Parliament may grant financial assistance to any State, or local government body formed by a law of a State, on such terms and conditions as the Parliament thinks fit.

As the alteration of section 96 would specifically state that the Commonwealth may grant financial assistance to local government bodies formed by a law of a State, the Commonwealth would no longer need to rely on other sources of power for that purpose.

The amendment would not enable the Commonwealth to interfere with the creation or regulation of local government bodies by the States. It would form part of an existing provision – section 96. Section 96 does not involve any grant of power to the Commonwealth beyond the ability to provide financial assistance on terms and conditions. The financial assistance must be optional. Recipients have the option of rejecting the proposed financial assistance and the terms and conditions.

The alteration has been designed specifically to avoid any suggestion that it might permit interference by the Commonwealth with the creation or regulation of local government bodies by States. It has also been designed specifically to avoid any suggestion that the Commonwealth could compel local government bodies to accept funding, or terms and conditions.

The Commonwealth could not provide financial assistance on terms or conditions that local government bodies could not meet under State law. This reflects the way in which section 96 grants to the States currently operate. Currently, financial assistance cannot be provided to States on terms and conditions which they can not meet.
Further, States would not be prevented from changing their systems of local government should they wish to do so. States could change their systems of local government to prevent expenditure by local government bodies, or other activities, in particular areas.

No reference to bodies formed by a law of a Territory has been included. Such a reference is unnecessary because grants of financial assistance to the Territories and bodies formed by Territory laws may be made under section 122 of the Constitution, a provision which the Expert Panel was not called on to consider.

This bill is part of a truly democratic process. It will give the people of Australia the opportunity to decide whether 17 words should be added to the Constitution. These 17 words will recognise the modern reality that the Commonwealth grants financial assistance to local government for a variety of important community and other services.

CORPORATIONS AMENDMENT (SIMPLE CORPORATE BONDS AND OTHER MEASURES) 2013

The establishment of a deep and liquid retail corporate bond market in Australia is a key priority for the Gillard Government. A well performing and efficient retail corporate bond market will provide an alternative funding source for Australian companies and increase competitive pressure on lending rates to businesses.

The bond market is a significant source of funds for many Australian financial and non-financial corporations. Correspondingly, this financing activity provides investment opportunities for both Australians and non-residents.1

The Johnson Report, Australia as a Financial Centre: building on our strengths, examined the lack of liquidity and diversity in Australia's corporate bond market. It also discussed why this lack of liquidity was a significant weakness in the overall assessment of Australia's financial system. At the retail level, it was considered that one action the Government could take to overcome this weakness was to introduce regulatory changes that could assist with developing the market.

The Bill that is before the Senate today seeks to reduce the regulatory burden on issuers of corporate bonds, while at the same time ensuring that appropriate standards of consumer protection are maintained.

This Bill follows the passage of the Government's legislation to facilitate retail trading in Commonwealth Securities (CGS) late last year. Having an active retail CGS is an important step in establishing a wider retail corporate bonds market by providing a visible pricing benchmark for retail investors in corporate bonds.

Schedule 1 to the Bill, delivers on the Government's commitment to reduce regulatory burdens and barriers for offers of corporate bonds to retail investors.

The measures in Schedule 1 enable companies to offer simple corporate bonds by releasing a shorter offer-specific prospectus as long as they have lodged a base prospectus with ASIC for the purpose of making an offer under the new 2-part simple corporate bond prospectus regime.

Schedule 1 of the Bill removes the civil liability that applies to directors and proposed directors for the offer of simple corporate bonds and provides clarification around the due diligence defence in respect to directors' criminal liability in offering corporate bonds.

Schedule 1 to the Bill also contains amendments to the Corporations Act to enable parallel trading of simple corporate bonds in the wholesale and retail markets.

The measures in Schedule 1 are another major initiative that the Government has delivered on in its long term commitment to encourage the development of a deep and liquid bond market in Australia. The measures provide companies with another source of fundraising and signal that it is their time to contribute to the development of Australia's corporate bond market.

The other measures in the Bill, contained in Schedule 2, amend the Corporations Act 2001 to define in the law terms 'financial planner' and 'financial adviser'. These amendments make it an offence for anyone to call themselves a financial...
planner or financial adviser, unless they are appropriately authorised under the Australian financial services licensing regime.

The amendments contained in Schedule 2 follow the passage of the Future of Financial Advice (FOFA) legislation last year. Key elements of the FOFA reforms include the imposition of a statutory best interests duty on financial advisers, two-yearly opt-in arrangements and annual fee disclosure statements, and a ban on the receipt of conflicted remuneration arrangements, including commissions.

The Government is committed to increasing investor protection and improving consumer confidence in the financial advice industry. This will provide the financial advice industry with a strong foundation for growth, as well as empowering Australians to obtain good quality advice about managing their wealth. The Government has delivered on its commitment through the FOFA reforms, and continues to deliver on its commitment with the Bill before the Senate today.

On 22 March 2012, the Government announced that it intended to introduce legislation enshrining the terms 'financial adviser' and 'financial planner' in law by 1 July 2013. These amendments deliver on the Government's commitment. Schedule 2 to the Bill will commence on 1 July 2013 (or after the Royal Assent, if that occurs later), concurrently with the FOFA reforms.

By legislatively defining the terms 'financial planner' and 'financial adviser', the amendments enable consumers to be able to easily identify genuine financial product advice providers. By preventing anyone who is not a qualified financial planner or financial adviser from telling consumers that they are, the amendments make it easier for consumers to know who to trust with their financial affairs. The measures contained in Schedule 2 of the Bill strengthen protections for consumers.

Importantly, the amendments will help protect consumers from unlicensed persons such as 'property spruikers' who hold themselves out to be genuine providers of financial advice when they are not.

The amendments will ensure that the regulation of financial advisers and planners is consistent with other professions such as stockbrokers, where similar restrictions already exist.

Schedule 2 to the Bill makes it an offence for a person to hold themselves out to be a financial planner or a financial adviser unless they are authorised to provide financial product advice under the Australian financial services licence (AFSL) regime. Schedule 2 also makes it an offence to use terms of similar importance, so that unlicensed persons will not be able to get around the legislation by using similar terms.

Schedule 2 also allows the Government to make regulations prescribing other terms that a person must have an AFSL to use. This means that if individuals or companies start using particular terms to mislead consumers, the Government will be able to respond quickly by restricting the use of these terms.

People acting in breach of these requirements face penalties of up to 10 penalty units for individuals for every day the contravention occurs, and 50 penalty units per day for corporations.

The measures in Schedule 2 have been developed in consultation with the financial services industry. Key industry bodies are supportive of the amendments. For example, the Financial Planning Association of Australia is of the view that the amendments "will provide greater consumer certainty and protection and further enable the transition of financial planning into a universally respected profession". The Association of Financial Advisers has said that they believe that this legislation "is good for financial advisers and also for the consumers who rely on financial advice", because "consumers deserve to have clarity with respect to who they are seeking advice from".

There are separate, though related, amendments that are being made to the Tax Agent Services Act 2009.

In summary, the amendments contained in Schedule 2 will improve consumer trust and confidence in the financial advice industry. Australian consumers are entitled to be able to
easily distinguish between genuine, authorised providers of financial product advice and unlicensed persons such as 'property spruikers' who do not have their clients' best interests at heart. The measures contained in Schedule 2 of the Bill empower consumers to make that distinction.

I commend the Bill to the Senate.


CORPORATIONS AND FINANCIAL SECTOR LEGISLATION AMENDMENT BILL 2013


This bill contains a range of important measures relating to the regulation of financial markets and products, which will complement the existing legislative framework to implement our core G-20 commitments in relation to over-the-counter (OTC) derivatives reforms.

One key measure is intended to assist clearing facilities in managing defaults and insolvencies by their participants.

Clearing facilities are critical elements in the financial system, which manage the risks involved after two parties agree to a transaction, for example on a financial market such as the ASX or increasingly also for bilateral transactions for important products such as OTC derivatives.

The key risk addressed by clearing facilities is that one of the parties to the transaction subsequently defaults and fails to deliver on its obligations. Clearing facilities eliminate this risk and guarantee the performance of the underlying transaction by acting as a matching seller to the original buyer and a matching buyer to the original seller.

It is critical that clearing facilities have adequate means to manage the risk of a default by a party to one or more of the transactions they are clearing.

The effect of the bill in this area would be to facilitate, in the case of a default of one of the participants in the clearing facility, the transfer of the obligations of that participant with respect to outstanding transactions to another participant.

The transactions would then be completed as if no default had occurred.

The bill makes amendments to the Payment Systems and Netting Act to provide legal certainty that such transfers of outstanding obligations can occur. Legal certainty is a vital element in facilitating such transfers, because they will generally be required in crisis situations when rapid action is called for. In particular, the bill provides special protections to such transfers if a clearing participant becomes insolvent and comes under the control of an external administrator. Without the amendments in the bill insolvency law would allow an external administrator to intervene and stop or unwind such transfers.

These measures are necessary to guarantee the stability of the financial system by providing important protections to clearing facilities as one of the key elements in that system.

A second measure in the bill allows the Australian Securities and Investments Commission (ASIC) and the Reserve Bank to better manage their resources in assessing the compliance of market licensees and clearing and settlement licensees with their legal obligations. They are currently required to conduct formal assessments of each licensee every year, which may not be a prudent use of scarce resources. For example, ASIC is currently obliged every year to formally assess well-run, specialised markets catering mainly to professional investors. The bill will provide discretion to ASIC and the RBA in determining the timing of these assessments, which will allow them to better use their resources by focusing for example on large markets serving retail investors.

While the Government agrees that providing this relief to the regulators makes sense, we want
to make sure that important markets used by large numbers of retail investors, for example the ASX and its clearing houses, continue to be subject to regular assessment.

ASIC has accordingly committed to continuing annual assessments of key retail-facing markets such as the ASX. In addition, the amendments include a power for the Government to prescribe by regulation any markets and clearing facilities which are to be subject to continuing annual assessments. Treasury will as a next step examine options for using the regulation-making power to ensure that retail investors continue to be adequately protected.

Financial regulators such as ASIC, APRA and the Reserve Bank are under increasing obligation to share information with other regulators and official bodies, in Australia or overseas, and with private entities. This is mainly due to the increasing complexity and globalisation of our financial markets.

All the financial regulators therefore have provisions in their governing legislation allowing them to share protected information. These powers are subject to a range of safeguards, including that they can only be used for purposes related to their official duties or that they can only be exercised when properly authorised by designated officers.

The powers of the Reserve Bank in this area have for historical reasons been weaker than those given to ASIC and APRA. However, the Bank's current powers are inadequate for its increasingly important role in promoting the stability of financial markets, including its role in regulating clearing facilities, and the cooperative international approach that this requires. The bill more closely aligns the Bank's powers to share information with those of the other regulators.

ASIC is currently unable to exchange information with certain multijurisdictional regulators such as the European Securities Markets Authority due to the way in which the legislation is worded. The bill makes the changes necessary to allow this to happen. While this is a minor drafting change, it is important for our financial sector. For example, Australian managed investment schemes may face difficulties in marketing their products in Europe if it is not made.

ASIC is given considerable information-gathering powers in the legislation. While these powers are necessary for ASIC to do its job, it is appropriate that there should be some transparency with respect to ASIC's use of these powers. The bill therefore requires ASIC to report annually on its use of these powers; and provides the Minister with a power to specify by regulations the information required to be reported.

Finally, minor amendments are made in the bill to legislation which is the responsibility of the Minister for Climate Change and Energy Efficiency. The changes allow the Clean Energy Regulator to share certain protected information with trade repositories, which are a special type of facility that centralise information in relation to OTC derivatives trading.

MINCO APPROVAL

The Ministerial Council for Corporations has been consulted on the amendments to the Corporations Act and has approved the changes to the ASIC Act contained in this bill.

SUMMING UP

This bill delivers a number of important measures to improve the functioning of our financial system.

While many of the amendments in the bill may seem highly technical in nature they have a very real impact on the work of our financial markets and our regulators. Passage of the bill will provide crucial protections to clearing facilities which are critical parts of the financial system. ASIC and the RBA will be able to better focus their resources in supervising those licensed markets as well as clearing and settlement facilities which pose the highest risks to our system or to retail investors. The bill will provide appropriate powers to our regulators allowing them to cooperate as required with other regulators and official bodies. This in turn will facilitate the business activities of our financial industry in overseas markets.

These important reforms are part of the Gillard Government's broad agenda to promote Australia as a leading financial services hub and boost our
reputation as one of the most attractive investment destinations in the world.

DEFENCE LEGISLATION AMENDMENT (WOOMERA PROHIBITED AREA) BILL 2013

The Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013 gives effect to the recommendations of the Hawke Review of the Woomera Prohibited Area.

The Woomera Prohibited Area is Australia’s most important military testing range. It is used for the testing of war materiel under the control of the Royal Australian Air Force. It covers 127,000 square kilometres in South Australia, approximately 450 kilometres North North West of Adelaide. It is the largest land range in the world, with a centre line of over 600 kilometres, comparable in size to England.

At the same time, the Woomera Prohibited Area overlaps a major part of South Australia's potential for significant minerals and energy resources, including 30 percent of the Gawler Craton, one of the world's major mineral domains, and the Arckaringa, Officer and Eromanga Basins for hydrocarbons and coal. Olympic Dam is adjacent to the Woomera Prohibited Area and is part of the same geological formations.

The South Australian Government has assessed that over the next decade about $35 billion worth of iron ore, gold and other minerals resources are potentially exploitable from within the Woomera Prohibited Area.

On 17 May 2010 the then Minister for Defence, Senator John Faulkner, announced a review to make recommendations about the best use of the WPA in the national interest. This was undertaken by Dr Allan Hawke and involved consultation with a wide range of affected stakeholders. On 5 November 2010, the Review's Interim Report was released for public comment, with Government provided with the Final Report on 4 February 2011. On 3 May 2011, with the then Minister for Resources and Energy, Martin Ferguson MP, and with the support of the South Australian Government, through its then Premier, Mike Rann, and the Minister for Mineral Resources Development, Mr Tom Koutsantonis, I released the Final Report, with the Government agreeing to implement the recommendations.

The Department of Defence set up the Woomera Prohibited Area Coordination Office that same month and a Moratorium was issued on all but the most advanced applications for access to the Woomera Prohibited Area, to enable the development of protocols necessary to implement the Review.

Minister Ferguson and I released a draft Deed of Access for minerals exploration for public consultation in April 2012. The Deed proposed an access regime for exploration companies during the transition phase to full implementation of the Review's recommendations. Public consultation was undertaken on the draft Deed by the Woomera Prohibited Area Coordination Office in Adelaide in May 2012 and a workshop followed in Canberra in June 2012.

In October 2012, Minister Ferguson and I announced that the Woomera Prohibited Area was open to resources development under the transitional Deed of Access regime. We also announced the creation of the Woomera Prohibited Area Advisory Board and the appointment of Mr Stephen Loosley as Independent Chair of the Advisory Board and the Hon Paul Holloway as Deputy Chair.

On 8 May 2013 the Minister for Resources and Energy and I jointly released for public consultation draft legislation to implement the recommendations of the Review. The Coordination Office held a public consultation workshop in Adelaide on 10 May.

The Hawke Review considered how to use the Woomera Prohibited Area in a way that ensured that both its full national security and economic potential was realised. The Review proposed a system to maximise the co-existence between defence and non-defence users of the area.

The Review recommended that Defence remain the primary user of the area, but acknowledged that exploitation of the Woomera Prohibited Area's considerable minerals resources would bring significant economic benefit to South Australia in particular and Australia in general.

The Review proposed that the Woomera Prohibited Area be opened up for resources
exploration to the maximum extent possible, but within the confines of its primary use for defence purposes. This will allow Australians to take advantage of the resources potential in the Woomera Prohibited Area while ensuring its future viability as the most important test and evaluation range that supports the Australian Defence Force.

The Bill establishes a framework that provides all non-Defence users within the Woomera Prohibited Area a greater level of certainty over Defence activity in the Area and greater certainty over access arrangements.

It allows users to make commercial decisions with some assurance as to when they will be required to leave the Area because of Defence activity.

The framework maintains the primacy of the Woomera Prohibited Area as a national security and defence asset and sets up a co-existence scheme that allows access by non-defence users subject to conditions that protect the safety of all users in the Woomera Prohibited Area and ensure the appropriate national security protections for an area used to test defence capability.

As recommended by the Review, Indigenous landholders, pastoralists with an already established presence and existing mining operations in the Woomera Prohibited Area will continue to access and operate under their current arrangements.

The co-existence scheme established by the Bill will apply to new users of the Woomera Prohibited Area. Existing users of the Woomera Prohibited Area have the option of voluntarily joining the co-existence scheme established by these legislative measures if they so choose.

The Woomera Prohibited Area contains recognised traditional owners and significant Indigenous sites. Under the Bill, permit holders who gain access to the Woomera Prohibited Area will be required to protect these sites and comply with all relevant Native Title and Aboriginal Heritage laws. Indigenous groups with current statutory and access rights expressly retain these rights. They will not need to apply for permission under this legislation, which does not disturb existing rights.

The Bill will insert a new Part VIB into the Defence Act 1903, and amends the definition of 'defence premises' in Part VIA of the Defence Act to include the Woomera Prohibited Area.

Consequently, this will allow appropriately trained and qualified defence security officials to apply the security powers provided for by Part VIA to ensure the safety of all users and the security of the Woomera Prohibited Area.

While the Bill provides the overarching framework for the legislative scheme, the detail of the proposed regime is to be included in the Woomera Prohibited Area Rules, to be agreed by the Minister for Defence and the Minister for Resources and Energy.

In broad terms, the Bill:

- Authorises the Minister for Defence, with the agreement of the Minister for Resources and Energy, to make the Woomera Prohibited Area Rules prescribe certain matters, including defining the Woomera Prohibited Area, and the zones to be demarcated within that Area.
- Creates a permit system for access and use by future non-defence users of the Woomera Prohibited Area.
- Introduce offences and penalties for entering the Woomera Prohibited Area without permission and for failing to comply with a condition of a permit. An infringement notice scheme and demerit point system will apply to the offence for failing to comply with a permit condition. The details of these schemes will be included in the Rules.
- Provide for compensation for acquisition of property from a person otherwise than on just terms, although the Rules may limit the amounts of compensation payable by the Commonwealth.

Consultation

Extensive consultation was undertaken during the Review process and the legislation implements the recommendations put forward in the Review. Submissions were received from interested stakeholders, including:

- the resources industry;
- Indigenous groups;
pastoralists, and
environmental groups.

The consultation period on the Bill itself was short. The Government's intention is to enact legislation before this Parliament is prorogued. This is in the interests of providing non-Defence users of the Woomera Prohibited Area with certainty and assurance about their use of the area.

Consultation on the Bill included:

- the release of an information paper on the proposed legislative framework for the Woomera Prohibited Area. The paper provided a general overview of the proposed policy framework proposed for implementation in the legislative package.
- On 8 May 2013, an exposure draft of the Bill was released for stakeholder feedback.
- The South Australian Government hosted a consultation workshop in Adelaide on 10 May 2013, chaired by the Woomera Prohibited Area Coordination Office, to discuss the Bill.
- On 24 May 2013, the South Australian Government hosted a discussion between Defence officials and traditional owners of the Maralinga Tjarutja and Anangu Pitjantjatjara Yankunytjatjara lands, about the legislation.

Stakeholders provided feedback through the workshop and by written submission. Feedback was considered and where appropriate the exposure Bill was amended to take concerns into account. Amendments which occurred as a result of stakeholder feedback included express and specific recognition of the existing authorities for existing users, including Indigenous groups.

After discussions Department of Defence officials held with the traditional owners of parts of the Woomera Prohibited Area, The Government agrees, as a matter of policy, with their request that no ‘wet canteens' under the current Defence Regulations for the Woomera Prohibited Area will be created in the lands held by the Maralinga Tjarutja or Anangu Pitjantjatjara Yankunytjatjara traditional owners.

The Woomera Prohibited Area Rules will be released for public consultation today with a period of a month for interested stakeholders to consider and provide feedback. The Woomera Prohibited Area Coordination Office will conduct extensive consultation during this period. I encourage all stakeholders to provide the Office with their comments. All reasonable suggestions and contributions regarding the Rules will be considered for incorporation by the Government.

**Woomera Prohibited Area Advisory Board**

The Woomera Prohibited Area Advisory Board has been established to oversee the Woomera Prohibited Area access system and foster relationships among the Woomera Prohibited Area stakeholder groups.

The Woomera Prohibited Area Advisory Board has an Independent Chair, Mr Stephen Loosley, and an Independent Deputy Chair, the Honourable Paul Holloway. Mr Stephen Loosley is Chairman of the Australian Strategic Policy Institute. Mr Holloway is a previous Resources Minister of South Australia.

Other Board members are senior representatives from the Commonwealth Departments of Defence, Resources and Energy, and Finance and Deregulation, and the South Australian Government.

The Board was established to ensure:

- that the balance between economic interests and national security is maintained;
- the effectiveness of the access system in safeguarding Defence activities; and
- Indigenous and environmental interests are properly accounted for.

The Woomera Prohibited Area Advisory Board meets on a regular basis to undertake these functions.

**Woomera Prohibited Area Rules**

Draft Woomera Prohibited Area Rules 2013 will be released for public comment today.

The Rules provide for the detailed arrangements to give effect to the Bill.

This detail includes prescribing an area as the Woomera Prohibited Area and the provision for zones and exclusion windows within those zones.

The Rules will also provide for:
• various types of permission to be at a place within the Woomera Prohibited Area, including standing permission, written or oral permission and by way of a permit.
• the process by which permits may be subject to suspension or cancellation including the ability for a permit holder to have the Minister review a decision in relation to a cancellation of a permit.
• the Secretary of the Department of Defence to appoint people to be authorised officers to give infringement notices.
• demerit points which may be incurred when a person pays the penalty contained in an infringement notice or is convicted or found guilty of an offence.
• a cap on compensation payable to a person for loss or damage suffered in the Woomera Prohibited Area, not resulting in death or personal injury, of $2 million.

Conclusion
This important legislation:
• establishes a framework that provides non-Defence users within the Woomera Prohibited Area, in particular industry, with a level of certainty over Defence activity in the area;
• allows users to make commercial decisions with some assurance as to when they will be requested to leave the area because of Defence activity; and
• protects the safety of all users in the Woomera Prohibited Area and to ensure the appropriate national security protections for an area used to test defence capability.

I commend the Bill.

DISABILITYCARE AUSTRALIA FUND (CONSEQUENTIAL AMENDMENTS) BILL 2013
The DisabilityCare Australia Fund (Consequential Amendments) Bill 2013 will give effect to the DisabilityCare Australia Fund Bill that was passed by Parliament in the sitting week of 13 May 2013. These consequential amendments ensure that the Government's commitment to provide the funding for DisabilityCare Australia through an increase to the Medicare levy can be put into operation.

On 1 May 2013 the Prime Minister, Deputy Prime Minister and Minister for Disability Reform announced that the Government would increase the Medicare levy by half a percentage point from 1.5 to 2 per cent of taxable income. The establishment of the DisabilityCare Australia Fund requires a number of consequential amendments to other pieces of legislation to establish the effective operation of the Fund.

The DisabilityCare Australia Fund (Consequential Amendments) Bill will amend the COAG Reform Fund Act 2008, the Future Fund Act 2006 and the Nation Building Funds Act 2008.

The matters dealt with by the Bill are largely to include the DisabilityCare Australia Fund into those Acts. It will enable reimbursements to the States and Territories through the COAG Reform Fund and also facilitate the management of the DisabilityCare Australia Fund by the Future Fund.

This DisabilityCare Australia Fund (Consequential Amendments) Bill should be supported as it facilitates the operations of the DisabilityCare Australia Fund, which is endorsed by this Parliament.

FAMILY ASSISTANCE AND OTHER LEGISLATION AMENDMENT BILL 2013
This Bill introduces changes to the Baby Bonus announced in the 2012-13 Mid-Year Economic and Fiscal Outlook. It also introduces two measures affecting the Baby Bonus and other family payments announced in the 2013-14 Budget package, A More Sustainable Family Payments System.

Since coming into Government, Labor has worked hard to modernise the family payments system. We have restructured and improved assistance to deliver more help to low and middle-income families when the costs of raising children put the most pressure on the family budget.

We have delivered:
• Australia’s first national Paid Parental Leave scheme;
• an increase to the Child Care Rebate from 30 to 50 per cent of out-of-pocket costs up to $7,500 per child per year;
• the Schoolkids Bonus to help families with the cost of their children's education;
• higher payments for families with teenagers to encourage them to stay in school;
• family payment increases as part of our Household Assistance Package; and
• tax cuts to millions of working families.

We have made responsible decisions over a number of Budgets to better target family payments, while also delivering record levels of assistance to low and middle-income families who need it most.

The savings from these Budget reforms will be redirected to deliver the Government’s National Plan for School Improvement – to benefit our classrooms, teachers and kids for generations to come.

Reducing the Baby Bonus from 1 July 2013

As announced in the 2012–13 Mid-Year Economic and Fiscal Outlook, the Baby Bonus for second and subsequent children who come into a family from 1 July 2013 will be reduced to $3,000. However, families will continue to be paid at the rate of $5,000 for their first child, for all children born in a multiple birth, and for adoptions involving more than one child.

Replacement of the Baby Bonus from 1 March 2014 – new family payment arrangements for newborns

Further new family payment arrangements introduced by this Bill will mean that the Baby Bonus will cease from 1 March 2014.

In place of the Baby Bonus, families who are eligible for Family Tax Benefit Part A, and who are not accessing the Paid Parental Leave scheme, will receive an additional loading on their payments to help with the upfront costs of having a new baby.

The extra Family Tax Benefit Part A payment will be $2,000 for a family’s first child (and for each child in a multiple birth) and $1,000 for second and subsequent children. It will be paid as an initial instalment of $500, with the remainder rolled into normal fortnightly payments over a three-month period.

Payments for parents of a stillborn child will be delivered in full as a lump sum.

This decision delivers on a recommendation of the 2010 Australia’s Future Tax System Review (known as the Henry Review), which found the Baby Bonus provides more assistance than is necessary to cover the costs associated with a new child, and recommended assistance be restructured when the Government delivered a national Paid Parental Leave scheme.

We are also making changes to the work test under the Paid Parental Leave scheme, making it easier for working mothers with children born close together to qualify for Parental Leave Pay for subsequent children.

These changes will allow parents to count periods of Parental Leave Pay as work under the work test, just as employer-funded parental leave entitlements can be counted under the current rules.

Reducing the claim period for family assistance lump-sum claims

The Bill also reduces the claim period for family assistance lump-sum claims.

Families choosing to wait until the end of the financial year to claim their Family Tax Benefit or Child Care Benefit entitlement will now have a grace period of one year instead of two years in which to claim. This change will start for the 2012–13 entitlement year, meaning families will have 12 months from the end of that year (until 30 June 2014) in which to claim their entitlement.

Families will also have one year in which to lodge their tax returns if they are to receive the end-of-year Family Tax Benefit supplements, and to meet immunisation and health check requirements linked to the end-of-year Family Tax Benefit Part A supplement.

The vast majority of families already meet the new claim period and will not be affected. Families will be affected by this change only if they wait longer than 12 months to claim Family Tax Benefit or Child Care Benefit for the...
previous financial year, or to lodge their tax returns.

Families will be able to access extensions in special circumstances, similar to arrangements for tax returns. This change brings family payment claim periods more into line with time limits for lodging tax returns before penalties may be imposed, and with the policy intent of the family assistance program, to assist parents with the day-to-day costs of raising children.

**Family tax benefit and double orphan pension**

The Bill will also ensure that families remain eligible for Family Tax Benefit until the end of the calendar year their child finishes secondary study. This is the Government's current policy, and amendments in this Bill make sure that this policy applies for high school students who finish their school year in November, as well as for those who finish in December.

In addition, beneficial changes are made to the Double Orphan Pension to align it with the rules for Family Tax Benefit. This means, for example, that a carer can continue to receive Double Orphan Pension for a young person in their care until the end of the calendar year in which the young person turns 19 if they are still in secondary study.

Lastly, the Bill includes some minor clarifying and technical amendments to portfolio legislation, in line with the intended policy.

**INDIGENOUS EDUCATION (TARGETED ASSISTANCE) BILL 2013**


The programs funded and delivered under the Indigenous Education (Targeted Assistance) Act 2000 are complementary to mainstream schooling.

This bill amends the Indigenous Education (Targeted Assistance) Act 2000 (IETA) to increase the legislative appropriation for the period 1 January 2012 to 30th June 2014. The increased appropriations will enable the education components of the $583 million Stronger Futures in the Northern Territory National Partnership (SFNT-NP), specifically the School Nutrition Program, which provides support for approx. 5,000 students in 67 targeted NT schools and the Additional Teachers initiatives, to be administered under IETA.

The bill will also amend the Indigenous Education (Targeted Assistance) Act 2000 to include administrative adjustments to program funding.

The increased appropriations will benefit the School Nutrition Program and the Additional Teachers initiative under the SFNT-NP and include new funding for the Achieving Results Through Indigenous Education (ARTIE) project which will be administered through the Sporting Chance program, which is funded under IETA.

These amendments will increase the appropriations to allow the $4.43 million Achieving Results Through Indigenous Education (ARTIE) project to be administered through the Sporting Chance program element of IETA. The ARTIE Academy’s mission is to offer a service that allows Aboriginal and Torres Strait Islander students to achieve a level of academic success that not only ensures Year 12 completion, but provides an opportunity for desired career choices to be potentially achieved. Funding provided through IETA will allow for the implementation of the Academy’s tutoring program in three primary schools in South East Queensland at Bundamba, Marsden and Morayfield, and for the expansion of the Academy into two Townsville high schools at Kirwan and Pimlico.

The bill reaffirms the Australian Government's commitment to improving educational outcomes for Aboriginal and Torres Strait Islander students, families and communities, including through funding targeted programs that focus on key drivers of educational achievement.

**INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT AMENDMENT BILL 2012**

**OVERVIEW**

The United Nations International Fund for Agricultural Development (IFAD) is a specialised multilateral organisation of the United Nations. It
is based in Rome and dedicated to eradicating rural poverty in developing countries.

Seventy-five per cent of the world’s poorest people - 1.4 billion women, children and men - live in rural areas and depend on agriculture and related activities for their livelihoods. IFAD projects help poor rural people improve their food security and nutrition, raise their incomes and increase their access to financial services, markets, technology, land and other natural resources.

Around the world, IFAD is a valued international development partner. It has an ongoing portfolio valued at US$10.3 billion (inclusive of cofinancing). With the funding replenishments made in 2011, it has a target of lifting 80 million people out of poverty between 2013 and 2015.

IFAD focuses on:

- agricultural production and productivity;
- rural finance;
- support for women and indigenous peoples; and
- building institutions.

Australia was a founding member of IFAD but in 2004 Australia decided to withdraw as a member due to a misalignment with the then-government’s geographical and sectoral development priorities, as well as internal governance issues. Australia’s withdrawal came into effect in 2007.

Since Australia left the Fund, IFAD has gone through a major reform, making it a highly-regarded development partner by donor countries around the world and by the developing countries in which it works.

It is now timely that Australia renews its membership of IFAD.

Australia’s membership of IFAD will:

- complement and strengthen Australia’s existing support for food security, rural development and poverty reduction;
- provide for direct engagement with smallholder producers who are disproportionately represented among the poor and vulnerable – consistent with the fundamental purpose of the Australian aid program of helping people overcome poverty;
- address poverty issues in rural areas where IFAD is focused and where Australia has an interest, but limited current engagement;
- offer in-depth country and technical knowledge in regions and sectors where Australia wishes to expand but lacks expertise; and
- offer expertise and experience in rural development in fragile and conflict affected areas where Australia has a strategic interest but may not be able to directly engage.

REASONING

Importance of food security/needs of the poor

We can’t overestimate the critical importance of food security to every human being—the physical and economic access to sufficient, safe and nutritious food is surely a fundamental human right.

But tragically, for nearly a billion people in the world, this is not the case.

The United Nation’s Food and Agriculture Organization estimates that nearly one billion people go hungry every day. Two-thirds of these people live in the Asia-Pacific region. They are our neighbours.

In Sub-Saharan Africa almost one in three people suffer from chronic hunger.

Climate change, drought, conflict, and lack of resources and land to grow food, all shape this gross inequality.

The impact of these challenges is compounded by the high cost of food, higher even than the 2008 levels when the food crisis was at its peak.

We can attribute the high cost of food largely to the failure of global food production to keep pace with growing demand. Population growth, income growth, changing diets and climatic variability are just some of the critical factors in this trend.

Forecasts by the United Nations and World Bank indicate that this trend of high food prices is likely to continue for at least the next 10 years.

The magnitude of this challenge cannot be underestimated.
The world is asking why we didn’t foresee the current food crisis in the Horn of Africa earlier. We did. It isn’t a matter of foreseeing: it’s a matter of doing something about it.

Australia’s approach to food security

Australia has long been at the forefront of global efforts to improve food security. We as a nation are very fortunate to enjoy food security ourselves.

At the same time we have had to grapple with issues like climate, water management and natural disasters that plague less food secure nations. And as a wealthy country, we developed world-class research and expertise in these issues. This is something we can share.

Food security is integral to Australia’s aid program.

Our approach to food security focuses on:

- lifting agricultural productivity through agricultural research and development;
- improving rural livelihoods by strengthening markets and market access; and
- building community resilience with social protection programs.

These three elements will together increase the food available in markets and poor households, and increase the incomes and employment opportunities of poor men and women.

Right now Australia is:

- responding to the emergency food needs of people in the Horn of Africa;
- increasing funding for rural development; and
- pursuing trade policy reforms to open up markets and allow more free and fair access to food.

IFAD’s approach to food security marries with our own. As I have said, IFAD is dedicated to enabling poor rural people to improve their access to food and nutrition, increase their incomes and strengthen their resilience.

IFAD also works in regions of importance to Australia, including Asia, the Pacific, Sub-Saharan Africa and North Africa.

Developing countries value IFAD’s work.

This was made clear during the most recent replenishment of the Fund in 2011—Argentina increased its pledge by 300 per cent, Indonesia by 100 per cent, Brazil by 25 per cent and India by 20 per cent—all during a time of economic hardship.

IFAD has reformed its organisational structure to increase efficiency, align human and financial resources with strategic objectives, and expand its role as a knowledge institution.

For every $1 contributed, IFAD mobilizes another $6 for rural development.

AusAID’s 2011 review of IFAD

In 2011, AusAID conducted a review of IFAD. We found that IFAD had implemented significant reforms and that it was now considered by donors and developing countries to be an increasingly effective, results-focused, value-for-money partner.

The review recognised IFAD’s clear mandate to reduce rural poverty and hunger through working with smallholder farmers who are disproportionately represented amongst the poor, vulnerable and food insecure.

IFAD projects currently work with more than 36 million poor men and women, supporting them to become food secure through increasing productivity, access to markets including microfinance, and business development.

Australia’s national interest

Renewing our membership of IFAD is clearly in Australia’s national interest. It will allow Australia to expand existing support for food security and help the world’s most vulnerable to fight hunger.

IFAD’s senior management values Australia’s unique technical expertise in tropical and dryland farming, fisheries, biosecurity and quarantine. We are considered to have attractive policy and regulatory approaches in these areas.

Membership will also allow Australia to draw on IFAD’s considerable experience to strengthen Australia’s own approach to food security and rural development in our aid program.

Australia’s priorities for engaging with IFAD are:
• improving food security, raising incomes and strengthening resilience of smallholder producers in priority countries for Australia;
• continued commitment to reform to improve governance and management of the organisation, including strengthened focus on results and value for money; and
• ensuring disability inclusiveness and gender equality across all of IFAD’s programs.

Investment in IFAD would not detract from existing support for food security programs. Financial contributions to IFAD will be decided through the Australian Government’s annual budget process. The 2011 review of IFAD conducted in-depth analysis of alternative additional food security funding mechanisms, and found that re-joining IFAD would be the best option for additional Australian support in this sector.

Finally, membership of IFAD would allow Australian firms and individuals to be engaged with or employed on IFAD projects. Only citizens of member states can work on IFAD projects.

With the increasing urgency of our global food security challenges and obligations, this Bill to enable Australia to rejoin IFAD will have considerable benefit for not only our national interest, but for the billions of people worldwide who remain acutely vulnerable to food shortages, and whose lives would be immeasurably improved if they could achieve the basic human right to food security.

INTERNATIONAL MONETARY AGREEMENTS AMENDMENT BILL 2013

This Bill amends the International Monetary Agreements Act 1947 to bring into force a bilateral loan agreement between Australia and the IMF that was signed on 13 October 2013.

The Treasurer first announced a US$7 billion (around A$6.8 billion) commitment as a bilateral loan to the IMF in April 2012 as part of a global effort to bolster the global financial safety net that provides a firewall against a possible renewed financial crisis.

While the IMF’s current resource base is sufficient to meet expected needs, the IMF estimated early last year there is a potential global financing gap if a severe financial crisis were to occur.

As such, the IMF considered that it needed to raise additional lending resources to ensure that it has adequate firepower to play its role in crisis prevention and resolution. These resources are in addition to the contribution made by the Eurogroup to increase the capacity of the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM).

Increasing the IMF’s available resources in response to this potential need is thus essential for ensuring confidence that the IMF is fully equipped for its crisis prevention and resolution role.

On 19 June 2012, G20 Leaders in Los Cabos committed to boosting the IMF’s resourcing through temporary bilateral and note purchase agreements, with the total commitment now standing at over US$460 billion. Australia’s loan agreement is part of this global push to increase the resources of the IMF to respond to crises.

It is not expected that the loan agreement will be drawn upon over the forward estimates period as the IMF has sufficient resources to cover its projected lending activities in current conditions.

The IMF may only make drawings under the loan agreement if its existing quota and New Arrangements to Borrow resources are insufficient to support its lending to borrowing member countries.

As noted by G20 Leaders in their 2012 Los Cabos declaration, these resources will be available for the whole membership of the IMF, and not earmarked for any particular region.

The IMF is a quota-based institution and in order to reduce the IMF’s reliance on voluntary borrowed resources such as this loan agreement, members of the IMF agreed on 15 December 2010 to a doubling of IMF quota resources with a corresponding reduction in the size of New Arrangements to Borrow credit lines.

As such, this loan is only in place temporarily to cover the IMF’s potential financing needs in the short term. Any drawings from Australia by the IMF would be repayable in full and with interest.
The Bill provides a standing appropriation for payments that are drawings by the IMF under the loan agreement. The appropriation covers this specific loan agreement only, and any amendments to the value or term of the agreement would require the Act to be subsequently amended.

In addition to bringing the bilateral loan agreement into force, this Bill also corrects a technical issue with the existing Act. It provides an appropriation to make payments for changes to Australia’s quota, which will provide greater flexibility in how these payments are made including by using a foreign currency, or possibly Australian currency, depending on the holdings of the IMF.

PARLIAMENTARY SERVICE AMENDMENT (FREEDOM OF INFORMATION) BILL 2013

The Parliamentary Service Amendment (Freedom of Information) Bill 2013 amends the Parliamentary Service Act 1999 to restore the previously understood position of three of the four parliamentary departments in relation to the operation of the Freedom of Information Act 1982 (FOI Act). The bill does not affect the Parliamentary Budget Office which the Parliament has already designated as an exempt agency under the FOI Act.

Historically, the parliamentary departments were excluded from the application of the FOI Act. The Senate committee that examined the original bill saw no great justification for exempting the parliamentary departments in full, but found it difficult to draw an appropriate boundary between information that should normally be accessible and that which, if disclosed, would interfere with the ability of the Houses, their committees and their members to carry out their functions. Accordingly, the parliamentary departments continued to be outside the coverage of the FOI Act, an exclusion which was confirmed by later amendments affecting the public service. When a separate parliamentary service was created in 1999, it is now apparent that the FOI-exempt status of the three parliamentary departments was inadvertently removed.

The parliamentary departments have over a long period of time cooperated with the spirit of the FOI Act by providing access to administrative information, but this was done on a voluntary basis and without the legal protections that would have been available under a scheme tailored to the needs of the Parliament. As a result of the inadvertent removal of their exemption, it is now apparent that the parliamentary departments are now subject to an Act which was not designed to take into account the constitutional position of the Parliament.

In introducing this bill, I emphasise that it is an interim measure to preserve the right of the Parliament to make a deliberate decision about the FOI status of the Department of the Senate, the Department of the House of Representatives and the Department of Parliamentary Services. This step has been prompted by concerns expressed by the Joint Committee on the Parliamentary Library about the Library's ability to continue to provide individual members and senators with research and advice on a confidential basis in an environment where FOI access decisions are ultimately made by agents of the executive government and by the courts. The potential for such decisions to undermine the rights of Parliament and its members is considerable.

There are alternative approaches in the FOI Act which may provide a solution. In relation to the courts, for example, the separation of powers is respected by the application of the FOI Act to documents of an administrative character only. A comparable arrangement applies to the Office of the Official Secretary to the Governor-General.

Major FOI reforms agreed to in 2010 included provision for a review of the changes and related issues after a period of two years. The Presiding Officers welcomed this review as an opportunity to re-examine the application of the FOI Act to the parliamentary departments, and the basis on which the Act might appropriately apply in future.

This bill seeks to restore the status quo, pending consideration of the review’s recommendations. Application of the FOI Act to the parliamentary departments should be on a basis that takes into account the constitutional
separation of the Houses and the unique functions of their members.

PARLIAMENTARY SERVICE AMENDMENT
(PARLIAMENTARY BUDGET OFFICER
BILL) 2013

Budgets are a vital part of our democracy, ensuring governments are open and accountable to the community that elects them.

Transparency on costings must apply both to governments and to those who seek to govern, so the community has the proper opportunity to scrutinise policies and their budget impact well before an election.

The Gillard government established the Parliamentary Budget Office to promote greater scrutiny on costings and to ensure budget transparency from all sides of politics.

The Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2013 will amend the governing arrangements for the Parliamentary Budget Office.

The bill requires the PBO to publish a post-election report on election commitments of all political parties, including the full impact of those commitments on the budget bottom line.

This bill will enhance transparency of the financial impacts of policy proposals by providing an independent assessment of the tax and spending promises that political parties make.

Through these reforms, the Australian community will have more information about alternative approaches to fiscal policy.

These reforms will allow a more accurate and informed debate on economic policy in this country.

The bill will impose discipline on the promises of political parties and incentivise all political parties to be up front and honest about the cost of their promises.

It has long been accepted that Australian companies must keep their books in good order or face the risk of being exposed by an end-of-year audit.

If we are right to demand this of private companies on behalf of their shareholders and lenders, then we are most certainly right to apply this standard to political parties on behalf of taxpayers.

This reform will help to ensure that all political parties are straight with the Australian people before the election because they know that their costings will be revealed by the PBO post the election.

Politicians of all political persuasions have a responsibility to be open and accountable to those who put us in this place.

We are proud to have established the PBO as a vital institution in our fiscal and budgetary framework, and we are prouder still to be expanding its role to add this very important function.

With the support of the Parliament, these reforms will remove the capacity of any political party to try to mislead the Australian people and will punish those that attempt to do so.

Post-election report

During an election campaign, political parties can have their commitments officially costed by the PBO or the departments of Treasury and Finance.

However, this is not mandatory, and there is currently no legislative mechanism for all the commitments of all the political parties to be compiled and assessed in a consistent manner.

The Australian community therefore relies on the honesty of political parties to submit their policies for costing in good time so they can be released for the public to see.

This bill will make it a statutory function of the PBO to publish a report with policy costings of the full suite of a party's election commitments.

It will also require the PBO to indicate the combined total financial impact of these commitments 30 days after a government forms following a general election.

This means that, even if a party does not properly take advantage of the costing options available under the PBO legislation or under the Charter of Budget Honesty, the rigour of an independent analysis will still be brought to bear on that party's promises.
This bill will sharpen the focus on all the commitments made during an election campaign and ensure these promises are assessed through the independent and nonpartisan lens of the PBO.

**Election commitments**

The bill requires the PBO to determine the list of election commitments to be costed and included in the post-election report.

In determining the list of election commitments to include in the post-election report, the bill requires the PBO to consult with parliamentary parties, and have regard to lists of election commitments that parliamentary parties will be required to provide to the PBO, as well as any public announcements made such parties before or during the caretaker period for the election.

This process will ensure that the list of election commitments in the post-election report is comprehensive it is abundantly clear what each party has promised.

The PBO's lists will be there in black and white for all to see.

**Information gathering**

Given the PBO's statutory deadline to deliver the report within 30 days, it is important that the PBO has timely access to information from Commonwealth bodies to assist in delivering the report.

Accordingly, the bill includes arrangements for the request and provision of information from Commonwealth bodies.

The proposed arrangements are similar to the arrangements that apply to assist the Treasury and Finance Secretaries prepare the Pre-election Economic and Fiscal Outlook (PEFO).

PEFO actually has to be prepared within just 10 days of the issue of a writ for a general election, whereas the PBO has 30 days to deliver its postelection report.

So giving the PBO comparable information-gathering arrangements to those that apply for PEFO will be more than sufficient.

Further, the PBO is under similar time constraints when preparing policy costings for parliamentarians during the caretaker period.

Therefore, this new information-gathering process will apply when the PBO is preparing caretaker costings.

There are also existing arrangements in place for the PBO to request and receive information from Commonwealth bodies via a memorandum of understanding.

These arrangements will continue to apply more generally, supporting the flow of information to the PBO.

Of course, in compiling the post-election report, the PBO may also require further information from political parties themselves, and from any third parties involved in preparing the parties' costings.

This means that if a political party tries to avoid proper scrutiny by using a private accountant without budget expertise, all of this information can still be obtained by the PBO.

**Size of a parliamentary party**

The bill provides that the post-election report will include the policies of parliamentary parties with five or more Members or Senators in the Commonwealth Parliament immediately prior to the commencement of the relevant caretaker period.

This approach strikes a balance between the efficient and effective delivery of the report within the statutory timeframe and ensuring that the vast bulk of election commitments across the political spectrum are exposed to rigorous scrutiny.

**Due process**

Of course, for reasons of due process, it is important that political parties have a chance to review the PBO's assessment of their election commitments.

This is needed to ensure that the policies of these parties are fairly and fully considered in the PBO's report.

To achieve this, the bill includes a requirement for the PBO to consult with the political parties regarding their respective election commitments.

**Taxpayer information**

This bill also amends the *Taxation Administration Act 1953* to allow the Australian...
Taxation Office (ATO) to provide - confidential taxpayer data to the PBO for the purposes of the PBO carrying out its statutory functions, but such information must not include specific identifying information.

This will allow the PBO's work to be more accurate, complete and fully informed.

As with all exceptions to the taxpayer confidentiality provisions, the information provided to the PBO must be kept confidential and be used only for the strict purposes provided for in the enabling legislation.

Security Management Board

Finally, at the request of the Presiding Officers, the bill removes the requirement for the PBO, or a Senior Executive Service employee of the PBO, to be a member of the Security Management Board responsible for advising the Presiding Officers on Parliament House security matters.

The PBO has no role in the management of security for the Parliamentary precincts and it is therefore not appropriate that the PBO be a member of that board.

Conclusion

The PBO has performed exceptionally well in the short time since its establishment and has taken up an important place in Australia's fiscal policy framework.

I know that many Senators and Members have taken advantage of the PBO's services.

This bill makes the PBO all the more important by making it an independent assessor of the fiscal responsibility of political parties at election time.

This will impose necessary discipline on the costly promises often made in the lead up to and during election campaigns, which will be particularly important in this election year.

This will ensure that our public debate is informed by properly costed and properly funded policies, and that our focus is on the policies that will make Australia, stronger, smarter and fairer.

PRIVACY AMENDMENT (PRIVACY ALERTS) BILL 2013

The introduction of the Privacy Amendment (Privacy Alerts) Bill 2013 is the next key step in the Government's major reform of Australia's privacy laws.

It is a long overdue measure that was recommended by the Australian Law Reform Commission in 2008.

It will introduce a new consumer privacy protection for Australians that will keep their personal information more secure in the digital age. It will also encourage agencies and private sector organisations to improve their data security practices.

In its 2008 privacy report, the Australian Law Reform Commission found that, as government agencies and large companies collected more and more personal information online, there was an increasing risk that this could become subject to data breaches. There were studies to show that the frequency of data breaches was increasing and their consequences were becoming more severe.

This trend has continued. For example, in recent years, there have been a number of high-profile data breaches in Australia and in other countries.

Customers of large, well-respected businesses have had their personal information compromised as a result of hacker attacks, poor security or just plain carelessness.

As recently as February this year, the Australian Broadcasting Corporation (ABC) revealed that the personal details of almost 50,000 internet users had been exposed online after the ABC's main website was hacked.

This followed large scale breaches in recent years at Telstra, Medvet and Sony Playstation.

A data breach can severely affect individuals whose personal information has been compromised.

Individuals can lose money when personal information relating to their finances finds its way into the wrong hands. They can be exposed to the risk of fraud and identity theft. And they can suffer embarrassment and distress when
information contained in medical records is publicly revealed.

The Government believes that individuals should know when their privacy has been interfered with. That is why the Government is introducing this bill.

Currently, there is no requirement for agencies and organisations to notify affected individuals or the Commissioner when they have suffered a data breach.

The Commissioner has voluntary guidelines encouraging notification, but is concerned that many data breaches—perhaps a majority—are going unreported. The bill stops this gap in Australia’s privacy laws.

Australia is not the only jurisdiction to introduce a notification requirement.

Almost every State in the United States has introduced data breach notification laws. Canada has legislation in Parliament. The EU is developing a new directive that requires notification of data breaches. New Zealand is considering a similar law reform commission recommendation to introduce a mandatory notification scheme.

Australia should be a global leader in privacy protection as we grow our digital economy and more and more personal information goes online.

The bill provides that when an agency or organisation has suffered a serious data breach, it must notify the affected individuals and the Australian Privacy Commissioner.

Prompt notifications will allow individuals to take action to protect their personal information. Individuals will be able to reset passwords, cancel credit cards, improve their online security settings, and take other measures as they see fit.

The notification requirement will provide an incentive to businesses to store information securely. No business wants a reputation for not keeping its customers' personal information safe.

Agencies and organisations will only have to provide notification of serious data breaches. A requirement to provide notification of all data breaches would impose an undue regulatory burden on businesses, and it could unnecessarily alarm many customers.

The notification must include information such as a description of the breach, the kinds of information concerned, recommendations about steps that individuals should take, and contact details of the entity.

The bill provides that the Commissioner may direct an agency or organisation to provide affected individuals with notification of a data breach. This is a necessary measure in cases where an agency or organisation is recalcitrant or has simply made the wrong decision.

The bill also contains public interest and law enforcement exceptions. These are necessary where there are countervailing interests that outweigh the need to inform individuals about the data breach.

Where there is a failure to comply with a notification requirement, all the Commissioner's enforcement powers to investigate and make determinations will be available. This could result in personal and private apologies, compensation payments and enforceable undertakings.

In the case of serious or repeated non-compliance with notification requirements, this could lead to a civil penalty being imposed by a court.

The bill is part of the Government's ongoing commitment to the right to privacy.

Last year, the Government introduced the most significant reforms to privacy law in Australia since the Privacy Act commenced in 1989. This bill will complement those new reforms, and this is why we intend to commence the bill at the same time in March 2014.

One of last year's major reforms was the creation of the Australian Privacy Principles, which will apply to both government agencies and many private sector organisations.

Australian Privacy Principle 11 provides that entities regulated by the Privacy Act must have adequate security measures in place to protect personal information that they hold. The data breach notification requirement will complement Australian Privacy Principle 11 by requiring notification if there has been unauthorised access or disclosure, or loss, of that personal information.
Privacy is an important human right, and its continued protection in the digital era is becoming a major challenge for governments everywhere.

The right of an individual to control what happens with his or her personal information is an important aspect of the right to privacy.

The data breach notification requirement helps return control over their personal information to individuals.

The ALRC believed Australia's privacy laws needed this change in 2008. The evidence since that time has been building and it is now clear that this reform is well overdue.

SEX DISCRIMINATION AMENDMENT (SEXUAL ORIENTATION, GENDER IDENTITY AND INTERSEX STATUS) BILL 2013

This Bill establishes sexual orientation, gender identity and intersex status as protected grounds of discrimination under the Sex Discrimination Act.

For the past 40 years, Federal Labor governments have actively promoted the principles of fairness and equality by enacting the Sex, Disability and Racial Discrimination Acts, and establishing the Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission).

This Government has added a new chapter by acting to remove discrimination against same-sex couples and sex and gender diverse people across Commonwealth laws and policies. In 2009, the Government amended 85 Commonwealth laws to remove discrimination against same-sex couples and their children, in areas ranging from taxation to immigration and family law to superannuation. These amendments ensured that same-sex relationships are treated in the same way as opposite sex de facto relationships for the purposes of Commonwealth entitlements and programs.

And again, in 2011, the Government introduced new guidelines to make it easier for sex and gender diverse people to get a passport in their preferred gender. Under the guidelines, sex reassignment surgery is no longer a prerequisite to issue a passport in a person's preferred gender.

In 2012, the Government announced that for the first time Australians seeking to enter into a same-sex marriage overseas will be able to apply for a Certificate of No Impediment to marriage. This important change allows same-sex couples to take part in overseas marriage ceremonies, and be considered married according to the laws of that country.

Labor is proud of its record to advance the rights of all Australians – but more needs to be done. Members of Australia's lesbian, gay, bisexual, transgender and intersex community continue to experience high levels of discrimination. However, there is currently little protection in Federal law from discrimination on the basis of sexual orientation and gender identity.

That is why this Government committed to introduce sexual orientation and gender identity as protected grounds of discrimination at the Federal level. This Bill honours that long-standing Labor commitment.

These proposed new protections were included in the exposure draft of the Human Rights and Anti-Discrimination Bill, which was released in November 2012. That draft Bill aimed to make the unnecessarily complex system of Federal anti-discrimination laws clearer, simpler and more effective.

The Government always understood that this would be a long, considered process. It has been careful to consult through each stage of legislative development, from a discussion paper process, through the drafting and release of the draft Bill, and referral to the Senate Legal and Constitutional Affairs Committee for inquiry and report.

The Committee inquiry was highly successful in fostering public debate and discussion about the benefits of anti-discrimination laws and most effective ways to protect Australians against discrimination – as reflected by the 595 individual submissions from organisations and individuals around the country.

While some aspects of the public debate veered towards scare-mongering, the Inquiry...
served its purpose in drawing out community concerns and identifying aspects of the Bill that warranted amendment.

I reiterate my thanks to the Senate Legal and Constitutional Affairs Committee for actively seeking the public's views, considering the evidence put before it, and recommending ways to amend the Bill to achieve the Government's objectives and strengthen Australia's anti-discrimination framework.

This is a worthy but complex project, and it's important we get it right. That means taking the time to carefully consider the many recommendations put forward by the Committee and submitters to the Inquiry, developing a comprehensive Government response, drafting a final Bill and fully debating it in this place.

It was reassuring that the Committee's report demonstrated that all parties agree on one issue – the pressing need for protection from discrimination for the lesbian, gay, bisexual, transgender and intersex community at the Federal level. To that end I acknowledge the Coalition Senators' support for a key Labor commitment.

This reform is too important to suffer any further delay through its connection to the wider consolidation project.

It is in this context that I am very pleased to introduce the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013.

The Bill amends the Sex Discrimination Act 1984 to introduce new protections against discrimination on the basis of sexual orientation and gender identity. These reforms are an important first stage to have in place while the Government considers in detail the content and form of a second stage of the consolidation of the Commonwealth anti-discrimination Acts. The Government considers that the Sex Discrimination Act is the most appropriate vehicle within the existing Acts to contain these new protections.

A separate ground of intersex status is also introduced as a result of the consultations on the draft Human Rights and Anti-Discrimination Bill and the recommendations of the Senate Committee. People who are intersex can face many of the same issues that are sought to be addressed through the introduction of the ground of gender identity.

However, including the separate ground of intersex status recognises that whether a person is intersex is a biological characteristic and not an identity. The definitions in the Bill acknowledge this reality, but do not create a third sex in any sense.

The Bill also amends the existing ground of 'marital status' to 'marital or relationship status' to provide protection from discrimination for same sex de facto couples, who are currently excluded from the definition of 'marital status'.

The amendments made by this Bill will insert definitions for 'sexual orientation', 'gender identity' and 'intersex status'. The Government has accepted the feedback from key groups and the wider community during the consultation on the draft Human Rights and Anti-Discrimination Bill to ensure the definitions are meaningful, and provide the necessary protection. In particular, the Government has adopted the definitions of 'gender identity' and 'intersex status' as recommended by the Senate Committee.

The amendments will provide that discrimination on these new grounds is unlawful in the same areas of life as for other grounds already covered by the Sex Discrimination Act. These include: areas of work, education, goods, services and facilities, accommodation, land, clubs, and administration of Commonwealth laws and programs.

The introduction of the grounds of sexual orientation, gender identity and intersex status into the Sex Discrimination Act, in conjunction with the existing complaints provisions of the Australian Human Rights Commission Act 1986, will provide a complaints mechanism for people who consider they have been discriminated against on these bases. The Australian Human Rights Commission will be able to investigate and attempt to conciliate such complaints.

The Bill also amends existing exemptions as appropriate to reflect the new grounds. This includes exemptions for religious bodies in relation to employment and the provision of
education that have been in place for many years. These exemptions will continue under this Bill and encompass the new grounds.

The Bill also includes necessary consequential amendments to confirm conduct is not unlawful when:

- Done in compliance with the Commonwealth Marriage Act, to ensure this legislation does not affect current law on same sex marriage
- Done in compliance with prescribed Commonwealth, State or Territory laws, and
- It constitutes a request for information and keeping of records in relation to sex and/or gender, to minimise the regulatory impact of the amendments.

Finally, the Bill will ensure that the Australian Human Rights Commission's powers to produce reports, guidelines, and intervene in proceedings appropriately extend to the new grounds of discrimination.

I welcome the support of all parties to these amendments and urge all members to pass this Bill during this Parliament and implement this very necessary reform.

SOCIAL SECURITY AMENDMENT (SUPPORTING MORE AUSTRALIANS INTO WORK) BILL 2013

The Social Security Amendment (Supporting more Australians into Work) Bill 2013 will support the participation of unemployed Australians and parents with caring responsibilities by increasing the amount they are able to earn and keep, smoothing the transition to paid work and providing extra assistance to undertake study and training.

The Gillard Government believes that everyone who is able to work should be able to benefit from the economic security and dignity that having a job brings, which is why we are introducing this bill to help more unemployed Australians to transition into work.

Having a job is essential in ensuring that all Australians can share in the benefits of Australia's economic strength.

In particular, we want to avoid the entrenched disadvantage that can arise from long periods of joblessness.

Because the longer a job seeker has been unemployed the more likely their skills will be outdated and as such it gets harder to find and keep a job.

Long periods of unemployment will also erode someone's self-confidence.

There is also an increased risk of entrenched poverty and intergenerational welfare dependence when parents are jobless for long periods of time.

In short, this is about helping job seekers let go from the metaphorical side of the pool.

Australia's income support system has been analysed extensively through the recent Senate Inquiry into the adequacy of the allowance payment system which considered the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market.

In particular, the Senate Education, Employment and Workplace Relations Committee's report contained complex and diverse recommendations, covering payment design, administration of payments, employment services and additional social services.

On behalf of the Government I would like to thank the Senate Education, Employment and Workplace Relations References Committee for their report. The amendments included in this bill follow consideration of the recommendations of the Senate Inquiry.

On this basis the introduction of the Social Security Amendment (Supporting more Australians into Work) Bill 2013 will allow around 800,000 Australians on Parenting Payment Partnered, Newstart Allowance, and Widow, Sickness or Partner Allowance to earn $100 per fortnight, $38 more per fortnight than they currently can, before their income support is reduced.

The Gillard Government will invest $258 million over the next four years to lift the income free area.

This is the first increase in more than a decade.
In addition, the income free area will, for the first time in Australia’s history, be indexed by CPI from 1 July 2015 to ensure the real value of this increase is maintained over time.

From 20 March 2014, income support recipients currently earning more than $62 per fortnight can look forward to an average increase in their payments of $19 per fortnight or an average of $494 per year.

This practical investment will give people more incentive to stay in or re-enter the workforce while they are on income support by allowing them to keep more of what they earn and helping them build and maintain the skills, confidence and contacts they will need to eventually transition into paid work.

This increase to the income free area supports a majority recommendation from the Senate Inquiry into the adequacy of the allowance payment system.

Joblessness among families continues to be a significant social and economic challenge facing this country.

Australia has relatively low levels of unemployment, but when parents with dependent children are jobless for longer periods of time there is a risk of entrenched poverty and intergenerational welfare dependence.

This bill also seeks to continue the Government’s commitment to provide incentives and support for single parents so that they and their families can share in the benefits of paid work.

From 1 January 2014, all single principal carer parents receiving Newstart Allowance who take up approved study will be eligible to receive the Pensioner Education Supplement (PES), gaining extra assistance for study and training.

The supplement is paid at a rate of $62.40 per fortnight or $31.20 per fortnight for a concessional study load.

It is expected that around 25,000 additional single parents will take up the PES over the next four years.

Getting relevant skills and education helps pensioners and single parents increase their job-readiness and gives them a better chance of leaving income support and returning to the workforce.

Currently, only those single principal carer parents who were in receipt of PES at the time they move from Parenting Payment Single to Newstart Allowance are entitled to receive PES until they finish their current studies.

From 1 January 2014, all single principal carer parents receiving Newstart will have access to this additional study assistance.

Single parents will also receive additional support through this bill through the extension of access to the Pensioner Concession Card.

From 1 January 2014 single parents who become ineligible for the Parenting Payment due to the age of their youngest child and who do not qualify for any other income support payment due to their earnings, will retain their Pensioner Concession Card for up to 12 weeks.

The Pensioner Concession Card allows holders and their dependants to receive benefits including bulk-billed GP appointments, reduced out-of-hospital medical expenses and medicines listed on the Pharmaceutical Benefits Scheme at the concessional rate, in addition to concessions offered by state and territory local governments.

Currently access to benefits under Pensioner Concession Card ceases for these parents immediately once they no longer receive Parenting Payment.

This amendment will smooth the transition off income support and into paid work for around 2,000 single parents a year.

In combination, the measures contained in this bill amend the social security law to provide around $300 million to improve the incentive for income support recipients to work, support them in the transition to work and provide extra assistance to engage in study and training.

This package delivers on the Gillard Government’s commitment to support single parents who are moving off Parenting Payment so that they and their families can share in the benefits of paid work once their children become older.

The Gillard Labor Government believes that everyone should benefit from the dignity,
challenge and experience that come from having a job, especially people who have been trapped in a cycle of entrenched disadvantage.

STATUTE LAW REVISION BILL 2013

I move that this Bill be now read a second time.

Statute Law Revision Bills have been used for the last thirty years to improve the quality of Commonwealth legislation.

The Bills do not make substantive changes to law but still perform the important function of repairing minor errors in the Commonwealth statute books and improving the accuracy and useability of consolidated versions of Commonwealth Acts.

This continual process of statutory review complements the Government’s commitment to creating clearer Commonwealth laws.

There is no doubt that the review process undertaken in the preparation of this Bill serves to ensure the statute book contains less clutter, in the form of out-dated cross-references, and by repealing obsolete Acts.

Schedules 1, 2, 4 and 5 of the Bill achieve three main ends:

1. correcting minor and technical errors in Acts, such as grammatical errors and errors in numbering
2. correcting amendments or amending Acts which are erroneous, misdescribed or redundant, and
3. repealing obsolete amending provisions and Acts.

By removing or amending out-dated or unclear legislative provisions this Bill helps make the law clearer, more consistent and easier to access.

The Bill also helps to facilitate the publication of consolidated versions of Acts by the Attorney General’s Department and by private publishers of legislation.

Schedule 3 to the Bill makes amendments relating to Acts of general application, updating language in a range of legislation to more closely reflect terminology now used in the Acts Interpretation Act 1901 and the Legislative Instruments Act 2003.

The items in Part 1 of Schedule 3 to the Bill repeal provisions relating to acting appointments that are redundant as they are now covered by section 33AB and 33A of the Acts Interpretation Act 1901.

These items also add notes referring to the general acting appointment rules in the Acts Interpretation Act 1901.

The items in Part 2 of Schedule 3 to the Bill are about prescribing matters by reference to other instruments.

And the items in Part 3 of Schedule 3 amend various Acts to update the text of Acts that still refer to an instrument being a disallowable instrument.

I thank the Office of Parliamentary Counsel for the time and effort that went into preparing this Bill.

STATUTE STOCKTAKE (APPROPRIATIONS) BILL 2013

The Statute Stocktake (Appropriations) Bill 2013 is the sixth Statute Stocktake Bill since 1998, and follows the Statute Stocktake (Appropriations) Act (No. 1) 2012. It forms part of an ongoing process to clean up the statute book by repealing legislation that is redundant, or would be better addressed in up-to-date legislation.

The Bill does not appropriate any money. Rather, the Bill would, if enacted, repeal 84 annual Appropriation Acts from 1 July 1999 to 30 June 2010.

Those Acts encompass:

- 28 old Acts for the ordinary annual services of the Government;
- 28 old Acts other than for the ordinary annual services of the Government;
- 15 old Acts for the operations of Parliamentary Departments; and
- 13 old Acts in relation to supplementary estimate appropriations.

This Bill would also allow the repeal of numerous subsidiary laws, connected to these old
Appropriation Acts, consistent with the Government's deregulation agenda.

No agency will be denied access to appropriations from this Bill, to the extent that old appropriation amounts may potentially need to be re-appropriated through other processes.

This Bill was foreshadowed last year, when Parliament passed the Statute Stocktake (Appropriations) Act (No. 1) 2012. That Act repealed Acts from 1984 until 1999 inclusive, covering:

- 93 annual Appropriation Acts;
- 35 Supply Acts; and
- 3 Acts containing redundant special appropriations from the Treasury portfolio.

The Government will continue to review Appropriation Acts to determine whether further appropriations are redundant and can be repealed.

TAX AND SUPERANNUATION LAWS AMENDMENT (2013 MEASURES NO. 1) BILL 2013

This Bill amends various taxation laws to implement a range of improvements to Australia's tax laws.

Schedule 1 exempts the interest paid by the Government on unclaimed money returned after 1 July 2013 from income tax. This ensures that the real value of unclaimed money does not diminish over time.

Under the amendments contained in this bill, individuals who are former temporary residents and who subsequently return to Australia will be treated in the same way as other Australian residents, that is, they will not be subject to tax on any interest paid on their unclaimed superannuation.

In the case of interest paid on the unclaimed superannuation of departing temporary residents who do not subsequently become permanent residents, these amendments ensure that such interest payments are appropriately subject to the Departing Australia Superannuation Payments tax. This removes the benefit of the taxpayer funded superannuation tax concessions from those who will not retire in Australia.

Schedule 2 amends the Fringe Benefits Tax Assessment Act 1986 to align the special rules for calculating airline transport fringe benefits with the general provisions dealing with in-house property fringe benefits and in-house residual fringe benefits.

The method for determining the taxable value of airline transport fringe benefits is also updated to simplify the practical operation of the law and to better reflect the value of the benefit.

Schedule 3 amends the income tax treatment of Commonwealth payments to irrigators under the Sustainable Rural Water Use and Infrastructure Program. The payments are for upgrading rural water infrastructure and improving the efficiency of rural water use. Some of the water savings from those improvements will be returned to the Commonwealth for environmental activities.

There can be a timing mismatch between assessing the payments and the deductions for relevant expenses. In particular, the payments will often be assessed right away but the depreciation deductions recognised only over several years. That mismatch can mean that an irrigator has to fund the gap until the expenditure has been fully recognised.

To address that timing mismatch, this measure allows taxpayers to treat the payments as non-assessable non-exempt income. Where they do, their corresponding expenditure is also not recognised for income tax purposes.

However, because some taxpayers would be better off under the existing law, the measure also provides taxpayers with a choice between the new treatment and the existing law.

Schedule 4 has been removed by House amendment.

Schedules 5 and 6 introduce loss carry-back for companies into the income tax law.

The introduction of loss carry-back implements recommendation 31 of the 2010 Australia's Future Tax System Review, which stated that ‘...companies should be allowed to carry back a revenue loss to offset it against the prior year's taxable income, with the amount of any refund limited to the company's franking account balance'.
It is also in line with the recommendations of the Business Tax Working Group (BTWG) made in its Final Report on the Tax Treatment of Losses, which found that loss carry-back would be a worthwhile reform in the near term.

The Working Group recommended that loss carry-back would be a worthwhile reform and proposed a model that is limited to companies, provides a two-year loss carry-back period on an ongoing basis and limits the amount of losses that can be carried back to $1 million a year.

This measure implements that recommendation by amending the taxation law to permit a corporate tax entity that makes a loss in one year to carry that loss back to the two preceding years. In some cases, unused losses from the previous year can also be carried back.

The entity must have a tax liability in the tax year it carries the loss back to and must have a franking account balance at the end of the year it claims the loss carry-back. If those requirements are satisfied, the entity will be able to convert the loss into a tax offset at the corporate tax rate. This will produce an effective refund of tax paid in the past of up to $300,000 a year at current rates (based on a $1 million amount carried back and a corporate tax rate of 30 per cent).

As a transitional measure, corporate tax entities that make a loss in the 2012-13 year will be able to carry back their loss for one year. In its first 4 years, it is estimated that this major tax reform will provide much-needed assistance to nearly 110,000 corporate tax entities. Almost 90 per cent of these entities are expected to be small businesses.

Small business is the engine room of the Australian economy, employing almost five million Australians and contributing more than 20 per cent of GDP. The Government is determined to create the environment in which small businesses not only survive, they thrive.

Allowing loss carry-back will encourage businesses to invest and adapt, and will mean companies in the slow lane can use their tax losses now – when they need to – rather than in the future when their businesses are performing better.

Finally, Schedule 7 to this Bill addresses some minor deficiencies in the taxation laws. The Government often progresses miscellaneous amendments, such as this, to rectify technical and machinery problems in the taxation laws. In doing so, the Government is giving effect to its long-standing commitment to maintain the integrity of the taxation system.

Full details of the measure are contained in the explanatory memorandum.

TAX AND SUPERANNUATION LAWS AMENDMENT (2013 MEASURES NO. 2) BILL 2013

This Bill amends various taxation and superannuation laws to implement a range of improvements to Australia's tax and super laws.

Schedule 1 amends the film tax offset provisions of the income tax law by inserting a definition of 'documentary' that is consistent with the Australian Communications and Media Authority's guidelines.

The producer offset applies to films that satisfy a number of criteria, including making a minimum level of qualifying Australian production expenditure. That level is lower for documentaries than it is for other films. The amendments ensure that this concession is appropriately targeted and that a consistent definition applies across all the film tax offsets.

The Schedule also explicitly includes 'game shows' in the list of light entertainment programs that are ineligible for the film tax offsets. This clarifies the intended scope of the existing law.

Schedule 2 to this Bill exempts from income tax the Disaster Income Recovery Subsidy and the ex-gratia payment equivalent to the Australian Government Disaster Recovery Payment paid to New Zealand non-protected Special Category Visa holders.

The Queensland and New South Wales floods and the Tasmanian and Wambelong bushfires have had devastating consequences for affected communities.

The Australian Government is giving employees, small business owners and farmers a helping hand with payments to both Australians
and New Zealand Special Category Visa holders. At this difficult time, it's important that these payments are not subject to tax.

Exempting these payments from tax maximises the value of the payments for people affected by recent disasters. It also ensures that the payments are treated in the same way as previous disaster assistance payments, such as those made in the wake of cyclone Yasi in 2011.

Schedule 2 to this Bill also exempts any future ex gratia Australian Government Disaster Recovery Payments that the Government might make for natural disasters that occur up to 30 June 2013.

Schedule 3 to this Bill amends the GST law to enable those small business taxpayers who are paying their GST by instalments, and who subsequently move into a net refund position, to continue to use the GST instalments option if they choose to do so.

The amendments provide that taxpayers who move into a net refund position and who choose to continue to pay GST by instalments receive an instalment amount each quarter of zero. Taxpayers who are currently not using the instalment option and are already in a net refund position will remain ineligible to pay their GST by instalments while they remain in a net refund position.

The amendments will ensure that the compliance cost advantages of reporting annually can be retained for those taxpayers who use the instalment option and move into a net refund position.

Schedule 4 amends the list of deductible gift recipients identified by name in Division 30 of the Income Tax Assessment Act 1997. Donations made to entities with DGR status are income tax deductible to the donor and therefore DGR status will assist the listed entities in attracting public financial support for their activities.

Six entities are proposed to be added to the Act, namely, The Conversation Trust, National Congress of Australia's First Peoples Limited, National Boer War Memorial Association Incorporated, the Anzac Centenary Public Fund, the Australian Peacekeeping Memorial Project Incorporated, and Philanthropy Australia Inc.

Schedule 5 to this Bill amends the Superannuation Industry (Supervision) Act 1993 to place a duty on trustees of particular superannuation funds to establish and implement procedures in relation to the consolidation of multiple member accounts within their fund on a periodic basis.

In determining whether to consolidate accounts, trustees must do so with regard to the member's best interests.

At June 2012 there were almost 32 million superannuation accounts in Australia — almost three accounts for every worker. This measure will facilitate a steady reduction in the number of unnecessary accounts in the superannuation system. This will protect Australians' retirement savings from being eroded by unnecessary fees and charges.

The measure commences on 1 July 2013 and trustees must undertake the first round of consolidations by 30 June 2014.

Schedule 6 will reduce the matching rate and maximum payment of the voluntary superannuation co-contribution from 1 July 2012, as the new low income superannuation contribution (LISC) applies from the 2012-13 income year. These changes mean that for the co contribution, the Government will contribute 50 cents for every dollar of eligible personal contributions an individual makes up to a maximum of $500.

The LISC will reach over an estimated five times as many low income earners as the current co contribution as a result of these changes and will better target tax concessions for low income individuals. Individuals are not required to make personal contributions to superannuation to receive the LISC.

Schedule 6 will also extend the freeze on the indexation of the lower income threshold to the 2012-13 income year. This is the income threshold above which the maximum superannuation co contribution begins to phase down to the 2012 13 income year so it remains at $31,920 in 2012 13. The income threshold above which no co contribution is payable will be reduced to $15,000 above the lower income
threshold, that is, $46,920 for the 2012-13 income year.

The changes to the co-contribution will generate cash savings of an estimated $987 million by the 2015-16 income year.

Schedule 7 consolidates eight separate tax offsets for dependants into one new tax offset from 1 July 2012. The eight tax offsets to be consolidated are the carer spouse, invalid spouse, invalid relative, parent/parent-in-law, child-housekeeper, child-housekeeper (with child), housekeeper and housekeeper (with child) tax offsets.

By consolidating these tax offsets we are removing out-dated barriers to workforce participation and building on the Government’s participation agenda. In addition, these changes will better target assistance to dependants who are genuinely unable to work.

The new tax offset will be called the Dependant (Invalid and Carer) Tax Offset. It will be paid at the highest of the rates of the consolidated tax offsets. The Offset will be limited to taxpayers who contribute to the maintenance of a dependant who is genuinely unable to work because of invalidity or carer obligations.

This reform is consistent with the Australian Future Tax System review and builds on the Government’s record of tax reform.

These new arrangements do not affect existing arrangements for taxpayers eligible for the zone tax offset, overseas forces tax offset, overseas civilian tax offset or the dependant spouse tax offset for spouses born before 1 July 1952.


The amendments refine and clarify the operation of the Taxation of Financial Arrangements regime, lower compliance costs and provide additional certainty to affected taxpayers. This includes: clarifying the application of the accruals and realisation tax timing methods; expanding the application of the fair value tax timing method; ensuring that the tax hedging method and transitional balancing adjustment provisions operate as intended; and lowering the compliance costs of making various elections for foreign banks with branches in Australia.

The proposed amendments are the outcome of ongoing monitoring of the implementation of the Taxation of Financial Arrangements regime, and were announced following extensive consultation with the Australian Taxation Office and industry.

These changes will apply from the start of the Taxation of Financial Arrangements Stages 3 and 4 regime.

Full details of these measures are contained in the explanatory memorandum.

TAX LAWS AMENDMENT (2013 MEASURES NO. 1) BILL 2013

This bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 amends the income tax law to ensure the ‘stakeholder’ and ‘connected entity’ tests work appropriately. Broadly, the connected entity test and stakeholder tests seek to determine whether an entity controls or can influence another entity.

These amendments ensure that entities with common stakeholders cannot inappropriately defer capital gains tax liabilities and prevent circumstances where medium and large businesses could access the small business concessions by breaking their operations up into several small entities.

Schedule 1 also ensures that these integrity rules (and the capital gains tax provisions more generally) work appropriately for certain asset-holding arrangements. Specifically, the rules will ‘look through’ these arrangements and apply as if absolutely entitled beneficiaries, bankrupt individuals, companies in liquidation and security providers are the owners of relevant assets.

Schedule 2 to this bill exempts from income tax the Disaster Income Recovery Subsidy paid to individuals adversely affected by the January 2013 Tasmanian bushfires, and by ex-Tropical Cyclone Oswald and associated floods in
The Queensland and New South Wales floods and the Tasmanian bushfires have had devastating consequences for affected communities.

The Australian Government is giving employees, small business owners and farmers a helping hand by providing Disaster Income Recovery Subsidy payments to individuals adversely affected by natural disasters. At this difficult time, it's important that these payments are not subject to tax.

Exempting these payments from tax maximises the value of the payments for people affected by recent disasters. It also ensures that the payments are treated in the same way as previous disaster assistance payments, such as those made in the wake of cyclone Yasi in 2011.

Schedule 2 to this bill also exempts any future Disaster Income Recovery Subsidy payments that the Government may make for natural disasters that occur up to 30 September 2013.

Schedule 3 extends the general Deductible Gift Recipient categories in the gift provisions of the Income Tax Assessment Act 1997 to include public funds established solely for the purpose of providing ethics education in government schools. The ethics education must be provided as an alternative to religious instruction and be in accordance with State or Territory law.

The amendment will allow taxpayers to claim an income tax deduction for donations made to funds that are endorsed by the Commissioner of Taxation and this will assist these entities in attracting funding for their activities.

Full details of all measures are contained in the explanatory memorandum.

TAX LAWS AMENDMENT (MEDICARE LEVY) BILL 2013

This bill will amend the Medicare Levy Act 1986 to increase the Medicare levy low income thresholds for families in line with increases in the consumer price index. These changes will ensure that low-income families that were exempt from the Medicare levy in the 2011-12 income year will continue to be exempt when their incomes have risen in line with or less than the consumer price index. All other thresholds have been increased under changes made as a result of the Clean Energy Household Package.

The increase in thresholds will apply to the 2012-13 year and future income years.

Full details of the measure in this bill are contained in the explanatory memorandum.

Debate adjourned.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:17): I move:

That the bills be listed on the Notice Paper as separate orders of the day.

Question agreed to.

Australian Jobs Bill 2013

First Reading

Bill received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:17): I 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 JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:18): 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—
This Bill implements one of the pillars of the Government’s $1 billion Plan for Australian Jobs.

It will improve access for Australian businesses to work on major investment projects, placing them into global supply chains and growing Australian Jobs.

Together with the establishment of ten Industry and Innovation Precincts and increased support for the growth of Australian Small and Medium Sized businesses, the Plan for Australian Jobs will grow industry, grow business opportunities and grow jobs.

**Australia’s economy is resilient.**

The Labor Government’s economic management and the hard work of all Australians have delivered impressive growth, low unemployment and low inflation through a period which has seen the biggest global economic downturn since the great depression.

We are well placed to look to the future with confidence and we have continued to make the reforms that will support a strong and diverse economy into the future.

While the economy broadly is doing very well, the high Australian dollar and difficult international conditions are putting pressure on many of our industries, particularly manufacturing.

The Government’s Industry and Innovation Statement entitled *A Plan for Australian Jobs* is a detailed set of policies which addresses these pressures. It will ensure Australian industry is able to access and take advantage of opportunities, improve competitiveness through innovation and adapt to new economic realities.

The Plan will ensure that Australians continue to have high-skilled, well-paid jobs in the advanced manufacturing industries that will be the backbone of the modern economy.

As part of this package of reforms, the Government has introduced this Bill, which will invest $98.2 million to strengthen the ability of Australian businesses to win work on major investment projects. This reform will deliver more jobs for Australians from the massive investment projects under way in our economy.

Through consultations with industry and others, it has become apparent that the increased use of global engineering and procurement firms has led to an increased reliance on the use of established global supply chains by major project proponents.

In order for Australian industry to grow in a global economy, access to these supply chains is crucial.

That is why under this Bill any domestic project worth $500 million or more must demonstrate how they will provide opportunities to local businesses through an Australian Industry Participation (AIP) plan.

Success in supplying to major projects in Australia is a crucial way for Australian businesses to integrate into global supply chains. Australian businesses are being denied opportunities to win work across a range of sectors.

As well as the use of established supply chains by proponents, there are a variety of reasons why this is occurring, including the size of tender packages, specification of foreign standards in project requirements and a simple lack of information about local capabilities.

Analysis of publically available information on major projects indicates that more than half of the current major projects are currently not subject to AIP requirements.

The total value of these projects without an AIP plan is approximately $32 billion. Without a comprehensive and consistent approach to AIP, Australian industry participation in major projects will continue to decline.

This Bill will require major projects, both private and public, with a capital expenditure of $500 million or more to develop an AIP plan. An AIP plan outlines the actions a project proponent will take to provide Australian businesses with full, fair and reasonable opportunity to participate in a major project.

This goes beyond the Commonwealth’s existing mechanisms for an AIP plan through the Enhanced Project By-law Scheme and Commonwealth grants, procurement and loans.

Under this Bill, AIP plans will be applied to initial project construction and to the initial
operational phase of major projects if they involve a new facility. For the first time, this Bill specifies consequences for AIP non-compliance.

These consequences include adverse publicity notices, naming a relevant person and the ability for the Authority to seek performance and restraining injunctions to force compliance with the legislation.

The Bill requires an AIP plan to be prepared at an appropriately early stage of project approval, such as events during the early design and development of the project.

This increases the chances of Australian entities winning work as tender specifications can be developed with Australian capabilities in mind, rather than having to comply with pre-existing specifications drawn up with overseas suppliers and established supply chains in mind. Those making procurement decisions on behalf of the project will be required to keep themselves informed of industry capability and capacity in relation to the major project prior to tendering.

A mandatory element of AIP plans will be information on standards to be used in the project. Design specifications should take Australian industry capabilities and capacity and Australian and international standards into account so that Australian entities are not "designed out" of the project.

In addressing this element, if the project proponent is not using Australian or international standards it will need to state why these standards are being used. The provision of information on standards will be material to AIP plan compliance.

The Bill will apply to corporations and draw on the Corporations Power as defined in the Constitution to capture those organisations running major projects.

The Bill is designed to apply to projects that are at an early stage of development and that reach a trigger point for the legislation after it comes into effect and from then on.

The Bill also creates a new Australian Industry Participation Authority to administer the new AIP requirements.

The Bill provides the Authority with a sufficient range of powers to ensure compliance with the Bill and to deliver a range of other initiatives aimed at building capability and capacity within local business and link them with new opportunities.

To maximise coordination and focus, all Australian Government requirements for AIP plans and the related support activities that boost industry capability and capacity will be delivered by the Authority.

The Authority will evaluate, approve AIP plans, publish AIP plan summaries, monitor and report on the AIP plan implementation and impose administrative consequences for non-compliance.

The Authority will also take responsibility for delivering support arrangements to help our businesses develop the capabilities and connections needed to capture these opportunities.

The Authority will improve coordination between the Buy Australian At Home and Abroad initiative and Supplier Advocates and other relevant parts of AusIndustry and Enterprise Connect. It will be a one-stop-shop for Australian entities seeking to build capability and capacity and link into new business opportunities.

The work of Supplier Advocates is to use their professional networks, business experience and access to decision-makers to increase the competitiveness and capacity of SMEs, and help them connect with new business opportunities.

Advocates build on the activities of industry partners and government agencies, including Enterprise Connect, the Industry Capability Network Ltd, Austrade and the Export Finance and Insurance Corporation (EFIC).

In addition to the recently announced Automotive Supplier Advocate, Advocates currently work in the resources, rail, steel, information technology, clean technologies, water and textiles, clothing and footwear sectors.

This Bill represents a determined approach to helping Australian businesses develop the capabilities, experience and connections needed to capture opportunities from major projects, grow their businesses, enter global supply chains and create jobs.
In effect, the Bill provides Australian firms with the same fair and reasonable opportunities afforded to the global supply chain partners of major project proponents. AIP plans are consistent with trade obligations, consistent with our values and an open dynamic economy and promote, not stifle, competition.

It has been estimated that this Bill could bring in an extra work worth between $1.6 and $6.4 billion per annum for local businesses. Winning work on these major projects not only has immediate benefits for local companies and their employees.

It also allows them to gain experience, increase the scale of their operations and establish connections and commercial relationships with some of the largest multinational companies in the world.

This will improve the prospects for Australian companies to win more work in the global supply chains of the large project investors and developers.

In conclusion, the reforms contained within this Bill will support the creation and retention of Australian jobs and will open up global supply chains so Australian business can access the opportunities that will underpin industry growth. I commend it to the Senate.

Debate adjourned.

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

Private Health Insurance Amendment (Lifetime Health Cover Loading and Other Measures) Bill 2012

Private Health Insurance Legislation Amendment (Base Premium) Bill 2013

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:19): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:19): 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—

PRIVATE HEALTH INSURANCE AMENDMENT (LIFETIME HEALTH COVER LOADING AND OTHER MEASURES) BILL 2012


The Bill provides for two categories of amendments to the Private Health Insurance Act 2007.

Firstly, the Bill proposes amendments to the Private Health Insurance Act 2007 to remove the rebate on private health insurance from the Lifetime Health Cover loading part of affected premiums.

The Bill will ensure that rebate recipients are treated consistently, regardless of whether they have a Lifetime Health Cover loading or not. The Bill will also improve the effectiveness of the Lifetime Health Cover incentive for a person to take out private health insurance earlier in their life and maintain it. This will provide greater support to a fundamental component of the
Australian health system, the principle of community rating in private health insurance.

The rebate is currently payable on the entire cost of a person's policy, including any Lifetime Health Cover loading payable. It is for this reason that removing the rebate from the Lifetime Health Cover loading will also contribute to ensuring the sustainability of the rebate. These changes will commence on 1 July 2013.

The second aspect to the Bill is that from 1 July 2013, claiming the rebate through a Department of Human Services Service Centre under the Incentive Payments Scheme will cease.

Background

On 22 October 2012, as part of the 2012-13 Mid-Year Economic Fiscal Outlook, the Treasurer announced the private health insurance measure 'Private Health Insurance rebate – removal of rebate on lifetime health cover loading'.

The private health insurance rebate is a significant component of Australian Government health expenditure. There has been a higher take up of private health insurance despite the Australian Government's introduction of the rebate tiers last year. The changes proposed in this Bill, combined with the income testing of the rebate which was introduced on 1 July 2012 and the proposal also announced by the Treasurer as part of the 2012-13 Mid-Year Economic Fiscal Outlook being to index the rebate from 1 April 2014 on the lesser of the Consumer Price Index or the premium increase, will deliver continued consumer protection and enable the Government to continue to provide a sustainable incentive for consumers.

Lifetime Health Cover

Under current Lifetime Health Cover arrangements, people who take out hospital cover before 1 July after their 31st birthday and maintain their membership pay lower premiums relative to people who delay joining. Lifetime Health Cover is designed to encourage people to join hospital cover earlier in life and to maintain their membership. Thereby boosting and improving the risk profile of health insurance membership.

People who delay taking out hospital cover pay a financial loading of 2 per cent for every year they are over the age of 30, up to a maximum of 70 per cent, on the hospital portion of their premium.

Under existing arrangements, the Government pays a rebate as a percentage of the premium paid, which includes any applicable Lifetime Health Cover loading. If the Australian Government continued to subsidise a proportion of the Lifetime Health Cover loading the incentive to take out hospital cover is diminished.

Lifetime Health Cover is a key component in supporting community rating in private health insurance, keeping private health insurance affordable for all Australians, regardless of age, illness or potential health risk. Community rating means that insurers are not permitted to differentiate the premiums charged according to an individual's health risk characteristics. Community rating arrangements keep private health insurance affordable by keeping premiums lower for the aged and sufferers of illness who pay premiums lower than they would be if adjustments were made based on their health status. The principles underlying community rating are strongly supported by the Government on equity grounds and are considered a fundamental component of the Australian health system.

It is irrational to have a Lifetime Health Cover loading that encourages people to take out private health insurance at an earlier age and maintain it, and then have the Government pay a portion of this loading. This is also unfair to those taxpayers who do take out private health insurance earlier in life.

This Bill restricts the rebate to a percentage of the premium only, excluding any increase to the premium because of Lifetime Health Cover. The result of this is that the full amount of the Lifetime Health Cover loading is passed on to the policyholder, thereby improving the effectiveness of the Lifetime Health Cover incentive. This improves support for community rating.

These changes are equitable in that it ensures that all people who purchase hospital cover receive the same rebate relative to the premium paid, their age and income level.
Ceasing the Incentive Payments Scheme

The second component to the Bill is to cease, from 1 July 2013, claiming the rebate through a Department of Human Services Service Centre, otherwise known as the Incentive Payments Scheme. The Incentive Payments Scheme option is seldom used. Over 99.9 per cent of rebate claims are made via the Premium Reduction Scheme and tax offset claiming options. The Premium Reduction Scheme is the most popular method, providing the immediate benefit of an upfront premium discount to policyholders.

The Incentive Payments Scheme is the least used claiming option and requires claimants to pay the rebate amount to their health insurer before it can be claimed back from the Department of Human Services. Incentive Payments Scheme claiming is likely to further decline as the Department of Human Services Service Centres became 'cashless' with effect 1 July 2012, and people can no longer get their rebate as 'cash in hand' via the Incentive Payments Scheme. The evidence we have to date is that the use of the Incentive Payments Scheme has declined since 1 July 2012.

As these figures indicate, this amendment will not have a major impact on policyholders; rather it will encourage a more efficient way to claim the rebate. Ceasing the Incentive Payments Scheme claiming option is a simple and low cost option to reduce the administrative burden on insurers, the Department of Human Services and the Australian Taxation Office.

Minor consequential amendments are also made to the Income Tax Assessment Act 1997 and the Taxation Administration Act 1953 to remove references to the Incentive Payments Scheme.

PRIVATE HEALTH INSURANCE LEGISLATION AMENDMENT (BASE PREMIUM) BILL 2013

The Australian Government Rebate on private health insurance is a significant component of Government health expenditure. The objective of the Rebate is to encourage people to take out private health insurance by contributing an income tested Rebate to private health insurance premiums. Over recent years there has been substantial growth in private health insurance membership and therefore Rebate expenditure. This is despite the hysterical claims by those opposite that previous changes to the Private Health Insurance Rebate would cause over a million people to drop out of Private Health Insurance. One hundred and twenty thousand people have joined in the six months following means testing.

Private Health Insurance participation rates remain strong. The rate of new membership continues to outstrip population growth with 46.9 per cent of the population now holding hospital cover. As at December 2012, 54.6 per cent of the Australian population held some form of private health insurance.

The Private Health Insurance Legislation Amendment (Base Premium) Bill 2013 will amend the Private Health Insurance Act 2007 to index the Government's contribution to individual private health insurance policies – making the Rebate expenditure sustainable into the future and helping to reduce long term costs in health expenditure.

Background

This measure was announced by the Treasurer on 22 October 2012, as part of the 2012-13 Mid-Year Economic and Fiscal Outlook and was one of two reforms announced to the private health insurance Rebate. In his MYEFO announcement, the Treasurer stated that the 'Rebate currently costs around $5 billion a year and its growth rate of 6.3 per cent over the forwards is unsustainable'. As the Rebate is funded by the Commonwealth, it is appropriate for the Commonwealth to monitor and reassess its support in this area, ensuring that tax payer dollars are well spent.

Rebate

This Bill will create, for the purposes of the Rebate, a base premium for each individual health insurance policy which will be indexed annually by the lesser of the Consumer Price Index or the actual increase in premiums imposed by insurers. This will then be used to determine an individual's private health insurance rebate.

These changes will mean that while the Rebate percentage remains the same, the Rebate rate will
be calculated on the 'base premium'. A policy holder's percentage Rebate entitlement will continue to be dependent on their age and income.

The calculation of a weighted average ratio will be used to determine the base premium for product subgroups, and new insurers, that are made available after 1 April 2013. The weighted average ratio will be determined in consultation with industry and then detailed within the Private Health Insurance (Incentives) Rules prior to the Bill's commencement on 1 April 2014.

For premium changes, private health insurers will continue to be required to apply to the Minister for Health for approval under the Private Health Insurance Act 2007. This will permit the Government to consider an insurer's solvency requirements, forecast benefit payments and prudential requirements, while also ensuring the affordability and value of private health insurance as a product.

Summary

In summary, this Bill seeks to make the Government's Rebate expenditure sustainable by indexing the Government's contribution to individual private health insurance policies. The Government always needs to assess how we prioritise our spending. As a Government we will continue to make decisions that ensure our spending is directed to areas where it can do the most good. We feel this change is important as the rate of new private health insurance memberships continues to outstrip population growth and as such the Rebate will continue to grow at an unsustainable rate.

Debate adjourned.

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

**Competition and Consumer Amendment Bill 2013**

**Fair Work Amendment Bill 2013**

**Higher Education Support Amendment (Asian Century) Bill 2013**

**Tax Laws Amendment (2013 Measures No. 2) Bill 2013**

**First Reading**

Bills received from the House of Representatives.

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:20): These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:21): I table revised explanatory memoranda relating to the Fair Work Amendment Bill 2013 and the Tax Laws Amendment (2013 Measures No. 2) Bill 2013 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**COMPETITION AND CONSUMER AMENDMENT BILL 2013**

This Bill will amend the Competition and Consumer Act 2010 to enable regulations to be made to provide exemptions from the single
pricing requirements in the Australian Consumer Law.

The purpose of these amendments is to allow an exemption to be made for restaurant and cafe menu surcharges on specific days.

The Bill acts on a 2010 Productivity Commission recommendation to reduce the regulatory burden for small businesses in the restaurant sector.

Restaurants and cafes are an important part of the Australian economy. As submissions on the draft Bill noted, there are around 38,000 restaurants and cafes in Australia, generating more than $29 billion per annum. It is important that these businesses are not subject to any unnecessary regulatory burden.

The single pricing requirements in the Australian Consumer Law prohibit businesses from stating a price that is only part of the cost, unless they also prominently advertise the single price for the good or service.

The exemption will ensure that restaurants and cafes no longer need to provide a separate menu for days when they choose to apply a surcharge, such as on public holidays and weekends.

The Government is mindful of the need to ensure price transparency for consumers while also minimising compliance costs for small business.

The amendments will achieve a reduction in the regulatory burden for small business while still ensuring that consumers have protection and clarity when ordering from restaurant and cafe menus.

The positive impact of these amendments will be significant for small business and will enable many venues that are open on weekends and public holidays to continue to provide valuable service to consumers in major cities and regional areas.

I commend the Bill to the Senate.

FAIR WORK AMENDMENT BILL 2013

The Gillard Government is committed to ensuring productive, collaborative, innovative, profitable, safe and cooperative workplaces.

The Fair Work Act considers the context of productivity in its objectives.

The independent and expert Fair Work Act Review Panel found the Fair Work Act is operating as intended and in accordance with the objects of the legislation – which include productivity and economic growth.

The Panel confirmed that the Act does not negatively impact productivity growth. This conclusion is confirmed by the independent data provided by the ABS. In trend terms there has been growth in productivity in the last nine quarters.

Labour productivity in the market sector grew by 2.9 per cent in 2011-12, a significant improvement over labour productivity growth in the previous year and above the historical average of 2.2 per cent per annum since 1994-95.

While productivity estimates can be volatile, productivity growth in the last year has been fairly rapid in the context of a longer-term slowdown since the 1990s. Indeed, productivity growth under the Fair Work Act is around triple the rate than that experienced under the former Coalition Government's disastrous Work Choices.

This Government installed a legislative framework to improve productivity through a focus on protecting terms and conditions, through dialogue and negotiation at the workplace level.

Just as it would be wrong to suggest the Fair Work Act alone is solely or largely responsible for this productivity performance, it is clearly a fallacy to suggest that the Fair Work Act has been a drag on Australia's productivity performance.

Indeed the evidence on Australia's economic performance is compelling: there are more Australians in work than ever before and our jobs growth is at least twice as fast as any of the major advanced economies. Productivity is up, wages growth is steady and restrained and jobs are being created (some 460,000 jobs created since the Gillard Government was elected), economic growth is up, interest rates are down and inflation is down.

In addition, industrial disputation is down and is, on average, at one third the rate than under the previous Government. In the building and construction industry the rate is on average less
than one fifth the rate we saw under the Howard Government.

Productivity is not about cutting wages or entitlements. This Government does not support a workplace relations system that lets important protections be undermined through the false flag of a 'race to the bottom' brand of flexibility.

We understand that the drivers of productivity improvement at the enterprise level are stimulated by innovation and creativity. We understand that engagement at all levels of the enterprise needs to occur not just during bargaining for an agreement or contract once every three or four years, but on a day to day basis.

The Fair Work Act promotes this engagement. Engaged employees are productive employees.

This Bill:

- expressly confers on the Fair Work Commission the function of promoting cooperative and productive workplace relations and preventing disputes, reflecting Recommendation 1 from the Fair Work Act Review Panel;
- clarifies the Commission’s ability to conciliate, mediate, express opinions and make recommendations when conducting conferences; and
- makes clear that Members of the Fair Work Commission may be concurrently appointed to positions under Commonwealth or Territory laws by removing the requirement for such laws to provide for an office to be held by a Commission Member. This will ensure the expertise of Commission Members can be utilised outside the particular functions of the Commission.

In addition, the Bill provides the Fair Work Commission with power to arbitrate general protections dismissal disputes and unlawful termination disputes where both parties expressly consent to the Commission doing so. The measures proposed in the Bill are designed to provide an accessible, timely and cost effective alternative to applicants pursuing these matters in a Federal Court. The provisions include measures to deal with procedural matters relating to this new consent arbitration jurisdiction, including new measures to limit appeals and provide for costs orders in certain circumstances.

The Bill also clarifies that the time limit for making an unlawful termination application is 21 days, which is the same time limit applied to general protections dismissal and unfair dismissal applications.

The Gillard Government has also done more to support modern Australian families balance their work and life than any other Government before it.

We believe in a balanced framework that supports cooperative and productive workplace relations and promotes economic prosperity and social inclusion for all.

It was this Government that established a strong safety net comprising the National Employment Standards and modern awards, providing all employees in the federal system with clear, comprehensive and enforceable minimum terms and conditions of employment.

It was this Government that responded to the needs of carers and parents by providing employees with a right to request flexible work arrangements to help them in balancing their work and family life for the first time.

It was this Government that provided more flexible parental leave arrangements through the Fair Work Act, as well as paid parental leave and Dad and Partner Pay.

And that is why, as part of this Bill, the Government is seeking to ensure that work at hours which are not family friendly is fairly remunerated. This will be done by amending the modern awards objective to ensure that the Fair Work Commission, in carrying out its role, must take into account the need to provide additional remuneration for employees working outside normal hours, such as employees working overtime or on weekends.

The Government recognises that there are certain groups that require additional support to balance work and life, particularly those employees with special caring responsibilities.

The Fair Work Amendment Bill 2013 represents the Government's further response to the Fair Work Act Review recommendations, but
it also represents a number of key policy priorities of this Government.

The Bill includes new family friendly arrangements:
- further flexibility in relation to unpaid parental leave;
- the right for pregnant women to transfer to a safe job;
- an expanded right to request flexible working arrangements including for working parents, for workers with caring responsibilities, workers who are of mature age or who have a disability and those suffering family violence.

The proposed family friendly amendments will help parents balance their family and work commitments.

The Bill will increase the amount of concurrent unpaid parental leave that can be taken by new parents from three weeks to eight weeks. In addition, the new eight week period of concurrent leave will be able to be taken in separate blocks, of no less than two weeks, at any time during the first twelve months after the birth of the child.

At present concurrent leave can only be taken at the time of the birth or placement of a child. The changes will provide greater flexibility for parents in responding to the caring needs of their new child and better align with Dad and Partner Pay, which can be accessed at any time during the first twelve months after the birth of a child.

The Bill also includes two amendments aimed at ensuring the safety and wellbeing of pregnant employees.

The first of these will implement the independent Review Panel's recommendation that any unpaid special maternity leave taken by a pregnant employee should not reduce that employee's entitlement to unpaid parental leave.

Special maternity leave is provided for circumstances such as a woman suffering a pregnancy related illness. This amendment will ensure that the employee is not penalised when they are forced to take special maternity leave as a result of circumstances outside of her control. It will mean they retain their full entitlement to unpaid parental leave.

The second amendment is specifically aimed at protecting the safety of pregnant employees at the workplace. At present there is an express right in the Fair Work Act for a pregnant employee to transfer to a safe job where they can provide evidence that they cannot continue in their usual role due to an illness or risk arising from their pregnancy.

Currently, only workers who will have served 12 months' service at the expected date of the birth of their child, amongst other things, are entitled to this protection. The Government is proposing to ensure that employees who will have less than 12 months' service at the time of birth the right to transfer to a safe job. Where no safe job is available, the employee in this situation would be eligible for unpaid no safe job leave.

This Labor Government was the first Government to introduce a legislated right to request flexible working arrangements in 2009 to allow workers to care for a child under school age or a child under 18 years with a disability.

The independent Review Panel's report found that the right to request provisions are beneficial to both employees and employers, and a recent report from the Fair Work Commission's General Manager found that over 90 per cent of requests for flexible working arrangements were granted by employers.

The Review Panel recommended that the right be extended to a larger range of workers, including those with caring responsibilities.

This Bill implements that Recommendation by providing the right to request flexible working arrangements to:
- all employees with caring responsibilities;
- an employee who is a parent, or has responsibility for the care, of a child of school age or younger;
- employees who have a disability;
- employees aged 55 years and over;
- employees who are experiencing family violence;
- employees providing personal care, support and assistance to a member of their immediate family, or a member of their household, who
requires care or support because the individual is experiencing family violence; and

• an employee returning from parental leave having the explicit right to request part time work.

The Bill also includes new consultative requirements to recognise employees have family responsibilities outside of work that can be adversely affected when changes to employees’ rosters and regular working hours are proposed.

We all arrange our lives around work commitments, so when work rosters change at short notice there is an impact not just on our work life, but also our family life. The unilateral imposition of changed rosters and working hours can cause particular hardship for people who have family caring responsibilities.

The amendments will place an obligation on employers to provide employees with information about changes to their roster or hours of work and consult with employees on the impact any changes will have, including on the employees’ family and caring responsibilities.

Employers must then consider any views the employees have about how the change will impact them before implementing any changes.

The proposed approach will ensure that when decisions on rostering and working conditions are made, they involve a consideration of the needs of both employers and employees.

The dispute resolution mechanisms of relevant workplace instruments will continue to apply in relation to consultation obligations in awards and enterprise agreements, including these new consultation requirements.

In response to recommendations of the House of Representatives Standing Committee on Education and Employment inquiry into bullying the Bill introduces a long overdue remedy for victims being bullied at work to seek a timely recourse through the Fair Work Commission.

Bullying is a real menace in our workplaces that costs the economy as it damages productivity. Most tragically, it hurts people – sometimes with fatal consequences.

All Australian workers have a right to return safely home from work.

All Australian workers have a right to a safe and healthy workplace that is free from bullying and harassment.

Last year, the Government initiated a Parliamentary inquiry, Chaired by the Member for Kingston, into workplace bullying in response to community concerns about the impact of bullying across Australian workplaces and industries.

Over 300 individuals and organisations gave evidence to the Inquiry about the damaging, and in many cases, long-lasting effects of bullying.

The evidence to the Inquiry was overwhelmingly that the status quo was manifestly inadequate at protecting vulnerable workers.

For workers, bullying causes physical and psychological injuries, a loss of enjoyment and satisfaction from work and, in some cases, the loss of a job and future career opportunities.

For employers, workplace bullying reduces employee morale and productivity, increases absenteeism and staff turnover, increases workers’ compensation costs and results in a loss of business reputation.

On 12 February 2013, the Minister for Employment and Workplace Relations tabled the Government’s response to the report by the House of Representatives Standing Committee on Education and Employment - Workplace Bullying "We just want it to stop".

The Committee made 23 recommendations to eliminate and prevent bullying in the workplace and support workers and employers to respond more effectively to allegations of bullying.

One of the key issues highlighted by the Committee was the difficulty people face in trying to find a quick way to make the bullying stop so that they do not suffer further harm or injury.

The Committee recommended that the Government provide an individual right of recourse to provide a new and timely mechanism to help people resolve bullying matters quickly and inexpensively.

This Bill provides that a worker who has been bullied at work will be able to make an
application to the Fair Work Commission for assistance to resolve the bullying.

The Bill defines 'bullying' as repeated unreasonable behaviour directed towards a worker, or a group of workers of which the individual is a member, that creates a risk to health and safety.

Importantly, the Bill expressly states that reasonable management action conducted in a reasonable manner is not bullying.

To support the early resolution of matters, the Fair Work Commission will be required to commence to deal with a matter within 14 days of an application being made. This may include seeking further information from the parties, conducting a conference to try and resolve matter, or holding a hearing.

Where a worker has been bullied and the matter cannot be resolved between the parties, the Fair Work Commission will have the power to make an order to prevent bullying in the workplace in the future. While the Commission will be able to make a range of orders, this will not include being able to order compensation.

Breach of an order made by the Commission will attract a maximum penalty of 60 penalty units (or up to $10 200 for an individual or $51 000 for a body corporate).

This Bill is designed to complement, not replace, existing work health and safety obligations on employers and workers and the work done by work health and safety regulators.

This new individual right of recourse will encourage early intervention to stop the bullying, help people resume normal working relationships, and prevent further episodes of bullying in the workplace into the future.

These measures will commence on 1 January 2014.

The measures in this Bill are entirely consistent with the objective of the Fair Work Act to support cooperative and productive workplace relations.

They reflect this Government's respect for the principles of freedom of association, that people have a right to choose to belong or not to belong to a union and that the vast majority of trade unions and employer organisations are democratic and accountable to their members.

There are clear rules about when and how right of entry may be exercised in the Fair Work Act.

The Government's policy intention when setting those rules and introducing the amendments in this Bill is to balance the right of employers to go about their business without undue interference with the democratic right of employees to be represented in the workplace and to participate in discussions with their union at appropriate times.

In almost all cases entry to workplaces by permit holders involves no disruption to a business' operation. The Review Panel was however concerned that in some workplaces the frequency of visits by some unions was imposing a significant burden on employers in dealing with those visits.

It therefore recommended that the Fair Work Commission should have greater powers to deal with disputes about the frequency of right of entry visits to a workplace.

The Bill will implement that recommendation and give the Fair Work Commission the capacity to deal with disputes about the frequency of visits to hold discussions. The Fair Work Commission will be able to make any order it considers appropriate if satisfied that the frequency of visits by a permit holder or permit holders of the one union would require an unreasonable diversion of the occupier's critical resources.

The Bill will also address the problem identified by the Review Panel in relation to disputes over the location for interviews and discussions between right of entry permit holders and eligible employees. In the vast majority of cases permit holders and employers agree on a suitable location for such visits without conflict.
In some workplaces however, evidence presented to the Review Panel showed that some employers had dictated that rooms be used which would discourage or intimidate employees from meeting with the union.

Permit holders are permitted under the Act to hold discussions with workers during mealtimes and other breaks. It is reasonable that, in clarifying the rules about location, we provide for discussions to occur in the locations where workers ordinarily spend their breaks.

The Bill therefore clarifies that in instances where a reasonable location for discussions can't be agreed between the parties the discussions will be held in any room or area in which meal or other breaks are ordinarily taken by employees and is provided for that purpose.

Permit holders will continue to be required to comply with an occupier's reasonable request to take a particular route to reach the room or area where the discussions are to be held. The requirement that such a request by an employer will not be unreasonable only because it is not the route that the permit holder would have chosen is retained in this Bill.

The current conduct rules applying to permit holders, occupiers and employers in respect of right of entry will continue to apply unchanged.

The Fair Work Commission will maintain its powers to restrict the rights of an organisation or permit holder that has misused their entry rights.

The Government believes that all Australian workers, regardless of the location of their workplace, have a right to union representation and that unions should have fair access those workers they are entitled to represent. For this reason the Bill will introduce an obligation on an employer to facilitate access to travel and accommodation for permit holders to access certain remote locations where access can only occur by the employer assisting with transport or accommodation.

These new requirements will apply only where the parties cannot otherwise agree, where the premises are not reasonably accessible by transport other than that provided by the occupier of the premises or that the nature of the premises means the permit holder is required to stay overnight and no accommodation other than that provided by the occupier is reasonably available.

To ensure that the rights of employees and unions are balanced with the need of the employer to carry on their business without undue interference, this obligation will not apply if it would cause the occupier undue inconvenience. Furthermore, a permit holder or union must make a request for transport or accommodation in a reasonable period of time before that transport and/or accommodation is required.

Let me be clear - the access is to facilitate right of entry, not for 'helicopter joyrides'; this is not for employers to pay the cost of transportation. The Bill does not provide that the cost of transport and accommodation has to be paid by the employer facilitating access to the location.

What the Bill provides is that if an arrangement for accommodation or transport is made, the occupier may charge the union or permit holder that amount necessary to cover the cost of that transport and/or accommodation.

Lastly, the Bill makes a number of technical and clarifying amendments, including to amendments to the Fair Work (Registered Organisations) Amendment Act 2012 to specify the commencement of Part 2 of Schedule 1 of the ROA Act is 1 January 2014 (while ensuring that relevant disclosures for the period between 1 July 2013 and 31 December 2013 are still required), provide greater clarity and ensure consistency with the ROA Act amendments in respect of disclosure of remuneration, and make related consequential amendments to the ROA Act.

This Bill reflects the Government's commitment to improving the lives of Australian workers, whilst supporting business flexibility and profitability.

These modest, balanced and pragmatic enhancements to the Fair Work Act proposed in this Bill will further encourage productive, collaborative and clever workplaces.

It will also provide certainty for employers in key areas while ensuring that all workers, especially those with family and caring responsibilities, can effectively participate in the workforce and be represented at work.
This Bill implements several of the recommendations of the Fair Work Act Review and is the result of extensive consultation with both employer and employee stakeholders during the Review and since the Review report was published last year.

The Senate Committee reviewing the Bill upon its introduction into the House of Representatives has recommended the Bill be passed by the Senate.

I encourage all Senators to support this Bill.

**HIGHER EDUCATION SUPPORT AMENDMENT (ASIAN CENTURY) BILL 2013**

Asia’s transformation into the world’s most dynamic economic region is the defining development of our time. This transformation presents both opportunities and challenges for Australia. To be successful in the 21st century, the Asian Century, Australians will need to have the capabilities and connections to engage effectively with the region.

The Prime Minister released the Australia in the Asian Century White Paper on 28 October 2012, to serve as a roadmap for navigating the Asian Century.

The White Paper identified a need for a larger number of Australian university students to be studying overseas and for a greater proportion of them to be undertaking part of their degree in Asia.

The Bill addresses this need by amending the Higher Education Support Act (2003) to provide additional assistance through the OS-HELP scheme for university students who wish to undertake part of their study in Asia. The Bill also expands eligibility for OS-HELP to assist more students to undertake a wider variety of study-related activities.

OS-HELP provides low cost, student friendly loans to assist eligible students to pay expenses associated with undertaking overseas study as part of their higher education.

As Australian universities play a key role in administering the OS-HELP scheme, the Government has consulted with the sector to ensure that the amendments will maximise the support provided to those students who wish to take advantage of the many benefits that come from an overseas study experience in Asia.

The Government is committed to supporting Australian students to gain the Asia-literacy skills they, and Australian businesses, will need to take full advantage of the opportunities presented by the Asian Century. The best way for students to become Asia-literate is to experience Asia first hand.

A growing number of Australian students are undertaking overseas study. According to a 2011 survey, approximately 20,000 Australian university students were studying overseas, with around 7,000 studying in Asia. However, data shows that only one in eight OS-HELP loans is for study in Asia. The changes contained in this Bill will help Asia become the destination of choice for more students.

The Bill increases the maximum OS-HELP loan amount for students undertaking study in Asia to $7,500 in 2014, $1250 more than for other destinations. This funding will send a strong signal to students of the Government’s support for engagement with the region.

The Government understands that language can be a barrier to overseas travel for many students, particularly for those considering study in Asia. To help overcome this, the Bill introduces a new loan worth up to $1,000 for intensive Asian language training taken in preparation for study in Asia. This extra assistance will help students better prepare for their study in Asia, and also help them get the most out of it when they are there.

Work placements and international experience are increasingly being sought by both students and prospective employers. Expanded eligibility and flexibility for the OS-HELP scheme will help more students undertake a wider range of overseas study experiences, including in Asia.

Students accessing OS-HELP are currently required to be enrolled at an overseas campus of an Australian higher education provider or with an overseas higher education institution. This has largely restricted access to OS-HELP to students...
undertaking traditional, semester long exchanges with overseas universities. The Bill removes this requirement, so that students will be able to access OS-HELP for a wider range of study-related activities, including clinical placements and internships.

Eligibility for OS-HELP is also being extended to postgraduate students. This will assist the growing number of students who undertake professional entry courses at postgraduate level, such as in education, allied health, architecture and engineering, to include an overseas study experience in their course.

The Bill reduces the amount of study a student must have remaining upon completion of their overseas study from 0.5 Equivalent Full Time Student Load (EFTSL) to 0.125 EFTSL, which is generally the equivalent of one unit of study. This will particularly improve access to OS-HELP for students following a non-traditional study pattern, including many postgraduate students, part-time students, and students undertaking shorter work placements outside of standard semesters.

These initiatives will support more Australian university students, across all disciplines, to develop Asian literacy skills by experiencing Asia first hand. The skills and relationships developed during these experiences will be invaluable to the students and will help Australia take full advantage of the possibilities available in the Asian Century.

TAX LAWS AMENDMENT (2013 MEASURES NO. 2) BILL 2013

This Bill amends various taxation laws to implement a range of improvements to Australia's tax system.

Schedule 1 amends the tax laws to require large entities in the Pay As You Go instalment system to make their instalments monthly, instead of quarterly.

This change does not increase the tax liabilities of an entity, merely the frequency with which instalment amounts must be remitted to the Australian Taxation Office.

These reforms will make Australia's tax system more responsive, efficient and consistent by better matching tax collections with the economic conditions faced by traders.

It is the next step in the process to reform the timing of businesses' tax payments that began in the 1980s.

Tax entities will migrate to the new system in four stages. Corporate tax entities with a turnover threshold of more than $1 billion will move to monthly instalments from 1 January 2014 and corporate tax entities with a turnover of more than $100 million will make the transition from 1 January 2015.

Corporate tax entities with a turnover of $20 million, and all other tax entities with a turnover of $1 billion, will move from 1 January 2016.

In the final stage, all other entities in the Pay As You Go regime with a turnover of more than $20 million will move to monthly instalments from 1 January 2017.

The turnover test will apply to the current measure of income for Pay As You Go instalments: base assessment instalment income.

To ensure that comparable entities receive the same treatment, entities in the taxation of financial arrangements regime will use an adjusted base assessment instalment income calculation. It will be based on their gross TOFA income, rather than their net TOFA income.

Entities that do not report GST monthly will not be required to migrate to the monthly Pay As You Go system, unless they have turnover above $100 million or are the head company of a consolidated group.

This reflects our aim of aligning large entities' Pay As You Go instalments with their GST reporting cycle.

To further reduce compliance costs, the Commissioner of Taxation will have the power to develop alternative methods of calculating instalment income.

The Government will continue to work with the business community to identify options to simplify the Pay As You Go instalment regime and reduce compliance costs.

Schedule 2 amends various taxation laws and the Infrastructure Australia Act 2008 to introduce
a tax loss incentive for designated infrastructure projects.

This measure will encourage private sector investment in nationally significant infrastructure such as roads, rail and ports.

It will do this by preserving the value of infrastructure project losses over time and exempting these losses from utilisation tests that normally apply.

Infrastructure Australia will play a critical role in designating infrastructure projects that will benefit from this new measure.

Examples of projects that could benefit include the transformational Brisbane Cross River Rail, Sydney Motorways and Melbourne Metro projects.

I note that the Government announced significant contributions to both of these projects in this year’s Budget, and this measure will help attract private sector support.

This is another Labor Government initiative which builds on our impressive infrastructure record.

Already, we’ve allocated more than $60 billion for nation building infrastructure, and delivered major reforms to the way the nation plans, finances and builds infrastructure.

Schedules 3 and 4 were removed by House Amendment.

Schedule 5 amends the Taxation Administration Act 1953 to increase the transparency of Australia’s business tax system.

There is growing concern — in Australia and globally — that many of the key rules of international taxation may not have kept pace with the evolution of the global economy.

The apparent ease with which some large corporate entities can shift taxable profits and erode a country’s tax base is a shared concern for this Government, the G20 and most OECD countries.

Policy makers and the Australian public should have more transparency around the levels of tax being paid by large and multinational businesses in Australia to allow for an informed debate about the efficiency and equity of our tax system.

This is particularly the case when there are increasing demands for the Government to provide evidence about the challenges that base erosion and profit shifting present to the sustainability of our corporate tax system.

By increasing the transparency of our business tax system, the Government will ensure that the public is well informed about the contributions made by large corporations. This is also intended to discourage aggressive tax minimisation practices by large and multinational businesses.

The amendments in this schedule impose a duty on the Commissioner of Taxation to publish certain information obtained from the tax returns of corporate tax entities that have an annual total income of $100 million or more.

The Commissioner will have a separate duty to publish the amount of an entity’s Minerals Resource Rent Tax or Petroleum Resource Rent Tax (PRRT) payable as reported by the entity, regardless of its total income.

Schedule 5 also allows for the publication of periodic aggregate tax collection information irrespective of whether the number of corporate entities paying a particular tax may be small.

In addition, Schedule 5 enhances information sharing between Government agencies in relation to decisions under the Foreign Acquisitions and Takeovers Act 1975 and Australia’s Foreign Investment Policy.

Schedule 6 amends the Petroleum Resource Rent Tax Assessment Act 1987 to provide certainty to industry following the Full Federal Court’s decision in Esso Australia Resources Pty Ltd v Commissioner of Taxation.

The amendments ensure that PRRT taxpayers are able to deduct legitimate expenditures, consistent with the policy intent of the PRRT regime.

These amendments will:

• ensure the capacity for taxpayers to apportion expenditure consistent with the PRRT’s policy intent;

• allow PRRT taxpayers to deduct expenditure incurred under contracts for project services or operations where the taxpayer is unrelated to
the contractor, consistent with past administration; but

- preserve the requirement to look through contract arrangements where the contractor is a commercially or operationally related entity.

These amendments ensure that the PRRT continues to operate as a profits-based tax.

Schedule 7 exempts from income tax payments made to individuals under the Defence Abuse Reparation Scheme.

The Government's intent is to recognise, by way of a reparation payment, persons who have made plausible allegations of being subjected to sexual or other forms of abuse in Defence. This recognises the fact that abuse in Defence is unacceptable and wrong.

Exempting these payments from tax will ensure that recipients will receive the full benefit of the payments. The income tax exemption will also ensure that the reparation payment does not reduce peoples' social security payments, such as parental leave, family assistance and child support payments.

Exempting these payments also ensures consistency with the approach taken by the Government in relation to the Deseal/Reseal Payment Scheme in 2006.

Schedule 8 amends the Income Tax Assessment Act 1997 to remove eligibility for the 50 per cent discount on capital gains accrued after 8 May 2012 by foreign and temporary resident individuals on taxable Australian property, such as real estate and mining assets.

The discount is not necessary to attract investment from foreign and temporary resident individuals into these assets, which are immobile. Removal of the discount is consistent with the findings of Australia's Future Tax System review on the taxation of immobile capital.

Foreign resident individuals will still be entitled to a 50 per cent discount on discount capital gains accrued prior to 8 May 2012 (after offsetting any capital losses), provided they choose to value the asset as at that time.

Schedule 9 amends the GST law to establish the framework for making certain services and other things supplied to a participant as part of the National Disability Insurance Scheme under the National Disability Insurance Scheme Act 2013 GST-free.

The amendment will provide certainty for providers of services to National Disability Insurance Scheme participants by allowing the Disability Services Minister to make a determination specifying certain supplies to be GST-free when they are included in the participant's National Disability Insurance Scheme plan, allowing for flexibility as circumstances change.

These amendments will apply in relation to supplies made on or after the commencement of section 37 of the National Disability Insurance Scheme Act 2013, subject to State and Territory agreement to the making of the necessary determination.

Schedule 10 amends the list of deductible gift recipients identified by name in Division 30 of the Income Tax Assessment Act 1997. Donations made to organisations with deductible gift recipient status are income tax deductible to the donor and therefore deductible gift recipient status will assist the listed organisations in attracting public support for their activities.

This Schedule adds five new organisations to the Act, namely, Aurora Education Foundation Limited, United Way Australia, Australian Neighbourhood Houses & Centres Association (ANHCA) Inc., The Australia Foundation in support of Human Rights Watch Limited and Layne Beachley — Aim for the Stars Foundation Limited, and extends the time period for listing of The Charlie Perkins Scholarship Trust, the Roberta Sykes Indigenous Education Foundation and Social Traders Ltd.

Finally, Schedule 11 to this Bill makes a number of miscellaneous amendments to the taxation and superannuation laws. The Government often progresses miscellaneous amendments schedules, such as this, to give effect to its long-standing commitment to the care and maintenance of the taxation and superannuation systems.

Full details of the measures in this Bill are contained in the explanatory memorandum.

Debate adjourned.
Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:22): I move:

That the bills be listed on the Notice Paper as separate orders of the day.

Question agreed to.

Referendum (Machinery Provisions) Amendment Bill 2013
Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012
Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No. 2) Bill 2013
DisabilityCare Australia Fund Bill 2013
Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013
Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013
Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013
Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013
Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013
Medicare Levy Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013
Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013
Aviation Transport Security Amendment (Inbound Cargo Security Enhancement) Bill 2013
Broadcasting Legislation Amendment (Digital Dividend) Bill 2013
Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Bill 2013
Financial Framework Legislation Amendment Bill (No. 2) 2013
Foreign Affairs Portfolio Miscellaneous Measures Bill 2013
Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013
Assent

Messages from the Governor-General and the Administrator were reported informing the Senate that they had assented to the bills.
Monday, 17 June 2013

COMMITTEES

Education, Employment and Workplace Relations References Committee

Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (18:23): I present the report of the Education, Employment and Workplace Relations References Committee on the entitlements of state public sector employees, together with the Hansard record of proceedings, minutes of proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator BACK: by leave—I move:

That the Senate take note of the report.

This is the report of the Senate Education, Employment and Workplace Relations References Committee inquiry into employment conditions of state public sector employees and the adequacy of the protection of their rights at work as compared with other employees. I make the point that state governments have primary responsibility for the bargaining and working conditions of state public sector employees. There are significant constitutional limitations on the Commonwealth's ability to influence these conditions which serve to maintain the capacity of states to function as independent members of our federation. The committee believes these limitations are appropriate and that the authority of the states in these matters cannot and indeed should not be undermined. The committee acknowledges that changes to public sector employment can be difficult, especially when they involve voluntary redundancies for some employees. Nonetheless, the committee understands the need for state governments to take action when such reforms are necessary to ensure the continued viability of the state public sector, to create flexible service delivery and to balance state budgets. The committee's report has drawn upon some 39 submissions received. On behalf of the committee, I thank those individuals and organisations who made submissions. I also thank my colleagues and the secretariat who assisted.

Question agreed to.

Community Affairs Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Community Affairs Legislation Committee, I present the report of the Community Affairs Legislation Committee on the provisions of the Therapeutic Goods Amendment (2013 Measures No. 1) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Community Affairs Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Community Affairs Legislation Committee, I present the report of the Community Affairs Legislation Committee on the provisions of the Private Health Insurance Legislation Amendment (Base Premium) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Finance and Public Administration Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25):
On behalf of the chair of the Finance and Public Administration Legislation Committee, I present the report of the Finance and Public Administration Legislation Committee on the provisions of the Therapeutic Goods Amendment (Pharmaceutical Transparency) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Foreign Affairs, Defence and Trade Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Foreign Affairs, Defence and Trade Legislation Committee, I present the report of the Foreign Affairs, Defence and Trade Legislation Committee on the provisions of the Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Foreign Affairs, Defence and Trade Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Foreign Affairs, Defence and Trade Legislation Committee, I present the report of the Foreign Affairs, Defence and Trade Legislation Committee on the provisions of the Export Market Development Grants Amendment Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Economics Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Economics Legislation Committee, I present the report of the Economics Legislation Committee on the provisions of the Tax Laws Amendment (2013 Measures No. 2) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Education, Employment and Workplace Relations Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Education, Employment and Workplace Relations Legislation Committee, I present the report of the Education, Employment and Workplace Relations Legislation Committee on the provisions of the Social Security Amendment (Supporting More Australians into Work) Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Education, Employment and Workplace Relations Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:25): On behalf of the chair of the Education, Employment and Workplace Relations Legislation Committee, I present the report of the Education, Employment and Workplace Relations Legislation Committee on the provisions of the Early Years Quality Fund Special Account Bill 2013, together
with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Legal and Constitutional Affairs
References Committee**

**Report**

Senator WRIGHT (South Australia) (18:27): I present the report of the Legal and Constitutional Affairs References Committee on court fees, together with the *Hansard* record of proceedings, minutes of proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator WRIGHT: by leave—I move:

That the Senate take note of the report

I am pleased to speak about the findings of the Legal and Constitutional Affairs References Committee inquiry into court fees, both as the initiator of the inquiry, as the legal affairs spokesperson for the Australian Greens, and as the chair of the committee. The Senate referred this matter to the committee on 27 February this year. In moving for the inquiry, I was responding to serious concerns I had heard from a number of individuals and organisations in the Australian legal community who were fearful that increases in Federal Court fees in 2010 and further significant increases in 2013 were creating a barrier to justice.

Access to justice is the cornerstone of a fair society. We must properly fund and resource our legal infrastructure so it is available for all Australians, according to the merit of their claim and the need for the resolution of disputes they may have and not according to the size of their wallet. We currently see a crisis in our legal system which is increasingly threatening this important aspect of our rule of law in Australia. We have had report after report that ordinary Australians, both those who are disadvantaged and indeed middle-income Australians, are being priced out of the court system because they cannot afford legal representation and court fees. Recent reports indicate that half of all adult Australians will face a legal issue this year and approximately 500,000 Australians will miss out on essential legal services every year. We know that community legal centres and legal aid commissions are struggling to meet demand, that waiting lists are increasing and that approximately 24 cent of people who sought assistance from these institutions in 2010 and 2011, for instance, were turned away. We also know, from the Legal Australia-Wide Survey, the LAW Survey, that cost is the most common barrier to people seeking legal help.

It was against this backdrop and the documented social ills that arise from unresolved legal issues—poor health, homelessness, financial troubles, poor mental health, unemployment and lost productivity—that I heeded the voices of legal stakeholders such as the Law Council of Australia, various community legal centres and even the outgoing Chief Justice of the Federal Court, Chief Justice Patrick Keane, who were raising concerns about the degree to which the federal government's Federal Court fee increases were exacerbating the situation.

**Sitting suspended from 18:30 to 19:30**

Senator WRIGHT: This inquiry was therefore an opportunity to scrutinise what have been significant increases in Federal Court fees, to look at the rationale behind them, the effect they have had and what the moneys raised through the increases have been used for. The committee received 32 public submissions and held a public hearing on 17 May this year in Canberra.

Before I proceed to discuss the report further, I note that as chair I seek to work as
collaboratively as possible and look to achieve agreement or consensus where possible. However, in this case, in weighing up the evidence received by the committee, I came up with a series of conclusions and recommendations which were not accepted by the government or opposition senators. So I have presented, separate from the report of the majority, my views and recommendations in my chairperson's report.

There is no doubt that Federal Court fees have undergone significant increases since 2010. In fact the increases both in 2010 and from 1 January this year, 2013, were unprecedented. The committee heard evidence from legal professional peak bodies, legal academics and representatives of legal assistance providers who have practical experience with clients at the coalface. The overwhelming consensus was that the recent fee increases were largely unreasonable and have inhibited access to justice. They have contributed to a bifurcated system of haves and have-nots and they have unduly impacted on individuals—particularly on the disadvantaged but also on middle-income Australians. As a result, my primary recommendation is that the 2013 fee increases should be wound back to the level which prevailed prior to 1 January 2013.

The committee also heard evidence of poor policy development and rationale for the increases. The fees were increased without any meaningful consultation with legal professionals or other relevant stakeholders. As a result, one of my recommendations is that there should be serious and systematic consultation with significant legal stakeholders and members of the legal profession before increases of this nature are undertaken in the future.

On the issue of the adequacy of consultation with relevant stakeholder groups, the committee heard evidence from submitters and witnesses that these increases were implemented without any meaningful consultation. It is my view that it is entirely inappropriate for government to introduce significant changes to court fee structures, which have effects on litigants and members of the community, without adequate consultation. My recommendation therefore is that any future changes to Federal Court fee settings be developed in close consultation with relevant stakeholders from the courts and the legal profession.

On the issue of cost recovery, the Attorney-General's Department informed the committee that a primary determinant underpinning the fee increases was an increase in the level of cost recovery. As a matter of principle, it is my view that the Federal Court should not be operated on a cost-recovery or user-pays basis and that access to the courts is a fundamental tenet of the rule of law and should not be determined by an individual's level of wealth.

The Attorney-General's Department also talked about the concept of price signalling and suggested that price signals were being used to direct litigants towards alternative dispute resolution and away from the courts and to deter unmeritorious litigants. Alternative dispute resolution is a fine thing and very appropriate in many situations, but it should always be undertaken on a voluntary basis. There should be no compulsion on people to settle because they cannot afford any other means of redress. Similarly, while deterring unmeritorious litigants is a worthy aim in itself, using cost and price to do it is a blunt instrument. The risk is that you will deter meritorious litigants just as much as you will deter those whose litigation may be vexatious or lacking merit.

Finally, I would like to discuss a particularly harsh aspect of the court fee
increases which came to light through the evidence before the committee—that is, the cost of a divorce application. Together with abolishing any fee exemptions for divorce applications, the lowest amount to be paid by a person seeking to file for divorce was increased from $60—or from no cost at all in any case where a fee exemption applied—to $245, a 400 per cent increase. The committee heard evidence that this has had exceptionally harsh consequences for some low-income Australians, $245 representing about a week's income for someone living on Newstart. It has had a particularly harsh impact on women trying to leave domestic violence situations—women who need separation and the closure of relationships. The recommendation I have made is that a fee exemption be available for an application for divorce as for other family law matters. There was no rationale provided explaining why there was no fee exemption available in these circumstances.

A particular example which springs to mind about the harshness of this provision concerns a refugee. Her husband had been missing overseas for some years and is believed dead. She entered into a new relationship. She was unable to afford the divorce—she had no ability to save the money to file for divorce—she needed before having a child with her new partner. Culturally, that was very difficult for her. As I said, I have made a recommendation that a fee exemption be available for divorce applications as with other applications.

I would like to thank those who made submissions and those who gave evidence to the inquiry. I would particularly like to thank the secretariat of the Senate Legal and Constitutional Affairs References Committee for their hard work as usual and, in this case, a great deal of patience in the face of two extensions and quite a lot of work and consideration to come up, ultimately, with the majority report and my own chair's report as a result of this inquiry. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Legislation Committee

Report


Ordered that the report be printed.

BILLS

Environment Protection and Biodiversity Conservation Amendment Bill 2013

In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Furner) (19:38): The committee is considering Australian Greens amendment (1) on sheet 7377, moved by Senator Ludlam. The question is:

That the amendment be agreed to.

Senator BIRMINGHAM (South Australia) (19:38): I have a question about the impact of the amendment moved and whether it is in fact necessary. Does the government believe the existing definition of 'coal seam gas development' in the legislation does or could include shale gas extraction in any way? Obviously, the purpose of the amendment moved by the Greens is specifically to include shale gas extraction. However, I am wondering if the government has sought any advice or
undertaken any consideration as to whether its existing definitions could in fact already encompass shale gas extraction.

Senator McLUCAS (Queensland—Minister for Human Services) (19:40): I am advised that the definition in the act is quite explicit; it does not cover shale gas but is quite clear about what coal seam gas is.

Senator BIRMINGHAM (South Australia) (19:40): The definition in the act as it stands states:

coal seam gas development means any activity involving coal seam gas extraction that has, or is likely to have, a significant impact on water resources …

So it does not actually define 'coal seam gas extraction' per se—unless you are able to point me to another provision in the act that does specifically define 'coal seam gas extraction'. Whilst, in industry parlance, it is probably widely accepted that coal seam gas is one thing and shale gas extraction is another, I am wondering if the government's interpretation of that definition, which largely defines 'coal seam gas development' as an activity involving coal seam gas extraction, could in any way include shale gas extraction.

The TEMPORARY CHAIRMAN: The question is that Australian Greens amendment (1) on sheet 7377 be agreed to.

The committee divided. [19:46]

(The Temporary Chairman—Senator Furner)

Ayes....................10
Noes.......................25
Majority.................15

AYES

Biley, CL
Cameron, DN
Colbeck, R
Crossin, P
Faulkner, J
Hogg, JJ
Marshall, GM
Moore, CM
Pratt, LC
Singh, LM
Smith, D
Thorp, LE
Williams, JR

NOES

Bilyk, CL
Carr, KJ
Collins, JMA
Edwards, S
Furner, ML
Lines, S
McLucas, J
Polley, H (teller)
Ruston, A
Sinodinos, A
Stephens, U
Urquhart, AE

Question negatived.

Senator BIRMINGHAM (South Australia) (19:48): I move opposition amendment (1) on sheet 7397:

(1) Schedule 1, item 1, page 3 (line 15), omit "involves", substitute "is a".

This is a relatively simple definitional amendment which is fairly minor and specific in its nature. To put this amendment in some context for the chamber, the proposed section 24D(2)(a) reads:

(2) A person must not take an action if:

(a) the action involves:

(i) coal seam gas development; or
(ii) large coal mining development; and

It then goes on to the other attributes of it being in Australia and having an impact on water et cetera. The coalition's concern with respect to the current wording of this amendment is that 'involves' is a relatively broad term in that obviously actions that may occur on a site which has a pre-existing coal seam gas development or pre-existing large coal mining development may involve as such those developments because they are within proximity on the site or otherwise but in reality those actions may not be related to those developments per se or at least those pre-existing coal seam gas or large coal mining developments may already have
been subjected to all of these approvals processes. The coalition contends that it would be better if the bill and ultimately the act read that a person must not take action if the action is a coal seam gas development or large coalmining development and all of the other existing provisions within this section.

This is relatively minor but fairly technical. We would argue it does not change in any way the intent of the proposed amendments to the EPBC Act. In no way does it undermine the coverage of these provisions of coal seam gas developments or large coalmining developments. All it does is ensure that we minimise the potential, remove the potential with respect to this subsection, for there to be any unintended consequences as a result of this going through. We would hate to see a situation, having flagged concerns about the use of the word 'involves' rather than something more definite, that later down the track we saw projects and proposals captured as controlled actions under the EPBC Act that really did not deserve to be so captured given the intent of what we are debating and proposing here tonight.

I would hope that not just the crossbenchers but also the government would see that this is a simple, straightforward, technical amendment that removes and eliminates any potential doubt for there to be any unintended consequences from the legislation. It simply provides a more clear-cut definition and is something that I would hope all sides of the chamber would be willing to support.

Senator McLUCAS (Queensland—Minister for Human Services) (19:52): The government does not support the proposed amendments. The proposed amendments would limit the bill to activity which is a coal seam gas or large coalmining development rather than activity which involves such developments. It is intentionally drafted in that way. The amendments as proposed by the opposition would, potentially, create confusion around which activities are or are not covered by the bill.

Coal seam gas and large coalmining developments typically are large and complex, involving infrastructure such as access tracks, pipelines, dams, drilling and excavation. A thorough environmental assessment would consider the impacts of these large projects as a whole. So it is intentionally drafted in this way. The proposed amendment from the opposition, I contend, is not minor or technical. It would actually add confusion of its own, because what we are proposing is that an assessment of the large projects that we are talking about would be done as a whole rather than an isolated element of a large coal development or a coal seam gas project. So, intentionally, the government has drafted these amendments to the act so that the totality of the project will be considered for its potential environmental impact.

Senator BIRMINGHAM (South Australia) (19:54): I thank the minister for the explanation. The explanation adds another layer of concern, however, to my way of thinking in this matter, and that is that the capacity of the government to assess projects through this legislation is unique when it comes to this new subdivision, subdivision FB, that is being inserted into the EPBC Act, because it is a subdivision that requires assessment of matters of national environmental significance that do not have to be assessed for any other types of development. So, Minister, though you said that the government would not want to see a situation where there had to be specific assessment of a coal seam gas development or a large coalmining development—you would rather see assessment of the totality of those developments—it does mean that the
aspects of those developments that are unrelated, or are not, at least, a coal seam gas development or a large coalmining development, will have to clear hurdles that they would not have to clear were they not associated with a coal seam gas development or large coalmining development. If you were building a new port, for example, as part of the project, that new port would be subjected—and I am sure the officials will correct me if I am wrong—to these provisions about the significant impact on the water resource or the likelihood of a significant impact on the water resource, whereas if you were simply to make application to the government for approval to build that new port, in an application that did not involve a coal seam gas development or a large coalmining development, then it would not have to clear those particular hurdles around its impact on water resources.

So the risk and the concern here are that it sets up basically two different approval processes for potentially the same type of infrastructure or activity: that if you were building a port, a railway line or anything else for that matter—it could even be a tourist facility on the same site as a coalmine for some reason—it would have to clear the new water-trigger provisions, but if you were building that exact same proposal, without it being in any way close to a coal seam gas development or a large coalmining development, it would not have to clear the water-trigger conditions. So we will be setting up in this legislation essentially a two-tier system.

It is one thing for the government, by proposing, in passing this legislation, to subject coal seam gas developments and large coalmining developments to a different standard than it is subjecting all other economic activity or development proposals to, but it is something quite different for the government to say, 'And anything else that might be associated with that coal seam gas development and that large coalmining development will also be subjected to the higher standard, notwithstanding the fact that the same type of activities undertaken separate from a coal seam gas development or large coalmining development would in fact not face the same level of scrutiny.'

That two-tier approach—that discrimination, as such, against associated activities that requires them to clear a higher hurdle of environmental assessment than would otherwise be the case—is of particular concern and would be fixed by having the coalition's amendment. Yes, that may require there to be distinct assessment processes, in that if a project is a coal seam gas development then it would have to be assessed using the water-trigger tests under the EPBC Act and, separate to that, if it were a port or a rail line or anything else then it would be assessed like any other port or any other rail line under the remaining provisions of the EPBC Act.

I am sure that there are ways to ensure that the regulatory burden of that are minimised and in fact would be minimised, by virtue of the fact that you are not applying additional environmental conditions to those supplementary activities that might be undertaken in addition to the coal seam gas or large coalmine developments. So, Minister, I hope that you understand the point that I am making there, and if the government has some comfort in that regard I would welcome it, but otherwise I do think that there is an issue here: that we are setting up a situation where some actions of a development will face tougher environmental laws than would be the case were they not to be associated with a coal seam gas or large coalmining development.

Senator McLUCAS (Queensland—Minister for Human Services) (19:59):
hope I can provide the senator with some clarity. What we need to be clear about is that the other activities that are involved in a coal seam gas project or a large coalmining development would be captured if they have an impact on the water resource. So, a port, which may be the point where coal is exported, would be assessed in a different way. But, if the activity has an impact on the water resource and if it is related to a coal seam gas project or large coalmining development, it needs to be assessed as a whole, so that all of those impacts that may impact on the water resource—or if they are related to a coal seam gas development or a large coal development—need to, by their very nature, be captured so that they are included. But that is the definitional umbrella, if I can say that. So the point you are trying to make is that everyone would be included only if there is a potential impact on the water resource and they are related to a coal seam gas or large coal development proposal.

Senator BIRMINGHAM (South Australia) (20:01): I thank the minister for the answer. With that in mind, I wonder if the minister would be able to provide an example of the type of activity that may have an impact on the water resource, which would be captured by the definition as it currently stands, but is not a coal seam gas development or large coalmining development.

Senator McLucas (Queensland—Minister for Human Services) (20:01): In my first explanation of why we were not going to support your proposed amendment, I did indicate that coal seam gas and large coalmining developments typically are large and complex. They involve infrastructure such as pipelines, dams, drilling and excavation. Some of those activities may impact on the water resource, and that is the purpose of the amendments as we are proposing them.

Senator BIRMINGHAM (South Australia) (20:02): I, at least, understand where the minister is coming from. Hopefully, the Hansard record will provide some comfort to those concerned about the scope of this amendment. To my thinking, a dam for the storage of water extracted as part of a coal seam gas development is part of that coal seam gas development. But, if the government is saying that—for the sake of its certainty—it needs to have wording of this nature, such that those dams would be captured, that is obviously the advice the government is operating on. I struggle to see a situation where a dam, which you pump water extracted from a coal seam gas mine into, is not part of your development. Logically—in any way, shape or form—it is. I would still have some concerns that there is a potential for some unintended consequences here. But I note the assurances the minister has given and I hope those assurances prove to be accurate.

The committee divided. [20:07]

(The Chairman—Senator Parry)

Ayes ...................... 28
Noes ...................... 34
Majority ............... 6

AYES

Bernardi, C
Boyce, SK
Cash, MC
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D

Birmingham, SJ
Bushby, DC (teller)
Colbeck, R
Fawcett, DJ
Fifield, MP
Humphries, G
Kroger, H
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR
Question negatived.

Senator BIRMINGHAM (South Australia) (20:10): I move opposition amendment (2) on sheet 7397:

(2) Schedule 1, item 1, page 7 (after line 17), after section 24E, insert:

24F Independent review

(1) The Minister must cause an independent review to be undertaken by a person or body of:

(a) the operation of Subdivision FB of Division 1 of Part 3 of the Act; and

(b) the extent to which that Subdivision has contributed to achieving the objects of the Act.

(2) The first review must be undertaken within 4 years of the date that the Environment Protection and Biodiversity Conservation Amendment Act 2013 receives the Royal Assent. Subsequent reviews must be undertaken at intervals of not more than 4 years after the date that the previous independent review is tabled in each House of the Parliament.

(3) The person or body undertaking the independent review must take into account any submissions of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development.

(4) The person or body undertaking a review must give a report of the review to the Minister.

(5) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives it.

This amendment inserts a new section 24F, and provides for an independent review of the new overall subdivision FB of division 1 of part 3 of the act. This is not an unusual type of amendment to move through these debates. It is not an unusual insertion in legislation, because it is quite common for the parliament to want to ensure that, after a reasonable period of time of operation of a piece of legislation, there is a proper and open review process put in place. That is precisely what this opposition amendment seeks to do. This amendment, if agreed to, would cause the minister to have an independent review undertaken of the new subdivision FB of division 1 of part 3 of the act, the water trigger for coal seam gas and large coal developments, and the extent to which that subdivision has contributed to achieving the objects of the act. It would require the review to be undertaken within four years from the date of royal assent, so it would give at least, one would think, three years or so of operation of the act for people to see how it is working and for it to be properly assessed. It would also require that there be subsequent reviews from thereon in.

Importantly, I highlight at this point—not just to the government but especially to those on the crossbenches—part 3 of the amendment, which provides that the person or body undertaking the independent review must take into account any submissions of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development. I highlight that point specifically because I want to make clear that this proposal for a review is not in any way, shape or form a proposal to undermine the operation of this bill; it could not do so because it does not in any substantive way
change the assessments process of the bill. In fact, it seeks to establish a review mechanism that is inherently fair and inherently expert-based, forcing the consideration of the views of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development, which was established by legislation supported by all parties in this place and plays a very important role in providing expert advice to government. The committee would play an important role in the operation of this new water trigger in the EPBC Act, and would be exceptionally well placed to advise and inform a review into the operation of this new water trigger. The review would of course have to be given to the minister, and would be laid before the parliament so as to ensure that it became public.

The coalition believes that this is a very sensible thing to insert into this part of the EPBC Act. This is, as I have highlighted previously, an unprecedented step in terms of the evolution of the EPBC Act: not only to insert a new trigger, a new area of national environmental significance, but a trigger that is specific to only certain industry sectors. And so, having taken an unprecedented step in terms of the evolution of EPBC Act, we think that it is a wise and sensible precaution to ensure that we have a review mechanism built into the provisions of the act, and a review mechanism that is transparent for all to see and agreed to by the parliament. In my time in the Senate I have seen such reviews frequently proposed by Senator Xenophon, the Australian Greens, and other crossbenchers current and past. It is a very common thing. We all know that reviews can be dutifully ignored by the government of the day and the parliament of the day or anybody else and in fact that is what the government has done with the Hawke review—which was the substantive review into the total operation of the EPBC Act. That was a very significant body of work. It recommended that there be amendments made to the act. It recommended that the government make greater use of the bilateral powers that the act gives. The government warmly embraced that at the start of last year and then hurriedly abandoned it at the end of the year in a complete about-face to its adoption of those recommendations of the Hawke review.

Notably the Hawke review did canvass the consideration of additional triggers to be put into the EPBC Act, but it did not canvass the need for an additional water trigger. So, the additional triggers that might have been considered have been ignored by the government, but a new trigger to the EPBC Act—the water trigger that was not canvassed by the Hawke review—has now been inserted into the act. I am the first to acknowledge that reviews are not a complete safety valve to ensure governments act on them, but they do at least expose the processes to which legislation is adhering, how it is working and how it is impacting on industry. To further support the argument for having a review mechanism put in place, I would again highlight the fact that the government has not applied a regulatory impact statement in relation to this legislation. When Senator Conroy was in the chair earlier and was being asked questions about the impact on industry he was unable to state clearly whether or not there was any impact on industry, because, of course, the government has not done what is meant to be a mandatory regulatory impact statement in regard to this legislation.

Since the government has failed to undertake the proper assessments beforehand, failed to do an RIS on industry, failed to properly consult about the development of this bill before us, failed to heed the advice of the Hawke review into the
total operation of the EPBC Act—since it has failed in all of those ways—it is sensible and worthy for us to install a safety-valve mechanism into this legislation. That is all this amendment that the opposition is moving will do. It will provide for the proper review of the legislation that this parliament appears determined to pass within the course of the next few hours or days. I would urge all parties across the chamber to support what is a very sensible and safe proposal, a proposal that seeks to ensure a review is done based on the evidence—the evidence of what the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development would tell and inform such a review, which could ensure that in future when this place is debating the operation of the EPBC Act we are all well informed about this new subdivision. I suspect that the government will in part say that there are further review mechanisms already built into the EPBC Act, like the Hawke review that has been undertaken. But in response to those anticipated remarks of the government, I again emphasise the fact that this particular new subdivision that this legislation inserts into the act is quite unprecedented in the operation of the EPBC Act.

Because it is unprecedented, it warrants earlier review than would otherwise be the case and it warrants particular review of its own operation so that we can look very carefully at whether this type of action of singling out industry sectors for a higher environmental standard than other industry sectors is a precedent that has caused any damage to the operation or the credibility of the EPBC Act or whether it turns out to work quite well. We will be able to assess whether it works as efficiently as Senator Conroy was telling the chamber earlier today. Essentially he was making the claims that all of the assessments could be based on information that has already been provided to state governments and that there would be no extra regulatory impost because the information is already there and has been provided to state governments. If a state government gives it a tick, then the Commonwealth government will give it a tick. Those comments obviously led to the coalition questioning the real point or merit of this if the government thought these provisions would simply and completely mirror those at the state level, provide the exact same outcome as those at the state level and duplicate regulation to that extent. However, the government insists on proceeding with this new section to the EPBC Act. Given its insistence to proceed and given the unprecedented nature of these reforms, as I have outlined, the coalition believes it would be sensible for the Senate to mandate that there be a proper and specific review. I would urge the government to adopt and support this amendment and I would hope that the crossbenchers would do likewise.

Senator McLUCAS (Queensland—Minister for Human Services) (20:21): The government does not support the amendment from the opposition, but, in saying that, I do agree with a lot that Senator Birmingham has said. It is not unusual to include a review trigger in any legislation and it is appropriate that a proper and open review of legislative changes occur. I can indicate to the senator that in six years' time the EPBC Act will be independently reviewed and reviewed by statutory authority. That is already in the act and that is a reasonable amount of time to include this trigger as part of the overall review that will occur at that time. It will then be synchronised with the review of the whole act, and I think that is a sensible thing to do.

I do not necessarily accept Senator Birmingham's commentary of our
government and review process. The Hawke review, as he indicated, was undertaken. There were recommendations that were both regulatory and legislative. A lot of those regulatory recommendations have been dealt with, and the government has undertaken to implement in the next parliament the legislative recommendations that were made as part of the Hawke review. But I think that we have a good outcome here. In six years time we will be able to fully review the operations of the EPBC Act as a whole, and that then will be a comprehensive, open and transparent review process that I think will better serve the amendments that we are making today.

Senator BIRMINGHAM (South Australia) (20;23): I thank the minister for her comments. I appreciate her at least agreeing with the sentiment that it is important to have a proper statutory review mechanism in place. I would disagree with the minister that waiting six years for the currently mandated legislated complete review of the operation of the EPBC Act is the appropriate way to go in this regard. As I have outlined in my remarks, this is an exceptional amendment to the EPBC Act. I do not say that in terms of it being outstanding or brilliant. It is exceptional in terms of the fact that it is unusual and novel. My concern is that—and we saw this with the Hawke review—thorough though the Hawke review was, it is an enormous piece of work to properly review the operation of the entire EPBC Act. It is a very substantial act. It has far-reaching ramifications. It covers, as we know, a huge number of matters of national environmental significance already. There are always proposals to include others, which were canvassed, as I said, in the Hawke review—not notably a water trigger, which we are now debating.

The scope of such a review is far too significant, I think, to adequately do justice to assessing a very specific new section like this one that the government has introduced. That is why the coalition stands by its amendment calling for there to be this particular review just of this new water trigger. This new water trigger takes the EPBC Act, as I said before, into uncharted territory. It is unknown for the act to single out industry sectors, as this amendment does with coal seam gas development and large coalmining development. That is a whole new focus for the act. It will present, as we have already debated in this place, potential perverse outcomes. The Greens highlighted in their first amendment the fact that shale gas operations will not be included but coal seam gas operations will. We just had a subsequent debate about what other actions beyond the specific actions of a coal seam gas development or a large coalmining development could potentially be included. So we have a range of concerns about exactly how this new section is going to work.

Within four years there will have been the opportunity to see a decent number of cases. Within that four years, $38 million on the administration of the act will have largely been spent. The 50 new staff in the department of the environment will have been hired. The systems will have been ironed out, one trusts, for them to work out exactly how it is going to operate. We will have a good idea by then as to whether in fact it works seamlessly with the states, as Senator Conroy has sought to assure the chamber already in this debate. So there will be ample evidence to be weighed and considered for a review. Ample time will have elapsed after the period of several years to, importantly, give it some specific attention. Waiting another six years for the next complete legislative review, which then,
as history suggests with the Hawke review, will take quite some time to complete and which will take potentially even longer for the government of the day to respond to in a comprehensive way, means that ultimately it will be many, many years that we leave this new section with the water trigger specific to the two industries in question in operation without any real test or any real assessment as to what its impact is.

We need to understand and remember that this proposal came essentially out of left field. As I understand it, this legislation never even made its way to cabinet. This was done on the run by a government that just wanted to appease the member for New England. They wanted to keep Mr Windsor happy when he said, 'We must do this.' When Mr Burke, as the minister, said, 'Actually it will align with some of our political concerns and issues we are facing in New South Wales at present,' the government of the day said: 'Okay. We will jump. We will do this.' The Prime Minister gave Mr Burke the nod. The minister introduced the legislation, and its introduction was the first, I gather, that certain key ministers even saw of it.

Such is the dysfunction in the government that we are quite used to these types of issues happening. The government surprises industry and many key players with what actually happens with regard to the legislation that is brought forward. We will debate shortly the fact that the government accepted quite significant amendments to the operation of this legislation in relation to the potential for bilateral approvals on the floor of the House out of the blue and again with no proper consultation. The government, as highlighted in my earlier remarks, failed to carry out a regulatory impact statement on this legislation and really has demonstrated that it has given very little consideration to exactly how this will work and what the impact will be.

That is why, if this is passed, as it will be, it deserves to at least be subjected to a proper, thorough review at the earliest reasonable opportunity. The earliest reasonable opportunity is not six years away, when the whole act is scheduled for review; the earliest reasonable opportunity to review this is in around three or four years' time, when there will have been ample controlled actions assessed and ample evidence to work with, and when the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development will have been in operation for around four or five years.

It is one of the tragedies of this rushed and reactive piece of legislation before us that the independent expert scientific committee has in some ways been sidelined from this process, because it was the great unifying reform this parliament took when it came to how coal seam gas developments would be assessed. There was an agreement that significant funds, significant expert resources and significant skills would be applied to ensure that we developed the right informed body of knowledge that could guide both Commonwealth and state approvals processes. This expert body would inform states about the impact that coal seam gas or large coal mining developments had on water resources, and in doing so would ensure that the states were far better equipped and informed to deal with those water resource questions. It would also inform the Commonwealth with regard to its approval powers across the suite of measures that the Commonwealth has historically undertaken.

Sadly, whilst the committee will keep doing its work and will now be able to inform on these matters as well, it is a shame that it was not given a chance to demonstrate that it could address the community concerns that existed, and manage to work across both state and Commonwealth boundaries to
provide an effective outcome. The government chose to go through this approach instead and, having gone down this pathway, we deserve to put in this legislation something that will give a clear and specific independent review mechanism to this unique addition to the EPBC act, something that would ensure it is done at the earliest opportunity. That is why I urge the chamber to support this amendment.

The DEPUTY PRESIDENT: The question is that opposition amendment (2) on sheet 7397 be agreed to.

The Senate divided. [20:37]

(The Deputy President—Senator Parry)

Ayes........................28
Noes........................34
Majority.....................6

AYES
Bernardi, C
Boyce, SK
Cash, MC
Edwards, S
Ferravanti-Wells, C
Heffernan, W
Johnston, D
Macdonald, ID
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

Birmingham, SJ
Bushby, DC (teller)
Colbeck, R
Fawcett, DJ
Fifield, MP
Humphries, G
Kroger, H
Mason, B
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

NOES
Bilyk, CL
Brown, CL
Collins, JMA
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R

Bishop, TM
Carr, KJ
Crossin, P
Farrell, D
Furner, ML
Hanson-Young, SC
Lines, S
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM

Question negatived.

Senator BIRMINGHAM (South Australia) (20:40): by leave—I move opposition amendments (1), (2) and (3) on sheet 7382 concurrently:

(1) Schedule 1, item 3A, page 7 (lines 24 and 25).
(2) Schedule 1, item 4A, page 7 (lines 28 and 29).
(3) Schedule 1, item 4B, page 7 (lines 30 and 31).

At the outset, before I necessarily make longer comments in favour of these amendments, can I direct a question to the minister in this regard. These amendments seek to remove an amendment that was inserted into the legislation in the House of Representatives. That amendment limits the capacity of the government or future governments to use bilateral approvals and agreements in relation to the operation of this part of the EPBC Act. My question to the minister is: why is it necessary and justifiable to oppose or disallow bilateral agreements solely in relation to coal seam gas and large coalmining developments and not in relation to any other developments that may be controlled actions as a result of any other of the triggers in the EPBC Act?

Senator McLUCAS (Queensland—Minister for Human Services) (20:41): Thank you, Senator Birmingham, for the question. While there is a sound understanding of the standards to meet in decisions with regard to other matters of national environmental significance, this is a new matter of national environmental significance and it is important that, in the first instance, we develop the standards through mechanisms such as the scientific committee before we seek to delegate such
powers. As I said, this is a new matter of national environmental significance; it has emerged over a very short period of time. It is important that we get a regulatory regime in place which we can be confident about before we start using the delegated powers of the EPBC Act.

Senator BIRMINGHAM (South Australia) (20:42): I have a further question to the minister. Senator Conroy put great store in relying upon the information that would be provided to the states as part of the assessment process for this new trigger. If it is reasonable to rely upon the assessment process that is undertaken at the state level and the information given to governments at the state level as part of this new assessment trigger then why on earth and how on earth is it unreasonable and necessary in a totally prescriptive way to legislate out any possibility that a government could indeed undertake a bilateral approval? Further to that, I note the emphasis the minister gave to the fact that the reason for singling out this one section of the EPBC Act in terms of disallowing the use of bilateral approvals is that this is a new matter, a new area of consideration and that, in the minister's words, 'in the first instance' it is appropriate that such approvals be undertaken at the federal level.

There is nothing, of course, that mandates the government of the day to actually use the bilateral approvals. In fact, in the history of their existence since 1999, as I understand it—and I am sure the officials will correct me if I am wrong—they have been used only once by a government in relation to a heritage matter regarding the Sydney Opera House. So they are hardly excessively used. It would be completely within the domain of the government to not use the powers that are there. They have effectively lain dormant since the EPBC Act was first passed. They could well continue to lie dormant. They lay dormant whilst all of the initial matters of national environmental significance, which were once new matters in terms of the passage of this bill, were established in the processes and guidelines.

So, Minister, your response, which I am grateful for, is, however, unsatisfactory in that there is no rationale as to why the government needs to legislate out the future capacity of itself or future governments to enter into these types of bilateral agreements. What is the government's justification for doing this, in a legislative sense—which is of course permanent until this parliament chooses to change it at some future stage? Why would this one new matter of national environmental significance, which applies only to two particular industries, require a legislative change for a bilateral approvals process to be entered into at a state level? For virtually all of the others, with I think the exception of the nuclear option—the nuclear trigger, which sounds just as bad—the government of the day could wake up tomorrow, as indeed the Prime Minister did last year, and decide to negotiate a bilateral approval. Why was it acceptable that, for all those others, a government could make an executive decision to enter into such approvals, whereas for this one in particular you seek to bind all future governments and require legislative change to be able to undertake such activity?


Senator BIRMINGHAM (South Australia) (20:47): I appreciate that Senator McLucas has been attempting to answer my questions and respond to my comments in a reasoned and sensible way. I appreciate that, perhaps in this instance, through no fault of Senator McLucas, there really is little reason
or common sense as to why these provisions have been put into the bill before us.

Let us be very clear here: this opposition amendment is about removing a last-minute amendment to this last-minute bill. The last-minute amendment was made on the motion of the member for New England in the other place. He amended the legislation so that it would prohibit and limit the capacity of future governments, or this government, to be able to enter into bilateral arrangements with state governments. What are these bilateral arrangements I keep referring to? They are the capacity for the Commonwealth to sit down with the states and negotiate an agreement that would try to provide some streamlining, some level of efficiency to the operation of the EPBC Act.

The amazing thing is that the government, by its adoption of the member for New England's amendment, has now completed a full about-face in the space of 18 months in relation to these bilateral approvals. It is not that long ago—only at the start of last year—that the government was arguing that it wanted to see greater use of bilateral approvals and bilateral agreements. This was the recommendation of the Hawke review. The Hawke review, amongst its many recommendations, encouraged efficiencies, encouraged an elimination of duplication and encouraged the government to look at how it could better streamline agreements and arrangements with the states. So it is that the government went to the 12 April 2012 COAG meeting and produced a communiqué that stated:

The Commonwealth will work with the States and Territories to improve the process for approvals of these categories—projects within the Commonwealth's current jurisdiction affecting World Heritage sites and specific areas of action, including nuclear actions, defence development and developments affecting Commonwealth waters—

... for consideration by COAG at its next meeting.

The government made very clear and the Prime Minister made particularly clear in her media release—a joint media release with the Minister for Finance and Deregulation—of 13 April 2012 that bilateral agreements were a key part of what she saw as being a way of getting a better arrangement for environmental approvals in place. The Prime Minister, in her statement and in her press conference, said at the time:

... what we want to work towards here is a streamlined system, so that projects don’t go through two layers of assessment for no real gain. And so the classic examples that are brought by business is where people have gone through sequential assessments, so it's double the time, things that have been required for the first assessment are required in a slightly modified form for the second assessment, so they don’t even get the benefits of just uplifting the work and re-presenting it, it’s got to be redone.

Clearly that is an inefficient system. At the inaugural meeting of the Business Advisory Forum yesterday, the Prime Minister said:

... business leaders raised delays in environmental approvals and assessments as a major cost. These delays, due to duplicative processes across federal and state systems, can take businesses months or even years to resolve.

Today COAG acted on that concern and the Gillard Government and states and territories agreed to fast track arrangements to use state assessment and approval processes by March 2013.

The Prime Minister went on to say:

The removal of these regulations will protect the environment whilst ending the costly delays that result from double-handling and duplication.

So we have a situation where, in March last year, the Prime Minister said the Gillard government and states and territories agreed
to fast-track arrangements to use state assessment and approval processes by March 2013. By the end of last year, the government announced that it was not going to proceed in that way. In the face of a scare campaign from the Greens, in the face of some push back from the environmental lobby, the government abandoned its commitment to greater use of state assessment and approval processes and, at the December COAG meeting last year, it walked away from doing so.

It is one thing for the government to get cold feet and decide that it is all too hard in some way, shape or form, but what is remarkable about what has happened now is that the government has done a complete and utter reversal of belief in this space and is now legislating against even the possibility of using such state approvals processes—legislating out the possibility that it, or any government, may in future decide to undertake such approvals processes.

As I said to the chamber before, these mechanisms within the act have effectively lain dormant throughout its history. It is not like this is an area that has been open to abuse. It is not like this is something that has handed powers over to state governments on a regular basis only to see them be abused—far from it. The Howard government, which brought the EPBC Act into law, the Rudd government and the Gillard government—or whatever the government is going to be known as tomorrow—have always basically kept the powers to themselves. There is no need for legislation that bans the referral of those powers because there has effectively been no use of those powers. They sit there as an option—an option, however, that is important, an option that the government itself argued was the right thing to pursue and an option that the Hawke review argued, in its recommendations to the government, was the right thing to pursue.

The coalition have a particular concern of our own in this regard. That is because in April 2012 the coalition committed to offer state and territory governments the opportunity to act as a one-stop shop for environmental approvals as well as seeking to create a single lodgement and documentation process for environmental approvals should we win the election later this year—whenever it may be held, under whichever Labor leader it may be held. The coalition have given a commitment that we want to use bilateral approvals powers. We want to negotiate sensibly with the states and we want to ensure that absolutely, definitely, there is no undermining or watering down of environmental standards. National matters of environmental significance as legislated for in the Environment Protection and Biodiversity Conservation Act should of course be upheld and upheld to the right and proper standards that the Commonwealth government would expect. But, as Senator Conroy has already made clear, the assessment processes are largely happening at a state level. Senator Conroy basically said, in the earlier part of this debate, that in relation to this proposed new trigger the information would go to the states and that, if the state ticked it off, you could expect that the Commonwealth would tick it off as well. That not only highlights the duplication that is being created through the passage of this bill but it also demonstrates very clearly that you could get great efficiencies in the operation of the EPBC Act—perhaps in this area, perhaps in other areas, definitely in some areas—by making greater use of these approvals mechanisms and bilaterals mechanisms.

The coalition is gravely concerned by the government’s decision to adopt measures and to support amendments that tie their hands and tie the hands of future governments if
they want to improve the efficiency of the EPBC Act, if they want to ensure that the duplication that occurs in assessments and approvals at Commonwealth and state level is minimised as much as possible. We think it is an outrage, to be frank, that the government have supported amendments that not only limit the use of these powers but fly in the face of what the government themselves had said they thought should be undertaken less than a year ago. Less than a year ago, your policy was effectively to do the same sorts of things that our policy promises to do. Less than a year ago, your policy was to make use of the provisions in the EPBC Act that you now seek to limit the use of. So, within the space of a year, your policy has been reversed completely, to the point where you now want to partly outlaw that which you as a government proposed previously to do.

The government has given far from adequate explanations as to what drove its reversal of the opinion, but we can simply assume that it was driven once again by the base political motive of keeping the Independents—in particular Mr Windsor, the member for New England—happy in this regard. That is no way to make good legislation. That is no way to govern the country. It is a crying shame the way this government has approached this important matter of our environmental laws and how they interact with the states and territories.

This is not a hypothetical conversation. This is not a conversation or a debate or a discussion that is just talking about things that might happen. This is a conversation about real costs that are incurred by real businesses that flow through into the competitiveness of the Australian economy and Australian industry more generally. One of the great battles Australian business is having at present is to remain competitive on the world stage. One of our great challenges at present is to see how Australian business is going to maintain areas of competitive advantage in the face of a higher Australian dollar, in the face of higher costs and taxes, like the carbon tax, and in the face of higher regulation, particularly with the extent of the red and green tape that exists across government nowadays.

Deloitte Access Economics undertook a cost-benefit analysis of reforms to environmental impact assessments under the EPBC Act. Their analysis estimated the benefit from reduced delays at $135.1 million in 2012-13, increasing to $288.4 million in 2020-21. In net present value terms, this represents a total gain to society of $1.19 billion. So there are real costs arising out of the cross-jurisdictional duplication in our environmental regulation.

It is outrageous that this government not only wants to ignore the advice provided to it by its own expert review, the Hawke review, and to overturn its own policy position as set out in the government response—which recommended greater use of these approvals processes—but also wants to go so far as to support the passage of legislation which actually prohibits and limits the use of these approvals processes. I implore the government to reconsider its position on the Windsor amendments passed in the House. Everybody knows the government supported them on a whim. Everybody knows there was very little, if any, consultation within government ranks about supporting Mr Windsor's amendments. Everybody understands that there are people within the government who, thankfully, have a higher level of common sense, who understand what the impacts on industry will be and who wish the government had not supported those amendments. This is the government's chance to right that wrong and remove those amendments from the legislation.
Senator McLUCAS (Queensland—Minister for Human Services) (21:02): The government does not support the proposed amendments. I indicated earlier why this particular amendment would not be a sensible course of action. The government has brought forward this amendment bill after the failure of some states to satisfy the community about the rigour of their assessment and decision-making processes. We remain supportive of the provisions of the bill which ensure that states cannot be delegated the capacity to make decisions under national environmental law about water resources.

I reiterate: while there is widespread understanding of the standards which have to be met in decisions about other matters of national environmental significance, this is a new matter of national environmental significance. Before we seek to delegate such powers, it is important that we develop standards through mechanisms such as the scientific committee. Given the high levels of community concern about this matter, it is also important to maintain stronger control over where the decisions are made to approve such projects.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (21:03): I support the comments Senator McLucas made about the special scientific committee, but the unfortunate thing about this bill is the fact that the government, having set that committee up—and set it up with the support of the coalition—has now largely ignored it. What is the point of approaching and getting the concurrence, agreement and input of a panel of experts—people the community, the states and federal parliamentarians would accept the views of—only then to ignore them and to turn around and say, 'There is absolutely no value in the contribution they have made'?

The scientific committee were tasked with the responsibility of consulting widely and of examining overseas circumstances—we know that in the United States and other countries there are concerns about coal seam gas and the deeper shale gases. That is what they were asked to examine, to give consideration to as a panel of expert scientists, and to come back and report to parliament on. They were also asked to report on whether or not they had the concurrence, the sympathy and support of the community and of the states and territories. Their report would then provide the basis for decisions.

As my colleague Senator Birmingham has said, it is the issue of duplication which has caused so much grief amongst our colleagues at state level and amongst those in industry and business. This country is now competing with all other nations—developing countries and developed countries alike. We are in a world of strong competition, with finance moving around the world to pursue the best opportunities. Increasingly, we are falling off the pace—because Australia is no longer regarded as a safe place to invest.

As I said in a contribution earlier this afternoon, every Australian wants to make sure the environment is well protected. We want to make sure that there are no ill effects on residential areas from coal seam gas exploration or extraction. We want to make sure that those who are competent to look at these issues are tasked with doing so. But we must then offer them the courtesy of actually taking notice of what they say.

As has also been mentioned in a contribution to this debate, when the Senate committee met we had people speaking about the Hawke review of the act, saying that, regrettably, the government, having commissioned the review—I believe, Senator Birmingham, with the support of the
coalition—then largely cherry-picked the limited areas in which they would actually accept recommendations and largely ignored the areas in which they would not. We have seen this so often with this government, in so many other areas. The Henry tax review is the first one that comes to mind on which eminent Australians did an enormous amount of good work, only to be insulted by having most of their recommendations ignored. Unfortunately, we seem to be seeing the same thing again here.

It is the duplication of efforts that we must try and avoid. The Prime Minister herself, in her contribution on this matter, spoke of avoiding state and federal duplication when it comes to environmental and other assessments, yet she has led and allowed a process which will do exactly that. More regrettable is the fact that the government has reversed its own position. As indicated by Senator Birmingham in his original contribution, the government has reversed its own position on a whim, as a result of the member for New England, Mr Windsor, who came along for his own shallow political purposes and influenced the government to change its position. That is not good enough, in my view. It is not good enough, and I firmly believe, Senator McLucas, that the government which you are representing in this debate must take on board the amendments that have been suggested. We must get this bill to a stage where it will be good law rather than skewed law.

Senator BIRMINGHAM (South Australia) (21:08): I thank Senator Back for his contribution. I think it is important that the chamber consider the strange inconsistencies that the application of the provisions that the opposition is seeking to excise from the legislation will put in the EPBC Act, because the EPBC Act already has quite detailed conditions for the making of bilateral agreements and the prerequisites for making them. They are outlined in the EPBC Act under subdivision B of division 2 of part 5 of chapter 3. These are quite detailed prerequisites that were put in place, some more so than others. But I think, once again, what these demonstrate—and I will go through them in a moment—is that the government's bill was just a rushed job. If the government had presented to the House of Representatives a complete package that had the appropriate prerequisites for striking bilateral agreements, then we would be looking at something that reflected the rest of the EPBC Act.

Currently, within the EPBC Act, section 51 covers how bilateral agreements relating to declared World Heritage properties might be struck. Section 51A contains the process for how agreements relating to natural heritage places can be struck. Section 52 details exactly how agreements relating to declared Ramsar wetlands can be struck. Section 53 deals with agreements relating to listed threatened species and ecological communities. These sections contain quite stringent conditions and provide examples of how the government could have set out a formula or process by which agreements relating to the water trigger could equally have been struck. Let us have a look at what a good model might look like. Section 53 states:

(1) The Minister may enter into a bilateral agreement containing a provision relating to a listed threatened species or a listed threatened ecological community only if:

(a) the Minister is satisfied that the provision is not inconsistent with Australia's obligations under:

(i) the Biodiversity Convention; or
(ii) the Apia Convention; or
(iii) CITES; and

(b) the Minister is satisfied that the agreement will promote the survival and/or enhance the
conservation status of each species or community to which the provision relates; and

(c) the Minister is satisfied that the provision is not inconsistent with any recovery plan for the species or community or a threat abatement plan; and

(ca) the Minister has had regard to any approved conservation advice for the species or community; and

(d) the provision meets the requirements (if any) prescribed by the regulations.

I read this into the Hansard because often in these debates, when people talk about agreements and powers of referral with the states, they make it sound like it is just being handed over to the states and whatever happens happens from there, but there are actually very tight conditions in place. In fact, they are far tighter than in section 53(1), which I just read, because section 53(2) provides even more prescriptive conditions:

(2) The Minister may accredit a management arrangement or an authorisation process under section 46 for the purposes of a bilateral agreement containing a provision relating to a listed threatened species or a listed threatened ecological community only if—
the minister can only enter into such an arrangement if—

(a) the Minister is satisfied that the management arrangement or authorisation process is not inconsistent with Australia’s obligations under:

(i) the Biodiversity Convention; or
(ii) the Apia Convention; or
(iii) CITES; and

(b) the Minister is satisfied that the management arrangement or authorisation process will promote the survival and/or enhance the conservation status of each species or community to which the provision relates; and

(c) the Minister is satisfied that the management arrangement or authorisation process is not inconsistent with any recovery plan for the species or community or a threat abatement plan; and

So there are extraordinarily strict and challenging criteria that the minister must satisfy before such accreditation processes or bilateral agreements can be entered into. As I said, section 53(2)(b) states that the minister can enter into such an arrangement only if they believe it will ‘promote the survival and/or enhance the conservation status of each species or community to which the provision relates’. These are incredibly tough, and they continue in section 54, for agreements relating to migratory species, and in section 55—and I note that I was wrong in an aside I made before: agreements relating to nuclear actions are covered here, although covered in the negative sense, where:

The Minister must not enter into a bilateral agreement, or accredit for the purposes of a bilateral agreement a management arrangement or an authorisation process, containing a provision that … relates to a nuclear action …

So they are covered in the legislation but covered in a way that does specifically exclude nuclear actions. That is the one action that is excluded, until of course we have Mr Windsor’s amendments. I highlight and detail how this section of the act works because often it is criticised, when people talk about using this section of the act, as a throwaway of responsibility to the states. Clearly it is far from it. Clearly they are very specific conditions that can be put in place. I highlight it because, if the government were serious about its new water trigger, we would have in the legislation before us a similarly detailed list of conditions under which the trigger could be assessed by state governments, but they would be conditions that would be very tough. Obviously, as I have said before in relation to the coalition's
position on these matters, it is critically important that these matters of national environmental significance are upheld and the Commonwealth government of the day, whatever their political stripes, should be working to make sure they are upheld. We believe the best way to do that is to ensure that you have efficiency, that you eliminate duplication, but you ensure in regard to the referrals that could occur that you spell out the conditions and allow the system to work as seamlessly as possible.

The minister said in response to my comments before that, because this is a new matter, a new trigger, in the first instance it is appropriate to work through the relevant issues 'before we seek to delegate such powers'. They were the minister's words the last time she spoke. That would imply that the government believes there is a possibility to delegate such powers. In response to acknowledging that possibility, I would like the minister to explain to the Senate under what time line does the government believe it is appropriate to consider the delegation of such powers? Is it a fixed number of years? Is it a fixed number of controlled actions to be considered? How will the government decide when it is appropriate to consider the delegation of such powers? Why is it that the government still thinks, given it has abandoned that delegation elsewhere, that it may wish to delegate these powers? And importantly, why is it, if the government foresees a day when it might wish to delegate such powers, that it ties its hands behind its back today? It is nonsensical.

In any other area of the EPBC Act, except for the nuclear issues, the government could delegate such powers—it already could. Without the provisions which the coalition is seeking to remove from the bill before us, the government, when it decides at whatever point down the track it is appropriate to delegate such powers in relation to the water trigger, would be able to so negotiate. Instead, the government has tied its hands behind its back. When will the government be in a position to consider such delegation? Why is it specifically excluding the powers to be able to do so? Why has it not brought to the Senate provisions like those in section 53 or section 54 of the existing act, to spell out how such delegations could work in the future, so that we consider these matters in totality rather than find ourselves in a situation where the government is simply engaging in what appears to be a politically convenient act—politically convenient in terms of doing the deal with Mr Windsor, as well as being politically convenient in terms of trying to restrict the way the coalition may be able to enact its policy, should we win the election later this year, and try to pursue the application of a more efficient, more streamlined process for environment approvals which can be done in a way which maintains standards but reduces the costs facing industry? Minister, please enlighten the Senate when you say in the first instance, before we seek to delegate such powers, what is the type of time line the government is looking at and why is it that the government has in mind that it may delegate such powers, yet is excluding the provisions to do so. Indeed, what type of provisions would you expect to put in place to allow the delegation of such powers at a future juncture?

Senator McLUCAS (Queensland—Minister for Human Services) (21:20): Senator Birmingham's contribution absolutely makes the point that I am trying to make. I am going to go through it very slowly. I will read the paragraph I have now read into the Hansard for I think the third time. While there is a sound understanding of the standards to meet in decisions with regard to other matters of national environmental significance, other matters
like World Heritage listing, Ramsar wetland matters, matters relating to threatened species and ecological communities, you said strict criteria must be adhered to, that there needs to be strong standards for use of bilateral provisions. We understand that because we understand those environmental processes. We understand the protections that are required. There are international treaties—you referred to CITES yourself. We know what we need to do when it comes to threatened species. We know what the provisions are. This is an emerging piece of regulatory response that we need to have to coal seam gas and large coalmines. That is why we cannot delegate those powers—because we do not have the standards. This is a new matter of national environmental significance and it is important that, in the first instance, we develop the standards. You said that we need to spell out the conditions. We need to develop those standards so that we can spell out those conditions through mechanisms such as the scientific committee before we seek to delegate these powers. These are new and emerging environmental situations that we need to better understand before delegation can occur. I really hope I have made it plain.

The second question is: what types of conditions would we require? We need to develop them. It is a hypothetical question. Your last question was: what time line would there be? Again, that is hypothetical. This is an emerging area of environmental protection that needs to be provided here in Australia. We need the expert scientific committee to do the work that Senator Back referred to. I do not accept Senator Back's assertions about the way our scientific committee is being used; it is being used well. We respect them and we know that we need that advice from them.

But, really, Senator Birmingham, this is different from world heritage. It is different from threatened species. It is different from threatened ecological communities. And we need a different approach.

Senator BIRMINGHAM (South Australia) (21:23): I thank the minister for her answer, although it does beg the question: if it is so different, if it is so in need of a different approach, if it is such an issue where it was clear that such agreements should not be entered into, then why was that not in the government's original legislation? Why did it require Mr Windsor to bring it to the government's attention? Why is it that these matters simply came about in the dying stages of the debate in the House of Representatives? It is convenient, I would say, for the government to now argue that there is a whole different set of circumstances that apply in this area and that it is not able to put in place appropriate conditions and standards as to how assessments and approvals could be undertaken. It is convenient in the extreme, because this was not the government's approach. This was not their policy. This was an acquiescence to Mr Windsor in the dying stages of the debate on this bill in the House of Representatives.

So I accept and understand the arguments that the minister is making, but, when you look at the reality of the sequence of events in the evolution and development of this bill, and when you look at the changes and the amendments that were put in place in the other place, it is quite clear to any observer that this has come about not because the government foresaw a particular need for it but because it very clearly was the case that the government was giving in, giving ground, to Mr Windsor at that time. That is the government's right. That is the way this government has operated for much of the last three years—doing deals on the side with
different crossbenchers to keep them all happy. This was the deal that had to be done in this instance to keep Mr Windsor happy. It also had, of course, the convenient political side effect of creating a difficulty, potentially, for the opposition when it comes to implementing our policy, should we win the next election.

So there are political pluses on all sides, and good luck to the government in that regard if they managed to take advantage of those political opportunities that presented themselves to the government. But when you look at the types of conditions that are put in place in the existing referrals powers in the EPBC Act, and what could have been put in place in relation to the water trigger, there is no doubt that you could have had similar types of conditions put in place. You could very easily have had similar types of provisions put in place that ensured that, where a bilateral agreement was entered into, whether state and territory, it only was entered into if the minister was satisfied that the impact and the assessment on water resources was to be improved by the undertaking of such assessment and approvals by a state or territory.

You could have put that type of condition in place because, frankly, you would start with the confidence of knowing that the skill set, the knowledge and the systems are already in place in most of the states and territories to have a high level of approvals understanding and assessment understanding when it comes to looking at these types of developments because they have been doing them for some period of time, because they, like the Commonwealth, are equally informed of the findings and views of the independent expert scientific committee. That committee is not an exclusive committee of advice to the Commonwealth; it provides its advice just as freely on equal terms to the state governments, which will be just as well informed in the future, with or without this legislation, by that committee under the terms of its establishment by the parliament.

So there could easily have been the types of conditions that we see in relation to the other matters of national environmental significance developed and applied and imposed in the legislation to set a standard for referrals as to this new trigger. The government overlooked it. The government decided not to provide such potential referral powers or conditions, but, equally, did not seek originally to ban them, either. It is just a convenient argument to come along later in the piece having done so on the whim of an Independent and then say, 'We had to do so because it was new, because it was different, because we do not have the information or the evidence yet.' That just does not stack up.

Again I come back to the overarching point of this: these provisions, the provisions in section 53 that I read out at length to the chamber before, have never been used. Never have they been used, but the capacity to use them exists in the act for a time when a government believes it can meet those conditions and can manage to get the right environmental and efficiency outcomes in terms of the application of environmental legislation.

There is no reason as to why the standards—yes, they are broad in their nature—could not have been developed to a similar standard to those that are in the bill, in terms of having confidence that water resources will be protected and having confidence that proper processes of assessment are being undertaken. They are not highly technical standards that are put in place; they are standards, however, that exist to provide a benchmark and a threshold for the minister to clear. That is for the minister to have complete confidence that the state is
doing its job, as well as the minister would expect, and the good officers of the Commonwealth department are doing their jobs.

Now, I understand that the government clearly is not about to recognise that it erred in accepting the Windsor amendment in the House of Representatives. They are clearly not about to back down in relation to this matter. That is a great disappointment. I would have hoped that the voices of common sense within the government would have been heard and would have made their views known. I know that some of them have, from those that have communicated that to the opposition. They have expressed their concern about this anomaly that we are now putting into the EPBC Act, where we are treating this different area of the act in a completely different way when it comes to how approvals and assessments could occur.

But, ultimately, in the government's rejection of the coalition's amendments here and the government's rejection of our invitation to correct their errors the House of Representatives, the real concern comes back to the cost impact that it has on business and on industry. That potential total gain to society—were we to manage to reduce delays, to reduce duplication and to ensure that we can have a better streamlined operation of our environmental laws—from the Deloitte Access Economics' report was $1.19 billion. That was solely looking at the existing areas of the EPBC Act. Because, when that cost-benefit analysis was done in 2011, this legislation was not even foreseen. This legislation was not even really foreseen in 2012. This legislation came about as an absolute last-minute dash by the government simply to make some difference in this regard.

The cost that comes from these measures, like the measures that the coalition is seeking to have removed from this bill, is a real cost. It is a real cost to the industry and it is a real cost to the competitiveness of Australian business. It is a real cost, therefore, to the number of jobs and opportunities that ultimately exist in Australia. Because every time we lay another level of red or green tape across industry, we know—from that day on—that it makes Australia that little bit less competitive when it comes to attracting investment and when it comes to growing business opportunities here.

We know from the earlier stages of this debate, and from the estimates questioning that was undertaken, that we saw some $38 million of costs recognised in the budget, purely for the administration of this bill that is before us tonight. That is, purely for the administration of the Environment Protection and Biodiversity Conservation Amendment Bill 2013. It is only 17 pages. In legislative terms and in terms of the weight of things that come through this place, it is a rather meagre level of legislation. But its impact and its cost is real. Its cost to the government, just to administer it, is $38 million over the forward estimates. That is a very real cost for taxpayers to have to wear and for the government.

It comes at a time of great budgetary stress, as we all know, and comes from the government that has failed chronically to meet any of its budget forecasts. It has chronically overspent; it has run the biggest record deficits in Australian history. It is a government that has a very sad fiscal and budgetary legacy to its name; $38 million just over the forward estimates to administer these 17 new pages of legislation, and 50 new Commonwealth public servants are required to be employed to administer these 17 pages of legislation. It is a reminder that the decisions we make in this place have a real impact.
When we go to the Public Service, whichever the government of the day is, and say to them, 'We need to squeeze another efficiency dividend out of you. We need you to do things with less money,' the public service rightly often responds to the minister of the day and says, 'But we have all of these statutory requirements that we have to fulfil.' Parliament passes the laws and somebody has to implement them. Those somebodies are the good and hardworking people of the Commonwealth Public Service.

So when we pass legislation like this, we need to know that it comes at a very real cost. But it is not just a cost to the taxpayer and the government in terms of administration—though that is real—it then multiplies through the economy. The concern in this case is that we have cost multiplication happening at both a state and a federal level. The states have long had environmental approvals laws—particularly in relation to mining developments, which are developments like those covered by this bill. Large coal mines have always had to clear state environmental hurdles. Coal seam gas development activities have always had to clear state environmental development and assessment hurdles.

These are very clear legislative hurdles that have had to be cleared for a long time and for all of these sorts of projects. That is forever, essentially, when it comes to coal seam gas development. We are now applying a very specific additional layer of federal legislation on top of that. Now, it is a prerogative of this parliament to do so, but we should do so with our eyes wide open and know that there is a level of duplication that occurs from that. So, therefore, we have not just one set of costs imposed on the industry, but two sets of costs imposed on the industry.

Provisions exist elsewhere in the EPBC Act to try to bring those two sets of costs back to one, by virtue of referring those Commonwealth powers to the states. Those provisions should be replicated and should continue to be available in relation to this new trigger, so that when a government decides—through the proper processes of working with the states—that it is physically possible and that it is possible within all the terms of the legislation to reach an agreement with the states—as the Prime Minister, Ms Gillard, had promised to do last year—and refer some of these approvals processes to the states, the power exists and the way in which to implement it is there. Ms Gillard previously said it could be done; sadly, she abandoned that mission. But that is not to say that a future prime minister will not be stronger in their resolve to reach an agreement with the states. That is why these provisions inserted by the House of Representatives should be removed. I would urge the committee, and the government, to reconsider its support for these provisions in the bill and to support the opposition’s motion to have them removed.

The TEMPORARY CHAIRMAN (Senator Fawcett): We are dealing with opposition amendments (1) to (3) on sheet 7382. The question is that items 3A, 4A and 4B of schedule 1 stand as printed.

The committee divided. [21:43]

(The Chairman—Senator Parry)

Ayes ......................36
Noes ......................28
Majority.................8

AYES

Bilyk, CL.................. Bishop, TM
Brown, CL................ Cameron, DN
Carr, KJ.................. Collins, JMA
Crossin, P................. Di Natale, R
Farrell, D................ Faulkner, J
Feeney, D................ Furner, ML
Gallacher, AM............. Hanson-Young, SC
AYES

Hogg, JJ
Ludlam, S
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL
Xenophon, N

Lines, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

Question agreed to.

The CHAIRMAN (21:45): Senator Waters, we have about five minutes left. Do you wish to move your amendment or wish to speak?

Senator WATERS (Queensland) (21:45): Thank you, Chair. Just to give Senator Birmingham a rest after that long stint on his feet.

Honourable senators interjecting—

Senator WATERS: He deserves a medal. He really does. I move Greens amendment (1) on sheet 7375:

(1) Schedule 1, page 8 (after line 4), after item 6, insert:

6A After section 131AB

Insert:

131AC Minister must be satisfied that owners and occupiers of land have consented etc.

(1) This section applies to the taking of an action if a provision of Subdivision FB of Division 1 of Part 3 is a controlling provision for the action.

(2) The Minister must not approve, for the purposes of the controlling provision, the taking of the action, unless the Minister is satisfied that any owner, and any occupier, of land that would be likely to be affected by the taking of the action:

(a) has obtained independent legal advice; and

(b) has obtained independent advice in relation to the likely impacts of the taking of the action; and

(c) has freely given informed consent in relation to the taking of the action.

on sheet 7375.

This amendment goes to whether or not landholders have the right to say no to coal seam gas on their land—a matter which has often occupied the opposition's minds, although, sadly, it appears that they like to change it more than they like to keep it. This amendment once and for all will give both sides of the chamber the chance to put on record their actual views on this matter, though not of course Senator Joyce, who I note has a pair to attend Q&A rather than talk about coal seam gas, which folk are no doubt very interested to know.

For the benefit of folk in the chamber this amendment would give landholders the right to say no to coal seam gas on their land—a matter which has often occupied the opposition's minds, although, sadly, it appears that they like to change it more than they like to keep it. This amendment once and for all will give both sides of the chamber the chance to put on record their actual views on this matter, though not of course Senator Joyce, who I note has a pair to attend Q&A rather than talk about coal seam gas, which folk are no doubt very interested to know.

For the benefit of folk in the chamber this amendment would give landholders the right to say no. Earlier I questioned the minister about its constitutionality and was unsurprised to have it confirmed that, yes, indeed, it is a constitutional amendment. Effectively this would preclude the minister from approving coal seam gas unless a landholder had both obtained legal and scientific advice and had then freely given consent to the coal seam gas or coalmining occurring on his or her land.
This is not only a means of better empowering communities with appropriate information as to the genuine risks to their land from coal seam gas and coalmining, but it also then empowers them to say no to coal seam gas. Importantly, this does not change the ownership of the resource, as the opposition likes to go on and on about. It is very clear that this amendment does not affect the ownership of the resource. Should any government, be it Commonwealth or state, wish to acquire the land to access the resource, they can do that using standard acquisition powers. That has been a bit of a red herring in the debate that I am happy to put to bed—to mix metaphors in a most inappropriate way.

Moving on, the amendment is clearly constitutional. Clearly it does not change the ownership of the minerals. I also want to note that the landholder rights requirement does not reduce any of the other requirements for environmental assessment of coal and coal seam gas. This certainly does not lower the bar. In fact, it basically gives landholders a bit more bargaining power. What we know is happening is that coal seam gas companies are essentially coming in, acting like cowboys, offering landholders a variety of money—either not much at all or an awful lot to shut them up, and the offer you get depends on your bargaining power. The confidentiality clauses that go along with those agreements mean that neighbours cannot talk about whether they are getting a good deal or a dodgy deal. So, nobody knows what a good price is.

And what price do you put on water supply? We have the National Water Commission and CSIRO both saying, ‘We don’t understand the long-term impacts.’ I am afraid you cannot drink gas and you cannot eat coal. I suspect landholders, once they are in receipt of this scientific information and legal advice, will exercise that right to say no.

I want to put on record my thanks to all of the communities who have locked the gate against coal and coal seam gas and who have demonstrated that when communities stand together they can actually resist and protect their land and water. I think that is a great credit to them and gives me hope that community sentiment can win out despite the might of these big mining companies. Wouldn’t it be nice if those people did not have to break the law to do so. Hence the genesis of this amendment.

I also want to take the unusual step of thanking Tony Abbott for the original idea for this amendment. He made a statement in August 2011, which he has occasionally repeated and many times back-flipped on, that landholders should be able to say no to mining companies. We welcome that. We would like him to go back to that very sensible original position, but, sadly, it seems that he is not able to hold that position for longer than 12 hours. No doubt, the folk who are in the members’ dining room tonight—(Time expired)

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

Progress reported.

**ADJOURNMENT**

**The DEPUTY PRESIDENT** (21:50): Order! I propose the question:

That the Senate do now adjourn.

**Reed, Mr William**

**Senator GALLACHER** (South Australia) (21:50): I rise to make a contribution on the passing of a great South Australian. William Reed was born in Cummins on the Eyre Peninsula, South Australia, on 17 October 1920. He passed away on 25 May 2013, aged 92 years. Bill Reed was not a household name in South
Australia; in fact, he lived a quiet, modest life. It was his contribution in his early years that leads me to call him a great South Australian.

Bill, along with his twin brothers, joined the AIF on 30 January 1941. The three brothers all served together in the 2nd/48th Battalion. The 2nd/48th Battalion was Australia's highest decorated unit of the Second World War. It was awarded four Victoria Crosses—three of them posthumously—and more than 80 other decorations. Battle honours in North Africa in 1941-42; the defence of Tobruk; the El Adem Road; the Salient 1941; Defence of Alamein Line, Tell el Eisa, El Alamein II, South-West Pacific 1943-45, Lae-Nadzab, Finschhafen, Defence of Scarlet Beach, Sattelberg, Borneo and Tarakan.

The battalion's size was between 800 and 900, all ranks. The Australian War Memorial records cite 318 died and 703 were wounded. This is the environment that Mr Reed and his two brothers signed up in. They signed up in 1941 and were very swiftly en route to the Middle East. Their mother, as you would well expect, was absolutely distraught at having three sons away at war. William, being the youngest, put the ultimatum to his parents: 'You sign the papers or I'll put my age up and go anyway.' Reluctantly, they did sign the papers. With that, the three brothers signed up at Wayville, as I have said, and very shortly after were in the Middle East. They fought through the Battle of Tobruk and through El Alamein.

In Bill's case, he was in a platoon was led by Thomas 'Diver' Derrick, who received a distinguished conduct medal and a VC. At Bill's funeral it was pointed out that he was the last surviving member of that platoon. A very distinguished soldier was present at that funeral and said: 'Bill was a good soldier, an efficient soldier, a tidy soldier, but not always all that respectful of authority.' I think lots of Australians and particularly lots of country South Australians can respect that.

There are many stories about the 2nd/48th. It is widely written about. There was a very interesting story told to me by Bill about when he and his mates were on a bit of recreational leave in Alexandria. A British army officer complained vociferously that they did not salute him. He then made a formal complaint to the commander of the 2nd/48th, who is alleged to have replied, 'I don't know what you're complaining about, mate; they don't salute me either.'

Another great story is that there was a visiting general smoking his pipe in his tented area and it was wafting over the troops. One of them had the affront to go up and ask for a bit of his pipe tobacco. The general was glad to share the pipe tobacco with the soldiers and asked, 'Have you no tobacco, boys?' They said, 'No. We haven't had any for two weeks.' The general then summoned the quartermaster in, who said that more urgent and important things than tobacco were to be looked after and he did not see any great urgency about that; whereupon the general replied, 'If you don't have the tobacco in here tomorrow, you will be sent back to find it personally.'

This is the sort of soldier that was created out of Tobruk. These blokes were hardly trained. In 1941 they were in Ile-de-France and then in the Middle East and fighting in the battle of Tobruk for eight months under the most appalling conditions. The reputation of their state and the reputation of their battalion is part of our history of the Second World War.

But there was a very human side to Bill Reed. He was my next-door neighbour for the 16 years that I have lived in my current house. My wife has lived in that street for
something like 45 years, so she had known Mr Reed since she was a very small girl. To the whole street he was 'Mr Reed'. He was always a gentleman. He never had a harsh word to say about anybody. He was always immaculately attired. At any barbecue or function, whether it was Christmas or Easter, he was never without a box of chocolates or a bunch of flowers for particularly my wife who used to do a little bit of extra cooking on the odd occasion so that he was always replete.

He lived independently at home until he was 92. He was particularly proud of his own surroundings. He told an extraordinarily good yarn. He never gloried in war. In fact, he thought war was an appalling thing. His comments to my sons and other young men that were present at Easter or Christmas was, 'Look after yourselves and hope to Christ that you never have to go through that situation.'

We did have an Iraq and Afghanistan campaign veteran come by early this year. He had a good old chat with Bill Reed and said, 'I hope someone is writing down that man's recollections because they really are part of Australia's history.' Bill asked him, 'How many bayonet charges have you done, son?' The reply was, 'We don't fight wars like that anymore, sir.' Bill said, 'Thank God for that. I only done three, but they weren't easy.' We were in the presence of someone who at the age of 20 joined up with his two brothers to go off and fight the great cause and face five years of incessant warfare with a brief period at home only to be sent back to Tarakan, to New Guinea and Papua New Guinea because they were Australia's best soldiers. They really did serve their country well. They made all of us proud.

The one thing I always do when I visit rural South Australia is seek out the soldiers' memorials. Just reading the names and looking at the increasing population versus what it was in 1940 or even in the Great War, you realise what an enormous contribution these people made to this country.

Bill led, as I said, a modest, unassuming life. He was never one to boast. In his early years he went in the Anzac Day marches, but in his later years he let those pass by. He did not mind getting out and having a bit of a yarn with his mates. He told me there was a time when he could not walk past a pub without going to the public bar. But fortunately he met his wife Sadie, and he and Sadie had a great life together. On retirement they travelled to all parts of Australia—Cape York, Darwin and over to the west. His main regret was that he never went over the ocean to Tasmania.

He is survived by Kay, Billy and Tony. In all his time living independently at home he was well supported by his family. He was never one for a complaint. He took ill and had a few pains early this year and unfortunately passed away on 25 May. He will be sadly missed by everyone who met him. He was a person who upheld all of the great principles of Aussie mateship. He would go to bat for his next-door neighbour who had a problem with a fence. He would go to bat for people. He had that extraordinary sense of fair play and an extraordinary sense of confidence and quiet determination which, as I have probably indicated, was earned in the most dire of circumstances, saving this great nation in that war; victory in which ultimately made us all safe and secure. He will be dearly missed by myself and my family personally, but I am sure he will be dearly missed by all those who would have known him.

San Remo Macaroni Company
Senator EDWARDS (South Australia) (22:00): I join with Senator Gallacher
tonight in celebrating the success of South Australians. It is good to see Senator McEwen in the chamber, because she will know well the family I am talking about. I am grateful that she stayed to listen. I continue my expose about great migrants to South Australia, and tonight I rise to talk about how they have played a great role in the family small business sector in my home state. I want to talk about some of the important waves of migration to South Australia and how migrants have contributed to creating an innovative, flexible and dynamic small business sector in South Australia.

In the late 1800s, before the turn of that century, only 141 Italians lived in South Australia. This number grew slightly into the 20th century, with 344 Italians in the state in 1921. High levels of migration from southern Europe in the 1920s and 1930s pushed this number to over 2,000 by the start of World War II. It was during this boom of Italian migrants that Luigi Crotti and his wife arrived from the Lombardy region of Italy. In the 1930s San Remo, the pasta company, was founded. Luigi Crotti soon brought out his founding partner, and his son, Aldo, was then brought on board to help run the family business. Back then, pasta was a niche product—a far cry from where it is today; a staple meal amongst many Australian families. By the 1960s pasta was much more commonplace in an increasingly multicultural Australia, and there were nine other companies trying to be chosen as the preferred provider. San Remo knew that to have a long-term future it needed to find a point of difference, and it turned its focus on producing a reliable, high-quality product at low cost through the development of a value chain that offered economies of scale. Over the years the Crotti family built up the San Remo business, and it was the first manufacturer to support and foster supermarket distribution, as the supermarket model first started to develop and unfold here in Australia.

San Remo is now one of our No. 1 pasta brands, and one of the largest manufacturers in our region. Its manufacturing facilities combine traditional Italian pasta-making know-how with the most modern technology. The San Remo business extends its services into local industry and the broader community, far more than pasta sales alone these days. Since the early 1990s San Remo in conjunction with farmers and the University of Adelaide Waite Agricultural Research Institute at Roseworthy have been developing a better-quality durum wheat. Their durum wheat mill, which was designed specifically for durum wheat, is one of the largest and most sophisticated mills in the Australian and South-East Asian region. It runs 24 hours a day and six days a week. San Remo also owns and operates its own semolina mill, which is located on a 32-acre site at Windsor Gardens in Adelaide's north-east. It is the largest in Australasia.

San Remo exports to 35 countries around the world, including to the Philippines, Korea, Egypt and, impressively, Italy. Incredibly, San Remo now produces some 750 products, including 50 individual pasta lines as well as other related products. In 2008 San Remo bought another iconic South Australian food business: Balfour's. Balfour's is the maker of pies, parties, sausage rolls and other bakery lines—and, of course, the famous green frog cake.

Senator Kroger interjecting—

Senator Scullion interjecting—

Senator EDWARDS: You can get them in Melbourne—rest assured, Senator Kroger—and even, Senator Scullion, in Darwin. San Remo is still very much a family affair. Luigi's grandson Morris is the
chief executive officer, and his other grandson David is the general manager. In 2007 Luigi's son, Aldo Crotti, was a South Australian finalist in the Australian of the Year Award, and in 1991 was bestowed the medal of the Order of Australia for helping the needy and disadvantaged schools. He was knighted as Cavaliere by the Italian government, and in 2006 the President of the Italian Republic presented him with the highest civil award given by an Italian government: the official title of Commendatore in the Order of Merit of the Italian Republic.

Over and above the commercial objectives of the company, it has had a long-term commitment to philanthropy, including in the areas of art and sport. The Australian Business Arts Foundation recognises San Remo and the National Gallery of Australia for demonstrating good practice in partnering on Renaissance: 15th and 16th century Italian paintings from the Accademia Carrara, Bergamo exhibition. San Remo has further worked with Netball Australia to help promote healthy lifestyles that incorporate a balanced diet and physical activity. San Remo also has a strong commitment to the environment, and has been a signatory to the Australian Packaging Covenant since 2008. In 2008-09 San Remo reduced its general waste by over 37 per cent, a reduction of 1,440 tonnes.

San Remo is a shining example in South Australia of the many migrants who have started and successfully grown strong, reputable businesses, which are positively servicing the Australian community. The work of San Remo shows how migration has been a benefit for South Australia and Australia in general, and how hard work has led to a great nation of free enterprise. While it may have South Australian origins, San Remo is a truly global brand. I feel sure that all South Australians and, indeed, all senators in this place tonight, including Senator McEwen from my home state, share with me in celebrating the great contribution to business, community and humanity in general that the Crotti family from Adelaide, formerly of Italy, make to our everyday lives.

King Island

Senator WHISH-WILSON (Tasmania) (22:08): We now move from spaghetti in South Australia to the beef of King Island—which is what I would like to talk about this evening. I welcome the release of the consultancy report by the King Island abattoir feasibility study group on the possibility of establishing a new abattoir on King Island. This study has been in train for about nine months, since the big multinational meat processing company JB Swift shut down its abattoir on King Island. An abattoir had been operating on King Island from 1956. It was obviously an integral part of the King Island brand—which is very possibly one of the best-known brands not just in Tasmania but in the country.

On a trip to visit the people of King Island in January, I met a number of farmers. It seemed obvious to me that they were quite distressed about the loss of their abattoir not only because of the cost of sending their cattle on trucks and boats across Bass Strait to be processed but also because of the time that the cattle spend travelling, particularly on the trucks—it can take up to 28 hours—before they are processed. Many of these farmers have reared their cattle from very a very young age. The farmers told me that the cost of processing had jumped from $12 to $112 a beast, with the additional impost comes from having to transport them across Bass Strait. But more distressing than that for these farmers was their loss of confidence and loss of pride in no longer having the
ability to process up to 40,000 head of cattle on their own island—which they had been able to do for a considerable period of time before the abattoir shut down.

I looked into why a large multinational like JB Swift would shut down the King Island abattoir. When I asked the farmers, they said it was always JB Swift's plan to shut down the abattoir—but I am not really sure if that is true. The existing abattoir site includes a $3 million state-of-the-art effluent treatment plant, which was partly funded by the Tasmanian taxpayer. What really engaged my interest was the fact that the company refuses to sell the site or the existing abattoir infrastructure. They have gutted the abattoir and taken its infrastructure to other parts of the country. They do not want to sell the site because they simply do not want a competitor on King Island.

I used to teach international finance and work for multinational corporations and so I have got a pretty good idea of how they operate. When I first put the concept to some people that maybe King Island deserved a new abattoir and that the farmers should look at taking control of their own destiny and seizing the initiative, the first response I got was: 'Jeez, if it's not profitable for Swift, how is it going to be profitable for Tassie farmers or King Island farmers?' My immediate thoughts were: I know how multinationals operate. All they are interested in doing is rationalising a portfolio of assets. They would be looking at their returns right across the assets that they inherited when they originally bought King Island. It seemed pretty obvious to me that if they could rationalise King Island, shut down the business, save some costs, increase throughput through their Longford plant, which is across Bass Strait, it would be a lot more profitable for them. They have good capacity in Longford, and Longford was underutilised. They also had other capacity in some of their mainland processing sites. King Island, as a stand-alone processing site, might very well have been profitable but, from a multinational's point of view, it had to fit into a large portfolio of assets. It was not really a high performer for JB Swift, or they could have got better performance from their other operations by shutting down King Island.

This intrigued me: could it be profitable as a stand-alone operation? When I talked to the farmers they said, 'Buggered if I know'. They said: 'We don't really know. It is not our area of expertise. The government should build us a new abattoir.' I said, 'I don't think the $20 million or $30 million that it is going to cost for a new abattoir should be funded by the taxpayer. You should do it yourself. If you really believe that an abattoir is going to be profitable you should look at doing it yourself, particularly when you offset the high costs that you are having to pay for transport.' They said, 'All right, where do we start?'

The government had for six moths promised to do a feasibility study. I said to these farmers, 'You can wait for the government to do a feasibility study or you can do your own.' They said, 'Where do we start?' I said, 'I know a few people who can help you.' A month later I went back with a couple of mates who were investment bankers. We sat down with the King Island farmers and had a very good evening with them—with crayfish, red wine, beef and other things. We had a discussion. The more we went into the numbers, the more my friends were excited about the possibility of a new operation being financially viable.

It might have been a coincidence, but the next day the government arrived with a task force and appointed a consultant. That consultant delivered the report today, and I
am very glad that the Tasmanian government pursued the issue and put money into the consultancy report. It showed us what we had intuitively sensed was an opportunity. If the farmers were to buy in, put their cattle through a new abattoir—and we are assuming that JB Swift is still not going to sell the existing abattoir on the land—get behind this project, manage their own brand and take some control of the supply chain, this project could not only be profitable and marginal, it could actually be highly profitable.

The report was released today. It is a large report. It cost $48,000—a co-contribution between the King Island Council and the government. To me, this is a big source of optimism because, if we can do this on King Island, there is no reason that we cannot do this in other parts of Tasmania. It is really about farmers looking at alternative ways of getting their product to market and owning their brand.

If you look at the 100 per cent value of a piece of King Island porterhouse on the supermarket shelf, $10 out of $100 is the abattoir processing cost. After taking into account the costs of growing cattle and transporting them to market, a King Island farmer walks away with about $50 out of that $100. The other $40 goes to the distributor and the value-added that the retailer gets out of the brand. These numbers are readily available. They have been looked at by the consultant.

It is pretty obvious that if the farmers could get their own value chain and own that somehow, this could be a very viable proposition. We are at the stage now where the farmers are potentially interested in funding this themselves, because they have got the cost offset from increased transport and they can see that there is big potential to make this highly profitable. This has not even assumed a lot of the other add-ons that we believe could be really positive for an abattoir on King Island, like processing local wallaby, which, as we know from Flinders Island, there is a huge market for. We also know that poddy calves from the local dairy can be processed through this abattoir, and that other older cattle that do not have a market are currently put down and buried and not sold at all.

We also looked at the possibility of making a green abattoir and processing waste into energy and by-products. When we start adding all these things together it looked like a very exciting idea. I am very optimistic tonight, because we have a good bunch of active farmers who are hurting from the higher costs and they are at a stage where they feel like they can put their hands in their pockets and do this themselves. It will be a really good case study for other agricultural industries in Tasmania. It was only very recently that another multinational, Simplot, ran into trouble with frozen vegetable processing in Tasmania. Of course, a large number of farmers are reliant on selling vegetables to Simplot. They are essentially selling a commodity and the value they have been receiving has been diminishing over the years. Once again, farmers are starting to ask themselves: ‘Are there other ways we can get our product to market? How do we do that? We do not have the expertise or the training. We have grown vegetables this way for a large number of years,’ et cetera.

There is an opportunity in my state, as I am sure there is in every state, to start exploring different ways of helping agricultural producers get their produce to market and get much higher margins. King Island is a great place to start because the brand is so well established and they can command a significant premium for their beef, particularly in Asian markets.
We are optimistic that JB Swift may still maintain its operation in its Longford plant in Tasmania, but we are very interested in progressing this to the next stage, and we are certainly hoping that local farmers will continue to be positive and will help this project get up, to take control of their own destiny and to see the King Island brand return to its previous glory.

Senate adjourned at 22:18

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Administrative Appeals Tribunal Act—Select Legislative Instrument 2013 No. 89—Administrative Appeals Tribunal Amendment (Fees) Regulation 2013 [F2013L00910].

Agricultural and Veterinary Chemicals Code Act—Agricultural and Veterinary Chemicals Code Instrument No. 4 (MRL Standard) Amendment Instrument 2013 (No. 3) [F2013L01000].

Airspace Act—Airspace Regulations—Instruments Nos CASA OAR—

056/13—Determination of airspace and controlled aerodromes etc [F2013L00876].

059/13—Revocation of designation of air routes; Revocation of determination of conditions for use of air routes [F2013L00870].

Australian Bureau of Statistics Act—Proposals Nos—

19 of 2013—Health Services Survey.


22 of 2013—Non-Profit Institutions Survey.


24 of 2013—Environment Indicators Survey.

25 of 2013—Private Health Establishments Collection.

26 of 2013—Topic to be Included as a Supplement to the Monthly Population Survey: Characteristics of Recent Migrants.

27 of 2013—Survey of Producer Prices.

28 of 2013—Corrective Services, Australia—Quarterly Collection.

29 of 2013—Criminals Courts, Australia.

30 of 2013—Recorded Crime—Offenders, Australia.

31 of 2013—Prisoners in Australia.

32 of 2013—Surveys to Support Estimates of Sub-State Resident Population.


Australian Charities and Not-for-profits Commission Act—Select Legislative Instrument 2013 No. 82—Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 2) [F2013L00793].

Australian Communications and Media Authority Act and Broadcasting Legislation Amendment (Digital Dividend) Act—Australian Communications and Media Authority (Low Interference Potential Devices in the Digital Dividend) Direction 2013 [F2013L00866].


Australian National Registry of Emissions Units Act, Carbon Credits (Carbon Farming

Australian National University Act—
ANU College Governance Statute 2013 [F2013L00862].

ANU College Governance Statute 2013—ANU College Governance Rules 2013 [F2013L00863].

Interpretation Statute (No. 2) 2013 [F2013L00867].

Programs and Awards Statute 2013—Academic Progress Rules 2013 [F2013L00868].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determinations Nos—
8 of 2013—Information provided by life insurers and friendly societies under Reporting Standard LRS 100.0, LRS 120.0, LRS 210.0, LRS 300.0, LRS 310.0, LRS 330.0, LRS 340.0, LRS 400.0, LRS 420.0 and LRS 430.0 [F2013L00797].

9 of 2013—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2013L00858].

10 of 2013—Information provided by general insurers under Reporting Standard GRS 110.0 (2002), GRS 120.0 (2002), GRS 300.0 (2002), GRS 310.0 (2002), GRS 310.3 (2002), GRS 320.0 (2002), GRS 400.0 (2002), GRS 110.0 (2005), GRS 120.0 (2005), GRS 300.0 (2005), GRS 310.0 (2005), GRS 310.3 (2005), GRS 320.0 (2005), GRS 400.0 (2005), GRS 110.0 (2007), GRS 120.0 (2007), GRS 300.0 (2007), GRS 310.0 (2007), GRS 310.3 (2007), GRS 320.0 (2007), GRS 400.0 (2007), GRS 110.0 (2008), GRS 120.0 (2008), GRS 300.0 (2008), GRS 310.0 (2008), GRS 310.3 (2008), GRS 400.0 (2008), GRS 110.0 (2010), GRS 120.0 (2010), GRS 300.0 (2010), GRS 310.0 (2010) and GRS 400 (2010) [F2013L00939].

11 of 2013—Information provided by life insurers and friendly societies under Reporting Standard LRS 100.0, LRS 120.0, LRS 210.0, LRS 300.0, LRS 310.0, LRS 330.0, LRS 340.0, LRS 400.0, LRS 420.0 and LRS 430.0 [F2013L00940].

Australian Radiation Protection and Nuclear Safety Act and Australian Radiation Protection and Nuclear Safety (Licence Charges) Act—Select Legislative Instrument 2013 No. 74—Australian Radiation Protection and Nuclear Safety Legislation (Fees and Charges) Amendment Regulation 2013 (No. 1) [F2013L00796].

Australian Research Council Act—
Approval of Proposals—Determinations Nos—
112—Industrial Transformation Training Centres for funding commencing in 2013.

113—Industrial Transformation Research Hubs for funding commencing in 2012.

Industrial Transformation Research Hubs Funding Rules for funding commencing in 2013 [F2013L00995].

Industrial Transformation Training Centres Funding Rules for funding commencing in 2014 [F2013L00991].

Automotive Transformation Scheme Act—Automotive Transformation Scheme Regulations—Automotive Transformation Scheme Amendment Order 2013 (No. 1) [F2013L00904].

Autonomous Sanctions Act—Autonomous Sanctions Regulations—
Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Syria) Amendment List 2013 [F2013L00884].

Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Zimbabwe) Amendment List 2013 (No. 2) [F2013L00857].


Broadcasting Services Act—
Broadcasting Services (Digital-Only Local Market Areas for Remote Central and Eastern Australia TV1 and Remote Central and Eastern Australia TV2 Licence Areas) Determination 2013 [F2013L00909].
Broadcasting Services (Events) Notice (No. 1) 2010—
Amendment No. 5 of 2013 [F2013L00869].
Amendment No. 6 of 2013 [F2013L00949].
Broadcasting Services (Exempt Digital Transmission Areas) Determination (No. 2) 2013 [F2013L00818].
Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2013 (No. 2) [F2013L00852].
Broadcasting Services (Television Captioning Standard 2013 [F2013L00918].
Carbon Credits (Carbon Farming Initiative) Act—
Carbon Credits (Carbon Farming Initiative) (Destruction of Methane Generated from Manure in Piggeries—1.1) Methodology Determination 2013 [F2013L00856].
Carbon Credits (Carbon Farming Initiative) (Enclosed Mechanical Processing and Composting Alternative Waste Treatment) Methodology Determination 2013 [F2013L00931].
Carbon Credits (Carbon Farming Initiative) (Reforestation and Afforestation—1.1) Methodology Determination 2013 [F2013L00875].
Select Legislative Instrument 2013 No. 77—
Carbon Credits (Carbon Farming Initiative) Amendment Regulation 2013 (No. 1) [F2013L00800].
Charter of the United Nations Act—
Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2013 (No. 1) [F2013L00789].
Select Legislative Instruments 2013 Nos—
72—Charter of the United Nations Legislation Amendment Regulation 2013 (No. 1) [F2013L00791].
Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos CASA—
93/13—Direction – number of cabin attendants [F2013L00886].
94/13—Direction – number of cabin attendants—Jetstar Airways [F2013L00882].
97/13—Designation – of airspace; Direction – broadcast requirements and frequency [F2013L00859].
Civil Aviation Safety Regulations—
Instruments Nos CASA—
EX54/13—Exemption – requirement to wear seat belt and safety harness [F2013L00892].
EX59/13—Exemption – Brindabella Airlines Pty Ltd from subregulation 217(2) of CAR 1988 and paragraph 3.3 of CAO 82.3 [F2013L00887].
EX60/13—Exemption – provision of ARFFS service at Port Hedland aerodrome [F2013L00864].
EX61/13—Exemption – from standard take-off and landing minima – Virgin Australia International Airlines Pty Ltd [F2013L00877].
Part 42 Manual of Standards Amendment Instrument 2013 (No. 1) [F2013L00929].
Revocation of Airworthiness Directives—
Instrument No. CASA ADCX 010/13 [F2013L00847].
Select Legislative Instrument 2013 No. 80—
Civil Aviation Legislation Amendment (Miscellaneous) Regulation 2013 [F2013L00798].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Good and Services Tax Advices—Notices of Withdrawals—GSTA TPP 024 and GSTA TPP 031.
Notice of Withdrawal—GSTR 2000/16.
Luxury Car Tax Determination LCTD 2013/1.
Addenda to Withdrawals—PR 2005/46 and PR 2006/78.
PR 2013/12.
Taxation Rulings—Notices of Withdrawals—IT 2441 and TR 2005/3.
Corporations Act—ASIC Class Orders—[CO 13/632] [F2013L00853].
[CO 13/655] [F2013L00936].
[CO 13/656] [F2013L00968].
ASIC Market Integrity Rules (Competition in Exchange Markets) 2011—ASIC Class Rule Waiver [CW 13/680] [F2013L00839].
Corporations (Derivatives) Determination 2013 [F2013L00819].
Select Legislative Instruments 2013 Nos—83—Corporations Amendment Regulation 2013 (No. 2) [F2013L00780].
101—Corporations Amendment Regulation 2013 (No. 3) [F2013L00905].
102—Corporations Amendment (Intra-fund Advice Fees) Regulation 2013 [F2013L00906].
Criminal Code Act—Select Legislative Instrument 2013 No. 66—Criminal Code Amendment Regulation 2013 (No. 1) [F2013L00825].
Currency Act—Currency (Royal Australian Mini) Determination 2013 (No. 2) [F2013L00799].
2013 Nos—1—Customs Amendment Regulation 2013 (No. 1) [F2013L00204]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 25 February 2013].
90—Customs (Prohibited Exports) Amendment (Defence Trade Controls) Regulation 2013 [F2013L00919].
2013/23—Cadet forces allowance – amendment.
2013/24—Partial rent allowance and leave travel – amendment.
2013/25—Post indexes – amendment.
Determination under section 58H—Defence Force Remuneration Tribunal Determinations Nos—7 of 2013—Salaries – Senior Officer Specialist Legal Officer – Amendment.
8 of 2013—Salaries – Senior Officer – Amendment.

Defence Trade Controls Act—
Select Legislative Instrument 2013 No. 93—Defence Trade Controls Regulation 2013 [F2013L00902].
Environment Protection and Biodiversity Conservation Act—Amendments of lists of:
CITES species, dated 31 May 2013 [F2013L00938].
Exempt native specimens—
EPBC303DC/SFS/2013/23 [F2013L00865].
EPBC303DC/SFS/2013/24 [F2013L00806].
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2 April 2013 [F2013L00817].
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31 May 2013 [F2013L00937].
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Determination of the GST Revenue Sharing Relativities for 2013-14 [F2013L00921].
Financial Management and Accountability Act—
FMA Act (Anzac Centenary Public Fund Special Account) Determination 2013/02 [F2013L00942].
Select Legislative Instrument 2013 No. 70—Financial Management and Accountability Amendment Regulation 2013 (No. 3) [F2013L00802].
Financial Management and Accountability Act, Commonwealth Authorities and Companies Act, High Court of Australia Act, Aboriginal and Torres Strait Islander Act, Defence Service Homes Act and Natural Heritage Trust of Australia Act—Finance Minister’s Amendment Orders (Financial Statements for reporting periods ending on or after 1 July 2012) [F2013L00773].
Financial Sector (Collection of Data) Act—
Financial Sector (Collection of Data) Determination No. 62 of 2013 [F2013L00776].
Financial Sector (Collection of Data) (Reporting Standard) Determinations Nos—
63 of 2013—Reporting Standard ARS 112.2 Standardised Credit Risk – Off-balance Sheet Exposures [F2013L00927].
69 of 2013—Reporting Standard SRS 250.0 Acquired Insurance [F2013L00975].
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75 of 2013—Reporting Standard SRS 331.0 Services [F2013L00947].
76 of 2013—Reporting Standard SRS 410.0 Accrued Default Amounts [F2013L00958].
77 of 2013—Reporting Standard SRS 520.0 Responsible Persons Information [F2013L00978].
79 of 2013—Reporting Standard SRS 530.1 Investments and Investment Flows [F2013L00948].
80 of 2013—Reporting Standard SRS 531.0 Investment Flows [F2013L00962].
81 of 2013—Reporting Standard SRS 532.0 Investment Exposure [F2013L00961].
82 of 2013—Reporting Standard SRS 533.0 Asset Allocation [F2013L00973].
83 of 2013—Reporting Standard SRS 534.0 Derivative Financial Instruments [F2013L00967].
84 of 2013—Reporting Standard SRS 535.0 Securities Lending [F2013L00969].
85 of 2013—Reporting Standard SRS 540.0 Fees [F2013L00971].
86 of 2013—Reporting Standard SRS 600.0 Profile and Structure (RSE Licensee) [F2013L00972].
87 of 2013—Reporting Standard SRS 601.0 Profile and Structure (RSE) [F2013L00952].
88 of 2013—Reporting Standard SRS 602.0 Wind-up [F2013L00951].
89 of 2013—Reporting Standard SRS 610.0 Membership Profile [F2013L00950].
90 of 2013—Reporting Standard SRS 610.1 Changes in Membership Profile [F2013L00954].
91 of 2013—Reporting Standard SRS 610.2 Membership Profile [F2013L00953].
93 of 2013—Reporting Standard SRS 710.0 Conditions of Release [F2013L00963].
94 of 2013—Reporting Standard SRS 800.0 Financial Statements [F2013L00955].
95 of 2013—Reporting Standard SRS 801.0 Investments and Investment Flows [F2013L00957].

Food Standards Australia New Zealand Act—Food Standards (Application A1069 – Irradiation of Tomatoes and Capsicums) Variation [F2013L00809].
Food Standards (Application A1074 – Minimum L-histidine in Infant Formula Products) Variation [F2013L00811].

Higher Education Support Act—VET Provider Approvals Nos—
18 of 2013—GP Links Wide Bay Ltd [F2013L00781].
19 of 2013—Beauty & Hair Academy of Australia Pty Ltd [F2013L00898].
20 of 2013—Menzies Institute of Technology Pty Ltd [F2013L00899].
21 of 2013—Intellitrain Pty Ltd [F2013L00965].

Illegal Logging Prohibition Act—Select Legislative Instrument 2013 No. 88—Illegal Logging Prohibition Amendment Regulation 2013 (No. 1) [F2013L00883].


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Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2013 (No. 1) [F2013L00930].

Select Legislative Instruments 2013 Nos—
84—Income Tax Assessment Amendment (Private Health Insurance Statement) Regulation 2013 [F2013L00784].

103—Income Tax Assessment Amendment (Superannuation Measures No. 1) Regulation 2013 [F2013L00894].

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Marine Safety (Domestic Commercial Vessel) National Law Act—
Marine Safety (Domestic Commercial Vessel) National Law (Meaning of Corresponding State-Territory law) Declaration 2013 [F2013L00970].


Migration Act—
Instrument IMMI 13/058—Eligible passports [F2013L00850].

Migration Regulations—Instruments IMMI—
13/003—Classes of persons [F2013L00943].
13/026—Making an application for a humanitarian visa; Classes of persons and addresses [F2013L00851].
13/074—Class of persons [F2013L00959].
13/076—Instrument of revocation [F2013L00888].
13/077—Instrument of revocation [F2013L00889].


Select Legislative Instruments 2013 Nos—
75—Migration Amendment Regulation 2013 (No. 2) [F2013L00795].

76—Migration Amendment Regulation 2013 (No. 3) [F2013L00786].
95—Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Regulation 2013 [F2013L00878].
96—Migration Legislation Amendment Regulation 2013 (No. 2) [F2013L00885].
106—Migration Amendment (Permanent Protection Visas) Regulation 2013 [F2013L00890].

National Consumer Credit Protection Act—
Select Legislative Instrument 2013 No. 85—National Consumer Credit Protection Amendment Regulation 2013 (No. 2) [F2013L00814].

National Disability Insurance Scheme Act—
National Disability Insurance Scheme (Host Jurisdiction) Specification 2013 [F2013L00803].


National Health Act—Instruments Nos PB—
29 of 2013—National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 6) [F2013L00843].
30 of 2013—National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2013 (No. 3) [F2013L00874].
31 of 2013—National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2013 (No. 5) [F2013L00842].
33 of 2013—Amendment determination under paragraph 98C(1)(b) of the National Health Act 1953 [F2013L00840].
35 of 2013—National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2013 (No. 7) [F2013L00922].

Native Title Act—
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 1) [F2013L00832].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 2) [F2013L00833].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 3) [F2013L00831].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 4) [F2013L00830].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 5) [F2013L00828].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 6) [F2013L00829].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 7) [F2013L00834].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 8) [F2013L00835].
Recognition as Representative Aboriginal/Torres Strait Islander Body 2013 (No. 9) [F2013L00836].

Navigation Act 2012—
Marine Orders Nos—
2 of 2013—Marine Order 2 (Australian International Shipping Register) 2013 [F2013L00848].
3 of 2013—Marine Order 4 (Transitional modifications) 2013 [F2013L00871].
4 of 2013—Marine Order 11 (Living and working conditions on vessels) 2013 [F2013L00841].
5 of 2013—Marine Order 63 (MASTREP) 2013 [F2013L00837].


Parliamentary Entitlements Act—Select Legislative Instrument 2013 No. 71—Parliamentary Entitlements Amendment Regulation 2013 (No. 1) [F2013L00792].

Personally Controlled Electronic Health Records Act—PCEHR (Assisted Registration) Amendment Rules 2013 (No. 1) [F2013L00838].

Primary Industries and Energy Research and Development Act—Select Legislative Instrument 2013 No. 87—Fisheries Research and Development Corporation Amendment Regulation 2013 (No. 1) [F2013L00895].

Privacy Act—Select Legislative Instrument 2013 No. 67—Privacy (Private Sector) Amendment (Centrelink eServices Organisations) Regulation 2013 [F2013L00790].

Private Health Insurance Act—Private Health Insurance (Health Insurance Business) Amendment Rules 2013 (No. 1) [F2013L00775].

Radiocommunications Act—
Australian Radiofrequency Spectrum Plan Variation 2013 (No. 1) [F2013L00826].
Radiocommunications Advisory Guidelines (Managing Interference to Spectrum Licensed Receivers – 800 MHz Band) Amendment 2013 (No. 1) [F2013L00861].
Radiocommunications (Labelling) Determination 2013 [F2013L00821].
Radiocommunications Licence Conditions (Apparatus Licence) Amendment Determination 2013 (No. 1) [F2013L00824].
Radiocommunications (Public Safety and Emergency Response) Class Licence 2013 [F2013L00827].

Remuneration Tribunal Act—Determination 2013/06: Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices [F2013L00849].

Retirement Savings Accounts Act—RSA Data and Payment Standards 2013 [F2013L00881].

Schools Assistance Act—Determination of Classes of Persons Who Are Not Overseas Students 2013 [F2013L00860].
Shipping Reform (Tax Incentives) Act—
Subsection 10(5) specification of kinds of vessels, dated 6 May 2013 [F2013L00774].

Social Security Act—
Social Security (Australian Victim of Terrorism Overseas Payment) Principle 2013 [F2013L00946].

Social Security (Personal Care Support – Queensland Your Life Your Choice Self-Directed Support: Host Providers and Direct Payment) (DEEWR) Determination 2013 (No. 1) [F2013L00933].


Superannuation Act 1990—Thirty-seventh Amending Deed to the Public Sector Superannuation Scheme Trust Deed [F2013L00966].

Superannuation Act 2005—
Ninth Amending Deed to the Superannuation (PSSAP) Trust Deed [F2013L00934].

Superannuation (PSSAP) (Australian Government Superannuation Scheme Member) Declaration 2013 (No. 1) [F2013L00932].

Superannuation (PSSAP) (Division of Costs) Amendment Determination 2013 (No. 2) [F2013L00935].

Superannuation Industry (Supervision) Act—
Select Legislative Instruments 2013 Nos—
86—Supernannuation Industry (Supervision) Amendment Regulation 2013 (No. 2) [F2013L00783].

105—Supernannuation Industry (Supervision) Amendment Regulation 2013 (No. 3) [F2013L00872].

Superannuation Data and Payment Standards (Minor Amendments) 2013 [F2013L00879].


Superannuation (Productivity Benefit) Act—
Superannuation (Productivity Benefit) (Continuing Contributions) Declaration 2013 [F2013L00813].

Superannuation (Productivity Benefit) (First Interest Factor) Declaration 2013 [F2013L00808].

Superannuation (Productivity Benefit) (Penalty Interest) Amendment Determination 2013 (No. 1) [F2013L00823].

Superannuation (Productivity Benefit) (Second Interest Factor) Declaration 2013 [F2013L00822].

Sydney Airport Curfew Act—Dispensation Reports—
03/13.
04/13.

Taxation Administration Act 1953—
Lodgment of account activity statements by First home saver account providers for the year ended 30 June 2013 in accordance with the Taxation Administration Act 1953 [F2013L00928].

PAYG withholding—Withholding Schedules 2013 [F2013L00908].

Telecommunications Act—Australian Communications and Media Authority (International Mobile Roaming Industry Standard) Direction (No. 1) 2012 (Amendment No. 1 of 2013) [F2013L00844].


Therapeutic Goods Act—
Therapeutic Goods Information (Early Warning System) Specification 2013 [F2013L00893].

Therapeutic Goods (Listing) Notice 2013 (No. 1) [F2013L00772].

Therapeutic Goods (Listing) Notice 2013 (No. 2) [F2013L00777].

Therapeutic Goods (Manufacturing Principles) Determination No. 1 of 2013 [F2013L00855].
Therapeutic Goods Order No. 88—Standards for donor selection, testing and minimising infectious disease transmission via therapeutic goods that are human blood and blood components, human tissues and human cellular therapy products [F2013L00854].


Governor-General’s and Administrator’s Proclamations—Commencement of provisions of Acts—

Customs Amendment (Anti-dumping Improvements) Act (No. 1) 2012—Schedule 1—10 June 2013 [F2013L00915].

Customs Amendment (Anti-dumping Improvements) Act (No. 2) 2012—Schedule 1—11 June 2013 [F2013L00916].

Customs Amendment (Anti-dumping Improvements) Act (No. 3) 2012—Schedules 1 to 3—11 June 2013 [F2013L00917].

Defence Trade Controls Act 2012—Sections 3 to 9 and 26 to 57—6 June 2013 [F2013L00903].

Migration Amendment (Reform of Employer Sanctions) Act 2013—Schedule 1—1 June 2013 [F2013L00788].

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013—Items 1 to 14 of Schedule 1—1 June 2013 [F2013L00880].

National Disability Insurance Scheme Act 2013—Chapters 2 and 3, Division 1 of Part 1 of Chapter 4, Parts 4, 5 and 6 of Chapter 4, and Chapter 5—1 July 2013 [F2013L00994].

Departmental and Agency Appointments
Tabling

The following documents were tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Budget estimates—Letters of advice—

Agriculture, Fisheries and Forestry portfolio. [Received 20 May 2013]

Arts portfolio. [Received 29 May 2013]

Attorney-General’s portfolio. [Received 21 May 2013]

Broadband, Communications and the Digital Economy portfolio. [Received 28 May 2013]

Defence portfolio. [Received 29 May 2013]

Department of Families, Housing, Community Services and Indigenous Affairs. [Received 22 May 2013]

Department of Immigration and Citizenship. [Received 21 May 2013]

Education, Employment and Workplace Relations portfolio. [Received 17 May 2013]

Finance and Deregulation portfolio. [Received 21 May 2013]

Foreign Affairs and Trade portfolio. [Received 22 May 2013]

Health and Ageing portfolio. [Received 21 May 2013]

Human Services portfolio. [Received 20 May 2013]

Office for Sport. [Received 21 May 2013]

Prime Minister and Cabinet portfolio. [Received 17 May 2013]

Regional Australia, Regional Development and Local Government portfolio. [Received 28 May 2013]

Resources, Energy and Tourism portfolio. [Received 27 May 2013]

Sustainability, Environment, Water, Population and Communities portfolio. [Received 20 May 2013]

Treasury portfolio. [Received 21 May 2013]

Veterans’ Affairs portfolio. [Received 20 May 2013]

Departmental and Agency Grants
Tabling

The following documents were tabled pursuant to the order of the Senate of 24 June 2008:
Departmental and agency grants—Budget estimates—Letters of advice—

Australian National Preventive Health Agency. [Received 20 May 2013]

Broadband, Communications and the Digital Economy portfolio. [Received 28 May 2013]

Cancer Australia. [Received 20 May 2013]

Defence portfolio. [Received 29 May 2013]

Department of Families, Housing, Community Services and Indigenous Affairs. [Received 22 May 2013]

Department of Health and Ageing. [Received 30 May 2013]

Department of Human Services. [Received 20 May 2013]

Department of Immigration and Citizenship. [Received 21 May 2013]

Department of Veterans’ Affairs. [Received 20 May 2013]

Education, Employment and Workplace Relations portfolio. [Received 20 May 2013]

Finance and Deregulation portfolio. [Received 21 May 2013]

Foreign Affairs and Trade portfolio. [Received 22 May 2013]

Office for the Arts. [Received 20 May 2013]

Office for Sport. [Received 21 May 2013]

Organ and Tissue Authority. [Received 20 May 2013]

Prime Minister and Cabinet portfolio. [Received 17 May 2013]

Regional Services, Local Communities and Territories portfolio. [Received 28 May 2013]

Regional Development and Local Government portfolio. [Received 17 May 2013]

Resources, Energy and Tourism portfolio. [Received 27 May 2013]

Sustainability, Environment, Water, Population and Communities portfolio. [Received 20 May 2013]

Treasury portfolio. [Received 21 May 2013]