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SITTING DAYS—2012

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- MELBOURNE 1026AM
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Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia, Commander of the Royal Victorian Order

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

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

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

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

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

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

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

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

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

PARTY ABBREVIATIONS

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
# GILLARD MINISTRY

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<td>Prime Minister</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Digital Productivity</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Asian Century Policy</strong></td>
<td>The Hon Dr Craig Emerson MP</td>
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<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<td>(Deputy Prime Minister)</td>
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<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<td>The Hon David Bradbury MP</td>
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<td>The Hon Bernie Ripoll MP</td>
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<td>(Leader of the Government in the Senate)</td>
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<td>The Hon Justine Elliot MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
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<td>Minister for Sustainability, Environment, Water, Population and Communities (Vice-President of the Executive Council)</td>
<td>The Hon Tony Burke MP</td>
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10:00, read prayers and made an acknowledgement of country.

CONDOLENCES

Smith, Corporal Scott James


Leave granted.

Senator CHRIS EVANS: I move:

That the Senate records its deep sorrow at the death, on 21 October 2012, of Corporal Scott James Smith, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

The PRESIDENT: I ask senators to stand in silence to signify their assent to the motion.

Honourable senators having stood in their places—Question agreed to.

COMMITTEES

Community Affairs Legislation Committee

Select Committee on Electricity Prices

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (10:02): by leave, at the request of the respective chairs of the Community Affairs Legislation Committee and the Select Committee on Electricity Prices, I move:

(a) That the Select Committee on Electricity Prices be authorised to meet during the sitting of the Senate today from 3.15 pm and for a private briefing; and

(b) the Community Affairs Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today.

Question agreed to.

BILLS

Defence Trade Controls Bill 2011

Customs Amendment (Military End-Use) Bill 2011

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator JOHNSTON (Western Australia) (10:03): I rise to speak on the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-Use) Bill 2011. This is very important legislation. I want to say from the outset so that I can put the government and its officers at their rest that the coalition senators will be supporting this legislation and, I think I am bound to also say at this point, the amendments that they bring to the chamber. There may be some change in that, but I will afford the government the courtesy of advising it during the course of the morning if there are changes with respect to those amendments.

This is an extremely complex piece of legislation. Additionally, it was a non-controversial piece of legislation until I, predominantly, began to wade my way through it and realised that it contained a number of very significant potholes.

Having said that, I will commence by saying that the bill does two things. Firstly, it puts the flesh on the bones, if you like, of a John Howard-George Bush treaty designed to make the acquisition of controlled
munitions and technology more cost-effectively and efficiently carried out on either side of the Pacific Ocean—the United States or Australia. Obviously, given the very high percentage of systems that we acquire from the United States, we are the principal beneficiary of such a scheme. Our first concern in dealing with this aspect of the bill is to see that it achieves its purpose.

The second part of the bill is an equally very important and vital piece of legislation for Australia. It controls the export of restricted defence strategic goods list items and, as it does this, it seeks to comply with the Wassenaar arrangement, which restricts the transmission, sale and trafficking in weapons of mass destruction or the componentry and technology thereof.

In my contribution to the debate on the second reading, I want to acknowledge a number of people: firstly, the defence team on the coalition side, with the addition of the very learned Senator Mason, who, of course is a specialist in higher education; Mr Stuart Robert, the shadow minister for defence, science and personnel; Senator Ronaldson, veterans affairs; Senator Humphries; and Senator Macdonald. They have all played a role in going through what is a very complex piece of legislation. I also want to compliment all the members of the Senate Foreign Affairs, Defence and Trade Committee for their persistence. And, may I say, the secretariat have done a fabulous job in getting to the bottom of what is, as I have already said, very complicated.

Professor Jill Trewhella and Mr Tim Payne from the University of Sydney have been very, very supportive in assisting us. Dr Pam Kinnear, very importantly, came along to the Senate and gave evidence. Boeing flew a witness out from Washington to give evidence to the committee on this subject matter. All of the defence industry witnesses who appeared assisted the committee greatly in seeking to get the public policy done well and properly in the Senate. This is what the Senate does best—scrutinising complex legislation.

We have received very little assistance by way of input from the ministers. This area is a dog's breakfast. It was a dog's breakfast from the beginning because these ministers, the senior and junior defence ministers, refused to take any real interest in it. It has been up to the Senate to clean this mess up as best we can. Not everybody is absolutely happy with where this is going to end up. Having said what I have said about the coalition's disposition, the fact is that the ministers dropped ball. They did not understand what they were doing. They never came to terms with what they were doing. At scrutiny of bills they got a timely wake-up call but ignored it. We have 10-year penalties for breaches of these rules, with strict liability offences. That is what we have given to our hardworking research community in Australia. We have put this upon their shoulders. Indeed, the committee report on the consultation is a damning indictment of the way in which this government does business. This is incompetence on steroids, may I say, Deputy President, in line with what we have come to accept and understand from the government to this point in time.

Having said that, I now want to talk about the treaty. As I said, it is a Howard-Bush treaty—a very important treaty and something that the parliament should be proud of and work towards. The purpose of the bill is to give effect to the treaty between the government of Australia and the government of the United States of America concerning defence trade cooperation. This treaty was signed in 2007 by Prime Minister John Howard and United States President George Bush.
It sought to do a number of things. It sought to provide a basis where there was an approved community membership—that is, a structure where we took Australian companies, Australian individuals, state and territory governments and national governments and declared that they were part of the approved community—allowing them to go forward and deal in products and technology, the subject of the international trafficking in arms regulations, in a way that was purportedly more cost effective, simple, convenient and effective. The question is: did it do that?

Our point of view in the opposition was to ask industry, ‘What do you think?’; and when we did, a number of specialist individuals who have discrete training in this area came to us and said, ‘The definitions are very wobbly, vague and uncertain, and we don’t think that the bill achieves what it is intended to achieve.’ And, of course, this is grist for the mill for the Senate. Indeed, the Senate preliminary report of August 2012 is quite castigating as to the ineffectiveness of the legislation to achieve its purpose insofar as the treaty objectives were concerned.

It also sought to increase opportunities for Australian defence companies; it sought to reduce obstacles; and it sought to be better than ITARs. They are all very laudable and very bipartisan objectives which we support, and, as I have said, we will be supporting them—as bad as they may be.

The second part of the legislation is the defence export control legislation. It controls the supply of DSGL—Defence Strategic Goods Lists—technology and services. It seeks to create, register and put in place a registration and permit regime and to introduce a number of criminal offences to enforce those new provisions. That is it in a nutshell. I have no doubt that it does all those, and quite well.

It was two weeks ago that we received the 20 pages of amendments to this legislation, largely dealing with this aspect, and if I may, Mr Deputy President, I will take the Senate through what has occurred in consultation since the Senate got hold of this.

The problem with this is that these provisions are so broad as to start alarm bells ringing in every research institution and every private research institution in Australia as to how they are to proceed and how they are to fit into this regime that has been put into place. The point is: the regime is required—it is needed. But it is needed in a way that is consultative, that has a transition period—and you will hear some more about that during the course of this morning, Mr Deputy President—and that is effective in its control, but which does not throw out the research baby with the bathwater and which does not leave Australia in a worse position to that of our international research competitors, predominantly in the United States and in Europe. That is the Senate's principal consideration with this legislation.

The amendments that we will put forward seek to get DECO—the Defence Export Control Office—to comply with applications for permits and for registration in a timely way: 15 days for non-complex and 35 days for complex. And if they have not done it in that time they are deemed to have approved: they are deemed to have said that those applications are exempt. Whether that gets up or not is another matter, but that is the intent because I think the research community have been put to an enormous amount of needless concern and trouble because consultation was not done properly in the first instance. Indeed, the reason for that was that ministers did not understand this legislation's full effect and parameters and were simply not interested.
I want to talk a little about the Wassenaar arrangement. The Wassenaar arrangement has a list of goods and technologies that it seeks to control the participating states trading. It deals with the dual use goods and technologies that have a military application pertinent to weapons of mass destruction. There are 41 members to this arrangement. Australia is one. The responsibilities are onerous but very necessary. We are dealing with a very serious piece of international public policy. Our participation in this comes with considerable responsibility and indeed we need to conduct ourselves in an exemplary way in adhering to the provisions and in going forward.

Having said all of that, let me turn to the situation that we see ourselves in now with this legislation. It has been hurried through the parliament. It first came in and was passed by the House of Representatives on 21 November 2011. It came to the Senate some short time thereafter and was referred to the committee for its inspection. The Scrutiny of Bills Committee took a look at this and found a number of problems, many of which have not been dealt with by the minister: the delegation of legislative power in clause 10 and the fact that many of the provisions referred to in the explanatory memorandum do not find their way into the legislation—not just the explanatory memorandum.

The Scrutiny of Bills Committee reported on the fact that there were a number of anomalous provisions and a number of absolute offences, which I will deal with, wherein people needed to be aware of what was going on. The Alert Digest said:

The Committee has a long-standing interest in the availability of appropriate merits review and notes the explanation given for excluding it in this case.

This is merits review excluded in paragraph 112BA. It continues:

The Committee is therefore of the view that it would be appropriate for the Minister to report to Parliament on the use of the power. The Committee requests that the bill be amended to require annual reporting to Parliament on the exercise of the discretionary power in paragraph 112BA and seeks the Minister’s advice as to whether the bill can be amended to this effect.

That is with respect to the customs bill, which we do not take any issue with. It indicates that these two bills go hand in hand. The customs bill is in fact the mechanical instrument whereby the defence trade controls are enforced.

There are a number of provisions which caused the Scrutiny of Bills Committee concern. The ones that concern me greatly are the strict liability offences that are created in clauses 13 and 18, the reversal of onus in clause 31, the strict liability offence in clause 28 and so on.

We will work our way through a considerable number of amendments. As I say, we will pass the government’s amendments, subject to some understanding with respect to a number of the points. But I think the intent of the coalition is to get on with the job of getting this done. The government has its own reasons for such haste.

In the three minutes that I have left, I want to talk about consultation. Consultation was feigned by the ministers and their departmental officials in dealing with a couple of areas and people affected by this legislation, in a way that left the whole thing virtually in a state of extreme disrepair in terms of consultation. When people began to see and hear and understand, largely through
submissions to the Senate committee, what this legislation meant, there was uproar. There was outrage. And rightly so. The defence department, having seen the error of its ways, has, I must now acknowledge, undertaken proper consultation. Indeed, we have spent about three months, a considerable time, looking at the problems and the practical difficulties that the proponents of the submissions to the Senate committee have made and seeking to solve them.

Given the nature of the important material underlying the Wassenaar arrangement, nobody is going to be absolutely happy at any given time about all of the solutions to their problems. The cards have fallen on the side of government control. I think they were always going to have to fall that way, but that does not excuse the fact that people were needlessly left out in the cold in this process. If they had been engaged properly from the outset, we would not have found ourselves getting 20 pages of amendments two weeks ago and we would not have found ourselves with hard-working researchers wondering how their future research and the structure of the way in which they do their very lucrative business inside universities and other research institutions were going to continue, and they would not have had to drop everything and run around for the last three months, as they have had to, seeking to get some changes to this legislation.

It is not perfect. I know that many people here and those listening to this debate will be disappointed in the way that we have dealt with this legislation. But we must fall on the side of the government's intent to control much of this material, its transmission and its trade. As I say, that does not excuse the fact that they were not properly engaged.

I am running out of time. There are many more things that I wish to discuss about this, but we will continue parts of this debate when we deal with the very large volume of amendments that the government wants to put in and that the Greens are keen to put in also, and the coalition have a number of amendments that we want to pursue. I thank the Senate for its time. This is a very important piece of legislation which has had an inauspicious commencement in terms of its consultation. It has led us to a dark place, but I think we have come out of it.

Senator LUDLAM (Western Australia) (10:23): I also rise to make a contribution on the Defence Trade Controls Bill 2011. It is interesting to hear Senator Johnston's comments and realise, as I thought I might, that I agree with much of his critique of the way that this bill has been handled by the minister's office and by the Department of Defence. Yet, on the procedural issues, I cannot help thinking that these were things that Senator Johnston could have done quite a bit about. They did not, and that is quite telling.

This legislation does implement a Bush-Howard treaty between Australia and the United States which seeks, in part, to increase interoperability through administratively and practically using the two-way trade of weapons and defence technology and research. At the outset, before we go into the detailed provisions of the bill and why it has caused so much concern in our academic and research communities, I think it is worth going into what this bill is actually about.
SIPRI says that defence spending in 2011, the last year for which we have accurate numbers, was about $1.74 trillion per year. So in the time that it would take to read a 20-minute speech the world will spend $66 million on weaponry and on defence technology. That, in part, is what this bill is seeking to enable. The Greens will not be supporting this legislation, for many of the reasons that Senator Johnston just outlined and yet the coalition has seen fit not merely to support the bill but to enable it. On some of the substantive provisions, I suspect we will find agreement when it comes to the committee stage. I thank everybody, particularly in the opposition and in the minister's office, for scrambling over the last couple of days to try and fix the mess that has been handed to them. I would also like to add my comments thanking the staff of the Senate Foreign Affairs, Defence and Trade Committee for having been handed a mess and having handled it—and it did not have to be this way. Nonetheless they have worked through the issues with the usual diligence and care.

Both the underlying treaty and this bill facilitate the weapons trade. The treaty and this bill make the collaboration between those creating, selling and buying weapons of war easier. Let us not airbrush out and push that under the table. We would oppose this bill therefore no matter which country Australia was proposing to do this with because we do not wish the arms trade to be easier or to be enhanced or to be smoother or to be more interoperable. We question the human and economic resources going into war and the preparation for war, the narrow, stunted vision of security and human security that underlies the idea that as long as we prepare for war we will be secure. Take issues around climate change, food insecurity, water scarcity, HIV/AIDS, natural disasters. None of these genuine human security issues are remotely improved by defence spending. It is quite the reverse.

The bill removes restrictions on certain defence exports between the US and Australia through the creation of an 'approved community' comprising industry, particular facilities, government agencies and research and educational institutions that are approved, which will dispense with the need for the usual export licences required for these items. So at the outset it is acknowledging the streamlining of paperwork and the reduction of red tape that is clearly underlined here. It also, however, requires controls for a specified defence and strategic goods list, or DSGL, and related goods and technology. This list is some 380 pages long. The bill sets up a registration and permit regime for brokering in these goods and services. These are commitments, as Senator Johnston outlined, that Australia has already undertaken under the Wassenaar arrangement on transfers of technology by 'intangible means', such as word of mouth, email, faxes and other electronic means. Lastly, the Defence Export Control Office is to administer the permit regime without the benefit, as I would note, of any resident scientific expertise.

We understand why this arrangement exists. We are staunchly supportive of disarmament and non-proliferation regimes globally, unlike the government—quite cheerfully led on by the opposition—which has recently made a direct assault on the nuclear non-proliferation and disarmament regimes by proposing to sell uranium to a country that stands outside the NPT. However, the Wassenaar arrangement and the Defence Trade Control List exist to stop information and technology being weaponised. That is an objective that we strongly support. That is an important goal and there are good reasons to pursue it diligently. But this is precisely where this
bill has faced such serious questions from our academic community, being very significant academic institutions and researchers who have contacted my office. No doubt they have been in touch with the minister and they have been in touch with the opposition to very clearly state that, while they are committed to the goal of not seeing these technologies and ideas and research concepts weaponised, this legislation nonetheless has massive impacts on and really serious implications for free research, open intellectual inquiry and publishing.

In the 4½ years that I have been a member of the Senate Foreign Affairs, Defence and Trade Committee, I have found it to be usually very measured and very fair in its language and recommendations. This is a diligent committee that takes its work very seriously. On this bill, the committee issued two very strongly worded reports—in fact, with some of the strongest language you will ever see in a Senate committee report—making it very clear the grievous errors in execution and in the proposition behind the bill, given the oversights and deficiencies in consultation. It put some propositions effectively for buying more time, because most people believed that the bill could be fixed given time.

The committee sent the bill back to Defence, told them to do their homework, listen to what the universities were trying to tell them and come back to the Senate when the bill was no longer a work in progress. The fact is that there are amendments being finalised this morning. That is the degree to which this bill is still a work in progress. There are still discussions going on behind the scenes, I gather, from Senator Johnston's comments, about the precise shape and form of government amendments. That is remarkable. That is an abuse of process. It is certainly an abuse of the committee system that we are sent from all over the country to participate in to make sure that these kinds of things do not happen.

Why exactly is it that we are rushing today? Why are we tying ourselves in knots, given that this bill, without a huge amount of debate, passed the House of Representatives last November? Why are we proposing to have these long-lasting and potentially very retrograde measures passed into law? We know why. It is because the United States Secretary of State, Hillary Clinton, is coming to Australia. The US Defense Secretary, Leon Panetta, is also coming to Australia for AUSMIN talks later this year. That is all this is about—a photo opportunity. It is about an 'annuncable'. This is 'hollowmen' stuff, and for that we are rushing a very, very important bill against the express objections of the people who will be directly affected by it. Our proper parliamentary process and the hard fought for mechanisms for ensuring scrutiny of bills and getting complex legislation right are just being kicked aside for a photo opportunity and a sound bite. It is a disgrace.

The Foreign Affairs, Defence and Trade Committee did not get to look at the pages of government amendments that were tabled right after the committee had reported. As senators will know, the opposition saw merit in the idea of the committee having an opportunity to verify whether the consultation process that was belatedly undertaken actually delivered the goods in the form of amendments that gave shape to the concerns that people were raising. I signed, with Senator Johnston and two of his
coalition colleagues, a dissenting paper outlining that very recommendation, and then 24 hours later the coalition were nowhere to be seen. They gave fiery speeches but voted with the government to ensure that that committee reference did not get through. I wonder whose arm got twisted and by whom overnight between that decision being turned from black to white. I think I can guess.

The facts are that academics emphasised their understanding that national security questions arise with some research. This is not controversial. Academics have also worked hard during the roundtable discussions to explain their concerns clearly and to achieve a set of agreements and a transition process to test the regime. They did this without being able to see the proposed changes in law. People participating in those roundtables were working in the dark. The academics who are in the public debate remain very concerned that they are being subjected to a broader and more stringent and onerous regime than their counterparts in the United States, and they have provided legal advice to substantiate this claim. The universities are seeking exclusions from the regime for low-risk research and are seeking equivalents with their United States counterparts. You would have thought that was not too much to ask.

The universities are also very concerned that the relationship between executive government and Australian universities as independent educational and research institutions is being directly compromised with this bill, particularly in an entirely new aspect to do with publication that was thrown on the table. So some of the amendments may have made things worse. We will have to shoot that out in the committee stage this afternoon, because the Foreign Affairs, Defence and Trade Committee was not able to make that assessment itself.

Not only have we not had time to test the government amendments; but the report for the bill was brought forward by 20 days. The Vice-Chancellor of the University of Sydney stated it this way in a recent piece in the Melbourne Age:

New controls on intangible transfers mean research activities that could result in the communication of information regarding the development, use or production of a broad range of technologies used in ordinary research would require review by, and permission from, the Department of Defence. The bill could even criminalise publication of data or information relating to these technologies.

That is what with we are up against here. That is why people are shouting so loudly: the criminalisation of research and having to tug on the sleeve of the Minister for Defence before you can publish your research.

We do not believe—the government clearly does, although they appear to still be scrambling for the precise form of words—that the amendments or the parent bill craft these exclusions or these offences anywhere nearly enough tightly enough. And we are being given a two-year cooling off period to see if it works. Why would you embed these disastrous provisions in law and give yourself two years to work out how badly they have gone when, with another couple of weeks, these things could have been fixed in the first place. So I share the vice chancellor's concerns about the new offence around publication or other dissemination of technology on the DSGL to the public or to sectors of the public by electronic or other means. That was not even in the original bill. As I have said previously, we are concerned about the chilling impact that this may have.

I cannot stress enough the Greens want to see restrictions on research that is about dual use and weapons-related technology, and again I stress that the academics that we deal with, that we have come into contact with
during the course of this bill, want that as well. Things like Silex, for example, which was cheered by the Australian government, has laser enrichment technology for uranium that clearly deals with the very definition of dual use. That is the kind of technology we are talking about here. But it is entirely likely that some of the agreed outcomes of the roundtable discussions that the committee demanded occur have not been fully implemented in the amendments or the process, and it has been so rushed that it is actually very difficult to tell.

The exclusions from the regulatory net that the sector was concerned to achieve for applied research and information that is ordinarily published and shared with the scientific community is not contained in the government's amendments. Discussions with Defence had originally led to consideration of filters to exclude lower risk categories of research and limitation to particularly sensitive technologies of the DSGL, which we quite clearly could have lived with. But it is not clear at all why lower risk education and research activities should at any time be caught up in legislation such as this. The independent legal advice from the DC law firm White and Case was that the US exclusions, among other things, extended to fundamental research. It is also clear from various major university websites in the United States and advice provided to researchers at those institutions that both basic and applied research are excluded from the scope of the regime in the United States. We want to ensure that the Australian control regime is not broader in scope or more stringent than the arrangements in place for fundamental research with our colleagues at accredited institutions in the United States.

Our committee describes the universities' position as 'fair and reasonable' in paragraph 2.16. The committee supported the view that Australian legislation should not impose heavier burdens and suggested that the government be guided by this principle when drafting amendments to the bill. The government will presumably try to make this case, but their amendments do not satisfy this basic fair and reasonable requirement and that is why we have taken to drafting some language for consideration by the chamber.

The defence minister wrote to the committee on 13 September and made several pages of undertakings. I note that at least five of the commitments made by the minister on the second page of his letter have not been satisfied by the amendments provided. The principle that all researchers operating under federal or state jurisdiction are subject to the same export control regulations are not embodied in the amendments circulated. The compliance and regulatory regime is not refocused from individuals and research groups to the organisational level. Permits have not been granted for specific research programs and projects for extended periods. And the proposed obligations to apply for permits for publication have not been replaced with an offence provision that applies to individuals if they willfully release controlled information into the public domain. These were things—commitments and undertakings—from the minister's office that were pretty well regarded. Given a bit more time, I believe they could have been incorporated into the bill.

The previous provisions drafted that supplies of restricted goods were centred on the activities of Australians with foreigners, and there is now a new provision for an offence for the suppliers for the provision of access to DSGL technology. In this regard, the addendum to the explanatory memorandum continues to explain that intangible transfers of technology include:
… a person explaining to someone overseas how to make or use controlled items, sending conference presentations overseas where the presentation content communicates controlled technology, or, access technology from a server or virtual private network.

The other offence provisions for controls relating to defence services have been deleted from the amendments, but it should be noted that the definition of technology, as it appears in the DSGL, and is defined in the amendments, still includes the following: 'specific information necessary for the development production or use of a product. The information takes the form of technical data or technical assistance'.

What is needed with this bill is to proceed with enormous care to get an effective regime. Several matters, I believe, remain outstanding. We are effectively paving the way for a train wreck between Defence and our academic institutions and, as so often happens through this place, the government will not be able to say that it was not warned. Having forced this consultation to take place—when it was entirely neglected—we are now potentially setting in concrete something that is disputed and contested as unworkable, and it will not be much comfort to people who are still here in two years time to come back and say, 'We told you so.'

So the Greens will have a series of amendments that I will speak to in a little bit more detail in the committee stage, and we will also offer some comment on the coalition and government amendments as they are circulated. But I just offer one final thought: in the time that it has taken me to deliver this address to the chamber, the world spent $66 million on weapons, on arms, on research and on so-called defence and security, at complete odds with and in complete defiance of the genuine security threats that the world faces in the 21st century. So it gives me no pleasure at all to be debating this bill today when we are denied a little more time for some work on the part of the committee that has applied itself—and it is good to see the chair in the chamber now—with great diligence over this bill, and it is suddenly kicked aside to meet a completely artificial timetable for a press conference with our US colleagues. This could have been very, very different and it could have been a good news story, and the government has instead turned it into a shambles. Since Senator Johnston enabled this shambles to occur, it is difficult to take his comments seriously when, after all he says and all the huffing and puffing and condemnation of how appallingly the government has behaved, he is going to vote for the damned thing. He voted for the procedure that allowed this to occur in the first place, and then he is going to vote for the bill.

Senator MARK BISHOP (Western Australia) (10:41): This bill, the Defence Trade Controls Bill 2011, is a bill of some consequence and some considerable importance. It has been developed over a long period of time and really is the final stage of a long and arguably unsatisfactory process. I want to talk briefly about a number of aspects of the bill that relate directly to the bill itself. Firstly, I want to talk about the background to the bill and what has been the government's stated intent and purpose; secondly, I will talk about the process of consultation over an extended period of time going back some four or five years, but in its heart over the first nine months of this year; thirdly, I will talk about the outcome and amendments that will be circulated by the government, if they have not been already; and, finally, I will make some observations about going forward in terms of some recommendations from the Senate review. I refer particularly to recommendations 1 and 2 of the final report of the Senate committee.
Turning firstly now to the background, the bill gives effect to a treaty between Australia and the United States of America concerning defence trade cooperation. The bill gives effect to controls on the supply of Defence and Strategic Goods List technology and services related to that list of goods. That list is critical to a whole range of technologies, a whole range of export services and the work of a whole range of very, very important and critical institutions in this country: without going into infinite detail, all of the universities, the CRCs, the research tanks, the think tanks, the health community and all of those engaged in forms of applied and purer research that have application in the development of technologies or the development of services attached to those technologies that, because of the often groundbreaking nature of that work and research, have application across a multitude of fields and have interest from a multitude of countries and a multitude of companies in those various countries.

So we are talking of matters of significance, of critical importance and of consequence going forward and, accordingly, that being the case, the ability to research, to publish, to engage in commerce, to export, to engage in consultation with allies, close friends and important businesses that provide billions of dollars of hardware to this country. You would have thought that all levels of government would be alert to that consequence and to that importance and, accordingly, would take a deep and abiding interest in the process of consultation subsequent to the creation of a treaty between our two governments and its endorsement by the treaties committee in the House. Unfortunately I cannot say that has been the case.

The Senate Legislation Committee on Defence, Foreign Affairs and Trade was referred the Defence Trade Controls Bill in November 2011. The committee held public hearings on 2nd and 21 March. Based on a number of submissions and evidence received at the public hearings, the committee became aware for the first time that consultation undertaken by the Defence on the proposed legislation was seriously deficient and that, as a result, Defence was in the dark about the likely unintended consequences. Think about that for a minute. Defence from the beginning was in the dark about the likely unintended consequences of the bill.

Universities Australia and the University of Sydney informed the committee that the provisions of the bill would have a detrimental impact on scientific research in Australia. It should be noted that the explanatory memorandum for the bill included a regulation impact statement which stated that the effect on universities and research would be limited. So the government's formal position in writing in the explanatory memorandum, as prepared by Defence before the committee, was that it would have minimal impact on the research communities and, as was said at the committee's second March hearing:

... we do not understand how the regulatory impact statement can have assessed the impact on universities will be small when in its own submission it did not give any data to support its conclusion, and it did not consult with the university sector.

So the critical aspect of the explanatory memorandum attached to this bill as to what the bill was intended to do, said that there had been consultation with the university sector, with the research sector and that the impact would be minimal approaching nonexistence. On that basis, people who take the trouble to read EMs can usually presume that the stated words reflect the government's position and are accurate going forward. All the time I have been in this place, we have
been able to rely on the wording in explanatory memoranda.

That paragraph that I just read was, and is, patently incorrect, and was drafted and published to mislead members of the committee. It can have been its only intent. You do not say that black is white and white is black without having a purpose in mind. Black is black, white is white, the two do not cross, and for the explanatory memorandum—which is an aid to construction of statutes when their interpretation is disputed in court—to say one thing when it is clearly the other borders on deliberate misrepresentation leading to wrong conclusions. I can find no other explanation for that to have occurred unless it was laziness or ignorance or lack of care, and if they are the excuses, they are excuses. But they are not and never can be reasons for committees of the parliament to be deliberately misled on bills that vitally affect the future of this country, the future of men and women who are fighting and dying in the field.

Laziness on the part of whomsoever in drafting provisions, in bills that are an aid to construction of a statute, can never be explained or forgiven. Going on from the quote I referred to, Sydney University also supported that view. It noted that when preparing the bill Defence had no information available to it indicating the number of activities in Australian universities likely to be affected. Furthermore, at the hearing on 21 March, Professor Mann, of the University of Sydney medical school, told the committee that Defence had grossly underestimated how many extensions there would need to be. Another of his colleagues informed the committee that discussion with Defence about such matters had started 'about an hour ago'. So, prior to the committee meeting, four months after the reference was given to the committee, after the publication of the bill, after the publication of the explanatory memorandum, after receipt of all the submissions and after publication of all the submissions, it occurred to Defence, an hour before the committee began its deliberations, that it should have some consultation. My god! If a most junior officer on day one, in a member of parliament's office, had engaged in such deliberately poor, ill-disciplined and slack behaviour, the member of parliament would be entitled to dismiss that person out of hand because clearly that person had no appreciation of the importance of his or her work and of the consequences of decisions but we had it given to us in spades whilst men were in the field dying every day. The two do not match.

A substantial part of Defence's consultation process with the universities and other relevant research stakeholders began after the March hearing, four months after the bill had been introduced and only after the committee recommended that Defence conduct that process—and think about that.

As late as 30 May the National Health and Medical Research Council had informed the committee that while the university sector had been consulted the medical research institute and public health sector had not. So this is as late as 30 May. It also had strong reservations about the bill, noting the legislation may have ramifications not only for the university sector but also for other institutions that conduct health and medical research. At this late stage the Australian
Research Council similarly indicated that the concerns raised were sufficiently serious as to justify further consultation with the universities about the proposed controls prior to their implementation. Even much later, in July, five months after the consultation process started and before the committee met, the Department of Industry, Innovation, Science, Research and Tertiary Education noted that, while Defence had dealt directly with Universities Australia and the University of Sydney, it had not done so with the broader range of universities. It suggested that universities may have different viewpoints and it would be desirable to broaden the consultation process to include all university members. Again, my God, what a ground-breaking thought, that there are more than two institutions in this country that are engaged in critical research and it might be nice to bring them up and say, 'Hey, all of those things you are doing in movement, transport, logistics and lasers, whatever it is, does it have any impact if we put you on a list and you cannot export your product or your services?' But, gee whiz, no: that was not thought of, that was not thought sufficiently important.

It gets better. As the consultation period drew to a close the committee received advice from the universities and research organisations that consultation had failed to come up with a workable compromise. Sometimes that happens. Universities Australia wrote to the committee.

Despite early promise of progress and a commitment from the department to work collaboratively, we have been disappointed that there has not been an opportunity for open or considered sectoral engagement on the issues and to date adequate responses to our concerns have not been provided.

Although the universities, research organisations and even the department of innovation advised the committee that there was still good will to negotiate a solution, Defence told the committee that it was "unlikely that Defence and the university and research sectors would reach agreement on a preferred option. As a result consultation had moved towards the practical implementation of legislation."

Think about that written advice from Defence and think of the time lines. In November the draft bill and EM are published and circulated, referred to a committee. Dates are set in March for hearings. An hour before the committee meets in March, Defence decides to initiate some form of consultation process. It goes through that in March, April, May, June and July. Then Defence says, 'This consultation process does not appear to be working too well. We don't appear to be getting what we want, so we are not going to do it anymore and the consultation is going to shift from content of bill to practical implementation of the legislation.' The legislation at that stage had not been considered, had not been amended, had not been the subject of any report. So the whole process from November of last year until the end of July on the part of Defence was just a farce. They came to the conclusion in writing, 'Well, we need to talk about the practical implementation.'

Understandably concerned about the situation, in August the committee published a preliminary report in which it urged Defence to undertake further consultation involving a roundtable approach proposed by Universities Australia. It also recommended that Defence participate in a roundtable of key stakeholders chaired by the Chief Scientist, Professor Chubb. The committee recommended further that the consultation between Defence and key stakeholders continue until the issues raised could be resolved to the satisfaction of all parties. The consultation was to be conducted in an open and transparent manner, allowing sufficient
time for key stakeholders to consider the complex issues and respond.

Despite the roundtable process being completed, stakeholders continued to voice concerns, some more significantly than others, some in stronger language than others, some publicly but a lot privately. But, in terms of widespread ready acceptance within the universities and research sectors of this country, it is unfair to say even at this stage that there is widespread or even near-unanimous support for the content of this bill—not yet.

A range of institutions, organisations and corporations, some domiciled in this country and some offshore, are engaged in research valued at tens of billions of dollars—research that is used by our defence forces and exported to the defence forces of other countries, close allies who are similarly currently dying the field. We have this bill here before us today. We will hear from other speakers that there has been an extensive consultation process chaired by two eminent government scientists post August-September this year, and it has come down with a wide-ranging set of recommendations. That is correct. I was part of that committee, and I signed off on that report, and I accept that. It is correct. But heavens above! The only way we can get proper, thorough, detailed, meaningful, worthwhile consultation with critical sectors in this country is for a committee of the parliament to scream blue murder. That is the only way. After a while, that does not work. It does not have any effect. But in Defence we do not hear any explanation for that slow process. (Time expired)

Senator IAN MACDONALD (Queensland) (11:01): I enter into this debate with some trepidation, I must say, after the three previous speakers—all of whom I congratulate and all of whom clearly show a depth of understanding and a passion about what is a very complex bill that clearly has a lot of shortcomings. Our leader in this debate, Senator Johnston, is a man well versed in these areas and has an almost scary understanding of the complexities of defence generally and of this bill, the Defence Trade Controls Bill 2011, in particular. I do no more than support what Senator Johnston has said.

I hope to say something in relation to the other two speakers, and I say this to Senator Bishop while he is still in the chamber: if you had been the minister, Senator Bishop—and Australia could do a lot worse than have you as the defence minister—would you have brought this bill to the parliament at this stage? I think from the very passionate and learned speech that you have just given to this chamber that your answer would be, 'No, as defence minister I would not have brought this here today.' So I listened intently and I have to say, Senator Bishop, that you were very persuasive in your address to the chamber and have persuaded me in a number of areas. The only broad disagreement I have with you, though, is that you kept blaming this thing called 'Defence', whereas in a parliamentary system it is the Minister for Defence that actually runs the Department of Defence, and the committees of this parliament can only effectively and legally deal with the Department of Defence through the Minister for Defence. So I think the previous speaker, Senator Bishop, was for most of his speech very precise and correct, but his criticism of this body called 'Defence' being at fault really should be changed to 'the Minister for Defence', because with all of the faults that have been pointed out with this legislation—in the committee, in the speeches so far and in the submissions to the committee—it is clear that any Minister for Defence across his portfolio would pull on the handbrake.
I hear from Senator Ludlam—and I hope he is not correct—that the only reason these bills are being rushed through parliament this week is that the American Secretary of State and the American Secretary of Defense are coming here and they need a photo opportunity. If that is correct—and I hope it is not, but I suspect that Senator Ludlam is correct—that is an appalling way for this parliament and indeed, more importantly, this government and the defence minister to act. In congratulating all three previous speakers, including Senator Ludlam, with whom I seldom agree—

Senator Ludlam: First time ever.

Senator IAN MACDONALD: No, it is not the first time, Senator Ludlam. It is not often I agree with you on content and policy but I do agree with you on your passion. If I can use the NBN as an example, you have been consistent all the way through in saying that the NBN should never be privatised. In fact, you make no secret of the fact that you think a lot more things should be government owned. That is an economic and political philosophy that you have, which many people had prior to the 1950s, but I do not think too many do these days, apart from you.

Senator Ludlam: And the Nationals.

Senator IAN MACDONALD: No, I would not even agree with that; in fact, I totally disagree with that. Senator Ludlam, you at least make no pretence about that. Similarly on these bills you quite openly say that most of the money that is spent on defence should not be spent and we should have peace in our time by being nice to people, appeasing people and talking to people—

Senator Ludlam: I knew it couldn't last.

Senator IAN MACDONALD: But it is true. Isn't that an accurate description of the Greens' philosophy: you do not need armies because the world is such a lovely place that we can all hold hands and dance around the maypole and we will have peace in our time—you do not need to spend any money on defence; you can spend it on hospitals and roads? It is a good concept to spend more money on hospitals, roads, schools and all that sort of thing but, unfortunately, history has shown that you do need a strong defence force and you need a strong defence industry. As other speakers have said, Australia punches well above its weight in its contribution to new defence ways and technology. That is why so many people are so concerned about the details of these bills, which can well cut off Australian researchers and Australian scientists from, firstly, allowing the free world the benefit of their wisdom and research and, secondly, the economic benefits that oftentimes flow.

Senator Bishop said the explanatory memorandum was drafted and published to mislead the committee. Perhaps the explanatory memorandum was drafted and published to mislead the committee, but whose fault is that? Who actually tables the explanatory memorandum? Whose explanatory memorandum is it? It is the explanatory memorandum of the Minister for Defence, Mr Smith. Your criticisms I think are accurate but wrongly directed. I cannot understand how this government continues to have in place a Minister for Defence who, by implication, even his own side criticises as being lazy, ignorant, showing a lack of care and being deliberately misleading. Much as Senator Bishop manfully tries to blame this other group 'Defence' for all the problems that are demonstrated in these bills, it is clearly an issue that the Minister for Defence should be dealing with.

Again I say, and I can say this I think quite honestly—I do not think too many people in the chamber would disagree with me—that I am absolutely confident that if
Senator Bishop were the Minister for Defence then the consultation, or the lack thereof that we are all complaining about, for this bill would not have occurred. Senator Bishop would not have allowed this bill to get to where it is unless there had been proper consultation. I know Senator Johnston, as the next defence minister for the Australian government, would not countenance bringing forward very complex legislation like this unless he personally was convinced that all of the right people had been consulted on issues that clearly impact on them. Why this did not happen in this case, one can only wonder.

I return to the point made by all previous speakers—that is, this bill was actually brought in a year ago, passed through the lower house of parliament one year ago. It implemented a good system, a good proposal, negotiated by the Howard government in Australia and the Bush government in the United States, and therefore it was clearly something that would be of benefit to the Free World and would be of benefit to Australia and to our interaction with US forces. The idea was clearly a good one. Unfortunately, for the past several years the task of putting that good idea into legislation was left to a government which has, in so many ways, shown that it is clearly incompetent. I will not do what I often distract myself in doing—that is, going through the incompetencies of this government—but it is clear that this government is incapable of governing, incapable of managing. Now we have the ridiculous situation where one of the long-serving members of this parliament, and a senior person in the Labor Party, spends 20 minutes effectively criticising his own minister—sugar coating that by referring to it as this nebulous thing called Defence—about the way the minister has dealt with this very, very complex issue.

There was clearly insufficient consultation, especially with the defence sector and the university sector who are the ones who are going to bear the brunt of the legislation. The reaction has been mixed, with concerns raised over the role of the US State Department in approving Australian companies or individuals as trusted members of the Australian community. The process in gaining such approval is seen as cumbersome, costly and time consuming with no right of appeal, and how any minister could allow that to happen leaves me wondering. There is clearly a lack of confidence within the defence industry, in the Australian Defence Export Control Office, to make consistent decisions on what strategic goods can or cannot be exported. What is being proposed by the government remains unacceptable to the university sector and, for reasons which were made clear in the Universities Australia and the University of Sydney submissions, those proposals are clearly not in Australia's best interests.

The interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade accepted the sector's concerns regarding the effects of the bill on the university and the broader public research sector as legitimate, and acknowledged a lack of consultation with these sectors prior to introducing the bill into parliament. It concluded that it would be folly to proceed with the bill at this time. As Senator Bishop has said—and he is anticipating someone else speaking who is apparently going to tell us this—there has since been all of the necessary extensive consultation, but clearly Senator Bishop is not convinced and, I might say, neither am I.

I am also very concerned that the Senate Standing Committee for the Scrutiny of Bills, a committee which I currently chair but did not chair at the time that this bill was dealt with by the committee, had raised a
very lengthy series of concerns about this bill, some of which, I understand, have been addressed in some of the amendments which the government will be bringing forward but many of which have not been addressed. Things like devolution of decision making, retrospectivity—which must occur in this case, one would think—and strict liability offences carrying very substantial penalties are all things which lead me to think that there should have been a much closer look at every single part of this bill.

There are a number of speakers on this bill, I am aware, and I am not going to hold the Senate too much longer. I just conclude almost where I started, by again saying: why is it that members of the committee, a majority of whom were members of the government party, are clearly concerned that this legislation is coming through? I do not think anyone, including the Labor members on the committee, would disagree with Senator Ludlam that the only reason this bill is being rushed through without the proper scrutiny, the proper attention and the proper amendments that it needs is to provide a photo opportunity for Mr Smith and Ms Gillard to greet the American dignitaries when they turn up in the country in the very near future. If that is a reason for the way this government runs this country, I think that little more needs to be said about why it is so important to get rid of this government at the earliest possible time. This is just symptomatic and emblematic of what this government is all about: spin, photo opportunities and forgetting the fact that bills such as this being rushed through to get that spin and that photo opportunity out there could well cause irreparable harm to our research communities, our defence industries—

**Senator Ludlam:**  Don't vote for it.

**Senator IAN MACDONALD:**  Senator, this is, as I say, a bill that was initiated by the Howard government because it was a good general policy, and that is why we are reluctantly supporting it. What is the alternative? To vote against it and have nothing. For as long as this government is in power, Senator Ludlam, it does not matter what you do: either you have no bill or you will have this sort of half-baked thing, more interested in the photo opportunity and the spin than in what is really involved. It was an idea brought forward by a serious government who took things seriously. It is a good idea that has turned into poor legislation at the hands of a poor government—which, Senator Ludlam, your party keeps in power. So don't you lecture me about supporting bad legislation of this government. You could correct that tomorrow, and you could correct many of the other ills in Australia's governance at the present time by withdrawing your support from a government which is clearly incompetent—and this bill proves the point.

**Senator STEPHENS** (New South Wales) (11:19):  I too rise to speak, in what is a very important debate, in support of the legislation. As the chair of the committee that undertook the inquiry into the Defence Trade Controls Bill 2011, I have some observations to make. I begin, as Senator Johnston did, by thanking the committee members. I thank the secretariat in particular for their very professional support during what has been a protracted and difficult series of inquiries, being two lots of inquiries and two reporting processes. I also thank the research community for raising the issues that they did and for sustaining their efforts in bringing their points of view to the table. I thank the defence industry, who participated in the early rounds of consultations and helped us to understand where the flaws were in this bill. There were others, those
involved in public policy think tanks and the like, who served to make us closely examine the bill.

As all of the speakers so far have said, this bill gives effect to the treaty between the government of Australia and the government of the USA concerning defence trade cooperation. That agreement was signed in 2007 by a former Prime Minister, John Howard, and a former US President, George W Bush. So that was in 2007—five years ago—and the Joint Standing Committee on Treaties considered the bill and recommended that binding treaty action be taken, in 2008—four years ago. The bill was introduced and passed in the House of Representatives a year ago and so, as is always the case with legislation as it comes through the legislative process and as it came to us, there was an opportunity for us to make sure that we gave the bill the scrutiny that it deserved.

Given the many criticisms that we have heard this morning—and there are very many legitimate criticisms that have been aired today—I want to say this. I want to thank Senator Ludlam, Senator Johnston, Senator Fawcett, Senator Bishop, Senator Kroger and Senator Humphries most sincerely because everybody on this committee actually applied themselves to this bill. When we understood (a) the complexity and (b) the problems, everybody really brought to bear their expertise and understanding of what this bill would do as to the unintended consequences that were teased out over a series of hearings and roundtables. It demonstrated to me how a Senate committee should work effectively: very collaboratively, very much in the national interest and very much eager to get the best outcome for everyone. The unintended consequences of the bill as it was originally drafted have been well canvassed here this morning by all of the contributors, and I thank them for that. It was very clear from the outset that the regulatory impact statement and the explanatory memorandum were inadequate, and we have all acknowledged that. Once that was discovered that was very important as no-one on the committee wanted to be seen to be complicit given the fact that the EM was so inadequate. So it was important that we worked together to ensure that we delivered, through the Senate process, a much stronger outcome for all concerned—particularly for Australian industry and our research institutions—and that we ensured that the bill—which has a very critical role in introducing controls as to the Defence and Strategic Goods List and services related to the Defence and Strategic Goods List and also technologies and goods, in creating registration and a permanent regime for the brokering of those Defence and Strategic Goods List goods, technologies and related services and in introducing a new range of criminal offences to enforce the new provisions—was actually workable, applicable and in the national interest and was also in the interests of our international relationships. As Senator Bishop so rightly said, the bill is critical to a range of technologies that are being developed here, critical to the intellectual property that comes from our research collaborations and critically important to the work of our institutions, our universities, our CRCs and also to ensure that they are not going to be disadvantaged in the process.

As I said, the bill was passed in the House of Representatives last year. When the bill was referred here, as other speakers have said, it was to allow further investigation into the issues of concern within the defence industry. That was how the brief actually came to the committee. From that time, the committee has worked assiduously to ensure that the concerns raised by industry and the
research institutes have been heard and that all voices in this matter could be heard so as not to rush to an outcome that would lead to unintended consequences.

I have to say that we were incredibly concerned about the defence department's consultation process and the shortcomings. The committee approached other academic and research organisations to seek their submissions with regard to the effect of the bill on their work. So we had nine submissions, and eight supplementary submissions were received after that. So the preliminary report of the committee, which said, 'No, this bill should not be passed until there has been better consultation,' was taken very seriously by the government, as it should have been. It was of great concern to us, and I know it would have been of concern to Senator Carr to hear that parts of the government had not spoken to each other about this important research and innovation sector.

The submission from the Department of Industry, Innovation, Science, Research and Tertiary Education in July suggested that the consultation had some way to go before all parties could reach a solution. So it was of huge concern to government members and to the committee as a whole that even the government's position on these issues was not clear and coordinated. As speakers have said, rightly, the parties could not reach agreement on a preferred option. Given that and our report, the minister wrote to me as the then chair of the committee, advising of his action in response to our report.

I want to acknowledge that the minister appointed Mr Ken Peacock and Dr Alex Zelinsky, who is in the chamber today, to conduct further consultations on the bill. I want to credit and commend them for their work because they did grasp the challenge and they did grasp the importance of finding a resolution to these issues. They consulted with the university and research sector stakeholders, reported on their consultations and made significant recommendations, all of which have been taken up by the government, including: the notion of a transition period of 12 to 24 months for industry, particularly specialist military equipment, universities and the research sector to adopt the strengthened export controls and to allow Defence to complete its education and training program prior to full implementation of the bill; a pilot program to be conducted during the transition period that would involve a broad range of stakeholders to test and evaluate implementation arrangements, which would complement the Pathfinder program being conducted for the treaty provisions. It was important to make sure that there was some sort of policy coherence going on. Other recommendations are that Defence establish an advisory board, similar to the Defence Trade Cooperation Treaty Industry Advisory Panel, from industry, research, university and government stakeholders to advise the government on implementation issues during the transition period. The advisory board and engagement with the university and research sectors would inform the annual Wassenaar arrangement review of the Defence and Strategic Goods List to ensure that this list is up to date. Also, Defence should allocate additional resources to carry out the necessary stakeholder engagement, given that that was so inadequate in the first stage.

It would ensure that the bill reinforces the principle that all researchers including those operating under federal or state jurisdictions are subject to the same export control regulations, and the notion that permits should be granted for specific research programs and projects for extended periods, preferably for the life of the program or the grant, where risks allow, and not be
transactional based where approvals are sought for every interaction in collaborating with a foreign partner. The proposed obligation would apply for permits for publications to be actually replaced with an offence provision that applies to individuals if they wilfully release controlled information into the public domain.

The Chief Defence Scientist and Mr Peacock worked with the research sector and the university sector and the defence industry sector to recommend a series of amendments which were agreed by the government. But not just that. At the same time, in response to the recommendations and the concerns of Universities Australia, the Chief Scientist, Professor Ian Chubb, was engaged in a different process. It was a complementary process, initiated at the request of the university sector, to convene a roundtable aimed at reaching an agreed path forward on the bill and to address concerns on various aspects of the bill raised by the university and research sectors. I particularly want to thank the Chief Scientist, Professor Ian Chubb, for undertaking this additional task which really complemented the work of the Defence Chief Scientist and Mr Peacock and resulted in key developments, including establishing a Strengthened Export Control Steering Group and, again, agreement to the transition period of at least 24 months with no offence provisions in effect, and pilot studies—and not just one pilot study but pilot studies. There will be a final report from the steering group to be tabled by ministers, bringing a parliamentary accountability, along with internal institutional practices and structures including a supplement to the Australian Code for the Responsible Conduct of Research to be developed to reduce the need to interact with government agencies on the legislative regime. There will also be exemptions for basic scientific research and for information already in the public domain.

Having had the problem developed and delivered to the committee that the consultation was absolutely inadequate—and I agree with everybody who has spoken so far in that sense—the work was undertaken by these three eminent people in bringing together roundtables and working through the problems, and because of their understanding of the way in which the research sector collaborates in an international projects and in cross-disciplinary projects, they were able to come up with a set of recommendations, all of which have been agreed to by the government and have now been incorporated into amendments.

This means that while the original bill, as it was drafted, was disappointing, I suppose, in many respects it proved to me most potently the strength and capacity of a Senate committee to deliver an outcome that is in the national interest, an outcome that proves the benefit of a diligent parliamentary process. I was really very grateful for the fact that it was intellectually very challenging for us to do this, but we were all persistent in making sure that what we had in front of us was a significant improvement on the original bill.

Now we have learned this lesson, we have consulted widely. We have been given an extension of time to report and, as a committee, we have done everything that we could to facilitate open and transparent discussion about the issues. We recognise the importance of the strengthened export controls regime in the bill and we appreciate the detailed and careful input of all the parties involved in the consultation process and their willingness to be cooperative in the interests of a satisfactory solution. So I know that when we go to the committee stage and
debate the amendments—and there are many amendments that will be supported and I know that there are some that will not be supported—the minister will take those through. From this experience—which has been character building I would say would be one of expressions we might use, Senator Johnston—we can hope that the process undergone will prove to be an important learning experience not just for us and not just for the Department of Defence, which will use implementation process for the provisions of this bill to foster closer links with the research and university sectors and with the Department of Industry, Innovation, Science, Research and Tertiary Education and other relevant departments.

Before I close I would like to quote from one piece of correspondence that I have received since the amendments as drafted have been circulated. They come from Professor Tony Peacock, who is the chief executive of the CRC Association. In his email to me he writes:

The outcome for the research community is a good one. We now have the opportunity to provide expert advice on the defence and strategic goods lists, which is a significant improvement to the current situation.

He says:

For almost a decade I ran a lab that routinely modified viruses for pest animal control purposes. It would certainly require a permit from DECO to undertake the work under the new system. That is an entirely reasonable balance between freedom to operate and innovate and Australia's national security and international obligations.

He wrote:

I see no situation where Australian innovation will be stifled by this bill. Researchers routinely carry out their work against a background of legislation. In New South Wales a researcher that fails to adhere to animal experimentation laws can to go to jail for 12 months. I think it is alarmist to raise the spectre of serious criminal offences under the Defence Export Control Bill because it is not unique in this regard. I want to make it absolutely clear that the Department of Defence and in particular the Chief Defence Scientist, Dr Zelinsky, consulted respectfully and comprehensively with the Cooperative Research Centres Association and at no time through this process has the CRCA been rushed or pushed. The concerns I conveyed to your committee were properly addressed.

I commend the bill and I commend those who participated in the consultations. As many speakers have already said, our defence forces certainly deserve better than what transpired through this process and the Department of Defence will certainly be learning from their experience. Our defence industries deserve better too and certainly our research institutes deserve better. I am very confident that it is not just the Department of Defence and the advisers who drafted this bill in haste or in such inadequacy of the first instance who will learn from the experience. I think it is one that has been character-building for us all.

Senator MASON (Queensland) (11:38): I rise to speak on the Defence Trade Controls Bill 2011. The bill's primary purpose is to give effect to the Australia–United States Defence Trade Cooperation Treaty signed by the Howard government in 2007. The main benefit of the treaty is relief from a restrictive export control regime that has hampered the Australia-US defence goods and defence industry trade. The coalition supports this bill though with some concerns, concerns which have been ably addressed, as always, by my friend the shadow defence spokesman, Senator Johnston. Not only is the Australia-United States Defence Trade Cooperation Treaty itself an achievement of the previous coalition government but more broadly the ANZUS Treaty, military cooperation with the United States and the Australian Defence Force have no better friend and no stronger advocate in the Australian parliament than the coalition.
I want to speak briefly this morning with two hats on, first as a member of the coalition and second as the shadow spokesman for universities and research. One would not necessarily think that a defence trade control regime would have a significant impact on the work of academics and of researchers, but knowledge can indeed be power, including military power, so our universities have not escaped the scrutiny of this bill. I want to note that some stakeholders, including Universities Australia, are concerned that the export restrictions introduced in this bill will have an inordinate impact on the everyday work of our universities and will unreasonably impinge on their mission to create and then disseminate knowledge. That is what universities do. That is their job and that is their glory. As Universities Australia explained in their submission to the Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry into this bill:

The Bill will make it an offence for a university to supply information, assistance or training in relation to goods listed on the Defence and Strategic Goods List … in prohibited circumstances without a permit. While current laws regulate the movement of DSGL goods, universities are not particularly impacted by these laws as they do not generally deal in goods … The acquisition and transmission of knowledge goes to the heart of the activities of universities.

The DSGL comprises 353 pages, listing thousands of goods. Many goods listed are routinely held by universities as they are needed to teach students and to conduct research into the fields of science and technology. This includes teaching and research in faculties of information technology, medicine, science, engineering and pharmacy— even pharmacy.

The outputs of these faculties are qualified doctors, pharmacists, engineers, scientists and computer experts (to name just a few), and the research findings in each of these fields ... routinely transform our way of life. As currently drafted, the Bill will significantly impact the training and research conducted by universities in these fields.

The Bill prohibits an Australian university engaging in the supply of information, assistance or training to any person who is not an Australian resident or citizen or corporation … In November 2011 Australian universities had 242,478 enrolled students who are not Australian, with a further 96,627 expected to commence in 2012. As presently drafted, and without certainty regarding an exemption that may be provided, the Bill means that for each of these students enrolled in courses in the fields of science or technology, a university will need to apply for a permit to continue or commence their education in this field, or otherwise discontinue their education.

That is what Universities Australia said in their submission to the committee. Universities Australia and others are concerned that the new regime, if strictly interpreted, will mean that such seemingly innocuous activities as addressing a conference, communicating with a colleague overseas or even teaching an international student might in some circumstances require a permit from the Department of Defence. Either way, many stakeholders are concerned that the new export regulations regime will put a whole new layer of complex compliance on universities and create legal hazards for our academics and researchers where none or few operate now.

Further, some argue that under the new export controls regime Australian researchers and academics will not just be significantly impacted but be more significantly impacted than their American counterparts operating in the United States. They posit that US researchers in accredited higher education institutions enjoy broad exclusions from export control, particularly relating to intangibles, dual-use technology, and basic and applied research in science and engineering that is ordinarily published and
shared with the scientific community. This can be quite a technical debate. Indeed, the debate this morning has illustrated that; nevertheless, it is a very important one, and all senators would at least agree on that. Universities play an important dual role in our society, as engines of both economic growth through educating our workforce and producing quality research and preserving and growing the shared values and culture that connect us with the past and, of course, unite us in the present.

The contribution of higher education to our economy is certainly significant, and it is very hard to overstate that. I always seem to be repeating myself but I would like to say it again to remind all senators and those listening that international education services contributed $16.3 billion in export income to the Australian economy in 2010-11, of which higher education accounted for about $9.4 billion in export income. It is our fourth largest export and our largest services export industry. So we are not talking about chicken feed or a second rate issue here; this is central to the Australian public interest. We educate more international students per capita than any other country on earth. Research, too, plays a very important role. Some estimate that commercialisation of research results in average returns of 20 per cent. It is one of the best public investments a government can make—and my friend Senator Carr would no doubt agree with that. Australia has gifted to the world numerous inventions, mostly but not exclusively in the field of medical science. The work of our researchers has been saving millions of lives around the world for decades now and improving the quality of life for countless others.

I note, too, that yesterday the Prime Minister released the white paper entitled 'Australia in the Asian century'. I was looking at it this morning and noted that the paper acknowledges that universities and their research is a critical aspect of our engagement with Asia. Universities are vital to the success of our engagement with Asia and, more importantly, vital to our success as a high wage and innovative country. There is nothing more important than universities and their research in achieving that outcome. That is why caution is needed when enacting new laws which affect the way universities are able to pursue their mission.

I know that for a long time people have often seen universities and research as some of sort of boutique issue, as some sort of issue that should be sidelined; it is not as important as digging up rocks and those sorts of exports. But it is true that Australia increasingly relies on scholars and teaching overseas students as much as it does on digging up things or growing things and exporting them. I say this because Australia is good at a few things. We mine very well. Minerals is a huge industry, of course. Agriculture is also a huge industry in this nation. But education is our most significant services export industry by far and, for too long, I think probably all parties and perhaps even the parliament have done insufficient to recognise that. So I just hope that over the next few years, as we enter the Asian century, this will not be forgotten.

The white paper is quite right to raise higher education, universities and research as being central to our engagement with Asia. We should not forget that. Many stakeholders are clearly concerned by the possible impact of the new defence trade control regime. It is the government's duty to listen to them and either to take on board their concerns or to explain to them why their concerns are really unfounded. I just do not think the government, which is in a bit of rush to enact this bill, has quite fulfilled that duty. This is my concern.
However, I do note, as Senator Stephens mentioned before, that Australia's Chief Scientist, Professor Ian Chubb, has suggested that, if this bill is passed with its current amendments, research and research collaboration should not be jeopardised. This does give me some comfort, and I accept that. Indeed, it should give all senators some comfort. However, it has not satisfied all those in the university sector—and I think that is fair enough to say—because concern remains that the bill unduly intrudes upon the scope of research activities undertaken by universities. The coalition is proposing amendments, which Senator Johnston has ably outlined, which we feel address the potential problems identified by universities and researchers. I hope that the government will show some good will to ensure that we end up with the best possible legislation.

I do not think for one second that this is a partisan or really a political issue. It is to my mind an issue of good public policy. It does not necessarily depend upon partisanship at all—or certainly it should not. We all want to see the Australia-United States Defence Trade Cooperation Treaty given effect. We are all looking forward to a new and fruitful chapter of defence cooperation between our two countries.

I am delighted to say a few words on behalf of universities and researchers this morning in the Senate because too often we take for granted universities and what they do for this country. We should not do so. As we progress within the Asian century we will be hearing a lot more about the important role of universities and research as we understand that our future lies with Asia, understanding them and educating many of their students.

Senator RHIANNON (New South Wales) (11:51): I rise to support the comments of my colleague Senator Scott Ludlam, who set out a very clear case of why the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-Use) Bill 2011 should not be supported. We should not be supporting these bills because the government is rushing through flawed legislation that has such far-reaching consequences for Australian research, innovation and trade. Most worryingly is that this legislation is designed to facilitate the arms trade. At every turn the government has shown disturbing haste. It has been unwilling to allow the Senate committee process to do its job. We have here legislation that restricts Australian research and that has wide implications, particularly in light of the government’s own commitment that Australia must develop as an innovative nation. We should be asking: how can Australia become an innovative nation if research is shackled and, under some circumstances, academics could actually face jail?

It is worth remembering that we are debating this in the context of the release of the government's white paper on the Asian century. It is widely recognised that education and research will be critical to Australia adjusting to the Asian century but with this bill we are sending a clear message that research can be compromised and ideas controlled. That is the essence of much of the legislation that we have before us. Professor Jill Trewhella, Deputy Vice-Chancellor (Research) at the University of Sydney, has described this bill as:

… a potentially stifling export control regime for 'intangible transfers' (including electronic communication and publication) of technology that will impact a broad range of what would ordinarily be open research …

This bill has far-reaching implications for the standing of Australian universities as independent research institutions and the relationship of our universities with
executive government. The Greens acknowledge that academics share responsibility with government to limit the transfer of certain technologies where there are legitimate risks to national security. That is not under challenge. The issue is that the Labor government is pushing through legislation that puts more constraints on researchers in Australia with respect to a restrictive export control regime compared to researchers in the United States.

It was interesting how Senator Ian Macdonald picked up on the very important point of Senator Scott Ludlam about the timing of this legislation and how it is very much designed to be one of those announceables—a word that is quite offensive to many; I certainly acknowledge that but it seems that often the government is looking for something that the PR people can get their teeth into. With the visit of leading US representatives to Australia clearly that is in mind. That is very relevant to this debate.

At this point I think it is worth noting the comments from the National Tertiary Education Industry Union, which has been representing its members very thoroughly because so many of those members have expressed deep concern about the implications of this bill for their very work. The National Tertiary Education Industry Union, in a letter to the Minister for Defence on 16 October, stated:

... we are alarmed by the Government's late inclusion, without consultation with our members or other affected stakeholders, of an amendment that if passed into law would create a criminal offence for the publication of certain material related to dual use technologies.

In Australia what we can see is that the defence department are tightening their proposed regulatory net to such a degree that it captures much research where the risk is low. Now we see that Defence wants to go further and so late in the development of this bill Defence has put up an amendment that could make publication in some circumstances a criminal offence. It really is quite extraordinary that it has got to that point. It was not necessary, as Senator Ludlam and other speakers have set out. We have a committee process. We could have ironed out these problems. We have this very serious problem whereby a law that Labor wants this parliament to pass could result in academics facing up to 10 years in jail. So I think it is very important that senators carefully note the points put forward by the National Tertiary Education Industry Union.

In the US researchers in accredited higher education institutions enjoy broad exclusions from export controls, under the relevant export administration regulation and the international trafficking in arms regulations, for fundamental basic and applied research in science and engineering that is ordinarily published and shared with the scientific community. So what we have is some very important information that I think it is important that we note, that in other countries, as well as in the US, these issues have been ironed out. In Britain we have export controls over dual use technologies and they do not lie with the defence department. In the US the Department of Commerce and the Department of State handle them. In Britain it is done by the department of trade and innovation. It is certainly a much healthier way to handle these challenges.

Also, I want to pick up some important work that was being taken up when this issue was debated in England. Professor Trewhella details this in an important speech that she gave on 26 October to the Australian Society of University Lawyers. She covered some of the work that was undertaken by Baroness Miller of Hendon when this issue came before the House of Lords. They were looking at the export controls on intangibles
relating to controlled technology. I would like to share this quote with senators because it really goes to the heart of this most important aspect of one of the biggest challenges that I see in this bill, which is the attempt to control intellectual property. Baroness Miller states:

The extension of the control of export of goods to the control of intangibles—the control of thoughts and ideas—is a radical step, unheard of in a democracy. It has serious constitutional implications. Goods are exported if they are physically moved out of the country. It is physically impossible to control ideas. But that is what the Government are trying to do. By virtue of Clause 2(2)(c), they are even attempting to control the exchange of ideas within the United Kingdom. It is for that reason that a solid body of academia is totally opposed to some of the Government's proposed provisions, which are inappropriate in a country where universities have been centres of learning, research and discovery for over 900 years.

Significantly, as a result of the work of Baroness Miller and those people who she was associated with, and a number of the academics who were taking up this issue, a new section was put into the British Export Control Act that did provide protection for certain freedoms. They particularly picked up on the need for the communication of information in the ordinary course of scientific research and the making of information generally available to the public, that that needed to be respected and protected. Again I think that is important. It looked for a period there that Britain were going down a path similar to what is facing us here. But after extensive debate within parliament and within the wider community these important points were recognised and were picked up in the legislation.

I certainly commend the work of Senator Ludlam, who is bringing forward a set of amendments that could really knock the rough pieces of this legislation. The legislation in that form certainly should not be supported. The setback in terms of the research that is carried out in this country would indeed be enormous but in turn the message that sends the rest of the world when we are at a stage in our own development that we are attempting to showcase our higher education institutions to the world, particularly in our own region of Asia, would be seriously compromised by this damaging legislation.

Senator RONALDSON (Victoria) (12:01): I rise today to speak on the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-use) Bill 2011. Together, these bills give effect to the Treaty between the Government of Australia and the Government of the United States of America concerning Defence Trade Cooperation. This bill does a number of things. It provides for controls on the supply of Defence and Strategic Goods List listed technology and goods; it creates a registration and permit regime for the brokering of DSGL goods, technology and related services; and it creates offences and imposes penalties. The bill also aims to strengthen Australia's export controls to align them with international best practice.

I turn to the background to the bill and the treaty. The Treaty between the Government of Australia and the Government of the United States of America concerning Defence Trade Cooperation was entered into by the Howard coalition government on 5 September 2007. It emphasised the need to create a framework for two-way trade between Australia and the US in defence articles between 'trusted communities' without the need for export licences. The signing of this treaty reflected, and reflects, the strong ties and relationship between Australia and the US and the robust mutual trust that exists between our two nations, and
which was particularly built up during the years of the last Howard coalition government. In signing the treaty, it was anticipated that administrative delays associated with the export control systems would be significantly reduced and that there would be, as a direct consequence, reduced delivery times for new defence projects and improved business opportunities for Australian companies to participate in US contracts, and vice-versa.

Of course, under Australia's dualist system of international law, there is an emphasis on the difference between national and international law, which requires the translation of treaties, conventions and the like into domestic law. Without this translation, international law does not exist as law. That is, in the Australian context, international law has to be national law as well, or it is no law at all. As such, this bill translates the requirements of the treaty into national law, albeit more than five years after it was signed. However, the original bill without any amendments does a poor job of this translation. While red tape is reduced in some areas to reduce administrative delays associated with the export control systems, it does a half-hearted job with reducing regulatory burdens and red tape in other areas, with unintended consequences arising from the bill as currently drafted.

There are government amendments to the bill before us which stem from the Senate committee's preliminary report into the bill on 15 August 2012. I point out that these government amendments were not—I repeat not—seen by the Senate committee inquiry prior to it releasing its final report on 10 October 2012. These government amendments appear to ameliorate only part of the concerns which are raised, for example, by university heads who told the Senate inquiry into the bill that, while the treaty was intended to cut red tape for defence trade between Australia and the US, the bill as drafted would act to curb vital scientific and medical research and training—that is, this bill increases regulatory burdens. This is because attached to the bill is the Defence and Strategic Goods List, as I mentioned before, which is an extensive register of thousands of banned items that are in regular use in medical and scientific research and in teaching. Chemicals outlawed because they may be used in the creation of weapons are also used for the development of medicines, with many of these goods being normally held by universities to be used for teaching students and for research. The bill therefore, in seeking to limit the transfer of such sensitive material, would have had—and still seems to have even with the government amendments—an unintended impact on medical research, the sciences, computing, engineering and anyone needing to access or transfer these materials for legitimate reasons. Furthermore, the prohibition in the bill on the transfer of knowledge to foreign citizens would have affected, and still appears to affect, international students enrolled in any of these areas of study and would preclude or limit those academics and researchers working on collaborative projects with specialists from other countries. So the bill, even with the government amendments, remains short-sighted in not considering these unintended consequences—surely another sign of an incompetent government in a rush and not properly considering the details of what it proposes.

The Labor government seems to have listened to only part of the recommendations of the Senate inquiry. In particular, it has ignored many of the recommendations made by the coalition, which are based on the many submissions received relating to the effect on medical research and so forth. It is
a wonder that these problems and the details were not considered earlier, when the bill was first drafted, especially given the five years the government has had to consider the content of the bill after the treaty was signed. It is also a wonder that the Labor government have seemingly put so little effort into looking after the finer details of this bill given Australia's important and crucial relationship with the US. This is a bill that should have been given the utmost attention to detail by the government. Instead, the Labor government seem willing to act with a lack of interest with respect to this bill and with respect to our strong relationship with the US.

I note that on the US side they were ready to proceed with this two years ago as, in contrast to Australia, the US has a mixed monist-dualist system in dealing with international law, in that international agreements enter into force immediately after two-thirds of the US Senate has given its advice and consent under article 2, section 2, clause 2 of the US Constitution. So a treaty, in and of itself, is already made law in the US when consented to by the US Senate, whereas in Australia a treaty is not in force until it is translated into national law through both houses of the Australian parliament. Of course, legislation in the US is also often introduced to accompany the consent to a treaty so as to legislate as to the finer details of that treaty. Accordingly, the US Senate consented to and ratified this treaty on 29 September 2010, two years ago. I repeat: two years ago. The US congress also passed implementing legislation on 28 September 2010, implementing the finer details of the treaty. So it has been the Labor government holding up the ball in this instance. The US was ready to go two years ago.

This is yet another Labor failure in getting things done quickly and properly, particularly when it comes to defence. Just last week the Chief of Army, Lieutenant General David Morrison, warned that further funding cuts to Defence would potentially risk soldiers' lives. This is after the May budget, which saw Labor take $5.5 billion out of Defence in an attempt to achieve an elusive budget surplus. He said:

We are approaching a point where doing more with less risks becoming a cavalier disregard for the ability of forces to survive against credible peer competition.

He also said:

The current … fiscal climate poses a very real risk to the army's approved plan for development out to 2030.

He also noted the severe cuts to the Army after Vietnam:

I would hate to see the mistakes of that era repeated today, either in the name of misconceived strategy or economic stringency.

The Chief of Army is not alone in his condemnation of Labor's scant regard for funding the nation's Defence Force. He has been joined by the former CDF, Peter Cosgrove, the former Chief of Army, Peter Leahy, Major General John Campbell and the former US Deputy Secretary of State Richard Armitage. Defence funding has been reduced to the point where it is at its lowest level as a percentage of GDP since 1938—only 1.56 per cent of GDP. Next year it will fall to levels not seen since 1937, being only 1.49 per cent. My colleague Senator Johnston also pointed out last week that:

Defence is nothing more than an ATM for Labor …

With the release of MYEFO, Labor confirmed that an additional $119.2 million will be stripped from Defence. So it makes eminent sense that my colleague Senator Johnson states that Labor is using Defence as an ATM in a scrambling attempt to achieve an elusive Labor surplus.
We have even had political correctness gone wrong, with the Air Force under Labor warning staff against wrapping gifts for troops serving overseas in Christmas paper due to cultural sensitivity. As my colleague in the other place Stuart Robert made the point, we might see:

… no Christmas for Christmas.

What is more, not only does Labor seemingly have scant regard for the current state of Defence and Defence personnel, they have scant regard for our military superannuants, as we have seen before with their lack of support for fair indexation.

I refer back to the comments of Lieutenant General David Morrison when he said, referring to Vietnam:

I would hate to see the mistakes of that era repeated today.

There is a significant risk in this country that we have not learnt from the mistakes we made in Vietnam. Indeed, there is a very significant public debate which must take place in relation to our attitude to our younger returning veterans. There are nearly 60,000 young men and women who have served this nation in the last 20 years, which is equivalent to the number who served in the Vietnam War. Indeed, if we repeat the mistakes that we made post Vietnam and fail to acknowledge these young men and women, as we did those who served in Korea, Malaya and Borneo, and fail to acknowledge the challenges facing the partners of veterans then we have learnt nothing at all. That would be a great tragedy, and if that stain on this nation that followed this nation's treatment of those young men returning from those theatres I was referring to before is repeated then we risk letting down another generation of young men and women.

I will return to the bill. Even with these new government amendments it still does not address all the concerns raised by universities, the scientific community and other stakeholders. Furthermore, it increases regulatory burdens in some areas despite the intent of the treaty being to reduce regulatory burdens. It also ignores, in particular, many of the coalition's recommendations as outlined in its dissenting comments in the final Senate inquiry report released on 10 October 2012. The government amendments today try to allow for a phased transition period for universities and the like to allow for:

… a comprehensive education and awareness raising program that will assist organisations to build internal compliance arrangements.

So the government is effectively admitting that there is a regulatory burden for such institutions, and instead of getting rid of this burden or ameliorating the burden they are simply giving them time to adjust. This is not good enough in or of itself, although a transition period is better than just lumping this burden on universities and the like straight away. Mr John O'Callaghan, Executive Officer of the Ai Group Defence Council, made a particularly pointed observation on this bill, which was highlighted in the committee's preliminary report:

I think at the macro level the intent of the bill in regard to the definitions is accepted, but in getting into the detail of the regulations there is a degree of nervousness, perhaps, that was not there previously.

Basically, the Howard government's treaty signed with the US, and its overall intent, passes all tests. It is the translation of national legislation by the Labor government that is the problem.

The committee's dissenting report, signed off by the coalition and the Greens, concluded that this bill, ‘... is a complex and forward piece of legislation which should not be rushed through the parliament.’ The
The dissenting report also noted that the committee was required to table the report 20 days earlier than requested by the Senate and the government did not allow the committee time to review the government's amendments, which at the time of submission of the report, had not been sighted by any members of the committee. In addition, the dissenting report noted that the committee was not given time to consult further with stakeholders. For example, the committee was not given time to examine legal advice received from a Washington DC law firm, which notes that Australian academic institutions will be subject to a more stringent control regime with a much broader scope than is the case in the US.

What is more, the dissenting report noted that consultation efforts undertaken by Defence on this bill were 'seriously deficient', resulting in unintended consequences for the university sectors. In other words, this bill is still a work in progress. The fact that we still have a work in progress five years after the treaty was signed is shameful. The bill should have been considered in finer detail and a proper bill drawn up at least two years ago rather than now, as the US did in 2010.

However, given this Labor government's incompetence in considering the finer detail, we should not now rush this bill through as it is just because has taken more than five years for Labor to get its act together. That is why the coalition is putting forward amendments to the bill today. We want to protect our ability to remain an innovative country by enabling medical research and the like without burdensome regulatory barriers. Furthermore, the US relationship is one we do not want to get wrong. We need to do things correctly. The Labor government has already failed on this part but that does not mean it should now impose failure on getting it right.

The coalition will support the government's amendments, which allow for a transitory period, even though it was given only two weeks to look at these amendments and to consider their consequences. It is simply not good enough. This is not a perfect outcome but action must be taken to implement this treaty rather than wait forever for Labor to figure out what it is doing.

The coalition recognises that much time has been wasted and that we should not waste any more time in taking action to implement this treaty into legislation. However, the bill, with the government amendments, is not good enough in and of itself. The post-legislative package of reforms proposed by the government is far from ideal. In essence, we do not want to see Australia left in a worse position. In addition, Australian research institutions should not be left in a worse position than their US counterparts, in particular. That is why the coalition is putting out its own amendments which will provide an exclusion for research, education and information in the public domain and will strengthen the Export Controls Steering Group, amongst other matters.

In putting up these amendments, the coalition has listened to many of the concerns of universities and research organisations as to the negative effect that this bill would have. Its key amendment excludes fundamental research where the resulting information is ordinarily published and shared broadly in the scientific community. The remaining amendments to the bill are consequential.

We will not stop the progress of this bill. However, we will go through this poorly drafted legislation with a fine tooth comb in the consideration-of-detail phase—that is, clause by clause in order to achieve the best
outcome for both the Australian defence and research sectors.

Senator FAWCETT (South Australia) (12:18): I rise also to address the Defence Trade Controls Bills 2011. I will touch briefly on just four areas: firstly, the context of the bill; secondly, the process and some of the detail; and then have a couple of comments about the future implementation of this government’s agenda on defence.

On the context of the Defence Trade Controls Bill, there should be nobody in Australia who has a concern with the fact that this government seeks to have controls over the movement of munitions or technology that can be used for ways that will harm people. Out of the Cold War the Wassenaar process was developed—the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. It focuses primarily on the transparency of national export control regimes such that we can have an insight into what is happening around the world. It was important in the sense of the Cold War, when nations were looking at an arms race. But, today, with the rise of powerful non-state actors, it is even more important that Australia, along with other responsible members of the international community, have a good view on where arms and related technologies from any nation are going. So our support of the Wassenaar process and making sure that our legislation ties in with that are important.

The other context that is important in this bill is ITAR, the International Traffic in Arms Regulations. That is United States government regulation that controls the export and import of defence related articles and services on the United States Munitions List. Our relationship with the United States is crucial not only for intelligence sharing and joint operations but also for technology. Over the decades, we have become a trusted partner of the US. That is based on a couple of aspects. One aspect is that they can trust us with their technology because we have proven to be reliable custodians of their technology through abiding by the ITAR requirements and making sure that our defence force and our industry abide by those requirements. Another aspect is that we have become trusted partners in this defence space because we have been able to bring valuable things to the table through our research institutions such as our universities and our defence industry players, and places like the Defence Science and Technology Organisation.

The support of ITAR and our relationship with the Americans are the basis for the origins of this treaty, which was to provide a framework whereby we could cooperate more closely with counterparts in the US to the benefit of our national defence as well as the taxpayer, because we have increased capital productivity—the money we put into defence is more productive—and, hopefully, remove the burdens on the defence industry and make it easier for them to work. That is where implementation is such an important part of this discussion. That is a great vision to have. But if in the process of implementation we increase the cost burden on small business or we decrease the ability of universities or industry to do research that benefits Australia and benefits the bottom line, and importantly also benefits our relationship with the United States, then we have perversely failed in the vision that led to the treaty in the first place.

Research in Australia is important and we are making significant contributions. My background is in defence. One of the areas I was involved with was the flight test world and running the range at Woomera, where the University of Queensland and the HyShot team literally lead the world with
things like scram jet technologies. It is interesting to see the make-up of the team that they have worked with. Sponsorship for the HyShot program included support from NASA; the US Air Force; the German Aerospace Center, DLR; the National University of Seoul in Korea; the National Aerospace Laboratory in Japan; and what used to be the Defence Evaluation and Research Agency of the UK. So there, in one small snapshot, is a great example of why we need to get this right. We have world leading research occurring in Australian universities in collaboration with our defence industry and US defence as well as a number of international partners. If we do not get this legislation right, if the implementation does not achieve the outcomes, we will close the door not only on that kind of world leading research in Australia; perversely, we will also make it more difficult to have a seat at the table with the Americans, because we will start to not have something to bring to the table in terms of sharing technology.

Process is the other part that is important. I am not going to talk at any length about that because a number of colleagues here from the crossbenches, the government and the opposition have highlighted how the process with this bill has been woeful, to put it politely. That comes down in large part to transparency of process and consultation, and allowing dissenting voices to be heard. I will say no more; the transcripts from this session highlight very clearly a number of deficiencies that need to be rectified in that process.

In terms of the detail of this bill, I am conscious that there are many aspects. The one aspect that has caused most angst is that of the research sector and universities and the lack of consultation and potential for impact upon their research. I do not propose to go through that in detail now for the simple reason that during the committee stage we will be going through clause by clause and looking at significant amendments that have been put forward by the government, the Greens and the opposition and during the process we will have an opportunity to tease those out. Suffice it to say that I do want to recognise the work of the Chief Scientist and the head of DSTO, who have engaged with Universities Australia and other stakeholders in the roundtable process. I just wish that that had occurred some months, if not years beforehand, as was quite possible given the time frame of this bill. We could perhaps have avoided a lot of this angst if that had occurred earlier. I look forward to the committee stage to tease those out.

In terms of the future, assuming this bill passes, along with many other things this government is putting forward we come back to the point of implementation. I look at a media release just issued today about Australia in the Asian century—the white paper. This is from the Australian Technology Network Group of Universities. They had said it is a good start but implementation is critical to success. In light of what has just happened with this bill, there could be no more salient or timely message from the universities sector to the government about implementing policies that have great vision, but I say that vision without dollars is hallucination and vision that is poorly implemented is a nightmare.

The government's budget at the moment is a classic case in point. During estimates this year—in fact the last estimates, only a week or two ago—we raised quite clearly the fact that, whilst a lot of focus is on future capabilities, Force 2030 and whether or not the government can afford in out years to fund the capabilities they have said they want to buy, the real focus of the taxpayer in Australia should be on Defence's inability to adequately fund the equipment they already
have. To go back to the report that this government commissioned—the Pappas audit in 2008, which ministers and Defence all agreed with and in which Mr Pappas came up with a rationale for calculating cost growth pressures, Defence, even in the small area of specialist military equipment, is underfunded by more than $4 billion over the forward estimates. That perhaps explains why we see tanks on chocks, vehicles in garages and aircraft not flying their hours. When I speak to soldiers in the field during visits, they tell me that their joint logistics units do not have the funds to repair much of their equipment.

Having a vision of a relationship, having a vision of this community partnership and having visions of things like Australia in the Asian century are all well and good, but it needs to be funded appropriately and implemented well; and, as this process has shown, part of that implementation needs to include adequate transparency and the ability for dissenting voices to be heard.

I close on one good example: the APB program, where Australia partners with America on the combat system for the submarines. We are told that this is a fantastic thing for Australia because we get access to the best technology and our companies can compete on a level playing field with America. I have to tell you that the way the American system works is very different from our system and makes it almost impossible for Australian companies to compete. The reason is that the United States Department of Defense spends over $80 billion a year on research and development. They fund well over half of the R&D that occurs in universities around this area. So, when an American company in the APB program brings forward IP—and one of the conditions of the program is that you lay your IP on the table and share it so everyone can benefit from it and decide if it is worth rolling into the common configuration—they can do that at no risk because the government owns the IP. It has paid them for their research.

Here in Australia we do not pay defence industry in the same way to do that research so, when industry build a good solution, they do not want to go and lay that IP on the table because that is where the future viability of their company comes from. If we really want a level playing field, we need to ask: what is good for Australia? How can this work for Australia? We need to work constructively with our alliance partners. For example, of the 15 per cent that we pay into that APB program, perhaps five per cent of that should be funded directly to Australian industry or Australian government agencies like DSTO who are working on the APB program so that our contribution can be on a level playing field, where the IP is owned by the government and we can work with them.

With this whole program around the Defence Trade Controls Bill 2011, the same mindset as we look forward has to be there: what is good for Australia and not just what mirrors what happens in the United States, because that may not actually work for Australia. We must look at what works for Australia and make sure that we advocate and work tirelessly to support our Defence Force and our defence industry, which are part of our capability and our academic institutions.

Senator XENOPHON (South Australia) (12:30): Like many of my colleagues, I have serious and significant concerns about the Defence Trade Controls Bill 2011, particularly in relation to process. I believe that one of the most important things we need to be aware of when voting on legislation is unintended consequences. As a parliament, we have multiple steps in place to make sure bills are thoroughly examined...
and tested before they pass. These include exposure drafts and consultation, Senate and House committee inquiries and the committee of the whole stage in this chamber. These processes and procedures are there for a reason, and there is no reason—not deadlines, dates or promises made to others—why these steps should be limited or avoided. Generally these procedures are fairly flexible.

My colleagues in this place are usually accommodating when there is a specific reason to push legislation through, providing the bill has been subject to appropriate scrutiny. You need to look at the context of and the consequences of a particular bill. But the circumstances surrounding these bills are nothing short of laughable. The Senate Standing Legislation Committee on Foreign Affairs, Defence and Trade were so concerned about the serious problems with lack of consultation during the drafting of these bills that they took the unusual step of issuing a preliminary report in August of this year. This report was scathing towards the Department of Defence's consultation process—or, rather, lack of consultation process—stating that it:

... started too late in the process; lacked transparency; and was not conducted in a way which encouraged consensus in solving the policy problems at hand.

I think Senator Ludlam may have made mention that he has raised the issue as to whether the deadline that the government has imposed has much to do with the visit to Australia of US Secretary of State Hillary Clinton on 14 November. If that is the case, that would be adding insult to injury in a very poor process.

Further, the report revealed that Defence based its conclusions that the bill would not have a detrimental effect on academic institutions based on the fact that the one letter it wrote to Universities Australia in May 2011 prior to the exposure draft process was not responded to. That to me seems an inadequate and unacceptable approach—and, as the committee discovered, completely inaccurate. In fact, the significant gaps and lack of detail on the bill would mean that if it passed unamended it would potentially affect routine teaching and research activities, according to Dr Pamela Kinnear of Universities Australia. Nor were the public health and research sectors consulted, despite the fact that the bill as drafted would have serious consequences for any organisations undertaking research in Australia.

I think we ought to reflect briefly on the importance of academic freedom and that the history of academic freedom as set out can be traced back to the libertarian movement in the United States and to the days of its founding fathers. John Stuart Mill, in his essay on liberty in 1859, said:

It is necessary to consider separately these two hypotheses, each of which has a distinct branch of the argument corresponding to it. We can never be sure that the opinion we are endeavouring to stifle is a false opinion; and if we were sure, stifling it would be an evil still—and—

If the teachers of mankind are to be cognizant of all that they ought to know, everything must be free to be written and published without restraint.

Thomas Jefferson in a letter to English historian William Roscoe on 27 December 1820 said:

This institution—

That is, the University of Virginia—will be based on the illimitable freedom of the human mind. For here we are not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left to combat it.

I think that this bill ignores those important principles.

Baroness Miller of Hendon, who Senator Ludlam referred to, spoke eloquently in the
House of Lords when export controls on intangibles relating to controlled technology were introduced in the UK. She said:

The extension of the control of export of goods to the control of intangibles—the control of thoughts and ideas—is a radical step, unheard of in a democracy. It has serious constitutional implications. Goods are exported if they are physically moved out of the country. It is physically impossible to control ideas. But that is what the Government are trying to do.

That was in reference to the UK government and the wholly unsatisfactory state of affairs there in terms of a similar piece of legislation.

The significant gaps and lack of detail in this bill would mean that, if it were passed unamended, it would potentially affect this routine teaching I refer to. I think the committee process led to further discussions and consultation between Defence and the relevant sectors. The committee's final report made significant recommendations for amendments to the bill in line with the roundtable discussions between industry and Defence. I do acknowledge and commend the work of the Chief Scientist, Professor Ian Chubb. I note his letter to the chair of the committee, dated 28 September 2012, and the outcomes of that roundtable. I think that Professor Chubb did some very good work and did it in good faith. We are grateful for the work that he has done. The agreed outcomes of the roundtable discussions, chaired by Chief Scientist Chubb on 21 December 2012, were in an attachment to the chair of the committee. My question, however, to the government is: can the government state categorically that those agreed outcomes have been entrenched in amendments to this legislation? Have they been entrenched in a way that is unambiguous, in a way that clearly sets out and implements the agreed outcomes of the roundtable that the Chief Scientist chaired?

Because I have some serious concerns about whether they do or not.

I acknowledge the importance of the treaty in this bill. I support the provisions relating directly to that treaty. As Senator Ronaldson has pointed out, this treaty has been a long time coming. It is something that the Howard government and the Bush administration signed off on five years ago, and I think there are legitimate questions to ask the government as to why it has taken so long to come to a position which is clearly unsatisfactory in terms of process and clearly unsatisfactory in terms of the potential unintended consequences. The principles in the bill are important, but the need for academic freedom and independent research is just as important, if not more important. Protection for such freedoms already exists in some areas of the law, and in particular in the recent amendments to the Higher Education Support Act.

The principles of academic freedom—I referred to John Stuart Mill and Thomas Jefferson earlier—enshrine the ideals of: freedom of speech, freedom from state and political influence, institutional self-government and excellence, the advancement of knowledge and innovation, peer review and the contestability of ideas. It is worth commenting on what Australia's longest-serving Prime Minister, Sir Robert Menzies said in 1964:

The integrity of the scholar would be under attack if he were told what he was to think about and how he was to think about it. It is of vital importance for human progress in all fields of knowledge that the highest encouragement should be given to untrammelled research, to the vigorous pursuit of truth, however unorthodox it may seem.

The Rudd Labor government also introduced specific charters to protect academic freedom within public research agencies, including in the CSIRO and ANSTO. It remains unclear
why the current government would put these principles at risk when both they and previous governments have worked specifically to protect them. Given the importance placed on these principles by recent governments, it is also incredibly concerning that it appears to not have even occurred to Defence to consult with the relevant sectors.

I note that the government, the opposition and the Greens have all circulated proposed amendments to these bills. I am looking forward to hearing the arguments put forward in the committee stage, but it is worth referring to page 21 of the explanatory memorandum, which states:

There is no statistical data available to Defence in terms of the number of such research programs that relate to items on the DSGL nor the number of foreign researchers or students that are participating in these programs. However, this provision should have minimal impact on university courses or research programs as these controls will not apply to broad discussions of research projects or experiments that do not discuss or transfer technology listed in the DSGL.

I am not sure how the department can say that, given the concern expressed by many academics—and that is a very serious concern.

Ultimately, while I support the treaty provisions, I cannot support the bills as they stand. I will support the second reading stage of this legislation, but I reserve my position in relation to the third reading stage. Beyond amending these bills to correct the existing problems, it is vital that this is looked on as a salutary warning about proper and thorough scrutiny and process. I said at the outset that parliamentary checks and balances exist for a reason. These bills are an excellent example of why these steps should not be avoided or curtailed. I also strongly encourage the government to take into account the committee's comments about the Department of Defence. Consulting requirements and drafting requirements are there for a reason.

I will be supporting a number of the amendments from the opposition, Senator Ludlam and of course the government, but I think it is very important that we do not put academic freedom in this country at risk, in danger, as a result of an unsatisfactory process. I would like to conclude my remarks with thanks to the university sector, which has worked tirelessly to bring attention to the issues with these bills. They are reasonable and sensible concerns that ought to be heeded. I would like to thank them for their work and, in particular, for the time they have spent with my office discussing these bills. I will support the second reading. I look forward to the committee stages of this legislation.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:41): I thank honourable members of the Senate for their contribution to this important debate on the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-Use) Bill 2011, and I commend the bills to the Senate. I seek leave to table an addendum to the explanatory memorandum relating to the Defence Trade Controls Bill 2011.

Leave granted.

Senator FEENEY: This addendum takes into account a recommendation made by a committee and responds to concerns raised by the Scrutiny of Bills Committee.

Question agreed to.

Bills read a second time.

In Committee

Defence Trade Controls Bill 2011

Bill—by leave—taken as a whole.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:43): I table two supplementary
explanatory memoranda relating to the government amendments that are being moved to the Defence Trade Controls Bill 2011 and the Customs Amendment (Military End-Use) Bill 2011. I move government amendment (1) on sheet BM290:

1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Sections 3 to 74

A day or days to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation done at Sydney on 5 September 2007 enters into force.

However, if any of the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

The Minister must announce by notice in the Gazette the day on which the Treaty enters into force.

3. Sections 74A and 75

The day this Act receives the Royal Assent.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:45): I thank the senator for his question. In the Senate on 10 October 2012, the government circulated proposed amendments to the legislation and we believe those amendments fully reflect the outcomes of the Chief Scientist's roundtable.

Specifically concerning the transition period, the offence provisions relating to the bill's strengthened export control provisions will not take immediate effect, rather there will be a transition period of up to 24 months. We believe this will enable all relevant sectors to become familiar with their obligations under the bill.

Senator JOHNSTON (Western Australia) (12:46): Much obliged to the minister for that. When the minister says a transitional period of up to 24 months, in dealing with criminal sanctions, I would have thought it is either 24 months or it is not. Could the minister clarify.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:46): As I understand it, the government had resolved to adopt a process where a period of up to 24 months was available, and it was open to accept a shorter period if that was the recommendation given to government. So it was a process that was flexible but, obviously up to 24 months, the government takes due regard for the concerns you are pointing out but does provide the flexibility to move faster than that if that is the advice government receives.

Senator JOHNSTON (Western Australia) (12:47): That is the advice from the steering committee or is it ministerial discretion to abbreviate the 24-month period at his discretion absolutely?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
I am advised that it is the steering committee.

Senator LUDLAM (Western Australia)
(12:47): I would not mind that being clarified: whether there remains ministerial discretion or whether that time period is absolutely on the basis of the advice of the committee.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(12:48): I am advised that there is no ministerial discretion; that it is a matter for the steering committee.

Senator LUDLAM (Western Australia)
(12:48): On another matter but also in terms of general questions around the bill: can the parliamentary secretary explain to us why the committee was required to report three weeks before its reporting date?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(12:48): That is not a matter I can particularly assist you with, Senator; that was a decision made by the minister.

Senator LUDLAM (Western Australia)
(12:49): Parliamentary Secretary, some of the minister's advisers and some of the departmental advisers are sitting right next to you in the box: why was the committee required to report three weeks before its reporting date?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(12:49): The longer answer—the shorter one having failed, Senator—is this defence trade treaty was signed in 2007. As you are aware, the draft bill was released for public consultation on 15 July 2011. The bill was then introduced into the parliament on 2 November 2011 and has undergone detailed consideration by the Senate Foreign Affairs, Defence and Trade Legislation Committee. After two public hearings and considering some 31 submissions, the committee has now reported on the bill. The United States ratification process for the treaty was effected some two years ago by September 2010. And, given the significant parliamentary scrutiny and consultation, including the roundtable process which, as you know, was chaired by Australia's Chief Scientist, Professor Ian Chubb AC, it was the government's view that it was appropriate that the legislative process should be completed as quickly as practicable.

Senator LUDLAM (Western Australia)
(12:50): I will take it as a learning experience that the longer version was just as useless and pointless as the shorter version. I appreciate that greatly, Minister.

Was the bill being rushed through the committee process after spending a year or more behind the scenes being consulted on to meet the timetable for the AUSMIN meeting occurring in November? I can see the adviser shaking her head already. Can the Minister assure us that that had nothing to do at all with the visit of our alliance colleagues, secretaries Panetta and Clinton in November?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(12:50): Yes. It is not a matter to which I have been advised, and I am not in a position to say there is any nexus between the two. I am, obviously, familiar with the political debates surrounding this legislation, and I appreciate the point that the senator is seeking to make in that political debate. But as far as this process is concerned that is not a matter that sits on my list of issues to deal with or respond to.

Senator LUDLAM (Western Australia)
(12:51): I enjoy reading between the lines of Senator Feeney's comments greatly! It is not in his set of talking points. The fact is that everybody is well aware of: this bill was being rushed through in flawed form,
ambiguous form and extremely dangerous form, in my view—judging by the comments of some of the coalition senators and, indeed, Senator Feeney, by your own colleagues who are very schooled in this particular portfolio—to meet an artificial timetable of a press conference.

Presumably, Senator Feeney, you will be completely surprised when this comes up in the joint press conference that occurs in Perth next month.

Senator Feeney: I suppose—

The DEPUTY PRESIDENT: Senator Feeney, I have not given you the call, Senator Ludlam was still on his feet. We will wait for Senator Ludlam to complete—

Senator LUDLAM: If Senator Feeney has something that he wants to add to clarify and to remove the ambiguity, I would greatly appreciate it.

Senator Feeney interjecting—

The DEPUTY PRESIDENT: Senator Ludlam, have you concluded?

Senator LUDLAM: I will just speak to the amendment, because I am not certain when it is going to close out and you put the question.

I want to note that this amendment has not been properly analysed. Our parliament and legislative processes are being rushed and bypassed. The Greens will not call a division on government amendments, with one exception that we will get to a little later in the debate. But I do want the record to show the Greens objections that the Senate, its committee system and our parliament is being treated with contempt just so that the government can make its announcement when US secretaries Clinton and Panetta visit Australia in November.

Senator JOHNSTON (Western Australia) (12:52): Can I ask the minister: in the amendment—this is, of course, amendment (1) on sheet BM290—it talks of provisions not commencing within the period of two years. How is anticipated, given the provisions of section 74, that those stakeholders—researchers educational and private—will know which portions of the legislation are not in effect during the period? How are we going to convey that, given that there is a 10-year jail sentence for a breach of some of these positions? How are we going to keep a weather eye out as to when these criminal sanctions actually apply?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:54): I thank the senator for his question. The government anticipates that this matter will be dealt with by a steering group of industry, research and government representatives. That steering group will be formed to review the bill's operation and implementation during the transition period of which you speak. The group will be chaired by Australia's Chief Scientist and report to the Minister for Defence and the Minister for Tertiary Education, Skills, Science and Research.

The group's final report will be tabled in parliament and may recommend further changes to the legislation and regulations. The group will consider the effect of the controls to ensure they are striking an appropriate balance between meeting Australia's international obligations and our national security requirements while not unnecessarily restricting trade, research and international collaboration or reducing the international competitiveness of the research sector.

Senator JOHNSTON (Western Australia) (12:55): Minister, I thank you for that. When will the parliament know precisely which sections will not be effective
upon proclamation? How will we determine that?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:56): I thank the Senate for its forbearance. I am advised that those matters are dealt with in the amendment, but government has formed the view that the amendment set out by the Australian Greens provides even further clarity on this question, and that is why government has resolved to support that particular amendment.

Senator JOHNSTON (Western Australia) (12:57): Which particular amendment are we talking about? Is it clause 2 on sheet 7297?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:57): I just want to make sure I have this answer right. I am looking at clause 2, Australian Greens amendment (1) on sheet 7297.

Senator JOHNSTON (Western Australia) (12:58): Minister, could you please explain, technically, the mechanisms by which, firstly, everybody is made aware of the provisions of the Defence Trade Controls Bill 2011 that come into effect upon proclamation? Is it a gazette; is it a parliamentary statement? What is it? Then if, as you have said, the steering committee presents a final report, how is it that all of the stakeholders will know the transition period, with respect to sanctions and permits, has ended?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:59): I am advised that proclamations are made when proclamations are made and that there will be the appropriate announcements and information releases to support those proclamations when they are made.

Senator JOHNSTON (Western Australia) (12:59): Minister, could you tell me what you mean by the word 'releases'? I have seen a few proclamations and they talk in broad terms of the bill. What we have is a whole host of sections within this that have an as yet undetermined commencement date. All I am looking for in this legislation is some certainty so that Australian citizens subjected to the legislation know and are deemed to know where they stand at any given time. How do they keep up with what has commenced and what has not commenced? Is there going to be a proclamation section by section?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:00): I suppose the only further description I can give is that the government will engage in outreach. There will be press releases, there will be information crafted for the stakeholder groups you have described. The government will make the appropriate effort to make sure all of those persons and institutions that are required to know, or that have an interest in the matter, have access to the appropriate information.

Senator JOHNSTON (Western Australia) (13:01): So a person who is liable to a 10-year term of imprisonment for breach of these provisions will know when they take effect by virtue of a ministerial press release? Is that our position here? I need to clarify it for the record.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:01): No, I refer you again to my answer. They will know by virtue of the fact that there will be an information and outreach campaign that is appropriate to this legislation, and while that will include the public utterances of the minister it is not the only mechanism for achieving that outreach.

I seek leave to withdraw amendment (1) on sheet BM290.

Leave granted.
Senator FEENEY: Having withdrawn that amendment, I indicate that the government will be supporting the amendment set out in sheet 7297.

Senator LUDLAM (Western Australia) (13:02): I move Australian Greens amendment (1) on sheet 7297:

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Sections 3 to 9  A single day to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty between the Government of Australia and the Government of the United States of America concerning Defense Trade Cooperation done at Sydney on 5 September 2007 enters into force.

However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

The Minister must announce by notice in the Gazette the day on which the Treaty enters into force.

3. Section 10  The day after the end of the period of 2 years beginning on the day the Treaty enters into force.

4. Sections 11 and 12  A single day to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty enters into force.

However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

5. Sections 13 to 15  The day after the end of the period of 2 years beginning on the day the Treaty enters into force.

6. Sections 16 and 17  At the same time as the provision(s) covered by table item 4.

7. Section 18  The day after the end of the period of 2 years beginning on the day the Treaty enters into force.

8. Sections 19 to 25  A single day to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty enters into force.

However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

9. Sections 26 to 57  A single day to be fixed by Proclamation.

A Proclamation must not specify a day earlier than the day the Treaty enters into force.

However, if the provision(s) do not commence within the period of 2 years beginning on the day the Treaty enters into force, they commence on the day after the end of that period.

10. Subsections 58(1) and (2)  The day after the end of the period of 2 years beginning on the day the Treaty enters into force.

11. Subsections 58(3) to (8) and sections 59  At the same time as the provision(s) covered by table item 9.
It is a remarkable deflection of Senator Johnston's question that when asked how this befuddled situation will be clarified the minister then pointed the senator to an amendment hammered out with the Australian Greens. We are voting against this bill. Let me be clear: I am not happy with the form of the amendments or with the form of the bill, no matter what occurs in the committee stage. I appreciate that the minister has opened up into negotiations on good faith, and I think we have something here that is an improvement on where it was, but it is remarkable to hear the parliamentary secretary refer the opposition by way of improvement to what we have managed to put together. I am glad we did; I am still going to vote against this bill.

Greens amendment (1) on sheet 7297 provides a timetable which outlines a schedule as to when penalties would apply, so this goes towards Senator Johnston's question from before. The amendment more accurately represents the results of the roundtable discussion between Defence and the universities, and serves to make clearer what conduct the law prohibits, what conduct would constitute an offence and when penalties would begin to kick in for each. Senator Johnston is quite right to point out the alarming degree of ambiguity that was introduced in the initial drafting.

I am not necessarily convinced that this amendment completely cleans that up, by the way. This was the best we were able to achieve in the very limited time that we had. Because the government was present at the roundtable discussions—and I know this schedule more accurately represents what was decided—I understand and appreciate that the government is at least willing to support this amendment. It is worth acknowledging, because often you will see a government ploughing on, bloody-minded and not willing to acknowledge that a better way could have been found. This is one instance—and I suspect I have the coalition's support on this amendment as well—in which some ground was ceded and some negotiations were entered into. It is not perfect but it is better than it was, and I commend it to the Senate.

The ACTING TEMPORARY CHAIRMAN (Senator Bernardi): The question is that Australian Greens amendment (1) on sheet 7297 be agreed to.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:05): I move government amendment (2) on sheet BM290:

(2) Clause 3, page 3 (lines 7 to 11), omit:

- Part 2 creates offences for persons who:
  - (a) engage in dealings relating to goods or technology listed in the DSGL; or
  - (b) arrange for other persons to engage in dealings relating to goods or technology listed in the DSGL.

substitute:

- Part 2 creates offences for persons who:
  - (a) supply DSGL technology without a permit; or
  - (b) arrange for other persons to engage in dealings relating to goods listed in the DSGL, or to DSGL technology, without a permit; or
  - (c) publish or otherwise disseminate DSGL technology to the public.

Senator JOHNSTON (Western Australia) (13:05): Minister, what does the government say the word 'dealings' means?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:06): I am not able to assist you with that,
unfortunately. That is a matter I will have to take on notice.

Senator JOHNSTON (Western Australia) (13:06): I make the point that you are creating an offence for a person who engages in 'dealings relating to goods or technology'. My obvious follow-up question, if you cannot tell me what dealings means, is: what does 'relating to' actually mean? Bear in mind, again, that these are criminal sanctions.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:07): I am advised that in the context of the bill 'dealing' is the supply of technology.

Senator JOHNSTON (Western Australia) (13:07): So in order to understand 'dealings' one has to go to the word 'supply'. Why was the word 'supply' not used? How does 'dealings' take the matter any further if 'supply' is the definition of 'dealings'? You say 'arrangement for other persons to engage in dealings relating to' and 'supply relating to' is what you are saying that means. Is that correct?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:07): I want to be sure I understand your question. We are talking about the supply and export of goods and technology.

Senator JOHNSTON (Western Australia) (13:07): I do not think that answers my question. Paragraph (b) of part 2 of clause 3 says 'creates offences for persons who':

(a) supply—
and we come back to the word 'supply' without a permit in a minute—

(b) arrange for other persons to engage in dealings—

You have told me that 'dealings' is the supply of technology. This means to arrange for persons to engage in the 'supply' of technology relating to goods. Why have we chosen the word 'dealings' on that basis? Why are we using the word 'dealings', which is a very vague term, a term that I do not think it is in common parlance, a term that actually complicates and unnecessarily broadens the scope of the legislation? I will come back to the words 'supply' and 'arrange' in a moment, but after we have dealt with 'dealings', I want to deal with the words 'relating to'.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:09): I think you are going to questions of drafting and the precise legal implications of using particular words. Those are not matters I can assist you with at the moment. Those are matters I will have to take on notice, because that goes to the advice and in particular the legal advice that formed the foundation for the drafting process.

Senator JOHNSTON (Western Australia) (13:09): I accept that, and in line with my original commentary about dealing with what is a very complex matter, we go to the word 'arrange' in 5A. In 5A you have sought to define the word 'arranges', a plural. The clause deals with the word 'arrange', which is singular. But let's ignore that for the moment for the sake of understanding where we are going. You have sought to set up a framework that identifies brokering arrangements. I am trying to clarify where this is going on two bases: firstly, commercial, so that if there is a fee payable or a benefit then that is a brokering; secondly, if someone is doing something but is motivated by political, religious or ideological motivations. But many people arrange things because they do things by way of assistance, by way of a charitable or benevolent motivation that is almost like a voluntary help scenario that involves no money. For instance, I am thinking of a freight forwarder who simply moves...
something from A to B, but it is not referable directly to a fee or a commercial return. Tell me how to get around that example.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:12): To use your example, the freight forwarder in that example would not be the person who had arranged or was arranging the alleged offence, and so as a consequence would not be caught by the phraseology in the bill, I am advised. Rather the target of the investigation, if I can use that phraseology, would be the person or organisation that had arranged the transaction.

Senator JOHNSTON (Western Australia) (13:12): The reason I ask these things is I am taking issue with you on that. I think that is fine, but we need to get some of these interpretive matters on the record, so that people who are adjudicating whether or not someone might have illegally arranged something know what the government is intending here. How do you define in 5A(1)(a) an 'intermediary'? What is an 'intermediary' strictly?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:13): The meaning is literal. It is the intermediary between two persons or organisations that arrange the transaction.

Senator JOHNSTON (Western Australia) (13:13): Is it necessary for the intermediary to have a commercial motivation—that is, he receives a fee, a commission or benefit—or to be advancing a political, religious or ideological motivation? Are those two things necessary for the intermediary?


Senator JOHNSTON (Western Australia) (13:14): I would like to take the minister back to the word 'supply'. In one of your amendments, we come to the word 'supply', and you have changed that. Let us just deal with that as if that amendment has gone through, so I will disregard the wording in the bill but look at your amendment—I think it is (5) on sheet BM290. You say 'supply':

(a) includes supply by way of sale, exchange, gift, lease, hire or hire-purchase; and

(b) in relation to DSGL technology—includes provide access to DSGL technology.

Is the word 'access' such that there is an intent, so far as this bill goes, to provide such access? Do you envisage the word 'access' to be an active motivated action within the terms of the bill or does 'access' simply mean something that happens through lack of vigilance?

The TEMPORARY CHAIRMAN: Before I call the minister, I remind the committee that we are actually considering government amendment (2) on sheet BM290. Senator Johnston, you did jump forward to an amendment later on.

Senator Johnston: The reason I have done that is that the amendment we are dealing with now uses the word 'supply', which is subsequently changed. So I am just trying to be helpful—which is my nature—and deal with the amendment that we are dealing with but read into it the intended amendment. Maybe I should not do that and it is a bit presumptuous of me. I have advised the minister that we will be supporting that amendment, so I am trying to be helpful, which I probably should not be doing, but it is my nature.

The TEMPORARY CHAIRMAN: Senator Johnston, the committee appreciates your helpfulness, as I am sure will be reflected by the minister now.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:16): I am advised, Senator Johnston, that
it is your active characterisation of access that would be the government's intent, so information will be actively provided to assist persons interested in DSGL technology.

Senator LUDLAM (Western Australia) (13:17): I will just put briefly on the record that this amendment also—as I think Senator Johnston's comments have just made very clear—was not properly analysed, because our parliament and its various legislative processes, in particular the Joint Standing Committee on Foreign Affairs, Defence and Trade committee, were prevented from looking at it. This amendment is being similarly rushed. We will not call a division until a little bit later in the session, but I do want to strongly record the Greens' objections to the way the government has handled this debate.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:18): by leave—I move government amendments (3), (8) and (13) to (16) on sheet BM290:

(3) Clause 4, page 3 (before line 23), before the definition of Article 3(1) US Defence Article, insert:

arranges has a meaning affected by section 5A.

(8) Page 8 (after line 12), after clause 5, insert:

5A Arranging for persons to supply goods or DSGL technology

(1) For the purposes of this Act, a person (the broker) arranges for another person to supply goods or DSGL technology if:

(a) the broker acts as an agent of a person, or acts as an intermediary between 2 or more persons, in relation to the supply; and

(b) either:

(i) the broker receives, or is to receive, any commission, fee or other benefit for so acting; or

(ii) the broker so acts for the purpose of advancing a political, religious or ideological cause.

(2) Subsection (1) does not limit the meaning of arranges for the purposes of this Act.

(13) Clause 15, page 19 (line 2) to page 21 (line 2), omit the clause, substitute:

15 Offence—arranging supplies in relation to the Defence and Strategic Goods List

(1) A person (the first person) commits an offence if:

(a) either:

(i) the first person arranges for another person to supply goods, where the goods are listed in the Defence and Strategic Goods List and the supply is, or is to be, from a place outside Australia to another place outside Australia; or

(ii) the first person arranges for another person to supply DSGL technology, where the supply is, or is to be, from a place outside Australia to another place outside Australia; and

(b) either:

(i) the first person does not hold a permit under section 16 authorising the arrangement; or

(ii) the arrangement contravenes a condition of a permit that the first person holds under section 16.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exceptions

(2) Subsection (1) does not apply if:

(a) the first person is a member of the Australian Defence Force, an APS employee, a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; and

(b) he or she does the arranging in the course of his or her duties as such a person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.
Subsection (1) does not apply in the circumstances prescribed by the regulations for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3): see subsection 13.3(3) of the Criminal Code.

(4) Subsection (1) does not apply if:

(a) the first person arranges for another person to supply goods, or to supply DSGL technology, where the supply is, or is to be, from a place in a foreign country to another place in that country; and

(b) that country is a Participating State for the purposes of the Wassenaar Arrangement.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4): see subsection 13.3(3) of the Criminal Code.

Geographical jurisdiction

Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Definitions

In this section:

place includes:

(a) a vehicle, vessel or aircraft; and

(b) an area of water; and

(c) a fixed or floating structure or installation of any kind.

Wassenaar Arrangement means the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, adopted in Vienna, Austria, on 11 and 12 July 1996, as amended from time to time.

Clause 16, page 21 (lines 4 to 17), omit subclause (1), substitute:

(1) A registered broker may apply to the Minister for a permit under this section to:

(a) arrange for another person to supply goods, where the goods are listed in the Defence and Strategic Goods List; or

(b) arrange for another person to supply DSGL technology.

Note: Section 66 sets out application requirements.

Clause 16, page 21 (line 24), omit "technology relating to goods", substitute "DSGL technology".

Clause 16, page 21 (line 33), after "if", insert ", having regard to the criteria prescribed by the regulations for the purposes of this subsection and to any other matters that the Minister considers appropriate, ".

Senator JOHNSTON (Western Australia) (13:18): Just let me clarify: is this the definition of DSGL technology?

Senator FEENEY (Victoria— Parliamentary Secretary for Defence) (13:18): We are dealing with amendments to clauses (3), (8), (13) and (16) on sheet BM290.

The TEMPORARY CHAIRMAN: Just for clarification: it is (3), (8) and (13) to (16) inclusive.

Senator Johnston: The what?

The TEMPORARY CHAIRMAN: This is government amendments to clauses 4, 15 and 16 and after clause 5, but the amendments are actually amendments (3), (8) and (13) to (16) on sheet BM290. I understand the first part of these clauses is on page 2 of the sheet.

Senator JOHNSTON (Western Australia) (13:19): I do not have sheet BM290 in front of me. I seek your indulgence to get that.

The TEMPORARY CHAIRMAN: We will make one available to you. I am advised that all of these amendments relate to arrangements, if that is helpful.

Senator JOHNSTON: Yes, that is right, but we need to clarify a few things with respect to arrangements. I will have to come back to this, if I may. I just cannot work out what we are doing here.
The TEMPORARY CHAIRMAN: I am looking to someone to give the call to while Senator Johnston is gathering his thoughts.

Senator LUDLAM (Western Australia) (13:21): It is going to be a very brief contribution. As before, Senator Johnston should not have been put in this position; nor should his staff, for that matter. That we are analysing amendments that have been passed around the chamber shortly before we need to debate them and put them to the vote is a pretty contemptuous way of treating the Australian academic and research community quite frankly. It has put my staff through an enormous amount of stress and pressure trying to come up with ways of fixing this debacle.

These amendments should have been, could have been, investigated, analysed and scrutinised by the Senate Foreign Affairs, Defence and Trade Legislation Committee—as is its job—on which Senator Johnston sits. Again, when it comes to it, we will not be calling a division but I do record the Greens' objections to the way that this process has been handled. I look to Senator Johnston to see if he is ready to make his contribution on this amendment, otherwise we should simply put the question and move on.

Senator JOHNSTON (Western Australia) (13:22): I think clause (4) on page 5, before line 16, deals with the US Defence article, does it not? Is that what we are talking about here in this particular amendment?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:23): I am advised that this does not relate to the treaty. This relates to the strengthening of export controls.

Senator JOHNSTON (Western Australia) (13:24): It is the insertion of the definition of Defence Strategic Goods List technology, is it not?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:25): I think, Senator, your interest is in clause (4) rather than clause (3), according to the schedule we are looking at.

The TEMPORARY CHAIRMAN (Senator Bernardi) (13:25): The committee is considering government amendments (3), (8) and (13) to (16). Whilst the shadow minister obtains some additional information I will ask if anyone else would like to make a further contribution. No?

Senator JOHNSTON (Western Australia) (13:26): Thank you. So we are back to the definition of 'arranges' and I make the point about 'arrange' and 'arranges'. You have two separate definitions there. In
5A (2), which is the definition of 'arranges', what is the reason and the motivation behind the subsection (2) that does not limit the meaning of 'arranges' for the purpose of the act. What does that mean?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:27): I am advised that it is not limited by those words. It can be broader for the purposes of the act.

The TEMPORARY CHAIRMAN (13:28): The question is that government amendments (3), (8) and (13) to (16) on sheet BM290 be agreed to.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:28): by leave—I move:

(4) Clause 4, page 5 (before line 16), before the definition of foreign person, insert:

DSGL technology means a thing that is:

(a) technology, or software, as defined in the Defence and Strategic Goods List; and

(b) within the scope of that list.

Note: For paragraph (b), the Defence and Strategic Goods List contains exemptions relating to technology or software in the public domain and to basic scientific research.

(5) Clause 4, page 6 (lines 18 and 19), omit the definition of supply, substitute:

supply:

(a) includes supply by way of sale, exchange, gift, lease, hire or hire-purchase; and

(b) in relation to DSGL technology—includes provide access to DSGL technology.

Senator JOHNSTON (Western Australia) (13:29): Minister, with respect to (b), you have inserted a definition of DSGL technology. You have said within the scope of the list is the words you have used. Could you explain what exactly the words 'within the scope of the list' mean?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:30): It is not just the items that are found in the list; the list has built into it those matters referred to in the DSGL. So it has cognisance of matters that are in the public domain and basic scientific research.

Senator LUDLAM (Western Australia) (13:30): Could the minister provide us with an example of something that would be caught by part B but not necessarily by part A?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:30): I am advised that they have to be read together.

Senator JOHNSTON (Western Australia) (13:31): Minister, when you say that there are other considerations, I note that the DSGL has exemptions. Do those exemptions carry across to the nature of technology?

Senator FEENEY: Yes.

Senator LUDLAM (Western Australia) (13:31): Thanks for pointing that out, Minister—so the word 'and' means they need to be read together. Can the minister provide us with an example of something that would be caught by part B that would not necessarily be on the list itself—that is, why is part B necessary at all?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:32): I am advised that it is the other way around—everything is found on the list in part A and the exemptions are found in part B.

Senator LUDLAM (Western Australia) (13:32): I, again, put on the record—as I am going to for each of these government amendments, apart from the one that I will...
call a division on—that this amendment was not properly analysed and the committee was not given the opportunity to do its job. I strongly believe that this bill will be passed into law in a flawed and unworkable form that will create unnecessary and dangerous ambiguity for people with no connection and no interest in doing defence research who will nonetheless be brought within the clauses of this bill. It is a grave mistake that the chamber is making today.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:33): by leave—I move government amendments (6), (7) and (18):

(6) Clause 5, page 7 (lines 2 to 10), omit subclause (1), substitute:

Article 3(1) US Defence Article

(1) Article 3(1) US Defence Article means goods:

(a) the initial movement of which is from a member of the United States Community to an Australian Community member, or to an Australian Community facility, for an activity referred to in Article 3(1) (a), (b), (c) or (d) of the Defense Trade Cooperation Treaty; and

(b) that are listed in Part 1 of the Defense Trade Cooperation Munitions List immediately before the start of that movement; and

(c) that are not listed in Part 2 of the Defense Trade Cooperation Munitions List immediately before the start of that movement.

(7) Clause 5, page 7 (lines 17 to 23), omit subclause (4), substitute:

Article 3(3) US Defence Article

(4) Article 3(3) US Defence Article means goods:

(a) acquired by, and delivered to, the Government of Australia as mentioned in Article 3(3) of the Defense Trade Cooperation Treaty; and

(b) that are listed in Part 1 of the Defense Trade Cooperation Munitions List at the time of that delivery; and

(c) that are not listed in Part 2 of the Defense Trade Cooperation Munitions List at the time of that delivery.

(18) Clause 36, page 56 (lines 16 to 21), omit subclause (3), substitute:

(3) Part 1 is to contain a list of either or both of the following:

(a) goods listed in the Defence and Strategic Goods List;

(b) goods listed in the United States Munitions List referred to in Article 1(1) (n) of the Defense Trade Cooperation Treaty.

Senator JOHNSTON (Western Australia) (13:33): In recent times, the munitions list has been subject to change with a declared statement and departmental intent, and indeed practice, to move listed items across to the commercial list. Is there a mechanism in this legislation that accommodates the changing nature of the list?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:34): Yes. I am advised that we do not copy the US list; we establish our own. As the US list is changed from time to time, we will update the Australian list.

Senator JOHNSTON (Western Australia) (13:34): How do we do that? Is it a schedule, a published gazetted schedule? What is the basis for the change?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:35): It is a legislative instrument.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Bernardi): We will now move to opposition amendment (1) on sheet 7296.

Senator LU DLAM (Western Australia) (13:36): If I could be slightly cheeky, opposition amendment (1) is very similar,
though it achieves its ends in a different way, to Australian Greens amendment (2), which I have a suspicion is going to fail when we put it to a vote. I wonder whether, with Senator Johnston's concurrence, I might move this amendment first then we can move onto coalition's amendment (1)?

Senator JOHNSTON (Western Australia) (13:36): No objection.

Senator LUDLAM (Western Australia) (13:36): I move Australian Greens amendment (2) on sheet 7297:

(2) Page 9 (after line 20), at the end of Part 1, add:

9A General defence
(1) A person does not commit an offence against this Act if:

(a) a physical element of the offence exists because information was, or is to be, disclosed (whether by way of supply of the information or otherwise); and

(b) without the existence of that physical element the person would not commit the offence; and

(c) any of the following apply:

(i) the information has already been lawfully made available to the public, or to a section of the public;

(ii) the information has been accepted for publication and/or submitted to a reviewer for the purpose of publication or presentation at a conference;

(iii) the information was created as a result of the conduct of open research;

(iv) the information was, or is to be, disclosed in connection with the conduct of open research;

(v) the information was, or is to be, disclosed during, or for the purposes of, the conduct of a course of study at a higher education institution;

(vi) the information was, or is to be, disclosed in connection with an application for a patent.

Note: A defendant bears an evidential burden in relation to the matters in subsection (1) (see subsection 13.3(3) of the *Criminal Code*).

(2) For the purposes of subparagraphs (1) (c) (iii) and (iv), research is open research if:

(a) the results of the research would ordinarily be published and/or shared broadly within the scholarly community; and

(b) the conduct of the research is not subject to:

(i) a condition that the results not be disclosed; or

(ii) a condition that the results only be disclosed with approval.

The reason I am proposing that is that after my amendment fails, I indicate now that I will support opposition amendment (1). It does not do exactly what we were hoping it would do, and I will speak about that in a little more detail when we get to it, but it made more sense to move this one first.

The opposition's view of this amendment is one that we have looked at in detail and one that I have some sympathy for. I believe it may also be the preferred option to some of the universities and some of those who have taken an active stance in this debate. My understanding is also that it is not acceptable to the government—and I will let Senator Feeney speak for himself—because it could be interpreted as switching off the whole act for the information that is listed. The Greens amendment, therefore, tries to strike a balance and tries to hear what both the government and Defence have been saying and also what the universities are saying. Our form of words carves out the information from the offences only by creating a defence, which I acknowledge is not the approach that Senator Johnston took.

I think this has merit because it is a more precise way of carving out where the offences are and where they are not, and we recognise that, by saying the whole act does not apply to the listed information, it is
actually quite unclear what this means for the provisions—for example, in parts 5, 6 and 8 of the bill—other than that the offence provisions also operate in relation to information. I think the government feels that some of what is covered in our amendment is already covered in other parts of the bill and also that aspects of what we have proposed undermine the intent of the bill. The government has therefore proposed a statement of principle to supplement this, which goes some way towards allaying some concerns.

I say that the Australian Greens amendment did propose an effective balance between what I think everybody is trying to achieve here, which is simply the removal of the ambiguity that we have been speaking of all morning. So, without a great deal of hope unless there has been a late change of heart, I commend this amendment to the chamber.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Bernardi): We will now go back to opposition amendment No. 1 on sheet 7296.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:39): I might take this as an appropriate juncture to set out the government's position with regard to this opposition amendment. I can confirm that the government will not be supporting this particular amendment. The government's position is that the effect of the proposed amendment would be to exempt anybody claiming to be conducting research from the entire bill. This is a far broader effect than the US exception for fundamental research, and this is because Australia and the US have different legal and defence export arrangements. This type of exception is not required in Australia, because the bill does not contain any provisions which seek to regulate the outcomes of research. This amendment would undermine the basic intent of the legislation, which the government asserts is to control the intangible supply of technology related goods listed in the DSGL.

This amendment would allow anybody who claims to be conducting research complete freedom to send any information anywhere in the world. This includes how to manufacture and use sensitive equipment such as a mass spectrometer for a nuclear weapons laboratory and how to produce chemicals such as oxalyl chloride, required for chemical weapons. Apologies for any pronunciation errors there; my chemistry teacher will not be surprised!

Under existing legislation—Customs Act 1901—all of these goods would require permits if tangibly exported from Australia today. The controls on intangible exports in the proposed legislation simply mean that the same goods cannot be virtually exported by giving information to a person overseas so they can make the same goods. The inclusion of such a broad loophole in Australia's legislation would fundamentally undermine the capacity of the bill to strengthen Australia's export controls relating to intangible technology. This would not meet the intent of Australia's commitment to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, a commitment made in 2006 under the Howard government. Such a broad loophole would not meet the treaty ratification requirements, and the treaty could not be ratified.

The inclusion of a fundamental research exception was raised during the consultation process. This was discussed at length during the roundtable meetings chaired by Australia's Chief Scientist. The roundtable meetings recognised that not all research involving controlled technology will involve
the level of detail that would require a permit. The agreed outcomes recognise that some research might involve the transfer of sensitive technology and that that should not be exempt from legislation. The agreed outcomes instead propose an implementation model which reduces the need to interact with government agencies on the legislative regime. This is specifically captured in the Chief Scientist's agreed outcomes as a model to be tested as part of the pilot. This model, to be tested during the transition period, involves academic institutions and a supplement to the Australian Code for the Responsible Conduct of Research. It enables institutions to access technology and to determine when a permit might be required. The steering group will report to parliament on the effectiveness of this model, and there will be an opportunity to amend the legislation based on the steering group report.

Senator JOHNSTON (Western Australia) (13:42): I move opposition amendment (1) on sheet 7296:

(1) Page 9 (after line 20), at the end of Part 1, add:

9A Exclusion for research, education and information in the public domain

This Act does not apply to the following:

(a) information in the public domain;

(b) information that has been, or is intended to be, published in any publication available to members of the public;

(c) fundamental research, which is basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly in the scientific community (such research is to be distinguished from proprietary research and from industrial development, design, production and product utilisation, the results of which ordinarily are restricted for proprietary reasons or subject to other access and dissemination controls);

(d) educational information or instruction provided in courses by a higher education provider;

(e) information that is the minimum necessary information for patent applications.

In so moving the amendment I want to speak to it and say that all of this legislation does turn on some of these points.

What is the opposition seeking to do here? There are not many who have an interest in this subject matter, but those that do know that one of the abiding tenets that we wish to protect is that our competitive position in so far as research is concerned is not undermined in comparison to other countries of a similar capacity in Europe or North America. So we should not impose a burden, particularly on Australian universities, which are the essential and majority players in the research space in Australia, that other countries and other institutions within those countries are not subject to. In looking at this amendment we were conscious of the export administration regulations, particularly in the United States, and other provisions that relate from the International Traffic in Arms Regulations and other matters that bear upon the controls of research in United States institutions.

The waters are muddy, but there is an irresistible conclusion that the US, whilst there are controls, do not and will not have as strict a regime as the regime these measures, which we are legislating here and now, will impose upon their research institutions. That is a matter for the government. I want to hear and I want to see the government say that that is not so, but, inevitably, this amendment talks about exclusions for research, education and information in the public domain and says that the act does not apply to:

(a) information in the public domain;
(b) information that has been, or is intended to be, published in any publication available to members of the public;

(c) fundamental research, which is basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly in the scientific community (such research is to be distinguished from proprietary research and from industrial development, design, production and product utilisation, the results of which ordinarily are restricted for proprietary reasons or subject to other access and dissemination controls);

(d) educational information or instruction provided in courses by a higher education provider;

(e) information that is the minimum necessary information for patent applications.

We think these provisions are a little bit of motherhood but are such that the intent of the act is protected, yet we retain the flexibility within research institutions such that the research that they do that does not impact upon the export or the control of defence related exports is preserved. This is probably the most contentious part of the legislation. The committee had a lot to say about this, and I think it is important that we put this on the record so that everybody knows what we are talking about in terms of this amendment and what we are talking about in terms of long-term oversight of research in Australia from the perspective of Wassenaar and other conventions and treaties controlling the export of DSGL technology, services, munitions lists, goods etcetera. I commend this amendment to the Senate.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:47): The senator has correctly identified that this is an area of some debate, so I am keen to respond to some of the questions he raised of the government in his remarks. The US does not exclude fundamental research from the requirement to obtain a permit for the export of controlled technology. The US export controls are complex, and this issue needs to be compared very carefully. As I am sure you have heard across this debate, Senator Johnston, we are not comparing apples with apples. It is simply not correct to suggest that universities and researchers in the United States do not have to comply with US export controls. US export control arrangements span multiple agencies and multiple control lists. There are numerous circumstances in which an export approval is required and numerous sets of exceptions that may apply.

The fundamental research exception quoted in the proposed amendment relates only to dual use technology in the US and is an exception only for the outcomes of fundamental research. This type of exception does not apply in Australia because the bill does not contain any provisions that seek to regulate the outcomes of research. The US government has provided specific advice to Australia’s Chief Scientist and indeed the Senate committee on this very important point. The US government, the authority on US export controls, has made the following points very clear. First, there is no exception that allows controlled technology to be exported out of the US for fundamental research without US government authorisation. In fact, with limited exception, export controlled technology used by foreign researchers or students while in the US requires government authorisation prior to its transfer. This goes further than the provisions in this bill, which do not apply domestic controls within Australia.

I add to that answer by saying that Australia has not legislated the same safeguards as the US for good reasons. These include that the bill does not propose the conduct of research and, as a consequence, such safeguards are not relevant. The US system is quite a different model and
regulates a much broader range of circumstances than are proposed by this bill. For example, foreign students are required to obtain permits to access or use controlled technology during their studies in the United States. In response to the university sector, Defence sought advice from the US government's agencies with responsibility for US export controls on the regulation of the US university and research sectors: both the Department of State and the Department of Commerce. This advice, which was duly provided by Ambassador Bleich to the Chief Scientist, is both clear and authoritative. It includes the following statements:

In the United States, if a university wants to use specifically controlled equipment or data, they would need a license or other approval to transfer this technical data or allow access to the equipment to a foreign person. … Universities in the United States are not exempted from U.S. ITAR and dual-use export controls. Unlike the US system, the provisions in the bill do not apply any controls to the conduct of research within Australia. This means that foreign students, for example, are free to work and study here without the need for permits.

Furthermore, the bill does not affect the ability of researchers to use controlled technology in the course of their research, collaborate with overseas researchers, share the results of their research or publish the findings of their research just because their research involves the use of a controlled technology. A permit is only required if the researcher needs to share specific information about the controlled technology to a person overseas. I will, with the consent of the Senate, go through one example in an attempt to demonstrate this point. The example is a mass spectrometer. A sophisticated high-end mass spectrometer is a relatively common piece of laboratory equipment. It can be used by researchers to analyse water quality or in mining operations to analyse oil compositions. It is also used for measuring uranium isotopes and is a critical piece of equipment for a nuclear weapons program. This is why it is subject to export controls. Under the proposed legislation, a researcher in Australia would be able to use a mass spectrometer in their laboratory without restriction, regardless of their nationality. That researcher would also be able to use that mass spectrometer during the course of international collaboration on their research—again without restriction.

The researcher could do their research, share the results of their research and indeed publish their results without any requirement to obtain a permit. A permit from Defence would only be required if that researcher were seeking to provide blueprints, design specifications or detailed instructions on how to use that mass spectrometer to a person overseas. It would be an offence to publish those blueprints, design specifications or detailed instructions in the public domain.

The proposed controls are not as restrictive as the complex package of US controls—that is what this government contends. We say they are appropriate for the Australian environment. They also take account of our participation in international arrangements, like the Wassenaar arrangement, to which Senator Johnston referred earlier, and so continue Australia’s contribution to counterproliferation of sensitive technologies.

Senator LUDLAM (Western Australia) (13:53): I do not know whether Senator Johnston has anything to add in response to that, but I indicate at this point that the Greens will be supporting this amendment. I have given the opposition a pretty hard time on enabling the government to carry forward some of the procedural obscenities that accompanied this bill, but I will
acknowledge the coalition for bringing this amendment forward. As I said in my earlier remarks, it is not the way that the Australian Greens amendment chose to deal with this issue. But it is a substantive amendment. It is also an attempt at a substantive fix, and I think the opposition should be congratulated for bringing it forward.

I would be very interested to get Senator Feeney's read on what will happen if this passes the House and actually becomes law. I think it certainly marks a major improvement on the drafting of the bill as it stands. I wish the Australian Greens amendment had carried, but, nonetheless, I am very happy to support the opposition's drafting.

Senator JOHNSTON (Western Australia) (13:54): There are a couple of problems we have here and I think we all need to go away after question time when other business comes before the chamber and just have a look at some of these things.

I am looking at a summary extract from the US Export Administration Regulations 15 Code of Federal Regulations 734, entitled 'Scope of the export administration regulation'. This was downloaded on 22 August 2012. Item 734.3 is entitled 'Items subject to the EAR'—that is, export administration regulations—and states:

(b) The following items are not subject to EAR:

... ... ...

(3) Publicly available technology and software, except software classified under ECCN 5D002 on the Commerce Control List, that:

(i) Are already published or will be published as described in 734.7 of this part;

(ii) Arise during, or result from, fundamental research, as described in 734.8 of this part—underline 'fundamental research'—

(iii) Are educational, as described in 734.9 of this part;

(iv) Are included in certain patent applications, as described in 734.10 of this part.

When I turn over to the annotation, under the heading of 'Fundamental research', it states: Paragraphs (b) through (d) of this section and 734.11 of this part provide specific rules that will be used to determine whether research in particular institutional contexts qualifies as “fundamental research”. The intent behind these rules is to identify as “fundamental research” basic and applied research in science and engineering, where the resulting information is ordinarily published and shared broadly within the scientific community. Such research can be distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific national security reasons as defined in 734.11(b) of this part.

You can see there is a similarity in what I am quoting from the US law to what this amendment says. So I am a little bit sceptical—this is complex—and I stand to be corrected if someone says this does not apply. But it goes on to say:

(b) University based research

(1) Research conducted by scientists, engineers, or students at a university normally will be considered fundamental research...

The American situation appears to me to embrace this very important amendment. This document goes on to deal with the public domain. It also relates to a further description of fundamental research. This is 120.11 under the heading 'Public domain'; it sets out what that means. I will put that on the record in the two minutes I have left. I will continue on with this, Minister, when we get an opportunity. So we can all stand down towards question time while I go through this process:

(a) Public domain means information which is published and which is generally accessible or available to the public:

CHAMBER
(1) Through sales at newsstands and bookstores;

(2) Through subscriptions which are available without restriction to any individual who desires to obtain or purchase the published information;

(3) Through second class mailing privileges granted by the U.S. Government;

(4) At libraries open to the public or from which the public can obtain documents;

(5) Through patents available at any patent office;

(6) Through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the United States;

(7) Through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency …

(8) Through fundamental research in science and engineering at accredited institutions of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly within the scientific community, as distinguished from research the results of which are restricted for proprietary reasons …

The rest of the definition goes on in exactly the form we have in our amendment. I would be pleased, Minister, if you could explain to me, when next this matter comes before the Senate, the problem with the words 'fundamental research' as described in our amendment. Thank you.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:59): I table for the information of the Senate a revised ministry list effecting a recent change to the ministry. The change is the appointment of Dr Emerson as Minister Assisting the Prime Minister on Asian Century Policy. I seek leave to have the document incorporated in Hansard.

Leave granted.

The document read as follows—

SECOND GILLARD MINISTRY

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CHAMBER
QUESTIONS WITHOUT NOTICE

Mining

Senator CORMANN (Western Australia) (14.00): My question is to the Minister representing the Treasurer, Senator Wong—and some notice has been given of this and a number of other questions. Can the minister confirm reports that the government has not collected any minerals resource rent tax revenue in the first quarter of this financial year? If she cannot confirm that, can the minister confirm for the Senate how much MRRT revenue the government has collected since 1 July 2012?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14.00): I thank Senator Cormann for the question. It is true that he did give me a letter earlier today. It was a very long set of questions, I have to say. I am disclosing that in the interests of transparency. I did also say to him—and I think he knew I would say this—'That does not make it a question with notice, of course, Senator'. I thank him for the courtesy, but I suspect I will not be able to provide him with precisely the answer he wants.

I will make a few points. First, it is the case that the government in MYEFO has reduced the anticipated take from the MRRT—and the senator would be aware of that—by some $4.3 billion. In terms of the first instalment, it is correct that the first instalment was due only a few days ago. I am advised that Treasury will provide final numbers to the government once they have
complied with their legal obligations and completed analysis.

As is the practice, and as is appropriate, ministers will not receive any information about individual companies, as a result of ATO privacy provisions. The government will obviously release information on resource tax collections each month in the normal way, commencing from the October monthly financial report, due out in December, subject to the same taxpayer confidentiality rules that have long applied, including when those opposite were in government. It is also the case that the drop in the MRRT take is obviously as a result of a very significant downturn in commodity prices in the financial year to date.

Senator Cormann: Mr President, I rise on a point of order in relation to the requirement for the minister to be directly relevant to the question. She was asked a very specific question: can she confirm whether no mining tax revenue has been raised; and, secondly, if she cannot confirm that, how much revenue has been raised? There are only five seconds left to provide an answer that is directly relevant to that specific question. Mr President, given that we have given her the courtesy of providing the question in advance, you would have thought that she could have been directly relevant to the question.

Senator Jacinta Collins: On the point of order, Mr President: Senator Wong is being directly relevant to the question. She is giving a detailed response to the question that has been asked. But I note that there are only five seconds left remaining to answer. This is more about Senator Cormann getting up and speaking himself rather than asking his next question.

The PRESIDENT: Order! I believe the minister is answering the question. The minister has five seconds remaining.

Senator Wong: I thought I actually did indicate that the government does not comment on the tax affairs of individual companies. (Time expired)

Senator Cormann (Western Australia) (14:04): Mr President, I ask a supplementary question. Of course, the question was not about the tax affairs of individual companies but about the revenue raised. Minister, by how much will commodity prices for iron ore and coal have to rise for the government to meet even its severely downgraded $2 billion mining tax revenue estimate for 2012-13 and its $9.1 billion revenue estimate over the forward estimates?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:05): The senator would be aware from the mid-year review release that the government has written down MRRT revenues quite significantly in the budget update. Obviously this is due to the larger than expected drop in commodity prices in the September quarter and a drop of some 38 per cent in the iron ore spot price between budget and early September. We anticipate collecting some $9.1 billion over the forward estimates, based on Treasury's current commodity price assumptions. In the question the senator asked he is, I think, really reiterating the same issue he has very consistently and stubbornly pursued.

Senator Brandis: Mr President, I rise on a point of order on the question of direct relevance. What the question asked was: by how much would commodity prices for two commodities, iron ore and coal, have to rise—those were the terms of the question—for the revenue projections to be validated? Given that, in the answer so far, the minister has shown a great familiarity with the downward movements in the prices of those commodities, and given that Senator Cormann did the minister the courtesy of
giving advance notice of this question earlier in the day so the very issue which she has shown that she is familiar with could be addressed in her answer, and is on notice, can I ask you, Mr President, to direct the minister to the very question asked of her: by how much would the price of those two commodities have to rise for the revenue projections to be valid?

Senator Chris Evans: Mr President, I rise on the point of order, firstly, to make the obvious point that Senator Wong is directly on the question asked of her and providing information to the Senate and, secondly, to make the point that the provision of a letter to the minister on the morning of a Senate question time is not a means by which one can register a question on notice and bears no relationship to what is required at question time in terms of questions without notice.

The PRESIDENT: Order! There is no point of order. I cannot instruct the minister how to answer the question. The minister still has 17 seconds remaining to answer the question. I believe the minister is answering the question.

Senator Wong: Thank you, Mr President. What I was going to go on and say before I was interrupted was that, as was the case under the former government, Treasury does not publish its commodity price assumptions, because they are based on commercially sensitive information from industry. So the whole point— (Time expired)

Senator Cormann (Western Australia) (14:08): Mr President, I ask a further supplementary question. Minister, when was the last time any Australian government introduced a new tax which did not raise any revenue in its first quarter? Why should anyone trust anything this government says about the budget when it comes up with a complex new tax on an important industry which does not raise any money and when the government has spent all of the revenue it thought it would raise and more? Is it any wonder this government has still got $173 billion worth of accumulated deficits?

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy, you will need to withdraw the unparliamentary comment you made.

Senator Conroy: I withdraw.

Senator Cormann: Is it any wonder this government has delivered $173 billion in accumulated deficits so far and is looking at another $120 billion budget black hole?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:09): I am not sure there was a question there; there was a rant. It was a very long rant. He sounded like he was calling a race. He is getting into the Spring Carnival atmosphere. I am not sure there was much of a question there, Senator Cormann, but I would say this: I would have more regard for Senator Cormann's position if he were to come out and slam the Queensland government for the imposition of a royalty increase, but, you see, Liberal taxes are good and Labor taxes are bad. This is the position of Senator Cormann and the Liberal Party. They are very happy to support royalty increases that the industry in Queensland has said will lead to job losses, but they are not happy to concede that any other form of taxation is reasonable. I would refer the senator to the PRRT and I am very happy in his next question to come back to the PRRT.

Asian Century

Senator Milne (Tasmania—Leader of the Australian Greens) (14:10): My question is to the Minister representing the Prime Minister, Senator Evans. I refer to the Australia in the Asian century white paper,
which includes as a key priority ensuring every student has continuous access to high-quality Asian language education. Minister, can you confirm that the government ended the funding for the National Asian Languages and Studies in Schools Program in the 2011 budget and has made no further significant ongoing funding commitment for Asian languages and studies in Australian schools since then? Isn't the government hypocritical in suggesting that it has a commitment to Asian languages, and don't actions speak louder than words?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:11): I reject the assertions made in Senator Milne's question. The Prime Minister made it very clear yesterday when releasing the Asian century white paper that one of the key areas of engagement needs to be the question of improving Australians' Asian literacy—be that cultural understanding, be it familiarity with business systems—and of course a key component of that is improving Australia's appalling record at development of second languages.

It is the case that Australia for many years has struggled to see students take up second languages, be it French, German or Asian languages, and I think it is a deep-seated cultural issue for us. Successive programs have struggled to have a big impact on second language proficiency among Australian students. But the Prime Minister quite rightly pointed to Asian language literacy as being one of the key things that we have to improve our performance on.

It is the case that a current program is coming to an end, but the Prime Minister has made it clear that the Asian languages identified in the white paper will become a focus. It is a focus of my work in the tertiary education portfolio as well, and some recent signs of activity in that area and increased enrolments are encouraging. But we have a lot of work to do to try and provide not only courses but the sort of cultural change and the broad community acceptance of the need and value of Asian languages, because it will be critical to our future engagement in Asia.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:14): Mr President, I ask a supplementary question. I thank the minister for confirming that the government has ended the funding for the National Asian Languages and Studies in Schools Program and that ended at the end of the financial year. Can the minister say, instead of just thinking about it, what specific commitments this government is making now to fund not only Asian language programs in schools but the teachers who might actually teach them? What is the funding in this financial year for teachers and Asian language programs?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:14): The answer to the first part is to say that the white paper is a set of broad objectives to be achieved over time. It is about a strategic direction for Australia. It sets out those priorities, but it is not designed to provide individual funding decisions.

The government will have more to say on these issues in coming months and, quite frankly, we would like to see a broad national commitment to these objectives. This is not just about government; it is about how Australian business, education institutions, trade unions and all of us engage with taking advantage of the opportunities provided.

But, as the Prime Minister has made clear, part of the Gonski reforms will see us
include, as a priority, the question of Asian languages as we commit to a whole new education funding formula in coming months.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:15): Mr President, I ask a further supplementary question. I thank the minister for confirming that there is no funding in this financial year for teacher education for Asian language programs in schools. I ask him: does the government agree with the Asia Education Foundation that $100 million a year for 10 years is what is required to reverse the decline in the study of Asian languages and to maximise the opportunities, given that there are fewer year 12 students studying Indonesian—or, there were in 2008—than there were in 1972?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:15): I think that in a sense the senator answered her own question. I am not sure about the figure that is claimed in terms of the investment dollars required. As I said earlier, I think it is actually more about a cultural change and acceptance of the importance. The reality is that people have not accepted the value. I think that Indonesian in particular has declined in terms of students in Australia, and that is disappointing.

But I also know, for instance, that one of the factors there has been the travel warnings in relation to Indonesia. We have seen less in the way of travel between Indonesia and Australia in education sponsored visits because of those travel warnings, and some of the good programs that we have done involving travel to Indonesia have been curtailed and their popularity has diminished.

But the key message that we need to do more in that field is absolutely accepted by the government. (Time expired)

Asian Century

Senator SINGH (Tasmania) (14:17): My question is to the Minister for Foreign Affairs, Senator Bob Carr, and, in asking it, I congratulate him on his work in securing our seat on the UN Security Council. Can the minister inform the Senate of how the Asian century white paper will strengthen Australia's diplomatic and strategic relationship in Asia?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:17): The habit of consulting Asia and linking with Asia is now well and truly upon us. The government's white paper, *Australia in the Asian century*, is a road map for the next 20 years. It is the most comprehensive statement of government policy on Asian engagement since the 1989 Garnaut report, *Australia and the northeast Asian ascendancy*.

By 2025, Asia will account for almost half the world's economic output and this is our plan to be engaged with and to benefit from that great shift in power. We will develop comprehensive country strategies with a focus on our key partners China, India, Indonesia, Japan and South Korea. Australia is expanding its diplomatic footprint in Asia and opening a new embassy in Ulaanbaatar, Mongolia and consulates in Shenyang in China, Phuket in Thailand and eastern Indonesia.

Our new mission in Chengdu in China's Szechuan province will provide a direct link to a diverse population of over 80 million people in one of China's fastest-growing inland regions. We will appoint a dedicated Jakarta-based ambassador to ASEAN to identify business opportunities, promote our
education services and work with ASEAN across our security agenda.

I was honoured to speak last week with the visiting foreign minister of Myanmar—and that is the nomenclature I use; the *Australian* in my feature article today edited it and rendered 'Myanmar' as 'Burma'. But I advise the House to use the word—

Senator Abetz: I'm glad you cleared that up!

Senator BOB CARR: I anticipated your criticisms. I would strongly recommend the use of 'Myanmar'. But the foreign minister of Myanmar said that he regards Australians as Asians. I think that is a measure of the transformation of this country. (Time expired)

Senator SINGH (Tasmania) (14:19): Mr President, I ask a supplementary question. What is the government doing to build education links between Australia and Asia?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:19): Over the next five years, in fact, the government will provide 12,000 scholarships under the Australia Awards for Asian students to study in Australia. Under the plan, young Australians will also be given the opportunity to live and study in Asia.

The Australia Awards, 10 times larger than the former Colombo Plan, allow for both formal study and professional development opportunities. Students under the awards are studying in fields critical to their governments' future: health, education and rural development. Women receive almost 50 per cent of all long-term awards, confirming Australia's commitment to improving the lives of women through education. And the government will expand work and holiday programs in Asia, starting with 1,000 places for Indonesians.

Senator SINGH (Tasmania) (14:20): Mr President, I ask a further supplementary question. Is the minister aware of any alternative views on Australia's regional engagement strategy?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:20): In a word, yes. From the signing of the 1957 trade agreement with Japan to the Howard government's response to the Indian Ocean tsunami in 2004, traditionally there has been bipartisan support. Today, however, that bipartisanship is strained by a coalition desire to narrow the foreign policy focus and to limit Australia's focus to 'the Anglo sphere'. Talk of a 'Neighbourhood Watch scheme for Western values' I brand out of date—I brand it simplistic. It fails to capture the depth and breadth of Australia's interest in and commitment to Asia.

We have a big choice in foreign policy here: this government, engaged globally with this special focus on Asia and what it represents to Australia, and a coalition who want to beat a retreat to what they call 'the Anglo sphere'. (Time expired)

**Mining**

Senator EDWARDS (South Australia) (14:21): My question is to the Minister representing the Treasurer, Senator Wong. Given that the Gillard government made an open-ended commitment in its mining tax deal to credit all relevant state and territory royalties against any resource rent tax liability, what is the dollar value of all of those royalty credits accumulated by all iron ore and coal miners to date which they can deduct from any future resource rent tax liability?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:22): It is the case that the design of the MRRT, as the chamber knows, does credit state royalties. Regrettably, we have seen
somewhat reckless decisions made by states in recent times. I would remind those opposite that royalties are an inefficient tax.

Opposition senators interjecting—

Senator WONG: I will take the interjection from that end of the chamber.

The PRESIDENT: No, Senator Wong. Just address the question. Ignore the interjections.

Senator WONG: I am attempting to ignore the interjections. I would make the point that those opposite are so critical of this government in many ways but they are very happy to support the Queensland government's royalty increases.

Senator Edwards: Mr President, I rise on a point of order. I was very specific. In fact, I restated it twice: what is the dollar value of all those royalty credits accumulated by all iron ore and coal miners to date? What is the value?

The PRESIDENT: There is no point of order.

Honourable senators interjecting—

The PRESIDENT: Order! The conduct of question time would be much better without interjections. I made it clear that the interjection was disorderly and I did draw the minister back to the question. I believe that the minister is answering the question. The minister now has one minute and seven seconds to answer the question.

Senator WONG: The most up-to-date figures for the MRRT are those released in the mid-year update, which is the MYEFO, where, as we have stated, the revenue to be received under the MRRT has been written down. Obviously the update would have to include all policy decisions taken to the time at which MYEFO was prepared. The senator can rest assured that royalty increases that have been announced have been taken into account in the revised revenue figures, certainly in respect of Queensland. I make this point, however, again: royalties are an inefficient tax. The Henry review made very clear—

Senator Brandis: Mr President, I rise on a point of order going to relevance. The minister was asked about the dollar value of royalty credits. That is all the question was about. She has not addressed the issue of royalty credits whatsoever in this answer and she has not even attempted to go near giving a dollar value of those royalty credits. These questions are written specifically and we are entitled to a directly relevant answer, and in fact the minister is obliged to give a directly relevant answer.

Senator Jacinta Collins: Mr President, I rise on the point of order. If senators on the other side listened rather than made continual points of order during Senator Wong's contribution, they would hear, as indeed I did, that she has been addressing the issue of royalty credits. She indicated that the update includes policy changes related to, amongst other things, royalty credits and was highlighting the impact of some reckless state behaviour in increasing them, which of course affects the dollar figures that you are referring to.

The PRESIDENT: Order! I cannot instruct the minister how to answer the question. I am listening closely to the minister's answer. The minister has 22 seconds remaining. I believe there is no point of order at this stage.

Senator WONG: I will spell it out very simply: the government has taken into account the announced royalty changes by the Queensland government. As I have previously indicated in this place, the government is not in a position to take into account the decision by New South Wales, given the specific policy details are to be announced. Any changes to the revenue have
been reflected in the MRRT figures to which I have referred. *(Time expired)*

**Senator Edwards** (South Australia) *(14:27)*: Mr President, I ask a supplementary question. Does the government now concede that its promise in its special deal with the three biggest miners to credit all royalty payments on iron ore or coal, including future increases, against any resource rent tax liability has encouraged five out of six state governments around Australia so far, including the Labor governments in South Australia and Tasmania, to increase royalties on iron ore or coal?

**Senator Wong** (South Australia—Minister for Finance and Deregulation) *(14:27)*: This is the Senator Cormann line, which is: the decisions of state governments are all the federal Labor government's fault. This is your reason for supporting Campbell Newman's job-destroying royalty increase: it is all our fault, and he could not help himself. That is the answer: he could not help himself. I would say on this—

*Honourable senators interjecting—*

**The President:** Order! The debate across the front of the chamber needs to cease.

**Senator Wong:** We do agree—and we would be very pleased if the opposition were prepared to agree to this as well—that we need to remove the incentives to increase royalties, and that is why the Treasurer asked the GST distribution review to look at ways to address the issue of states raising inefficient royalties. If the coalition were serious about this issue they might actually approach that review in a more constructive fashion, but I suspect that the day the coalition are constructive is a long way off.

**Senator Edwards** (South Australia) *(14:29)*: Mr President, I ask a further supplementary question. Why does the government think it is appropriate to impose a complex new national tax on an important industry which does not raise any money but has provided a direct incentive to the states to increase their royalties to take advantage of Labor's royalty crediting arrangement? Surely even this Labor government must now concede that its mining tax is an unmitigated disaster.

**Senator Wong** (South Australia—Minister for Finance and Deregulation) *(14:29)*: If I may say, for an opposition that wants us to be directly relevant, it is hard to discern a question in that rant.

**Senator Conroy:** A stream of consciousness!

**Senator Wong:** A stream of consciousness? Perhaps a little bit theatrical, but I find it hard to discern what question I am supposed to answer. If the senator is so concerned about the mining industry, which I think was part of his question, I invite him to consider Rio Tinto's comments about the Queensland government's decision:

> We are shocked, surprised and very disappointed by the size of the royalty increase … [which] will further endanger jobs and investment in the coal industry.

I invite the senator to consider the Queensland Resources Council's statement:

> It will mean job losses. It risks further mine closures and there are many coal projects on the drawing board that will now never get off that drawing board.

I invite him to consider those issues when he next wants to speak about the taxation of mining. *(Time expired)*

**Asian Century**

**Senator Ludlam** (Western Australia) *(14:31)*: My question is to the Minister for Foreign Affairs, Senator Bob Carr. The minister would have seen recent reporting about the fact that sections of the Asian white paper were rewritten by Professor Allan Gyngell, formerly of the ONA, partly...
in order to amplify sections of the report on the continuing role of the United States in the region as it expands its military presence. Can the minister confirm that the white paper was redrafted in this fashion and, if so, why?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:31): I am not able to confirm that, but it is clear that in the production of a white paper many people are consulted. I can confirm that consultation was widespread, and there would be nothing untoward about a white paper of this importance dealing with the Asian region and Australia's relationship with it acknowledging the continuing role in the Asia-Pacific of the United States. It is a factor: the United States is there, and all the nation states of Asia would have a view on that. There is a widespread view, for example, among the 10 nations of ASEAN that they emphatically want the United States to continue to have a role in the Asia-Pacific.

Senator Abetz: You were asked about the report. Take it on notice. Don't waffle.

Senator BOB CARR: I am elaborating on the question. The consultation was widespread, and it was Senator Ludlam himself who raised the question of the role of the United States in the Asia-Pacific. I am saying that any white paper that charts Australia's future in Asia would have to acknowledge the presence there of the United States and that, overwhelmingly, the nations of the region want a United States presence. This is particularly marked when you consider the views of ASEAN. In recent weeks we have had visits here from Singapore's defence, foreign and trade ministers, from Myanmar's foreign minister, from the President of the Philippines and the foreign minister—(Time expired)

Senator LUDLAM (Western Australia) (14:33): Mr President, I ask a supplementary question. I thank the minister for his evasive answer, and I will take from it a tentative yes. Does the minister acknowledge that the fact that this happened at all undermines the effectiveness of the very welcome strategy of engaging with our Asian neighbours if we are seen simply as the regional deputy sheriff of the United States?

Senator Ian Macdonald: I bet you're not game to say, 'Beam me up, Scotty!'

The PRESIDENT: Ignore the interjections in question time, as I said earlier to other people, and just answer the question.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:34): I thought it might have been entertaining, but I did not understand it. Under this government no-one would use such a foolish expression as 'deputy sheriff'. In fact, the former Prime Minister—

Senator Brandis interjecting—

Senator BOB CARR: your great friend John Howard had a view on a US presidential election. John Howard famously said that a victory for Barack Obama would be a victory for Osama bin Laden. The ultimate irony is that it took President Obama to execute Osama bin Laden. Don't talk to me about ill-advised comments by Australian governments.

Senator Ludlam: Mr President, I rise on a point of order on relevance. While the minister is waxing lyrical about extrajudicial killings I wonder whether he might draw his answer to the question that I put to him.

The PRESIDENT: The minister has 11 seconds remaining. I draw the minister's attention to the question.

Senator BOB CARR: I think the families of the victims of September 11 and the families of the victims of Bali would have a view about the suitability of so-called extrajudicial killings. (Time expired)
Senator LUDLAM (Western Australia) (14:35): Mr President, I ask a further supplementary question. I will try to draw us back to the topic of the question. Has the government assessed the impact on Australia's perceived place in the region of basing United States marine corps as well as naval and air force elements on Australian soil?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:35): I mentioned earlier Singapore's engagement with us, and the recent visit by the three ministers in the Singapore government. They have a US naval deployment in Singapore. I know of no governments in the Asian region, apart from China, which have expressed concern about a rotating marine presence in Northern Australia. As regards China, just as we do not object to China's military modernisation while at the same time asking the Chinese to be explicit about its purpose, scale and direction, no-one could raise an objection to Australia attending to its security concerns by nurturing a treaty relationship that goes back a very long time—not just 50 years to the ANZUS treaty but 50 years earlier than that, when the Deakin government expressed an interest in American involvement in the Asia-Pacific.

Asian Century

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (14:37): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister please outline to the Senate the opportunities for Australian agriculture and Australian farmers in Asia after the release yesterday of the Asian Century white paper?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:37): I thank Senator Polley for her continued interest not only in agriculture but also in where the future for agricultural products can be. Yesterday the Prime Minister released the Australia in the Asian Century white paper. It is a roadmap showing how Australia can play a significant part in the Asian century. It is an ambitious plan for decades ahead, because in Australia there are many opportunities for Australian agriculture and our farmers. Asia is where the middle class is growing. The numbers are very large, but in the next two decades Asia is projected to grow significantly to 3.2 billion people.

Asia is where by 2025 half of the world's economic growth will be concentrated. Asia is where the population has a changing preference, seeking higher-protein foods such as beef, wheat and dairy—high-value products that are produced by our agricultural sector. Australia is in the right place at the right time. But it is not enough to rely on this. Our future will be determined by the choices we make. The food plan coupled with the Asian century white paper will drive government and industry action to position Australia as a food leader in the region. That is why the Gillard government is developing Australia's first-ever national food plan to support the work that is being done. Australia has a natural advantage. Asia wants a significant amount of produce from this country, and we need to be well placed to provide those preferences.

In the past decade we have seen a shift in the export share from Europe to Asia. Asian now receives between 55 and 60 per cent of Australia's agrifood exports. Based on the value of agricultural exports, Asia accounts for over 70 per cent of our beef exports, sugar exports and dairy exports. The past decade has seen a shift in the export share. (Time expired)
Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (14:39): Mr President, I have a supplementary question. Can the minister please update the Senate on action the Gillard government is taking to support Australian agriculture in Asia now as we prepare for the Asian century?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:39): I thank Senator Polley for her supplementary question. The Gillard government is taking action now to position Australia's agriculture for the Asian century. Much of the work is underway. The national food plan will elevate food policy within government and across the supply chain. Rural R&D funding of $1.1 billion has been provided since we came to office, and we are reforming our world-class biosecurity system.

Today I can announce the Australian government will deploy a minister-counsellor (agriculture) to Jakarta in early 2013. This is in recognition of our focus on the Asian century and the increasing importance of our relationship with Indonesia. The minister-counsellor (agriculture) will be responsible for managing the department's food, agriculture, fisheries and forestry interests in Indonesia. The position will be in addition to the counsellor (agriculture) position already in Jakarta. It will focus on new and emerging issues including horticultural exports, meat exports—(Time expired)

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (14:40): Mr President, I have a further supplementary question. Can the minister please update the Senate on the importance of the Australian government's ongoing engagement with Asia now and into the future?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:41): The Gillard Labor government is showing the leadership required to ensure Australia is ready for the Asian century. We are acting now to set Australia up for the future. The next steps we take will ensure an increasing participation in Asian markets. Future policies and programs will be Asian focused. We will also ensure agriculture growth is sustainable by making efficient use of our soil, water and energy. We will tap into the opportunities in northern Australia and in Tasmania. We will engage even more with our closest neighbours in Indonesia and work with emerging markets such as Thailand and Vietnam.

We know we have to invest in science and innovation to boost productivity right across Australia. We need to continue to improve farming techniques. As well as producing higher yields, we need to improve our irrigation system and plan better logistics and infrastructure. The white paper showcases the opportunities for Australia to benefit in the Asian century. (Time expired)

Budget

Senator CASH (Western Australia) (14:42): My question is to the Minister for Finance, Senator Wong. I refer to the release of MYEFO, which confirms an additional $1.2 billion budget blowout in immigration. This takes the total budget blowout in immigration to over $6 billion under Labor since 2009-10. Given that the government budgeted for just 450 arrivals per month when they handed down their budget in May, and the reality is that on average Australia is receiving 2,000 arrivals per month, when will the government be upfront with the Australian people and disclose their revised estimated monthly arrivals, so that
Australians know the true extent of Labor's budget blowout?

Senator Wong (South Australia—Minister for Finance and Deregulation)(14:42): I am happy to answer those aspects of the question which relate to the Finance portfolio. I suspect some of the aspects of the question relate to the Minister for Immigration and Citizenship. It is the case that in the midyear review there is an upward estimates variation of in excess of $1 million, $1.1 billion in 2012-13. The estimates variation includes the increase in actual arrivals to date, transitioning down to a lower level by the end of 2012-13 and staying there over the forwards. I should indicate, because I think Senator Cash referred to this, that this figure does not include all of the costs for managing the response to the Houston report. Some of those are measures which are reported elsewhere. There is also in the midyear review an indication of the increased direct costs to DIAC of the increases to the humanitarian program of an additional 6,250 places per annum and increases to the family reunion stream of the permanent migration program.

In terms of the expenses by function table, there is an increase of half a billion dollars in 2012-13. The $1.1 billion includes increases to functions other than DIAC—for example, healthcare provided to asylum seekers gets picked up under health spending and the table also does not include as yet—

Senator Cash: I raise a point of order in relation to direct relevance. My question was actually in relation to when the government will come clean with the Australian people and tell them what their revised estimates are in relation to monthly arrivals. I notice that in the answer the minister gave, she did refer to the fact that the government has revised upwards the number of arrivals and I would like the minister to state for the record and answer the question: what is the exact number the monthly arrivals have been revised up to?

Senator Jacinta Collins: On the point of order: Senator Wong once again has been dealing with the question as it was asked. At the commencement of her question, Senator Cash referred to MYEFO and a purported $1.2 billion immigration blow out. It is these issues that Senator Wong is addressing. She also indicated she would seek to answer the question with respect to those matters that related to her finance portfolio and is indeed seeking to do so.

Senator Brandis: On the point of order: as Senator Cash pointed out, the minister has conceded there has been an upward revision. She was asked what it was. If it is conceded there is an upward revision then the minister must be in a position to tell the Senate what the upward revision is, and that was the whole point of the question.

The President: Order! There is no point of order. The minister is addressing the question and still has 14 seconds remaining.

Senator Wong: We have been upfront about the increased costs, which have resulted in great part from the difficulties the government has had in getting legislation in relation to this issue through the parliament. (Time expired)

Senator Cash (Western Australia)(14:46): Mr President, I ask a supplementary question. Can the minister explain why the government deliberately omitted the capital and operational costs of Nauru and Manus Island in MYEFO, estimated at approximately $2.9 billion, as well as the full cost of increasing the refugee intake to 20,000, at more than $50,000 per place? Given that Nauru has now demanded that Australia pay up to $90 million over five years as insurance against the cost of housing
up to 1,500 asylum seekers, why does the government continued to shroud in secrecy the true costs of the budget blowouts in the immigration portfolio?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:47): In relation to the second aspect of the question, I did in fact answer that in the primary question. Referring to the direct cost in relation to the humanitarian program, I indicated that there was a direct cost attributed to DIAC, but that additional costs for those places are also appropriated to other functions in the budget. I did actually answer the second part of that.

In relation to the first part, which was about capital costs, we were asked this question in the press conference and we made clear that we will be publishing the figures for Nauru and Manus. Currently those negotiations are on foot and it is not appropriate—

An opposition senator: They're always on foot.

Senator WONG: Well, it is not appropriate for governments in the middle of commercial negotiations to make public the precise nature of the capital costs that are anticipated. The Treasurer said in the press conference that when those costs are finalised they will be made public.

Senator CASH (Western Australia) (14:48): Mr President, I ask a further supplementary question. Is it not true that as a result of the continuing blowouts to Labor's border protection budget, the only surplus to be delivered by a Labor government next year will be in the bank accounts of people smugglers courtesy of Julia Gillard's failed border protection policies?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:48): That is a somewhat tasteless supplementary question, Senator. That question really goes to the issues of immigration policy and should be directed to the appropriate minister. It shows the attitude of those opposite who are willing to be completely and destructively negative in this policy area, and in every policy area. They are always willing to trash the national interest if they think they can make a political win out of it, if they think they can make a political point. Your agenda and your attitude on this, Senator, is demonstrated by the questions you ask on this issue.

Sport

Senator THISTLETHWAITE (New South Wales) (14:49): My question is to the Minister for Sport, Senator Lundy. With the Gillard government's release of the Australia in the Asian Century white paper, could the minister please inform the Senate of the role sport plays in building and strengthening economic and trade ties in Asia?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:50): I thank Senator Thistlethwaite as I know he too is an avid lover of all sports and understands the power that it brings to strengthen our economic and trade ties with our Asian neighbours. The Gillard government's release of the Australia in the Asian Century white paper provides the opportunity to highlight the power of sport to bridge both language and cultural barriers and serve as a platform to serve our economic and trade relationships well.

Sport is a major contributor to the Australian economy, as I am sure most senators in this place are aware, and this will continue to grow, particularly as we move towards 2015 when Australia will host the Asian Football Cup and the Cricket World Cup. With a combined viewership of close to four billion people, the Asian Football Cup
and Cricket World Cup will provide an amazing opportunity to showcase Australia. During the period of time when those events are on, it is expected that over 3,500 journalists will be here. They will travel to Australia, stay here for up to a month to cover these sports and produce many profiles of Australia and the cities that are hosting games across those two international events. I am sure they will give us great coverage in our region.

With seven out of our top 10 trading partners represented in the Asian Football Cup, this is a unique opportunity to make strong connections through sport and open doors to new markets, so there will be plenty of business going on during that event as well. Many sections of our economy stand to benefit from growing our sporting engagement with Asia and I am confident that these opportunities will help drive a new wave of growth, both in employment and prosperity, as we progress through the Asian century.

Senator THISTLETHWAITE (New South Wales) (14:52): Mr President, I ask a supplementary question. Can the minister inform the Senate of any current programs that are strengthening ties with Asia through sport and aid?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:53): Our tourism industry is one of the major beneficiaries of the increasing prominence of Australian sport in Asia. For example, the pre-event benefits report prepared for the Cricket World Cup has estimated that there would be more than 1.4 million international bed nights, with a large number of those visitors coming from Asia.

In addition, Tennis Australia has just concluded their trophy tour through Asia, promoting the Australian Open as the Grand Slam of the Asia-Pacific region. In terms of visitors from Asia over the next decade, Tennis Australia expects the percentage of total gate entries to grow by 37 per cent, a phenomenal result that I am confident they will achieve. Tourism and sport are already closely related, and as Australian sport continues to grow within Asia I have no doubt that this will continue to be a strong and emerging market.
Medical Workforce

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:54): My question is to the minister representing the Minister for Health, Senator Ludwig. I refer the minister to the government's decision to effectively deport 80 Australian-trained medical students after its failure to fund their internships and the breakdown in negotiations with the states. Does the minister agree that people studying medicine in Australia have a reasonable expectation of being provided internships in Australia in order to complete their qualifications?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:55): I thank Senator Nash for her continued interest in rural matters, particularly in the health portfolio. My brief does not have anything specific on this particular matter. It is certainly a matter that I will take on notice and get back to you with a proper brief. It does sound that the question would fall more properly within the immigration portfolio as a general response.

Senator Abetz: That's a Penny Wong line.

Senator Wong: It is deportation.

Senator LUDWIG: It is more accurate. I will get a brief from the health minister but once we start talking about deportation matters it does seem to be more relevant to the immigration minister and decisions made by the immigration minister. It does seem, though, that if we talk about the key messages from this issue, the Department of Health and Ageing and the minister have been very focused on providing support for rural Australia, providing additional measures, unlike the previous government, which ripped a billion dollars out of the health system. Since 2007, we have been delivering better health services for Australians. We have delivered more than 900,000 elective surgery operations, 2.2 million GP superclinic services. If the substance of the question was to say that this—

Senator Abetz: You've taken it on notice.

Senator LUDWIG: But if the substance of the question was to say that this government has not been proactive in the health portfolio, then it would be an error to say that. If you look at the work that the minister has done in this area, particularly by increasing hospital funding by 50 per cent and investing in emergency department upgrades of 37 hospitals, then it would be wrong to suggest that. (Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:57): Mr President, I ask a supplementary question. Is the minister then aware that the Minister for Health, Ms Plibersek, said on ABC Newcastle that part of this is a good news story. Can the minister explain what part of sending Australian internships overseas is a 'good news story'? What is the point of training more medical students through Australian universities if they cannot finish their training in this country?

Senator LUDWIG: In this instance, I thank Senator Nash for her continued interest in rural health matters. If we talk about additional internships, Commonwealth funding may be available to fund the additional 100 intern positions in the private sector through the redirection of $10 million from the Prevocational General Practice Placements Program, but it goes to
the heart of what I said earlier. If you look at what this government has done, particularly in providing training, higher education reforms that have resulted in 150,000 students attending university, you will see health disciplines have experienced substantial growth, including growth between 2007 and 2011. There has been a 39 per cent growth in the number of medical students. I think Senator Nash, in this instance, is looking at the wrong end of this stick. (Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:58): Mr President, I ask a further supplementary question. Given that the shortage of medical practitioners in regional Australia has been estimated to be as high at 1,600, how can the government possibly defend its internship decision considering the cost of fixing the problem is only $8 million, or about one-tenth of what Labor spent on advertising its carbon tax compensation?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:59): I thank Senator Nash for her interest. As I was saying, the Commonwealth funding may be available for the additional 100 internships through the redirection of $10 million from the Prevocational General Practice Placements Program, PGPPP. This can be achieved by reducing the number in the PGPPP in 2013. (Time expired)
Assistance from Emergency Relief providers to clients is primarily in the form of:

- purchase vouchers of a fixed value (e.g. for food, transport or chemist vouchers);
- assistance with rent/accommodation;
- part-payment of utility account/s;
- material assistance such as food parcels or clothing;
- budgeting assistance; and/or
- appropriate referrals to other services that help to address underlying causes of financial crisis.

The Government recognises that Emergency Relief services are an important gateway to other services and supports that can help people deal with more complex issues, including issues that have contributed to, or are a consequence of, financial stress. For example, Emergency Relief organisations also refer people to services such as financial counselling, financial literacy programs, drug and alcohol support, crisis accommodation, mental health and family support.

Julie Collins MP
Minister for Community Services
Minister for Indigenous Employment and Economic Development
Minister for the Status of Women

**Building Better Regional Cities Program**

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:00): I seek leave to incorporate in *Hansard* a response from Minister O'Connor to a question asked by Senator Payne on 20 September.

Leave granted.

*The answer read as follows—*

Dear Senator Payne

You asked whether all the $112.1 million included in my announcement for BBRC has been locked in.

I can confirm that of the sixteen councils included in my announcement, thirteen have funding agreements with the Department. Negotiations are continuing with the remaining councils, with the finalisation of some agreements being delayed by the timing of the NSW council elections. No decisions have been made to reduce or remove funding from any of those projects.

The Hon Brendan O'Connor MP
Minister for Housing
Minister for Homelessness

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Mining**

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (15:01): I move:

That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Senators Cormann and Edwards today relating to the minerals resource rent tax.

Minister Wong did not answer in any way, shape or form Senator Cormann's question as to whether the MRRT had raised any revenue in the first quarter of the financial year. This came as a surprise to me for a couple of reasons. The first is that Minister Wong is actually one of the more able senators opposite, not that that is something recognised by the South Australian branch of the Australian Labor Party—Senator Farrell is in a category all of his own. So I was surprised, given Senator Wong's manifest capacity, that she did not answer the question. The other reason I found it surprising is that Senator Cormann actually wrote to Senator Wong about this this morning. Senator Cormann enjoys a very courteous and cordial relationship with Senator Wong and that was in evidence...
again today when he extended the courtesy of providing Senator Wong with notice as to what he would be asking. That is the kind of guy that Senator Cormann is and it represents their special relationship.

Given Senator Wong is extremely capable, given Senator Wong had notice of the question in relation to the collected revenues for the first quarter of the financial year, the only reason there can be for her failure to answer the question is that she chose not to. She chose not to share what she knows with this chamber. The whole basis of our system of question time and accountability is that the Senate asks questions and ministers answers them. She chose not to answer the question. We can only surmise as to why she took that decision. The only reason I can come up with is sheer, unadulterated embarrassment. She would have been embarrassed, and quite rightly, with the answer. We have a fair idea of the answer to that question: was any revenue collected by the MRRT in the first quarter of the financial year? The answer is no. That would be a great embarrassment and that is why Senator Wong could not answer that question, with a face that was straight or otherwise.

It is important to cast our minds back to the genesis of this fiasco we have been witnessing. The genesis was of course the Henry tax review. The entire body of work by Dr Henry was ignored except for a bastardised version of what Dr Henry proposed in relation to the minerals resource rent tax. The first incarnation of that tax was the RSPT, which cost Mr Rudd his job. Mr Swan, who was the architect of the RSPT, got a good deal out of that—he got promoted to Deputy Prime Minister.

Ms Gillard cited the resurrection and the rescuing of the mining tax as one of her three key performance indicators when she assumed the role of Prime Minister. She did not succeed and Treasurer Swan, newly promoted Deputy Prime Minister Swan, not only made a hash of the RSPT; he also outdid himself with the MRRT. It was a unique achievement and I think it is important for the Senate to acknowledge that. He spent the proceeds of a tax that collected no revenue and, at the same time, imposed additional costs and uncertainty on the mining industry. He spent the imagined proceeds of a tax that raised no revenue but which hit industry through compliance costs and the undermining of uncertainty. That is a unique achievement which I think deserves to be acknowledged. This breathtaking incompetence is bad enough—and that breathtaking incompetence in and of itself requires that Mr Swan resign; if he had any decency and if he paid any attention to the most basic tenants of the Westminster parliamentary accountability, he would resign—but, even worse, are the endeavours to hide the true situation through the MYEFO. That is a story for another day and I am sure some of my colleagues will touch on that. (Time expired)

Senator SINGH (Tasmania) (15:06): To respond to Senator Fifield, Minister Wong did answer Senator Cormann's question. Senator Fifield and those opposite clearly just did not like the answer that was provided by Minister Wong because it did not fit with their headline-making strategy and with the press release they had ready to go out. The answer that Minister Wong provided outlined the fact that the first MRRT instalment was only actually due a few days ago.

She also outlined that Treasury will therefore provide the final numbers to the government once they have complied with their legal obligations and completed their analysis. She informed the senator that, consistent with the ATO privacy provisions,
ministers will not receive any information about individual companies and that the government will then release information on resource tax collections each month in the normal way, commencing from the October monthly financial report that is due out in December and subject to the same taxpayer confidentiality rules that have long applied, including when those opposite were in government.

So those opposite need to understand and realise that the minister has answered the question but it is simply not the way that they intended to hear the answer, because it did not fit with their headline-making strategy. They also need to take a breath and remember how it worked once upon a time when those senators were in government to understand the process that is involved through Treasury and through the government releasing those resource tax collection figures each month. They take a couple of months and will be provided in December.

But senators opposite did not want to hear that from the minister at all today because senators opposite do not like the Minerals Resource Rent Tax. They do not like it because they know that it delivers good things for Australian families. It delivers a shared increase of those profits that come from the resources that can only be dug up once, which Australians understand. Those opposite simply do not like the nature of that tax. We have said for some time that this is very much vital economic reform for this country. It very much does build on the tax review and a long process of consultation across this country.

Australians know how important the mining industry is but they also know that we can only dig up our resources that are in the ground once. Therefore, a profits based tax which is much more efficient than state royalties is a way we can tackle this issue. By putting in place a profits based tax, we can get a better return on our resources when prices are high and their values increase. That is why we have put this tax in place. When prices and profits go up, so do revenues. When prices and profits go down, so too do revenues. That is the whole point of it. It is fairly simple to understand.

Opposition senators interjecting—

Senator SINGH: As a result, the MRRT revenues were written down in the MYEFO due to the large unexpected drop in commodity prices. Senators opposite know this very well—or I at least hope that they are aware of this—and yet they continue to choose to play politics on this issue because it does not suit their headline-grabbing strategy. They know very well we had an unexpected drop in commodity prices which included a massive 38 per cent drop in the iron ore price between budget and early September. And so the MRRT revenues are down. But this is no different from the PRRT, and senators opposite should know that. It has now been around for some 25 years and is a volatile but important source—

Opposition senators interjecting—

The DEPUTY PRESIDENT: Order on my left! Senator Fifield was heard in silence. Senator Singh, you have the call.

Senator SINGH: For Senator Fifield's benefit, I will spell out that it is the petroleum resource rent tax so that he is fully aware and educated during his taking note. But of course the PRRT has been around for 25 years and has also been a volatile but important source of revenue— (Time expired)

Senator RYAN (Victoria) (15:11): We have just had a speech here from Senator Singh that reinforces what Senator Fifield had to say about Senator Wong's alleged answers to the question. Let's go back to
what happened in question time. There was a refusal to answer whether or not the mining resources rent tax had raised any money. Then from Senator Edwards there was a refusal to actually release or concede any talk about what impact the assumptions about prices for iron ore and coal would have upon the MRRT. But I have to address a couple of points that Senator Singh raised there.

Senator Singh raised the false comparison between the MRRT and the PRRT. There is a very big difference: the PRRT is for petroleum that is taken out of Commonwealth territory, for which no royalties are extracted, unlike the minerals this government is attempting to levy an additional tax on, which are already taxed at the state and territory level.

We keep hearing from this government that somehow royalties are less efficient. In some cases they may be, but it is not a black-and-white issue. This government has, if anything, made royalties more efficient. Up until last week and ongoing over the course of this tax are mining companies throughout Australia spending millions upon millions of dollars on accountants’ fees, auditors and lawyers merely to determine whether they have to pay nothing—merely to determine that they do not owe the government a single cent, which is what is happening today. If anything, that is making it more inefficient because royalties are a simple, transparent tax levied upon volumes and occasionally prices. One thing this government does not want to admit is that we do have price-sensitive royalties. It is very simple to know how much you owe a government in royalties: it is simply how much you have dug up out of the ground and sold. Only this government with their Greens cohorts in the corner could develop a tax that turned into an accountant and lawyer employment scheme but delivered the Commonwealth no revenue whatsoever. This got through on your vote, Senator Di Natale. It got through on the Greens’ votes.

This goes to the core of what this mining tax was about. It was about a seizure of state revenues. What this government will not tell you when it talks about spreading the boom is that the royalties levied by state governments are entirely appropriate. They pay for teachers, nurses and the hospitals we heard Senator Evans talk about. The Commonwealth wants to seize control of those mining revenues and have them at its own disposal. Every state in the federation, through the horizontal fiscal equalisation measures, benefits from Western Australia and Queensland increasing their royalties. Within three years, the people of Victoria will be receiving a higher share of GST revenue precisely because Queensland and Western Australia have increased iron ore and coal royalties.

That is the way the system is meant to work. Horizontal fiscal equalisation keeps royalty revenues within the ambit of the state and territory parliaments. They are the revenues that pay for our roads and our public transport. Yet what we have from this government is an attempt to seize those revenues because it does not want to support state governments doing such things. It would prefer to be able to have announcements of its own and dish out the money, using it as a form of patronage rather than allowing the states and territories to be autonomous in what they do. The royalties are precisely in the rights of the states in order to protect their financial independence and, no matter what construct this government comes up with, no matter what class war it invents, running around and saying it wants to spread the benefits of the boom, and no matter what slogan it comes up with, those benefits are already being spread. Those benefits are being used today by our
state governments in paying for those services that are so critical to many of our citizens.

We do need to look at the antecedents of this tax. This tax was based on the failed and flawed RSPT model, which was itself, to quote Senator Fifield, a bastardised version of what was outlined in the Henry review. It was nothing less than an attempt by the Commonwealth to effectively seize equity in our resources industry—

Senator Cormann: A grab for cash.

Senator Ryan: It was a grab for cash—thank you, Senator Cormann—in order to plug a budget deficit and it actually exposed the Commonwealth to substantial liability. What the government will not admit either is what liabilities the government has now against future revenues of the MRRT because of the credit being given for payments for state royalties. This tax is a debacle. It symbolises the complete failure of this government to do the most basic economic tasks. (Time expired)

Senator Marshall (Victoria) (15:16): It is always interesting to follow a coalition senator when they make some grandiose statements, and you look around and see some of their colleagues looking at their feet in absolute embarrassment. I am sure the senators from Western Australia were not supporting Senator Ryan—

Senator Cash: Your colleagues aren't even here!

Senator Marshall: Well, that saves me being looked at in embarrassment, Senator Cash. I will not have the same embarrassment that Senator Ryan engaged in, even if indeed my colleagues feel the need to do so. Running the line that state based royalties imposed by Queensland and Western Australia will actually improve the GST take from Victoria is something Victorians might appreciate, but I am sure Senator Back and Senator Cormann are probably a little bit more concerned about that than you, Senator Ryan.

Nonetheless, let us talk about Senator Ryan's closing comments about where the efficiency of these taxes lies, and let me make this very clear to anyone who is listening. A decade ago, the Australian people received $1 back on every $3 made from our natural resources—the natural resources that are owned by the Australian people. Those resources are licensed to large companies to extract, but the resources themselves are owned by the Australian people. A decade ago, the Australian people got $1 back for every $3 made from our natural resources. In 2010, that figure had dropped to a $1 return on every $7 that the industry made from those resources.

What this government quite rightly tried to do was to reform that tax base system and move it away from a volumetric tax, where people started paying tax in a royalty situation—a very inefficient tax. They started paying tax for the extraction of stuff from the ground instead of it being based around the profits. As companies grew and developed those resources and made super-profits, that was when the money should have flowed back to the government to be used on behalf of the Australian people, not the other way around. You should not tax people upfront. It was an inefficient tax and I think most people, when they are seriously engaging in this debate, concede that moving to a profit based tax system is a much more efficient way to tax companies than the volumetric or royalties system that this tax has replaced.

Let us ask the question: what are the opposition actually saying here? Is the government being criticised because mining companies super-profits are too low or is it because they are not being taxed enough? It
is a very confused message that we over here get from the coalition when they say, 'The problem is that the tax did not raise enough money,' when all their argument for the last 12 months has been that they are going to repeal this tax, it is a terrible tax and it is going to drive industry out of business. It is an absolute nonsense. I am sorry Senator Cormann has left, because we are actually taking note of answers to questions he and Senator Edwards asked, and I want to quote what Senator Cormann said on 19 March 2012. He said:

We have a high-spending, high-taxing government that, rather than wanting to support those parts of the economy that need help, wants to slow down the fast lane.

So which is it? Is the government taxing too much, or not enough? I ask Senator Cormann: 'Which is it? What are you criticising the government for now?' A super-profit tax, as we know, only applies when super-profits are being made, so what is his problem? Is he saying that we should be taxing lower profits, or is he saying we should be taxing whatever profits those companies make? He really cannot have it both ways. There is no clear or concise message or criticism coming from the opposition on this at all.

Only two months ago, on 23 August 2012, Senator Edwards, one of the others asking questions today, was blaming the carbon price and the minerals resource rent tax for the decision by BHP not to proceed with the expansion at Olympic Dam in his home state of South Australia. But the very next day the chief executive of BHP, Marius Kloppers, was telling journalists that the carbon tax and the minerals resource rent tax had nothing to do with that decision. So here we have another example of coalition senators getting up and saying whatever they like because they will say and do anything to try to undermine good government policy and the introduction of it. Like Mr Abbott, Senator Edwards has absolutely no credibility on this issue. The coalition have no credibility on this issue, and they support every Liberal state government putting up the tax that they criticise— (Time expired)

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (15:21): In her answer, Senator Wong drew attention to gambling and the Spring Carnival—about the only sensible thing she did say—and that reminds me of the famous trifecta of Prime Minister Gillard.

She came to the prime ministership saying that she was going to solve three major problems. The first was asylum seekers. As of the weekend, there were 21,419 of them on 335 boats. This is someone who, when she was shadow minister, used to put out very rare media releases saying 'Another boat, another policy failure'. The second leg of her trifecta was the carbon tax. She went on to say, prior to the last election, 'There will be no carbon tax under a government I lead.' But the best leg of the trifecta, naturally, was when she fronted up with her Treasurer and Deputy Prime Minister, Mr Swan, to try and solve the minerals resource rent tax problem. The best way to summarise that is to say that the two of them were BHP-ed off, they were Rio-ed out and they were Xstratified. Those two thought they were going to be able to deal with the might of those three multinational companies and come out in front, and we have seen the result of that. Needless to say, it has hurt—as we all said it would at the time. In case Senator Marshall is listening, we said it was going to hurt the Australian owned mid-cap and junior miners. The Atlas Iron managing director, Mr Ken Brinsden, said:

We have spent the best part of $2m in compliance to find that we are not paying the tax and that we wouldn't reasonably expect to pay the
tax under almost any circumstance you can imagine as we go forward with the iron ore price. That was echoed by Mr Simon Bennison, the CEO of AMEC, when he said much the same thing, that this was only going to hurt the juniors.

As Senator Brandis said to me a few moments ago, not only did the minerals resource rent tax bring in no revenue; the simple fact is that, because all of these accounting costs and other costs are tax claimable, it is a fair argument to say that, perversely, the jolly thing is actually going to bring in less revenue for the government by way of company taxes.

Mr Rod Henderson, KPMG’s national tax leader in energy and natural resources, drew attention to several problems associated with this new tax. First of all, it changes the way the major companies keep records. He said, 'People have to do all this work on a project basis and normally records aren't kept on a project basis.'

So we have example after example of where the failed government failed to listen to Australian companies. They were absolutely done over by the three major multinationals, and the result was that not only did it not bring in any revenue in the first quarter; the government actually pre-spent everything they thought they were going to get—a great tragedy and typical of Labor governments.

Senator Marshall suggested that mining companies do not pay their fair share. In the few minutes remaining to me, I want to put that to rest. The argument that mining pays a low percentage of its income in taxation is not true. The argument that mining pays a low proportion of total corporate tax is not true. They are the second-largest contributor to corporate income tax in this country, after the financial and insurance services sector. The interesting thing about the mining companies is that they paid 28½ per cent tax in 2009; whereas, the financial and insurance services sector paid less. It paid 21.8 per cent tax.

The mining industry in this country is a massive contributor to our economy; 60 per cent of all capex is spent in buildings and structures in the mining sector. It is contributing $140 billion to $150 billion to our economy. It is seven per cent of the Australian economy. We on this side of the Senate have continually said to the government: 'Why would you try and take from the very sector that is creating employment, creating wealth, creating need and creating demand, using up some of those lost 60,000 jobs in manufacturing that we have heard about around Australia?' There is no case for this activity, and the revenue from the minerals resource rent tax is what the government deserved. *(Time expired)*

Question agreed to.

**Asian Century**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (15:27): I move:

That the Senate take note of the answers given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) and the Minister for Foreign Affairs (Senator Bob Carr) to questions without notice asked by Senators Milne, Singh and Ludlam today relating to the white paper, *Australia in the Asian Century*.

Over the weekend, the white paper was positioned in the media with maximum coverage. It stated that a key priority was that every student should have continuous access to high-quality Asian language education, including access to at least one priority Asian language—Mandarin, Hindi, Indonesian or Japanese. The reality of the situation is: it is all aspirational. It is not reflected in a single dollar being spent. That is the key issue here. You have a situation where the government in the 2011 budget
ended funding for the National Asian Languages and Studies in Australian Schools program—ended it, with no additional funding for Asian languages, cultural studies or anything like that.

The Greens wrote to the government at the time. I can cite a letter written on 1 June 2011 to the Prime Minister, Julia Gillard, from former Greens leader Bob Brown, talking about ending the National Asian Languages and Studies in Australian Schools program, saying: 'This must not happen.' He concluded with, 'I urge you to commit to investing in Asian literacy in Australian schools.' That funding was ended. Over the weekend we had, 'Oh, Australian students must have access to Asian language education.' I agree. But the minister then says, 'There is not a cent in the budget at the moment for teachers,' and you cannot teach an Asian language without teachers.

Yes, the NBN is going to be important. Yes, the connection with an Asian school is going to be important over the internet, but you still need teachers who are capable of actually teaching the subject, and there is not one cent going into additional teaching or the development of programs. So, at best, you can say that it is aspirational. Senator Evans said 'Yes, well, we're thinking about how best to do it'—thinking about it, but not spending a dollar on it. That is the key issue.

Secondly, the *Australia in the Asian century* white paper is incredibly dominated by economic focus, saying: what is in it for Australia in the Asian century? The fundamental thing that demonstrates is that we do not actually understand Asian culture. For Asian cultures, developing the relationship is the first thing. You have to commit to the relationship, invest in the relationship, build the friendships, build the trust and then develop the business relationship on the back of that. You cannot just blow hot and cold.

I was in India in the mid-1990s when Australia engaged in the Australia-India New Horizons, and the Indians at the time said, 'It is good, but Australia blow hot and cold. They will do this for a year or two and then they will go and prefer China again'—which is exactly what happened. Now we are back to saying, 'India is marvellous; let's go back there,' but for the Indians is it once bitten twice shy and they will see about whether this is a serious engagement relationship or whether we are going to continue the hot and cold.

Then I go to the issue that my colleague Senator Ludlam raised, and that is: why was Allan Gyngell invited to rewrite the paper? Was it because the government was not happy with the level of exposure of the United States' role in this white paper? The fact that that happened will signal to every Asian nation that, where Australia is concerned, we take our advice from the United States about how we engage with the region. So the effectiveness of the white paper is already undermined by the fact that the Asian countries now all know—as in fact all Australia should know—that the government was not happy with the white paper as it was originally drafted and got Allan Gyngell to redraft it.

Senator Bob Carr deliberately avoided that question today by saying, 'We consulted with any number of people.' But, in consulting with any number of people, did you give the paper to every person you consulted and say, 'Rewrite it how you would like to'? Of course not. There is a vast difference between consulting a range of people and getting a final draft and then giving it to someone to rewrite through the lens of the US relationship with Australia. That is where I think you will get a lot of
Asian countries saying to the Australian government, 'Are you serious? Do you have an independent foreign policy? Are you seriously looking at Australia in the Asian century or Australia as the US would have Australia engage in the Asian century?'

The Greens have been saying for some time that we need an independent foreign policy. The government's decision, with no consultation with the parliament, to agree to a US base in Australia—and that is effectively what has happened in Darwin—is going to send a very strong signal to our Asian neighbours that when Australia stands up Australia is speaking with the US lens on, not with an independent foreign policy.

(Time expired)

Question agreed to.

NOTICES

Presentation

Senator Bishop to move:

That the Economics Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 1 November 2012, from 3.30 pm.

Senator Bushby to move:

That the time for the presentation of the report of the Economics References Committee on the effects of the global financial crisis on the Australian banking sector be extended to 28 November 2012.

Senator Polley to move:

That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 30 October 2012, from 6.30 pm, to take evidence for the committee's inquiry into the performance of the Department of Parliamentary Services.

Senator Thistlethwaite to move:

That the Select Committee on Electricity Prices be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 31 October 2012, from 9.30 am.

Senator Milne to move:

That the Senate—

(a) acknowledges proposals submitted by the Federated States of Micronesia, and by Canada, Mexico and the United States of America, to amend the Montreal Protocol on Substances that Deplete the Ozone Layer to regulate and phase-down production and consumption of hydrofluorocarbons (HFCs) with a high global warming potential, that have support of at least 108 Parties and are on the agenda for consideration for the 4th year in a row at the Meeting of the Parties in Geneva from 12 November to 16 November 2012 [25th anniversary meeting];

(b) recognises that:

(i) at the Rio+20 Conference earlier in 2012, the nations of the world agreed on a final document that recognised that the phase out of ozone depleting substances was resulting in a rapid increase in the use and release of high global warming potential HFCs to the environment, and supported a gradual phase down in the consumption and production of HFCs, and

(ii) it is time for the Montreal Protocol to fully embrace its obligations and act decisively to regulate HFCs in order to avoid undermining efforts to arrest and reverse climate change by largely negating anticipated reductions in CO2, and to reduce the threat of crossing tipping points for abrupt, irreversible and catastrophic climate changes – tipping points many leading scientists now warn may be only a few years away; and

(c) calls on the Government to urge the Governments of India, China and Brazil to cease blocking discussion and agreement of the proposals from the Federated States of Micronesia, and from Canada, Mexico and the United States of America sought by the majority of Parties, to work diplomatically to raise the global community's level of ambition and to actively work at the highest levels to achieve an agreement in 2013 to drive a global HFC phase out under the Montreal Protocol.
That the Senate—

(a) notes that:

(i) Friday, 26 October, was the celebration of Eid al-Adha, a special day the calendar for Muslim Australians,

(ii) 26 October marked the beginning of Eid al-Adha, or the Festival of Sacrifice, commemorating Ibrahim's (Abraham) willingness to sacrifice his son to God,

(iii) Eid al-Adha is a time of peace, respect, sharing, caring and donating to those in need for Muslims and, it is particularly special for Muslim children as it involves the exchanging of gifts and getting together with family, and

(iv) this significant time coincides with the annual Hajj pilgrimage to Mecca in Saudi Arabia; and

(b) wishes all our Australian Muslim friends who are travelling to Mecca a safe trip on their way to and home from their spiritual journey.

That the Senate—

(a) notes Bight Petroleum's referral of a proposed action under the Environment Protection and Biodiversity Conservation Act 1999 (the Act) (Reference number: 2012/9583) dated 15 October 2012, which sets out the company's intention to undertake seismic testing over a 3 000 sq km area to the west of Kangaroo Island between January and May 2013;

(b) recognises the ecological, economic and social importance of the Kangaroo Island canyons and pool, first and foremost for the Kangaroo Island community, but also for South Australia as a whole; and

(c) calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to use his powers under the Act to reject Bight Petroleum's referral as clearly unacceptable.

That the Senate—

(a) notes that, in addition to the $60 a week decrease to the base rate of their income support, some single parent families who are already juggling part time work with caring can also expect to lose up to another $30 a week in concessions from 1 January 2013 as a result of new taper rates associated with the shift from Parenting Payment Single to Newstart; and

(b) calls on the Government to:

(i) model the impact of this policy on single parents and examine whether this perversely impacts on their workforce participation,

(ii) increase the single rate of Newstart and other allowances by $50 a week, and

(iii) stop attempting to achieve a surplus at the expense of low income families.

That the government business orders of the day relating to the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2012 and the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 may be taken together for their remaining stages.

That, on Tuesday, 30 October 2012:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from not later than 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 10 pm.

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

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

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

Leave granted.

The statement read as follows—

Purpose of the Bills

These bills allow for payments for offshore asylum seeker management, to address increased costs of irregular maritime arrivals resulting from rates of arrivals and the implementation of the recommendations of the Expert Panel on Asylum Seekers, including capital works and services for regional processing facilities on Nauru and Manus Island, Papua New Guinea.

Reasons for Urgency

Timely passage for the Bills will provide for estimated payment required in 2012-13.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:33): I give notice that, on the next day of sitting, I shall move:

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

- Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012
- Clean Energy (Charges—Excise) Amendment Bill 2012
- Clean Energy (Charges—Customs) Amendment Bill 2012
- Excise Tariff Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
- Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
- Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
- Clean Energy (Unit Issue Charge—Auctions) Amendment Bill 2012.

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

Leave granted.

The statement read as follows—

Purpose of the Bills

The Clean Energy Legislation Amendment (International Emissions Trading and Other Measures) Bill and related bills make technical amendments that allow for the effective implementation of linking the carbon pricing mechanism with overseas emissions trading schemes.

Reasons for Urgency

Liabilities under the Clean Energy Act 2011 commence on 1 July 2012. To enable liable entities and others to have certainty about the longer term operation of the carbon pricing mechanism, technical amendments that allow for the effective implementation of international linking should be made as soon as possible.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:34): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Dental Benefits Amendment Bill 2012, allowing it to be considered during this period of sittings.

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

Leave granted.

The statement read as follows—

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

DENTAL BENEFITS AMENDMENT BILL

Purpose of the Bill
The purpose of the bill is to amend the Dental Benefits Act 2008 to cease the Medicare Teen Dental Plan and replace it with an expanded Child Dental Benefits Schedule (CDBS).

Reasons for Urgency
As part of its agreement with the Australian Greens on dental reform, the Government has committed to pass legislation to create the CDBS by the end of 2012.

Senator Jacinta Collins (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:34): I give notice that, on the next day of sitting, I shall move:

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

- Social and Community Services Pay Equity Special Account Bill 2012
- Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012.

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

Leave granted.

The statement read as follows—

Purpose of the Bills
The bills would establish a special account under section 21 of the Financial Management and Accountability Act 1997 to assist employers who are covered by Fair Work Australia’s Social, Community and Disability Services Industry Equal Remuneration Order and who are funded by the Commonwealth for the purposes of a prescribed program.

The equal remuneration order will provide wage increases ranging from 23 per cent to 45 per cent, phased in over eight years, in nine equal instalments from 1 December 2012 to 1 December 2020. Commonwealth supplementation would be delivered through funding drawn from the special account and paid to providers that employ the workers affected by the order.

Reasons for Urgency
The legislation needs to be enacted by 1 October 2012 to allow Commonwealth agencies to draw down from the special account and release funding to eligible employers, allowing the employers to meet their legal obligation to pay employee wage increases from 1 December 2012.

Senator Jacinta Collins (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:35): I give notice that, on the next day of sitting, I shall move:

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

- Aviation Legislation Amendment (Liability and Insurance) Bill 2012
- Federal Circuit Court of Australia Legislation Amendment Bill 2012
- Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012
- Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Bill 2012.

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

Leave granted.

The statements read as follows—

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

AVIATION LEGISLATION AMENDMENT (LIABILITY AND INSURANCE) BILL 2012

Purpose of the Bill
The bill amends the framework for the liability of air carriers in the event of an aircraft accident. The framework is established by the Civil Aviation (Carriers' Liability) Act 1959 and the Damage by Aircraft Act 1999. The amendments address some of the shortcomings in the current framework that were identified in the development of the 2009 National Aviation Policy White Paper.

The key amendments include:

- increasing the domestic passenger liability cap and mandatory insurance requirements from $500,000 to $725,000. The cap was last updated in response to the Monarch airlines crash in Young in 1993, which eventually led to the establishment of the system of mandatory insurance;
- ensure consistency with the 1999 Montreal Convention concerning international flights by removing references to 'personal injury' and replacing it with 'bodily injury';
- amend the Damage by Aircraft Act 1999 (DBA Act) to reflect the principle of contributory negligence;
- amend the DBA Act to allow defendants to seek a right of contribution from other parties who may have contributed to the damage suffered by the person bringing the claim;
- preclude potential claimants from claiming compensation for mental injuries where that person has not suffered additional personal or property damage; and
- replace the reference in the Civil Aviation (Carriers' Liability) Act 1959 (CACL Act) to the Montreal Protocol Number 4 with reference to the 1999 Montreal Convention.

Reasons for Urgency

The bill implements reforms agreed in the 2009 National Aviation Policy White Paper. The level of compensation payable to victims of air craft accidents has not been updated since 1994. From 1994 inflation has increased the cost of living by approximately 2.7 per cent per year. This represents a real imbalance between the compensation currently payable under the CACL Act and the increase in the cost of living since the bill’s inception. Delaying the progress of the bill will impact on the ability of air crash victims to obtain equitable compensation in the event of an aviation disaster.

This bill was passed unopposed in the House of Representatives.

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

FEDERAL CIRCUIT COURT OF AUSTRALIA LEGISLATION AMENDMENT BILL 2012

Purpose of the Bill

This Bill will amend the Federal Magistrates Act 1999 and other legislation relating to Federal Magistrates’ entitlements to rename the Federal Magistrates Court as the ‘Federal Circuit Court of Australia’, and change the title of the Chief Federal Magistrate to ‘Chief Judge’ and the title of Federal Magistrates to ‘Judge’.

The Bill includes amendments to:

- maintain current entitlements of Federal Magistrates under their new title
- provide for styling of the Chief Federal Magistrate and Federal Magistrates under their new title
- change statutory position titles, such as the Chief Executive Officer, consequential to the new name of the Court, and
- provide for transitional and saving arrangements to ensure continuity of the Federal Magistrates Court and arrangements under which it operates.

This Bill will operate together with a separate, later Bill that will include consequential amendments for other Commonwealth legislation that references the Federal Magistrates Court and Federal Magistrates.

Reasons for Urgency

Since the Federal Magistrates Court commenced operation in 2000 its jurisdiction has expanded and the number and complexity of the cases coming before it have increased. It is the only federal court with a program of regular regional circuits. The current name of the Federal Magistrates Court and title of Federal Magistrates
does not adequately capture the increasingly complex work undertaken by the court and its judicial officers.

The Attorney General proposes that legislation to implement the changes be passed so that the changes of title for the Court and Federal Magistrates can commence early in 2013.

This Bill provides a legislative basis for the changes to the name of the Federal Magistrates Court and title of Federal Magistrates, and is uncontroversial. Passage of the legislation in the Spring 2012 sittings will enable implementation in early 2013.

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

HIGHER EDUCATION SUPPORT AMENDMENT (MAXIMUM PAYMENT AMOUNTS AND OTHER MEASURES) BILL

Purpose of the Bill

The bill amends the Higher Education Support Act 2003 (HESA) to update maximum payment amounts for Other Grants and Commonwealth Scholarships to provide for indexation and to include the 2016 funding year.

The bill will also amend HESA to allow wider disclosure of certain information (including personal information) collected under HESA, specifically unit record data, which is information about student enrolments, student load, course completions and staff. The bill will allow disclosure of this information to higher education and vocational education and training providers under HESA, state and territory governments, the National VET Regulator, bodies or associations determined by the Minister by legislative instrument and the Tertiary Education Quality and Standards Agency (TEQSA) to assess the impact of the Government’s higher education and VET reforms and to a third party contracted by the government to conduct surveys of staff, students and former students.

Lastly, the bill will amend the Australian Research Council Act 2001 to update the special appropriation funding cap administered by the Australian Research Council to include indexation adjustments and to add an additional forward estimate for existing schemes within the National Competitive Grants Program.

Reasons for Urgency

In respect of the indexation measures, the maximum payment amounts for Other Grants and Commonwealth Scholarships under sections 41-45 and 46-40 of HESA and the Annual funding cap amounts under section 49 of the ARC Act are amended on an annual basis to reflect indexation and other variations.

In regards to the information disclosure measures, TEQSA has written to the Department requesting access to unit record data by 1 October 2012 to enable it to undertake risk assessments of higher education providers by the end of 2012. Universities require access to unit record data towards the end of 2012 to assist in planning student loads for 2013.

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

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (FURTHER 2012 BUDGET AND OTHER MEASURES) BILL

Purpose of the Bill

The bill would introduce several measures from the 2012-13 Budget. The first of these would provide for a 12-month extension from 1 January 2013 of the welfare reform trial in the Cape York area. In a significant boost to Indigenous education, the bill would also amend the Indigenous Education (Targeted Assistance) Act 2000 to increase the Act’s legislative appropriation for several education initiatives.

The bill would also make some non-Budget amendments to clarify current Government policies and improve the operation of existing legislation. These amendments would include minor clarifications to the schoolkids bonus legislation, payments under which are due to start from 1 January 2013.

Reasons for Urgency
The Cape York welfare reform trial began in 2008, but is currently due to end on 31 December 2012. Passage of the bill in the 2012 Spring sittings would allow the trial to continue for 12 months, as announced in the Budget. To date, the trial has made a real and lasting difference in the lives of Indigenous people in Cape York, bringing improvements in school attendance, care and protection of children, and community safety. The 12-month extension would provide an opportunity to build on the success of the initiatives already underway, including the completion of an independent evaluation.

The minor clarifications relating to the schoolkids bonus also need to be passed in the 2012 Spring sittings, in time for the first payments of the new bonus to be made to families from 1 January 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) (15:36): I move:

That general business order of the day no. 95, the Environment, Protection and Biodiversity Conservation Amendment (Making Marine Parks Accountable) Bill 2012 be considered on Thursday, 1 November 2012, under the temporary order relating to consideration of private senators' bills.

Question agreed to.

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (15:36): by leave—I move:

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

Question agreed to.

COMMITTEES

Finance and Public Administration Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:37): by leave—at the request of the Chair of the Finance and Public Administration Legislation Committee, Senator Polley, I move:

that the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today from 5:30 pm to take evidence from the Future Fund in relation to the consideration of 2012-13 supplementary budget estimates.

Question agreed to.

BUSINESS

Leave of Absence

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:38): by leave—I move:

That leave of absence be granted for Senator Hanson-Young from 29 October until 1 November on account of parliamentary business.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:38): by leave—at the request of the Chair of the Rural and Regional Affairs and Transport References Committee, Senator Heffernan, I move:

That the Rural and Regional Affairs and Transport Reference Committee be authorised to
hold in camera hearings during the sitting of the Senate today, from 4 pm, and from 6:15 pm.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 607 standing in the name of Senator Madigan for 1 November 2012, proposing the introduction of the Treaties (Parliamentary Approval) Bill 2012, postponed till the first sitting day in March 2013.


MOTIONS

Cambodian Elections

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:39): I move:

That the Senate—

(a) notes the recent report by the United Nations (UN) Special Rapporteur on Human Rights in Cambodia which addresses the issue of election organisation and makes a number of recommendations in order for Cambodia's general election in July 2013 to meet international standards for democratic elections and for urgent and long-term reforms to give Cambodians confidence in the electoral process; and

(b) calls on the Cambodian Government to hold free and fair elections in 2013 and to ensure that opposition parties are able to participate fully in Cambodian politics without physical or judicial harassment or intimidation, including opposition leader Sam Rainsy, as recommended by the UN Special Rapporteur.

Question agreed to.

Nationally Threatened Species and Wilderness Areas

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:40): At the request of Senator Waters, I move:

That the Senate—

(a) notes:

(i) the Australian Institute of Marine Sciences study released on 2 October 2012 which found that the Great Barrier Reef has lost more than half its coral cover in the past 27 years, and that, if current trends continue, coral cover could halve again by 2022,

(ii) the Commonwealth Scientific and Industrial Research Organisation report of 1 October 2012 which stated that ecological change across Australia in response to climate change is unavoidable; it will be widespread and substantial,

(iii) the Australian Bureau of Statistics Measures of Australia's Progress 2012 report released on 9 October 2012 which highlighted that we are failing to stop the decline in our biodiversity and our atmosphere, and

(iv) the Government's commitment to hand federal environmental responsibility for threatened and migratory species, Ramsar wetlands and heritage spaces to the states despite the likely damage to the nationally important places and species Australians consider too precious to lose; and

(b) calls on the Government to retain responsibility for making all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places.

The DEPUTY PRESIDENT: The question is that notice of motion No. 982 standing in the name of Senator Waters be agreed to.

The Senate divided [15:45]

(The Deputy President—Senator Parry)

Ayes .....................8
Noes .....................28
Majority ...............20
Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Mining

The DEPUTY PRESIDENT (15:46): The President has received the following letter from Senator Cormann:

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

The Gillard government's ongoing mining tax fiasco and its implications for the budget. Is the proposal supported?

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

The DEPUTY PRESIDENT: I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.
conservative commodity price and production volume assumptions than those which were subsequently adopted by the Treasurer, based on advice by the three big miners, who negotiated the subsequent mining tax deal with him. The reason he upgraded those mining tax revenue assumptions at the time was that he wanted to mask the true fiscal impact of the concessions that he and the Prime Minister had made in those negotiations with the big three miners.

From the RSPT to the minerals resource rent tax, the rate went down from 40 to 22½ per cent. The base was seriously contracted from all resources to just iron ore, coal and petroleum. The government, of course, gave an open-ended commitment to credit all state and territory royalties on iron ore, coal and petroleum against any resource rent tax liability, and as part of the mining tax deal they have introduced for the first time this commitment for the three big miners in particular to be able to use the market value of their assets as the starting base to depreciate the cost of their capital assets against any mining tax liability.

Despite these massive concessions, despite the significantly lower rate, despite the significantly smaller base, despite the open-ended promise to credit all state and territory royalties, including future increases, and despite the capacity to deduct the market value of relevant capital assets against any mining tax liability, the government wanted us to believe at the time that the impact on the budget bottom line was just $1½ billion from the initial resource super-profits tax to the minerals resource rent tax.

That was never believable—it was never believable! The way that the Treasurer achieved that magic trick was by upgrading commodity price and production volume assumptions significantly. When we asked him to show us the assumptions that he had used so that the Senate could scrutinise properly his mining tax revenue estimates to see whether there was any likelihood at all for those revenue estimates ever to be realised, he said, 'I can't give you that. That is commercial-in-confidence for those big three miners, who have given me those commodity price assumptions in the first place.'

Here we have a situation where those three miners not only were allowed to design the tax but were also the ones that were able to give the government the commodity price assumptions it was to use. They are hardly disinterested parties when it comes to choosing a level of commodity price assumption for the government. Then nobody else, other than those big three miners and the government, was allowed to know what that assumption was.

What has become progressively clear since then is that those mining tax revenue estimates that the Treasurer told the Australian people about back in July 2010 were never credible, because at every turn since then they have downgraded them and downgraded them more, from $37 billion over the four years of the current forward estimates under the RSPT to $22½ billion over the current forward estimates under the initial MRRT, down to $13.4 billion at budget time, and down to $9.1 billion at MYEFO time earlier last week. Now it turns out that the government have not raised a zack. No wonder the Treasurer was so desperate to keep his commodity price and production volume assumptions secret. No wonder the Treasurer was so desperate to rush the Mid-Year Economic and Fiscal Outlook out the door last Monday before he would have been forced to include the information about the actual mining tax revenue collections in the first quarter of this financial year in his budget update. No
wonder the government have delivered $173 billion worth of accumulated deficits. No wonder the government are confronting yet another $120 billion budget black hole.

If you have a Treasurer in charge who comes up with a complex new tax which is costly for the government to administer, which is costly for the mining companies involved to comply with and which does not raise a cent when the government have already spent all of the money they thought they would raise, and more, no wonder you end up in a deficit situation. Labor's mining tax was a fiscal train wreck in the making right from the start, because in order to be able to raise that revenue in 2012-13, which was to help with their budget bottom line and which was to help create the illusion of an early surplus, and in order to sell that new tax politically, they attached a whole series of promises which were to take effect from 2013-14 onwards and progressively ramp up.

The mining tax, even if it had raised what the government thought it would raise initially over the current forward estimates, was actually going to leave the budget worse off, because the cost of the promises the government attached to the mining tax revenue was higher than the revenue the government were going to raise, even if all of their predictions had come through. Guess what? Now we do not have any revenue at all from the mining tax in the first quarter. That is the reason we suggested at the time—and we tried to get the support of the Greens—that the Senate should flex its muscle and refuse to deal with the mining tax legislation until the Treasurer transparently released his mining tax revenue assumptions. We had no confidence at the time that the mining tax revenue estimates that he put forward as part of the legislation were ever going to eventuate, and of course we have been proven right. At the time, the Senate in our view should have stood firm and said, 'We're not going to deal with this legislation until you actually give us the information that we require in order to be able to scrutinise the credibility of your mining tax revenue estimates.'

The Prime Minister got the Greens off her back by promising monthly updates on mining tax revenue collections. Guess what? We are now nearly four months into the mining tax and not a single monthly update on resource rent tax revenue collections has happened. This government continues with the cover-up. When you have a Treasurer who is incompetent, when you have a Treasurer who stuffs things up and when you have a Treasurer who made a complete mess of the mining tax, you have a Treasurer who has to cover up all of his tracks. He does not want to be transparent and accountable to the Australian people because he is embarrassed by the mess he has made.

I am sure that even on the Labor side there must be reasonable people who say, 'Enough is enough.' Surely even on the Labor side of the parliament there must be people who say, 'We don't want to continue with a tax which imposes costs on business, which makes them less competitive internationally and which does not actually raise any revenue at all.' The government have made a mess of tax reform. They should scrap the mining tax and start from scratch with a proper tax reform process.

Senator SINGH (Tasmania) (15:57): The resource investment which is expected to drive new business investment is at a record high in Australia as a percentage of GDP over the forecasted period of MYEFO. Across Australia's economy we have a very strong investment outlook, with something like $20 billion at an advanced stage boosting the productive capacity of our economy. As part of that, capital expenditure is set to rise as well by 45 per cent in 2012-
13 after growing by 75 per cent last year. This is all part of the good work and the good policy decision-making that has been done by our Treasurer, Wayne Swan.

The opposition's stance makes it crystal clear that they would rather give a tax cut to Gina Rinehart and Clive Palmer than help out everyday Australians. This is exactly what the MRRT is about: helping out everyday Australians and sharing the benefits of the mining boom. There is very much a stark contrast between Labor and the opposition—between those who stand up very much for working Australians and those opposite who kneel to the feet of vested interests; between those who believe that, when commodity prices are booming, all Australians should benefit and those opposite who want prosperity to belong to only a very fortunate few. That is a clear policy difference between Labor and the opposition. On any day, I am very proud to say that I stand on this side of the Senate chamber in support of Labor and our policy position to spread the benefits of the mining boom to all Australians. We are of course talking about resources in the ground that, as I said earlier, can only be dug up once.

Unfortunately, the opposition are clearly happy to follow the lead of Campbell Newman in Queensland and cut services that Australians very much rely on. I think they are quite happy to do that. What we have seen unfold in Queensland is just a taste of what the country could expect under an Abbott led Liberal government, because it is the Liberal Party way. Every single measure in Newman's budget got the tick of approval from the Leader of the Opposition and the shadow Treasurer. In September, the shadow Treasurer praised Campbell Newman's savage cuts, saying, in the Age newspaper: ...

... all strength to his right arm, he's showing incredible courage ...

Fourteen thousand Queensland workers have been sacked by Campbell Newman, who specifically told them before the election that they had nothing to fear from a Campbell Newman led government—nothing to fear. If his government do not think losing your job is something to fear, then I do not know what they think having a livelihood, let alone a prosperous life, is all about. That is very much something to fear, having a government come in and slash and burn jobs right across the state—14,000 jobs in Queensland. This was a very cruel and destructive budget by a cruel and destructive Liberal Party, and I think this Queensland budget is just a sneak peek at the type of damage a federal Liberal Party government would do to Australian jobs and the Australian economy. Newman's wrecking-ball approach is straight out of the Liberal Party playbook, and it is exactly the same destructive approach that Tony Abbott and Joe Hockey would take to fill their $70 billion crater that they continue to be unable to explain to the Australian people how they will fill.

But they have alluded to one area in terms of filling their $70 billion black hole. Joe Hockey made the announcement that they would cut services for families and communities, including payments. Joe Hockey has confirmed that the coalition will dump the Schoolkids Bonus. It does not matter that families with kids at school need it. It is not the kind of thing that the coalition support, so of course it is easy to slash and burn the Schoolkids Bonus. This is Joe Hockey's 'end of the entitlement era', he claims—

Senator Birmingham: Mr Deputy President, I rise on a point of order. Could the senator refer to members of the other place by their appropriate titles.
The DEPUTY PRESIDENT: I remind all senators to refer to members of the other House by their seat names or their names with honorifics.

Senator SINGH: I will do so, Mr Deputy President. Mr Hockey's 'end to the entitlement era', he calls it—not 'reasonable reductions in middle-class welfare for millionaires who do not need it', of course. No, the coalition's strategy is a two-pronged assault on services and support for families, in a desperate attempt to fund their $70 billion black hole and in a desperate attempt to fund the opposition leader's politically motivated policies on the run.

Surprisingly, though, Mr Hockey claimed that the coalition was not able to support a bonus—that is, the Schoolkids Bonus—that is funded by the mining tax. Could the shadow Treasurer show a greater lack of understanding in saying that the Schoolkids Bonus is funded by the mining tax? I do not know where he is coming from. It is absolutely incorrect to assert that the Schoolkids Bonus has been funded by the mining tax. But it suits the coalition's argument to package up the mining tax, which they are opposed to, with the Schoolkids Bonus, which they are opposed to, and say, 'We're going to get rid of that because it's funded by that,' when that is so incorrect. Again, they are just trying to muddy the waters, to somehow make the Australian public believe the shadow Treasurer's view that the mining tax is worth getting rid of.

One thing that is very clear is that there is a stark contrast between Labor and the opposition when it comes to spreading wealth in our country and ensuring that all Australians receive a fair go. But the record profits coming out of the mining sector are going to a very small number of people, and some of the mining companies are not even Australian owned. When we see those resources coming out of the Australian ground and the profits going into the hands of a very small number of mining magnates, Australians think to themselves: does this stand up to that value of a fair go? Is this ensuring that Australians get some benefit from the resources that we all own—that we all own—and share in this country? No, it is not, and therefore we came up with a policy that ensures that we do all get some benefit from the profits that come from our resources.

That is why we have put forward this policy, which will do that by boosting retirement savings and lifting the superannuation guarantee from nine to 12 per cent—all things that the opposition say no to. On top of that, we are giving tax breaks to 2.7 million small businesses—another thing that the opposition say no to. We are helping viable communities get through a tough patch by investing in their workers with equipment and ideas through a loss carry-back—another thing the opposition say no to. Labor will also provide cost-of-living relief to 1.5 million families and 1.4 million job seekers, students and parents on income support. Labor will build critical infrastructure through the Regional Infrastructure Fund. The contrast between these policy initiatives from Labor and the policies of the opposition has never been clearer. It is the contrast between a party which believes in a fair go and a party which just says no and, in saying no, continues to dig an even bigger black hole for itself—$70 billion. The opposition has not yet answered to the Australian public about how it is going
to fund its promises—promises which already have a $70 billion black hole. The only saving they have offered up is, as I have shared with you, the slashing of the schoolkids bonus—something that so many families in this country rely on to ensure their kids have all the necessities for their education. **(Time expired)**

**Senator LUDLAM** (Western Australia) (16:07): It was fascinating to sit and listen to Senator Cormann lecturing the government on a tax which does not collect any money—and I suspect Senator Joyce will serve it up as well in a few minutes. This is from a party which did not want to tax the industry at all. The net result of following coalition policy would also have been no tax taken. So it is remarkable to hear the coalition trying to have it both ways. Do you want to levy fair taxes on this industry or do you not?

I am keenly aware, as a senator representing Western Australia, of the role the mining industry plays in the Western Australian and national economies. I am also keenly aware that people employed directly by the mining sector are only a very small fraction of the Western Australian workforce. For those not on a mining wage, the mining boom has actually come at a severe cost. People here on the east coast bandy around the term 'two-speed economy' without, I think, appreciating what the impacts are on the front line in Western Australia—or, more specifically, on towns in the Goldfields and the Pilbara. The high exchange rate associated with the mining boom has seen trade exposed sectors right around the country, including manufacturing, tourism and education, finding it much harder to compete. The boom has also driven up the costs of operating a business—or a farm, for that matter. In August last year ASIC reported a 17.4 per cent increase in the annual number of failed businesses in Western Australia.

The boom has driven up, as well as the costs of business, the costs of living. House prices in Western Australia have exploded over the last decade and rents continue to soar. Between May 2006 and March 2008, the RBA increased official interest rates seven times and, on each occasion, high or rising commodity prices were explicitly mentioned as a factor.

So the question we would put is: what is the best way to ensure that Australians benefit from the boom—a boom built on the liquidation of finite resources? While the company tax rate is 30 per cent, the average rate paid by the mining industry in 2008-09 was just under 14 per cent, mostly because of generous deductions available to the industry—for example, we cop their diesel bill. Taxpayers subsidise the diesel bill of mining companies. In 2009, Andrew Forrest's FMG admitted that it had not paid a cent in company tax in seven years of operations. On 7 March this year, Treasury Secretary Martin Parkinson observed that mining companies account for about a fifth of gross operating surplus yet only about a tenth of company tax receipts.

It is in this context that the federal government introduced a mining tax which failed to raise a single dollar of revenue in its first quarter of operation. The failure of the mining tax to raise any revenue at all demonstrates the folly of Labor's capitulation to the big three mining companies. The Henry tax review made the case for a 40 per cent tax on mining profits above $50 million a year. Labor allowed themselves to be bullied by the mining industry—cheered on by their ever faithful servants in the coalition—and watered the tax down to 22½ per cent on profits above $75 million and then radically reduced the number of commodities it applied to. The original Henry tax designed by Treasury would have stemmed some of the flow of mining profits...
But the government blew it. Having watered down the tax in response to an entirely misleading and aggressive $22 million propaganda campaign and only applying it to these two commodities, the scale of the government's surrender is now apparent.

The coalition of course performed its usual role as the uncritical sock puppets of the big mining companies. They have demonstrated economic illiteracy of the highest order in opposing any kind of tax whatsoever on mining superprofits and making the kind of hysterical doomsday predictions that the Leader of the Opposition has turned into something of an art form—predictions which have been proved completely dishonest time and again.

A big wind turbine is 200 tonnes of steel. Solar PV cells require rare earths and silicon. Electric vehicles require high-capacity lithium batteries. It is not possible to do these things without mining, so the myth that the Greens oppose mining per se is obviously absurd. What we do object to is the idea that, because of its financial clout, the mining industry should be entitled to throw its political weight around like some kind of cartel, dodge fair taxation and punch holes in environmental protection and heritage laws built up painstakingly over a period of decades.

Government annual resource reports indicate that we have eight or nine decades more of iron ore mining at present rates of extraction—another 80 years or thereabouts. The caveat—at present rates of extraction—is critical. None of the proponents in the Pilbara, North West Shelf, Goldfields or anywhere else have any intention whatsoever of proceeding at present rates of extraction—and their shareholders would sack them if they did. The mining industry and the oil and gas industry intend to double rates of extraction across the board as soon as possible—and that of course halves the depletion horizon. The boom is coming to an end one way or another, but we have been hypnotised by the laws of supply and demand and the powerful magic of price signals to believe that it can last forever. The mining boom will not last forever. Geology says otherwise—and geology will win.

We must therefore make the most of the boom while it lasts. A properly constructed superprofits tax would have raised funds for hospitals, health care, public transport, affordable housing, desperately needed large-scale investment in renewable energy, training facilities and support for the nation's schools—the need for which was documented in the Gonski review. A properly constituted and levied mining tax, one which only kicks in when the industry is doing exceptionally well and harvesting superprofits, would lay the foundations for a sovereign wealth fund. Such a fund could help to lock in for future generations—as other more farsighted countries, such as Norway, have done—the once-in-a-generation benefits of a commodities boom.

Instead, the government has wasted almost 2½ years since Treasury first advocated a mining superprofits tax—longer than that now. A strong mining superprofits tax could have fostered the diversification of the Western Australian economy by funding training and R&D and start-up grants to small businesses. Instead, Western Australia's AAA credit rating is in peril because of our narrow economic base, because of our dependence on mining and because of the tunnel vision of the major political parties.

The coalition, of course, has approached the debate as though mineral resources belong to Clive Palmer and Gina Rinehart as some kind of birthright. Labor members have
noted in this place that Australia's mineral resources belong to all of us by way of their being the property of the Crown. But what is almost ignored is that these minerals come from country: they come from Aboriginal land. In Canberra, thousands of kilometres from the West Pilbara, parliament debates how to share the bounty from a once-in-a-lifetime mining boom—though the coalition does not want to share the bounty of the boom at all—while traditional owners and Aboriginal people of these exploited lands live in conditions of degrading poverty in the midst of the mining boom. Every Australian, especially those in need, should be benefiting from our publicly-owned mineral resources. It has not been lost on the Greens that some of the worst and most destructive poverty in this country occurs side-by-side with—within a stone's throw of—some of the most lucrative extractive industry developments in the world.

It is not too late to reconstitute the minerals resource rent tax, and the Greens stand ready to work with the government or the opposition, if—heaven forbid!—they have a change of heart, to fix the tax, to harness the boom and to make work for all Australians this once-in-a-generation opportunity. Or we can continue to let the mining industry continue to rip a fortune out of this country, liquidate within a generation the natural capital assets of this ancient continent while other industries suffer with no place in the future for what happens after the boom.

The Australian Greens stand entirely ready to work with everybody in this building or in the community to look at ways of recreating our economy post-boom. But surely resourcing the community and industries while the boom is in place with a properly constituted tax on the extraordinary profits which are still being raked out of the ground is an important place to start.

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (16:16): The mining tax is a classic example to all Australians of how the Labor Party, if left to its own devices in a situation where it has to devise a tax in opposition to the best interests of others, stuff it up. Mr Swan and Ms Gillard went into a room with Xstrata, BHP and Rio Tinto and, obviously, Xstrata BHP and Rio Tinto absolutely did them like a dinner. These organisations said, 'What we'll do is write our assets off at market value over 25 years,' and any person who was even slightly competent would have replied, 'Hang on; that means we're never going to get anything—we're never going to raise any money from this tax.'

We argued against the mining tax because we understand the sensitivities in the mining industry, which are there because there are alternative venues to which the miners can go: Indonesia, South America and Africa. But the government said that it would go with the minerals resource rent tax anyway, and it then allocated the funds from the tax to various measures. The only problem is that the tax has not raised any money. With the super guarantee, the government was going to help small business, apparently by jacking up small business's superannuation liability. So they jacked up the superannuation liability of small business while saying that small businesses would have greater expenses because they would be paying more money out of their own pockets for superannuation and that Treasury would suffer a loss of revenue. Then the government said that it would cover the loss to Treasury by the minerals resource rent tax. The trouble is that the minerals resource rent tax didn't bring in any money. Then there was the $1.2 billion a year for the schoolkids bonus. Every time you hear the word 'bonus' you know that you have a problem. The $1.2 billion a year that was going to be spent on
the schoolkids bonus was also going to be provided by the minerals resource rent tax; the trouble is that the minerals resource rent tax didn’t bring in any money. The big one for regional people in my state is the $6 billion for the Regional Development Australia Fund. At the moment $573 million is hypothecated to go towards the fund. The problem is that the government is not getting any money from the minerals resource rent tax.

So where will the money for all these measures come from? The government is not making any money from the minerals resource rent tax. The government had about $1.4 billion in one fund, $350 million was spent after the floods and about $50 million went into the Rob Oakeshott Christmas club. That left the government with about $1 billion. Then there was about $200 million in RDA funding so far and $200 million for other projects which have been on the books. After all this, the government was left with about $600 million. About $574 million was hypothecated on the mining tax, and the mining tax is not raising any money, so we are left with $26 million—and that is hardly an amount to take to an election. The question that the Independents should be asking is: where is our money going to come from? It could come from the debt. Our debt is currently at $255 billion gross. The government repaid about $3 billion this week, but in the previous fortnight they borrowed another $8.1 billion.

All of this goes to show that the chaos of this government continues day after day. The Labor Party and the Greens might get some solace out of the polls today, but there is no solace when you look at the books, because there are massive debts and now our revenue stream is drying up. How are we going to run the show? The Financial Review reported a black hole of $120 billion out to 2020—and that was before the fiasco of the failure of the mining tax to raise any money. Originally, the long-term projection for the minerals resource rent tax was that it was going to bring in about $60 billion. But we found out that it was really going to bring in $40 billion, so there was a $20 billion black hole in the minerals resource rental tax even before this latest fiasco. What we are suffering now it has happened as a result of the sins of Ms Gillard, who said when she got rid of Kevin Rudd that she would fix the mining tax, fix the boat people issue and cool the planet.

I do not know how the cool-the-planet thing is going. It has been a bit cool lately, so maybe that one is working; I do not know. We certainly know that people are poorer. We certainly know that the tax is there, but the temperature of the globe seems to be carrying on as it was. We note that the boats are still turning up. And the mining tax is starting to turn into one of the greatest examples, par excellence, of a government that just has not a financial clue.

Maybe the current Minister for Finance and Deregulation of this nation, Penny Wong, used this as a recommendation in her Senate speech. Maybe this is the reason she ended up as No. 2. Surely there must have been some person somewhere in the Labor Party who realised at the inception of this tax that, because they had granted the mining companies the capacity to write off their assets at market value over 25 years, there was not a hope of gaining any money from this. That being the case, why on earth did you spend the money? Why on earth did you allocate the money—money that you were never going to have? Because you have allocated the funds that the minerals resource rent tax was supposed to get—as crazy as it was, and we should not have had it—we have to get it back from somebody else. Where are we going to get it? Where is that money going to come from?
The Australian people have to pay for it. They have to pay for it now. They have to pay for the outcome of one of the most tawdry and pathetic forms of financial accounting that this nation has ever seen. What you see now is that this allocation of basically $60 billion over 10 years has to be picked up by other people—$60 billion has to be picked up by the 22½ million people who live in this nation. If they do not pick it up, we are going to have to borrow it. If we do not borrow it, we have to cut the funding to it. It just goes on and on and on.

Everything you see in the government is a sign of them just going out the back door. I will bet you London to a brick that before the next six to 12 months are out, if this crowd is still around, they will be running back wanting another extension on the credit card, another extension on the credit limit.

The DEPUTY PRESIDENT: I call Senator Sterle, senator for Western Australia.

Senator STERLE (Western Australia) (16:24): The Deputy President is from Tasmania. We had the pleasure of coming in at the same time. I too rise to make my contribution to the debate on Senator Cormann's matter of public importance today. Quite frankly—forgive me, Mr Deputy President—it has been a long year, and it is getting crazier as the year goes on. Fortunately, after today we only have four days and two weeks until we will be able to get out of here and get some clear air, without listening to some of the nonsense in this chamber.

I just want to go back, for those who have the misfortune to have to sit through this pain to listen to some of the nonsense coming out here not only from the opposition, which you expect, but also from the Greens, with their crystal ball wonderful view of the world: how it will all be sorted out over a cup of tea. It was not sorted out in Tasmania, I believe, when Paul Howes was trying to negotiate a sensible outcome with the Greens to get some mining, to get some employment and some productivity to Tasmania, which desperately needs it—but anyway, that is another matter.

I will take this house back to how the mining tax came about. It was part of the Henry tax review. Quite simply, it was a very torrid time in Australia's history. We had gone through a massive financial challenge in the GFC. Quite frankly, when the mining tax was announced, the hysteria that we witnessed coming from that side of the chamber, in cahoots with a handful of their mining mates, was nothing short of embarrassing. I remember travelling throughout Western Australia in 2010 for that last election. If someone were a visitor to these great shores from another country and they had the misfortune of having to listen to the unfolding Liberal campaign of what they were not going to do should they gain government—it really makes me wonder—they could walk away and think, 'How did this country ever make it into the OECD?' It really was ridiculously embarrassing, but that is history and we had to put up with it.

But you can understand why, because I remember when the tax was announced. It was very topical in Western Australia, particularly with it being a mining state and, as many commentators like to say, the engine room of the economy. Coal is nowhere near as big in WA as it is in Queensland, but iron ore is huge, as we are well aware. We saw the usual suspects. Didn't they come out of the woodwork! Didn't those poor, poor billionaires take offence! The first thing they did was put a phone call in to their mates in the Liberal Party: 'Help! The nasty Labor government's going to make us pay a profit based tax.' This is the part that really annoys me, even though
it is November and it has been a long year. We are talking profit based. What we clearly said was—and we were told this numerous times by the Minerals Council of Australia—that mining royalties are a very inept tax. It taxes whether mining companies are in profit or not. The Minerals Council of Australia were welcoming a change to the royalties based taxation. They believe strongly, as does the Labor government, that if companies are making a good, decent profit, over $50 million, then it could be expected that they could put a bit more into the nation.

And then we saw them—and I remember on the causeway 'Axe the tax', I think it was, a really ingenious name for a rally. There was Senator Cormann standing next to the biggest set of pearls ever seen in Australia, and they were hanging around the neck of poor old Ms Reinhardt, whose profits I think have ballooned from $5 billion to $20 billion in the last couple of years, who had taken complete offence at the idea that she should have to or her companies should have to pay any more tax once they had profited by $50 billion—no, I am sorry; I just did a Senator Joyce; it is $50 million. It all rolls off the tongue pretty easily when you start getting over the couple of hundred I find in my pocket on a Friday! But there they were, singing out, screaming how unfair it was, ably abetted by none other than the other poor billionaire from WA, Mr Andrew Forrest.

There he was on the front page of the paper, whingeing and complaining because no-one would take his calls, saying how hard done by the mining industry would be, how unfair it was for the Australian government to expect ridiculously profitable miners to pay a couple more dollars in their taxation requirements each year should they break the $50 million profit margin and how bad it would be for his Solomon Hub. For those out there who are not familiar with the Solomon Hub, it is a huge iron ore resource in the Pilbara where Mr Forrest is or was planning to absolutely massively expand an iron ore mine. I believe it has run into a little bit of drama at the moment and money is a bit hard to get. In saying that, I hope he does get it. I hope he does expand. I hope he does make a profit. I hope he employs more Western Australians. I hope he employs more Australians. I hope he engages Australian steel manufacturing businesses to help build his mine. I also hope he makes more than that amount of profit and he can contribute to the mining tax.

But there was Mr Forrest, along with Ms Rinehart, whingeing like heck about having to pay more tax. Quite simply it finally came out that Mr Forrest's company, Fortescue Metals Group, had not even paid any tax. It was a ridiculously stupid campaign. It linked him with Mr Abbott's typical 'oppose everything' stance. Let's not talk about what fantastic views or ideas we have in education or health for this great nation, what we would do for generations of Australians to follow and how great we could make their lives and their contribution to the national economy. No, it was all about what he would not do.

On that, we must remember that the sky was going to collapse. It was going to fall in. This was Armageddon for the industry. This was going to destroy mining. It was going to destroy Australia. It was going to destroy mining jobs. This is regardless of the fact that we have a $260 billion investment pipeline in this country. There is a lot of investment going on. There is a lot of excitement around the mining industry. But we must not forget that the iron ore price has dropped. There is no argument: the iron ore price has taken a dive. I think the figures that just came out in MYEFO, the mid-year economic and fiscal outlook, expected commodity prices to drop, including 38 per
cent for iron ore. Yes, that would make a difference. It would make it hard. We must remember that the mining resource rent tax is a volatile tax. If mining is up and commodity prices are up, then the tax will be collected.

But it is no different to what happened in the great era of the Hawke government, when Prime Minister Bob Hawke initiated the petroleum resource rent tax, which is a very similar tax but structured around oil and gas. At the time, those on the other side of this place and in the other house voted against the petroleum resource rent tax because they did not want their massively rich mates in the mining and resource sector to have to pay tax and contribute to Australia's welfare over and above what they were doing in their normal company taxes. They also opposed the mining tax. There they were, the Geppettos, the puppet masters. We know who they are—I have mentioned them already. I should also mention Mr Clive Palmer at the same time, as the largest contributor of financial donations to the LNP, who at the time thought it was not a good idea either.

But let’s take one step further. That side of the chamber were opposing it and all this Armageddon was going to be created in Australia’s economy. ‘Let’s look at the audacity of the Labor government introducing a tax—how bad is that!’ But when a Liberal government introduces a tax that is alright. We have seen that. They are all very quiet on that side. I challenge them to pipe up, because they know darn well that they bagged us for three years about the mining tax, but when Mr Campbell Newman, the Premier of Queensland, implemented his money grab through a royalty charge—not a profit based tax but a royalty tax—they went quiet. Not all of them went quiet, though. One of them who did not go quiet was none other than Rio Tinto. I want to quote from the *Australian Mining* magazine. It is about Rio Tinto and it says:

Rio Tinto has announced it will slash more jobs across its coal mines in Queensland as the state raises its royalty rates. It also goes on to say that Rio Tinto:

... warned last week that the Queensland Government’s decision to raise the royalty rate would directly impact its operations.

Now a Rio spokesperson has said that "the Queensland Government's decision last week to increase royalties is the latest example of the cost escalations affecting the coal industry. Did we hear a peep out of those across the other side? No, we did not. There was another Queenslander who had a bit to say: Mr Palmer. Mining magnate Clive Palmer—

to quote ABC news—
says any increase in mining royalty rates will "kill" the state's economy and drive thousands of Queenslanders out of work. Did we hear a peep from any of the usual suspects from Queensland who could not wait to bag the federal government's mining tax? We did not—not a word. I would like to hear them in here making their contributions, but of course I will not hold my breath because that is not going to happen. They are all hiding under their desks outside. Mr Palmer went on to say:

Increased mining royalties on top of widespread sackings is hardly a recipe for growth in this state.

I could not agree with him more, because it is not a profit based tax.

We will have to dig a bit deeper. We have to understand why there is so much confusion over on that side. Why is there so much negativity? Why is it more popular to be negative, not to contribute to what a great country we can be and should be? It all stems back, I believe, to none other than their leader, Mr Abbott. I have to raise a couple of issues with the chamber to show why there is
such confusion and such negativity over on that side. I have in my hand an excerpt from the *Age*. It is by Lenore Taylor, that very distinguished journalist from the *Age*, and it is dated 25 August 2012. She is talking about Mr Abbott and his 'inconvenient fiscal truth'. It says here:

Undeterred in his quest for carbon tax-induced wreckage—

following on from the mining tax—

the Coalition leader appears now to be claiming as evidence any unrelated piece of economic bad news.

It goes on to say of Mr Abbott:

Hence he appeared in mournful procession with his South Australian MPs—

and I do remember them all following Mr Abbott like a pack of sheep out onto the lawn to do a press conference—

to declare that the carbon and mining taxes were, in fact, responsible for BHP Billiton's decision to shelve expansion plans for its Olympic Dam uranium and copper mine.

I have to tell you that is absolutely unbelievable, because someone should have told Mr Abbott and all the South Australian MPs who just followed as if the rings through their noses were hooked to his belt, that the mining tax does not affect copper or uranium. Well, der! How incompetent can one opposition party be? I have to agree with Ms Lenore Taylor: it is Mr Abbott's inconvenient fiscal truth.

Let us take this one step further, to talk about inconvenient fiscal truth. I was not in that chamber when it did come up, but we all know it did—I am talking about the other house over there. I will quote another article from David Rowe from the *Age*, published on 11 October this year. Mr Rowe writes that Mr Abbott was in question time and he was resuming his attacks, this time on the carbon tax—and, guess what?—the sky hasn't caved in and it has been operating for a few months. But, anyway, let's not let the truth get in the way of a good Abbott story. Allegedly, Mr Abbott and the Liberals had produced an electricity bill from a Perth woman named Hetty Verolme. Mrs Verolme's electricity bill from early June to early August was $1,563.70, up from $736.25 in the previous period according to the document that Mr Abbott tabled in parliament. Mr Abbott went on to say:

With an $800 increase in just one bill, of which 70 per cent is due to the carbon tax, how can the Prime Minister possibly claim that Hetty's compensation is in any way adequate?

Mr Abbott then went on to say that the poor woman 'nearly had a heart attack'. I tell you who should have had a heart attack; it should have been the whole Liberal team sitting on that side of the chamber with Dr No. What the bill showed was that Mrs Verolme used approximately twice as much electricity over the most recent period when compared to the previous one.

This is incompetence from a fellow who wants to put himself up as the alternative Prime Minister that I would like to bring to the attention of all Australians. If you can be fooled by Mr Abbott—and he cannot even fool anyone for more than two seconds in question time—Australia needs to be very, very wary—(Time expired)

**Senator EGGLESTON** (Western Australia) (16:39): There is no doubt that the government anticipated huge revenues from the mining tax, and that their estimates of revenues which would come in varied enormously. For example, in July 2010 they estimated the tax would raise $10.5 billion over the first two years. Then came the 2010 MYEFO, when the revenue was downgraded to $7.4 billion. Again, in the budget in 2011 revenue estimates actually increased to $7.7 billion for the first two years and then were increased again to $11.1 billion for the first three years. The government, quite
obviously, was living in a fantasy world because right from the start this tax was never, ever, going to raise any money.

Senator Joyce in particular has referred to this tax as a deal done between the three big miners—between Rio Tinto, Xstrata and BHP Billiton—and the government, in which it was agreed that the costs associated with the establishment of their mining operations over the last 25 years would be deductible against revenue received. If the big miners are able to claim the billions and billions of dollars that they have spent in setting up these great mines which we find today in the Pilbara and in other parts of Australia, such as Queensland, with the coal mines, or in the Northern Territory, then of course the end result is going to be something like negative gearing on an expensive property. The investor will be paying a lot more in interest rates, which are deductible, and interest payments than the rental which is coming in from the property. The net result is that, in the case of the mining companies with their huge deductions for the development of their infrastructure, there would be no super tax liability. That was a fact which was obvious from the start, and it is quite clear that this government has lived in a kind of fantasy about what this tax would deliver by way of revenue and what would be done with it. As I have said, it was very obvious right from the start that this tax was not going to raise the kind of money which the government expected it to.

The one group which did find itself liable under this tax, possibly, was the small miners—the AMEC level miners are the people who go out, explore and discover new deposits, but who, unfortunately, do not have the kind of level of deductions that the big miners have. So inevitably, were they to fall into the category of having excessive returns, they would have had to pay this super tax. But in fact it seems that even their income has not reached the levels which would make them liable for this tax, because there has been a great decline in the revenue from the mining industry—in part, I have to say, because of the introduction of this tax, which has changed Australia and the perception of Australia as a safe destination for investment by the mining industry. A country of very low sovereign risk is how we were perceived; but now the perception is that this country is no longer a safe country for mining companies to invest billions of dollars in, because the government is going to impose excessive and unreasonable taxes on such investments.

And that perhaps is one of the greatest outcomes of this tax. It has not raised any money, but what it has done is increase Australia's sovereign risk and decrease the perception that Australia is a safe place to invest.

Where has the investment gone? It has gone to Africa and other parts of the world. As we know, there has been a drop in mining income because the Chinese, in particular, have reduced their purchases of Australian iron ore and other commodities. The income of the mining companies has reduced—that was not predictable.

The government, it seems, was fantasising for a very long time about what this money would be spent on. Let us have a look at some of the proposed expenditures. It was in July 2010, for example, that the government estimated the tax would raise enough money to provide for a 50 per cent discount for interest income; a lowering of the company tax rate—a promise made but broken in the 2012-13 budget; an early start to cut the company tax rate for small business companies; a standard deduction for work related expenses and the cost of managing tax affairs and so on.
While this government was living in a world of fantasy, imagining that the MRRT was going to bring in billions of dollars in tax, even though right from the start that was obviously not going to be the case in the view of any objective observer, it was making all sorts of promises about how this money would be spent. It just shows that this government lives in a world of fantasy and does not deal with reality. This tax, as predicted, has raised no money and is purely and simply proof of the government’s delusional approach to government. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! The time for this discussion has expired.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (16:47): 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 11 October 2012.

The list read as follows—

Committee reports
1. Joint Select Committee on Gambling Reform—Report, together with the Hansard record of proceedings and documents presented to the committee—Prevention and treatment of problem gambling (received 12 October 2012)


Government responses to parliamentary committee reports
1. Legal and Constitutional Affairs Legislation Committee—Report—Deterring People Smuggling Bill 2011 (received 15 October 2012)

2. Environment and Communications References Committee—Report—Recent ABC programming decisions (received 16 October 2012)

3. Foreign Affairs, Defence and Trade References Committee—Report—Procurement procedures for Defence capital projects (received 16 October 2012)

4. Select Committee on Men’s Health—Report (received 24 October 2012)

Government documents
1. Australian Agency for International Development (AusAID)—Report for 2011-12 (received 12 October 2012)

Addendum (received 15 October 2012)

2. Australian Broadcasting Corporation (ABC)—Report for 2011-12 (received 12 October 2012)

3. Australian Information Commissioner—Report for 2011-12 (received 12 October 2012)

4. Department of Immigration and Citizenship—Report for 2011-12 (received 12 October 2012)

5. Health Workforce Australia—Report for 2011-12 (received 12 October 2012)

6. Migration Agents Registration Authority—Report for 2011-12 (received 12 October 2012)


9. Seafarers Safety, Rehabilitation and Compensation Authority (Seacare)—Report for 2011 12 (received 12 October 2012)

10. Special Broadcasting Service Corporation (SBS)—Report for 2011-12 (received 12 October 2012)


13. Australian Transaction Reports and Analysis Centre (AUSTRAC)—Report for 2011 12 (received 12 October 2012)
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<th>14. Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Australian Federal Police (received 12 October 2012)</th>
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<td>17. Productivity Commission—Report No. 60—Default superannuation funds in modern awards (received 12 October 2012)</td>
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<td>19. Australian Communications and Media Authority (ACMA)—Report for 2011-12 (received 15 October 2012)</td>
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<td>22. Australian Competition and Consumer Commission (ACCC)—Report for 2011-12, including report of the Australian Energy Regulator (AER) (received 16 October 2012)</td>
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<td>23. Companies Auditors and Liquidators Disciplinary Board (CALB)—Report for 2011-12 (received 16 October 2012)</td>
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<td>25. Department of Human Services—Report for 2011-12 (received 16 October 2012)</td>
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<td>27. National Competition Council—Report for 2011-12 (received 16 October 2012)</td>
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<td>29. Fair Work Australia—Report for 2011-12 (received 16 October 2012)</td>
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<td>32. Federal Magistrates Court of Australia—Report for 2011-12 (received 17 October 2012)</td>
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<td>33. NBN Co Limited—Report for 2011-12 (received 19 October 2012)</td>
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<td>34. Australia Council for the Arts (Australia Council)—Report for 2011-12 (received 19 October 2012)</td>
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<td>36. Australian Customs and Border Protection Service—Report for 2011-12 (received 23 October 2012)</td>
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<td>37. ComSuper—Report for 2011-12 (received 23 October 2012)</td>
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<td>38. Aged Care Standards and Accreditation Agency Limited—Report for 2011-12 (received 24 October 2012)</td>
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<td>39. Australia Business Arts Foundation Ltd—Financial statements for 2011-12 (received 24 October 2012)</td>
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<td>40. Australian Film, Television and Radio School (AFTRS)—Report for 2011-12 (received 24 October 2012)</td>
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<td>42. Department of Resources, Energy and Tourism—Report for 2011-12, including report of Geoscience Australia (received 24 October 2012)</td>
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<td>44. Family Court of Australia—Report for 2011-12 (received 24 October 2012)</td>
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<td>45. Federal Court of Australia—Report for 2011-12 (received 24 October 2012)</td>
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<td>46. Screen Australia—Report for 2011-12 (received 24 October 2012)</td>
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<td>47. Wine Australia Corporation—Report for 2011-12 (received 24 October 2012)</td>
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<td>48. Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)—Report for 2011-12 (received 24 October 2012)</td>
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50. Supervising Scientist—Report for 2011-12 (received 24 October 2012)
51. Office of the Official Secretary to the Governor-General—Report for 2011-12 (received 25 October 2012)
52. Skills Australia—Report for 2011-12 (received 25 October 2012)
55. Department of Foreign Affairs and Trade—Report for 2011-12 (received 26 October 2012)
56. Public Lending Right Committee—Report for 2011-12 (received 26 October 2012)

Report of the Auditor-General
Report no. 8 of 2012-13—Australian Government Coordination Arrangements for Indigenous Programs: Department of Families, Housing, Community Services and Indigenous Affairs (received 24 October 2012)

Letters of advice relating to Senate orders
1. Letters of advice relating to lists of departmental and agency appointments and vacancies:
   - Veterans' Affairs portfolio (received 15 October 2012)
   - Department of Families, Housing, Community Services and Indigenous Affairs (received 19 October 2012)
2. Letters of advice relating to lists of departmental and agency grants:
   - Department of Foreign Affairs (received 12 October 2012)
   - Department of Veterans' Affairs (received 15 October 2012)
   - Families, Housing, Community Services and Indigenous Affairs portfolio (received 19 October 2012)

Australian Organ and Tissue Authority (received 22 October 2012)

The ACTING DEPUTY PRESIDENT:
In accordance with the usual practice and with the concurrence of the Senate I ask that the government response be incorporated in the Hansard.

The responses read as follows—
Government response to Senate Legal and Constitutional Affairs Committee report
Deterring People Smuggling Bill 2011

Introduction
On 3 November 2011, the Senate referred the Deterring People Smuggling Bill 2011 (the Bill) to the Senate Standing Committee on Legal and Constitutional Affairs (the Committee), for inquiry and report.

The Committee held a public hearing on 11 November 2011, and released its report on 21 November 2011, with four recommendations:

Recommendation 1
The committee recommends that the Explanatory Memorandum to the Bill be revised and reissued to explicitly articulate the exceptional circumstances necessary for the introduction of the Bill, its retrospective application and its application to current legal proceedings.

Recommendation 2
The committee recommends that the Australian Government, through the Attorney-General's Department, review the operation of the people smuggling offences in the Migration Act 1958 to ensure these offences continue to effectively deter people smuggling.

Recommendation 3
The committee recommends that the Australian Government examine the Department of Prime Minister and Cabinet's Legislation Handbook and the Attorney-General's Department's Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers to ensure that the articulation of policy is clear in relation to the introduction of retrospective legislation and legislation relevant to ongoing legal proceedings, with an emphasis...
on ensuring that the principles of the rule of law and the separation of powers within Australia's system of government are respected.

Recommendation 4
Subject to recommendation 1, the committee recommends that the Senate pass the Bill.

A response has not been provided to the Committee about the Government's position in relation to the recommendations. This document forms the Government's response.

Government response to Recommendations

Recommendation 1

The committee recommends that the Explanatory Memorandum to the Bill be revised and reissued to explicitly articulate the exceptional circumstances necessary for the introduction of Bill, its retrospective application and its application to current legal proceedings.

The Explanatory Memorandum was revised prior to the Bill being passed.

Recommendation 2

The committee recommends that the Australian Government, through the Attorney-General's Department, review the operation of the people smuggling offences in the Migration Act 1958 to ensure these offences continue to effectively deter people smuggling.

The Australian Government regularly reviews the effectiveness of offences in Commonwealth legislation. The Government is also currently considering the report of the Senate Legal and Constitutional Affairs Committee on the

Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012.

Recommendation 3

The Committee recommends that the Australian Government examine the Department of Prime Minister and Cabinet's Legislation Handbook and the Attorney-General's Department's Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers to ensure that the articulation of policy is clear in relation to the introduction of retrospective legislation and legislation relevant to ongoing legal proceedings, with an emphasis on ensuring that the principles of the rule of law and the separation of powers within Australia's system of government are respected.

The Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers (the Guide) was last reviewed by the Attorney-General's Department in 2011 in consultation with key stakeholders including the Australian Federal Police, the Commonwealth Director of Public Prosecutions, and the Office of Parliamentary Counsel. The Guide makes it clear that offences should only be given retrospective effect in rare circumstances and where there is strong justification. Similarly, the Legislation Handbook makes it clear that legislative provisions with a retrospective operation adversely affecting rights or imposing liabilities are to be included only in exceptional circumstances (paragraph 6.18 refers).

Recommendation 4

Subject to recommendation 1, the committee recommends that the Senate pass the Bill.

The Bill was passed by the Senate on 25 November 2011, and the Deterring People Smuggling Act 2011 received Royal Assent on 29 November 2011.

Senate Committee on Environment and Communications

Inquiry into recent ABC programming decisions

Australian Government Response to the Committee's Report

Introduction

The Senate Environment and Communications References Committee conducted an inquiry in 2011 into the recent programming decisions made by the Australian Broadcasting Corporation (ABC).

The Senate referred the matter of recent programming decisions by the ABC to the Senate Committee on 17 August 2011. The terms of reference for the inquiry were:

The decision by the television management of the Australian Broadcasting Corporation (ABC) to significantly cut the number and amount of ABC-produced programs, jobs (including through
forced redundancies) and potentially affect resources, as announced on 2 August 2011, with particular reference to:
(a) the implications of this decision on the ABC's ability to create, produce and own its television content, particularly in the capital cities of Brisbane, Adelaide, Perth and Hobart;
(b) the implications of this decision on Australian film and television production in general and potential impact on quality and diversity of programs;
(c) whether a reduction in ABC-produced programs is contrary to the aims of the National Regional Program Initiative;
(d) the implications of these cuts on content ownership and intellectual property;
(e) the impact of the ABC's decision to end internal production of Bananas in Pyjamas and to outsource the making of a 'Bananas in Pyjamas' animation series to Southern Star Endemol Proprietary Limited;
(f) the future potential implications of these cuts on ABC television's capacity to broadcast state league football and rugby; and
(g) any other related matters.

The Committee received 336 submissions and two form letters from a wide range of interested individuals and organisations. A public hearing was held on 26 September 2011 in Canberra. On 13 October 2011 the Committee tabled its report to the President of the Senate. The Committee's report makes 10 recommendations. The Government's response to each of these recommendations is set out below.

The Australian Greens and Independent Senator Nick Xenophon have also made a number of recommendations. The Government's response to each of these is also set out below.

Background
The 2011-12 financial year represents the final year of the current ABC triennial funding agreement with the Government. In the 2009-10 Budget, the Government provided the ABC with an additional $165.3 million in new funding over the 2009-10 to 2011-12 triennium. This is the biggest funding increase to the ABC since its incorporation in 1983.

The new funding also fulfilled the government's 2007 election commitment to allow the ABC to increase the level of Australian drama that it produces to 90 hours per year, similar to that of the commercial broadcasters. As a result, the ABC is well placed to produce more quality programs. This increase in funding to the ABC also provided an important economic stimulus to the Australian production sector.

While the Government provides an overall level of funding for the ABC, it has no power to direct the ABC in relation to programming matters. Parliament has guaranteed this independence to ensure that what is broadcast is free of political interference. Internal ABC programming decisions are the responsibility of the ABC Board and Executive.

Recommendations of the Senate Environment and Communications References Committee
Recommendation 1

3.50 The committee recommends that the ABC ensure that it maintains an effective capacity to internally produce quality programming across the regions in addition to news, sport and current affairs. The committee notes that the increasing use of external producers has the capacity to diminish the ABC's independence and skill base.

Australian Government Response:
The ABC is committed to maintaining a significant capacity to internally produce quality programming across the regions in addition to news, sport and current affairs. The ABC makes television, including news and current affairs, in every state and territory. In other parts of the country it makes programs, including current affairs, for national broadcast. The ABC has stated that it remains committed to retaining a regional presence through internal programming, for example:
- the continuation of factual initiatives in South Australia and Western Australia;
- additional funding for Q&A to ensure it can broadcast from every capital city and some regional areas;
Anzac Day coverage will continue to be produced internally in each state and territory;
news and current affairs will be the mainstay in Western Australia, Northern Territory, Australian Capital Territory and Queensland;
South Australia will continue as a production hub via an ongoing prime time series, for example, Poh's Kitchen; and
an internal production team will be maintained in Hobart for Auction Room. Subsequent program commissioning in Tasmania will depend upon audience response to the Auction Room series.

The ABC Charter states that the ABC is required to broadcast programs of wide appeal and specialised broadcasting programs. It currently runs a national slate with some local news and some local affairs. The ABC is in the process of determining the best way to manage the system to the maximum benefit for Australians and will adjust its programming accordingly.

The Government does not consider the mixed production model diminishes the ABC's independence or skills base. The mixed production model harnesses the skills and experience of both the independent and ABC production teams, and ensures viewers benefit from seeing more quality Australian productions.

The ABC has advised that internal production can be more cost efficient on a per episode basis due to the volume of content created, and for some program formats and genres (for example, studio based magazine style programs). However, the ABC has further advised that external production is able to deliver efficiencies where the total budgets are relatively high (for example, drama production) and where the ABC could not afford to fund them itself without significantly reducing broadcasting hours. External partnerships also allow the ABC to access (and foster) ideas and talent from outside the ABC. External productions therefore play an important role in ensuring the ABC is able to meet its Charter obligation to broadcast programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community.

3.51 The committee calls on the ABC and the Minister for Broadband, Communications and the Digital Economy to identify and implement processes which ensure value for money, transparency and skill retention. In the context of the need to maintain the ABC's skills base, the committee calls on ABC management to immediately reassess the implications of any employment decision on its capacity to deliver quality programming across the network.

Australian Government Response:
Achieving value for money is an important consideration in all Australian Government budget and triennial funding decisions for the ABC. The government does not support the imposition of additional reporting requirements or accountability measures in relation to the ABC's programming strategy. The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money. The ABC is subject to a range of existing accountability mechanisms, including its annual report, various forms of parliamentary scrutiny including Senate Estimates, independent audits and triennial cost and performance reports.

The ABC has advised that it has a thorough commissioning framework which has been established over a considerable time. Editorial managers, genre heads, commission editors and channel controllers develop proposals in liaison with executive producers. All programming decisions are then based on the merit of the individual program. This ensures value for money while enhancing ABC TV's capacity to deliver quality programming.

The process of project development requires proposals to go through a number of 'gates'. These include Budget Review, Resources Assessment and Proposal Review. Projects are also assessed for OH&$ and insurance risk. Following development, genre heads propose projects to the Television Content Executive, which is chaired by the Director of Television and comprises the Controllers of ABC1, ABC2, ABC Children's, ABC Multiplatform, Head of Business and Operations, Head of Marketing and Head of
Strategy and Governance. ABC’s Content Executive then assesses projects against a range of criteria including financial, scheduling, editorial policy compliance and compliance with the Television Strategic Plan and the ABC Charter.

If a project is approved, it proceeds to the formal Commissioning Body. The Commissioning Body is chaired by the Head of Business Operations and comprises of representatives from Director of Television, Head of Strategy and Governance TV, Head of Business and Operations TV, Director of ABC Resources, Head of Business Affairs, Team Leader (Acquisitions and Production) ABC Legal, and Head of Financial Control. Other attendees may include a Group Audit Representative, Commissioning and Project Manager TV.

The ABC has advised that the highest levels of scrutiny are applied through the process to ensure transparency. In terms of the transparency of editorial decisions, the ABC's Editorial Policies have been reviewed and updated a number of times, most recently in 2011. Section 13 of the Editorial Policies deal with external funding and includes safeguards to protect the independence and integrity of the ABC. In particular, high levels of scrutiny and assessment are applied to all commissioning proposals. Decision-makers are required to apply detailed criteria, to know the source of external funds before arrangements are formalised, and to keep appropriate records.

The Government notes that employment decisions are a matter for the ABC Board and Executive.

**Recommendation 2**

3.69 The committee recommends that ABC management sets out in detail where it sees its future as a broadcaster and a content producer, and particularly with reference to the ABC Charter responsibilities of balancing programs of wide appeal and specialist interest as well as how ABC programming reflects the cultural and regional diversity of the Australian community.

**Australian Government Response:**

The ABC Board is responsible for compliance with the Australian Broadcasting Corporation Act 1983 (the ABC Act), which includes the ABC Charter. The Charter stipulates that the responsibilities of the ABC are to provide programming that reflects the cultural diversity of the Australian community as well as balance programs of wide appeal and specialist interest.

The ABC Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. The Strategic Plan states that the ABC will offer a wide choice of popular and niche content, including content that is uniquely Australian, it will deliver content that recognises the diverse needs and interests of audiences in different parts of Australia and around the world, and it will embrace diversity.

The ABC's Charter, Corporate and Strategic Plan are available at: www.abc.net.au/corp/pubs/documents.htm

The Australian Government does not support the imposition of additional reporting requirements in relation to the ABC's programming strategy. As previously stated, internal ABC programming decisions are the responsibility of the ABC Board and Executive.

**Recommendation 3**

3.74 The committee recommends that ABC management release a draft television production strategy for staff, community and private sector consultation, prior to its finalisation.

**Australian Government Response:**

The ABC has publicly released its Television Production Strategy 2011-2013, having earlier provided the strategy paper internally to ABC staff in December 2011. The development of its television production strategy is a matter for the ABC Board and Executive.

**Recommendation 4**

3.75 The committee recommends that the ABC consult with stakeholders prior to making significant changes to either internal creative and production structures or state-based activities.
Australian Government Response:

The Australian Government considers that it is a matter for the ABC Board and Executive as to how they choose to manage change within their organisation. The ABC has advised that it is committed to consulting with stakeholders within the agreed consultation framework when considering production changes.

The ABC Enterprise Bargaining Agreement 2010-2013 (the Agreement) outlines the process for consultation with staff, when the ABC has made a formal proposal to introduce a major change to production, program, organisation, structure or technology, and where this is likely to have a significant effect on the employees. This involves the ABC formally notifying all staff and unions covered by the Agreement and discussing how it will impact on them and the organisation. The ABC must give prompt and genuine consideration to matters raised about major workplace change.

In addition, the government is committed to restoring the position of a staff-elected director on the ABC Board. This position will enhance the ABC’s corporate governance by providing a mechanism through which staffing issues and perspectives can be formally brought to the attention of the ABC Board. In the case of the ABC management consulting with stakeholders prior to making significant changes to either internal creative and production structures, the staff-elected director will be well placed to ensure that relevant input from staff on these issues can be effectively communicated to the Board. An amendment restoring the staff elected position to the ABC Board is included in the National Broadcasting Legislation Amendment Bill 2010 which is due to be debated in the Senate.

Recommendation 5

3.76 The committee draws the attention of ABC management to the ABC Charter obligations to encourage and promote arts, including musical, dramatic and other performing arts' and calls on ABC management to urgently publish a strategy outlining how it can meet this obligation given the planned disbanding of the ABC arts unit.

Australian Government Response:

The ABC Board is responsible for compliance with ABC Act, which includes the ABC Charter. The Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. Given the existing reporting arrangements that are in place, the government considers that it is not necessary that the ABC publish a separate strategy outlining how it can meet this obligation.

The ABC advises it will continue to promote the musical, dramatic and other performing arts in Australia as is required under its Charter.

The ABC must continually review its programming to ensure it keeps pace with audience tastes and viewing habits and to ensure appropriate engagement with relevant issues in each genre, including the arts.

ABC Television advises it is committed to maintaining its position as the premier commissioner and distributor of innovative and engaging arts content for the widest range of Australian audiences on the widest variety of platforms.

The ABC has advised that the major areas of the arts with which ABC Television Arts will engage are:

- performing arts including ballet, opera and theatre;
- literature—fiction, non-fiction and poetry;
- film and television including animation;
- digital and transmedia arts practice;
- design and architecture;
- contemporary and classical music; and
- visual arts and photography.

Recommendation 6

3.87 The committee recommends that wherever appropriate the ABC include free archival use clauses in all future co-production contracts.

Australian Government Response:

The Australian Government supports this recommendation as far as practicable by the ABC.
The ABC has advised that it currently archives final copies of internal, fully funded co-produced and mixed funded co-produced television programs. Clauses requiring that a copy of these programs be made available to the ABC for archiving purposes are already included in contracts with independent producers.

The ABC has also advised that pre purchased and acquired content is not generally archived by the ABC as these programs are not made by the ABC. However, Screen Australia requires that copies of pre-purchased Australian programs that it funds are lodged with the National Film and Sound Archive.

In addition, ancillary material that forms part of a co-production is not necessarily passed on to the ABC. The ABC needs to assess on a case-by-case basis its resourcing capacity to hold such items and the value of keeping them to the ABC and the Australian community.

The ABC has further advised that items archived by the ABC, depending on rights, are available upon request, however, a cost (and appropriate rights clearances) may be associated with access to archived material. The ABC has a policy of contributing archival material it owns to independent ABC productions or co-productions on a non-cash basis. That is, the value of the archive material forms part of the ABC's overall contribution to the production and may be counted as either part licence fee or equity.

Recommendation 7

3.99 The committee recommends that the ABC publish annual targets of regional content on ABC television against which it reports in order to meet its Charter obligation to 'reflect the cultural diversity of the Australian community' and to promote ongoing internal program production in the BAPH states and regional Australia.

Australian Government Response:

The Australian Government does not support this recommendation as it may interfere with the ABC's editorial independence and would not allow it flexibility in programming decisions.

Setting and reporting against targets for 'regional content' will not necessarily promote regional program production, as the production locale does not necessarily reflect the nature of the content. In addition, the fluid nature of television production does not lend itself to hard targets for 'regional content' and may produce inefficient outcomes.

As previously stated, the ABC is committed to maintaining internal production in regional areas, including the BAPH states, to provide local content including news, sport and current affairs. It is also committed to maintaining external program production through initiatives such as the factual agreements in Western Australia and South Australia.

The ABC Board is responsible for compliance with the ABC Act, which includes the ABC Charter. The Board must also prepare corporate plans for the ABC, including a Strategic Plan which addresses how they will meet their obligations under the ABC Act. Given the existing reporting arrangements that are in place, the government considers that it is not necessary that the ABC publish annual targets of regional content on ABC television.

Recommendation 8

3.132 The committee recommends that the ABC actively manage its production facility infrastructure, particularly in the BAPH states, so that it is utilised as effectively as possible.

Australian Government Response:

The Australian Government considers that the management of production facility infrastructure is a matter for the ABC Board and Executive.

The ABC has advised that it actively manages its production infrastructure through comprehensive internal processes across Divisions to promote the most effective utilisation of its production assets as possible.

The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money.

Recommendation 9

3.133 The committee recommends that the government take into account the findings of the Convergence Review about the structure of
the media market and investment in
Australian content by all broadcasters when
considering the ABC's funding needs in the
forthcoming triennial funding round.

Australian Government Response:
The Convergence Review committee
published its final report on 30 April 2012. The
Government delayed consideration of the
triennium funding process by one year so that the
outcomes of the Convergence Review could be
taken into consideration in this process. The
Government will assess the recommendations of
the Convergence Review and how they may
affect the national broadcasters in preparing its
response to that review.

Recommendation 10
3.148 The committee recommends that as
part of the triennial funding round, the
government consider the ABC's capacity to
maintain a critical mass of staff, skills,
infrastructure and production in regional
areas.

Australian Government Response:
The Australian Government notes this
recommendation. Funding requirements for the
ABC will be considered in the context of the next
triennial funding round.

As part of the next triennium funding round, the
ABC is required to complete a review into the
efficiency and effectiveness of the previous
triennium funding agreement. The Government
will use this review to assess how well the ABC
has utilised its resources to deliver services in line
with its Charter.

Recommendations of the Australian Greens
Recommendation 1
2.11 The Australian Greens recommend
that the ABC engage an external provider to
do a performance and financial audit of
the Television division's production
commissioning model and to recommend ways
to improve the transparency of the ABC's
commissioning decisions, including an
articulation of the willingness of ABC
management to consider internal staff
proposals for programming ideas.

Australian Government Response:
The Australian Government considers this to
be a matter for the ABC Board and Executive.

The ABC has advised that it will revise its
current strategy for receiving and assessing
projects put forward by ABC staff. Guidelines
will be placed on the intranet, there will be a six-
week response on submissions and a quarterly
report will be provided to the Managing Director.

The ABC also notes that consistent with the
ABC's commissioning framework, it assesses
each idea for new programs submitted by team
members on its merits. For example, the idea for
the new program Auction Room was generated
from within the Collectors production team.

Recommendation 2
3.5 The Australian Greens recommend that
ABC management reconsider its decision to
axe its only TV arts magazine program and
disband the television arts unit, and instead
retain a team of specialist arts programmers
for the creation and commissioning of quality
arts content including critical, review type
programming.

Australian Government Response:
The Australian Government considers that
programming decisions are a matter for the ABC
Board and Executive.

As noted previously, the government provides
an overall level of funding for the ABC, but has
no power to direct the ABC in relation to
programming matters. Parliament has guaranteed
this independence to ensure that what is broadcast
is free of political interference.

The ABC has advised that it is committed to
fulfilling its responsibility as set out in the
Charter to encourage and promote the musical,
dramatic and other performing arts in Australia.
The ABC is currently reviewing the arts unit, and
will retain a smaller production team as a result.
This production team will consist of an Executive
Producer, a Production Manager, a Production
Assistant, a Gateway Editor and a Creative
Shooter/Editor.

These individuals will form a team to curate
all the arts material from across the ABC, foster
and manage the flow of incoming content from
major stakeholders including galleries,
individuals, ABC Open and ABC Regional. They
will also be responsible for covering major events, festivals and creating a level of unique content for the Gateway. There will also be an additional Creative Shooter/Editor position in Sydney created to further cover the major art centres. These individuals will work full time on Arts.

Recommendation 3

3.6 The Australian Greens recommends that the ABC adopt a mandated proportion of regional content on ABC television in order to meet its Charter obligation to 'reflect the cultural diversity of the Australian community'.

Australian Government Response:

The Government considers that it would be inappropriate to mandate a proportion of regional content on ABC television, as it would encroach on the integrity and independence of the ABC. Forcing a mandated proportion of regional content could inhibit the ABC Board when making decisions about meeting its obligations as set out in the ABC Charter. The ABC Board is responsible for ensuring that the programming mix is effective and delivered efficiently.

The ABC has advised that it has employed specialist staff to work with internal staff and the independent production sector to determine an appropriate program mix. These specialists will ensure that the ABC is well placed to respond flexibly to a dynamic and competitive environment. The ABC has further advised that forcing the ABC to have a certain percentage of regional content may result in the ABC missing valuable opportunities in other areas, and a reduction in the overall quality of programming on the ABC.

Recommendations of Independent Senator Nick Xenophon

Recommendation 1

1.30 The August 2, 2011 announcement of forced redundancies to be reversed and the level of ABC internal program production be restored and maintained at least at 2010 levels on an ongoing basis.

Australian Government Response:

The Australian Government considers that staffing and programming decisions are a matter for the ABC Board and Executive.

This recommendation is, in part, addressed in the response to Recommendation 1 of the main report.

Recommendation 2

1.31 The ABC engage an independent external provider to conduct a performance and financial audit of the Television division's production commissioning model and to recommend ways to improve the transparency of the ABC's commissioning decisions, including reference to the recent SAFC FACTory initiative and Screen West outsourcing arrangements.

Australian Government Response:

The Australian Government does not support the imposition of additional reporting requirements or accountability measures in relation to the ABC's programming strategy. The ABC is accountable for the funding it receives through a comprehensive governance and reporting regime which ensures that it remains transparent and provides value for money. The ABC is subject to a range of existing accountability mechanisms, including its annual report, various forms of parliamentary scrutiny including Senate Estimates, independent audits and triennial cost and performance reports.

The ABC has advised that it has a thorough commissioning framework which has been established over a considerable time. Editorial managers, genre heads, commission editors and channel controllers develop proposals in liaison with executive producers. All programming decisions are then made based on the merit of the individual program. This ensures value for money while enhancing ABC TV's capacity to deliver quality programming.

Recommendation 3

1.32 The committee recommends the Minister for Communications stipulates that as part of the ABC's next triennial funding allocation, the ABC quarantine funding for the National Interest Initiative (Nil) and the Regional and Local Program Initiative (RLP)
to promote ongoing internal program production in the BAPH states.

Australian Government Response:

The Australian Government does not agree with this recommendation.

The government made the decision in the 2009-10 Budget that the funds for the National Interest Initiative (NII), also known as Regional and Local Programming (RLP) initiatives, be incorporated into the ABC's ongoing base funding in order to provide a greater level of certainty for the level of services achieved with this funding.

The ABC has advised that it continues to apply these funds to programming activities in line with the purpose for which they were originally provided. For example, in 2011-12, ABC TV committed $7.25 million to the regional/rural programs through the National Interest Initiative funding, including:

- Croc College; Croker Island; Country Town Rescue; Baymawarranga; Conisdon; Edge of Nowhere; Homeward Bound, The Strange Calls; and Chateau Chunder.
- The following programs are currently in development: Under The Flight Path; Dream House; GR8; Jo B G Raft Bubble Bath Bay; and Little Lunch.

AUSTRALIAN GOVERNMENT RESPONSE TO SENATE STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE'S FINAL REPORT:

PROCUREMENT PROCEDURES FOR DEFENCE CAPITAL PROJECTS

Executive summary

1. The Government welcomes the Senate Standing Committee on Foreign Affairs, Defence and Trade References Committee's final report Procurement procedures for Defence capital projects. Government understands the importance of reform to Defence's capability procurement. This is why Government has already initiated action on a number of procurement reforms, including:

   a. project management accountability;
   b. progress with the Projects of Concern process;
   c. reforms to Support Ship Repair and Management Practices (the Rizzo Report);
   d. capability and procurement reforms; and
   e. reforms in the sustainment of Australia's Collins Class submarines (the Coles Review).

2. This is also why the lessons learnt from the Coles Review will also play an important role in the development of the Future Submarine Project, including the need to take a long term view of maintenance and sustainment of the Future Submarine from the outset of the project.

3. The Government remains committed to progressing further capability development and procurement reforms that will enhance the delivery of Defence capability projects, strengthen Australian Defence industry and improve accountability. In this light, Government has carefully examined this 334 page report to see what further insights might be offered. From this review, of the report's 28 recommendations, the Government has:

   a. agreed in full to 13 recommendations;
   b. agreed in principle to four recommendations (Recommendations 5, 10, 11 and 19);
   c. agreed in part to seven recommendations (Recommendations 2, 3, 4, 6, 15, 16 and 26).

4. The Government notes the report's emphasis on increasing the role of the Capability Managers, which is why the Government has also agreed Recommendations 2, 3 and 4 in part. These recommendations relate broadly to increasing and enhancing the role of Capability Managers in capability acquisition, and Defence supports this intent. In this respect, Defence has already undertaken a range of initiatives to strengthen the role of Capability Manager's in this process. However, Defence does not agree to the aspects of these recommendations that suggest transferring financial resources for acquisition to Capability Managers. Funding following government approval is provided to Defence Materiel Organisation (DMO) to improve DMO's authority and accountability for outcomes (that is, the delivery of the materiel equipment elements of a project).
5. Apart from agreeing to these 24 recommendations, for the remaining four recommendations, these were not agreed as follows:

a. Recommendation 9 (DMO's independence). The Committee's recommendation is inconsistent the Government's previous public advice. The DMO will continue as it is, as a prescribed agency. Both the Kinnaird and Mortimer reports have previously recommended DMO become an executive agency. However, governments of both political persuasions have not accepted these recommendations.

b. Recommendation 13 (Capability Managers have sole responsibility for acquisition projects). Having the Capability Managers with sole responsibility for acquisition projects is contrary to the current business model approved by Government following the Kinnaird Review. A recent review undertaken by Independent Project Analysis Inc., an independent international benchmarking organisation, made the observation the current organisational structure with materiel equipment acquisition centralised in DMO is consistent with best practice. Nevertheless, cognisant of the intent of this recommendation, Defence will examine Recommendations 2, 3 and 4 to ensure the primacy of the Capability Managers is maintained in the acquisition process.

c. Recommendation 17 (Respond publicly to the Committee's criticisms about lessons not learnt and current planning on submarines). As SEA 1000 is still pre-first pass, it is premature to respond to criticisms raised by the Committee. The project will be brought through the normal first and second pass process to ensure appropriate lessons are applied and the necessary contestability is applied to affirm this.

d. Recommendation 20 (Publish as an addendum to its portfolio budget statements). The reporting requirements proposed by this recommendation would mix data from pre-second pass activities, when option sets are being developed, against costs detailed in an acquisition contract versus the evolving costs for the sustainment of a capability as it matures and ages. The existing Portfolio Budget Statement reporting enables data to be appropriately compared via the extant reporting mechanisms and avoids creating significant overheads with little obvious benefit.

Overview of report

1. The Senate Standing Committee on Foreign Affairs, Defence and Trade References Committee's final report Procurement procedures for Defence capital projects was reviewed based on the eight specific areas and 28 recommendations contained in the report. Table 1 summarises the report's structure and the Government's response to each recommendation.

Table 1: Summary of Recommendations

<table>
<thead>
<tr>
<th>Recommendation Category</th>
<th>Recommendation No</th>
<th>Response</th>
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<tbody>
<tr>
<td>Realignment of responsibilities</td>
<td>Recommendation 1</td>
<td>Agree (in part)</td>
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<tr>
<td></td>
<td>Recommendation 2</td>
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<td></td>
<td>Recommendation 4</td>
<td>Agree (in part)</td>
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<td>Contestability and independence</td>
<td>Recommendation 5</td>
<td>Agree (in principle)</td>
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<td></td>
<td>Recommendation 6</td>
<td>Agree (in part)</td>
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<td>Recommendation 7</td>
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<td>Skilling Defence</td>
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<td>Future submarines</td>
<td>Recommendation 17</td>
<td>Agree</td>
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<tr>
<td>SEA 1000</td>
<td>Recommendation 18</td>
<td>Agree</td>
</tr>
<tr>
<td>AIR 8000 Phase 2 (Battlefield Airlift Caribou replacement)</td>
<td></td>
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</table>
Analysis of report's findings

2. The report suggests there is a growing disconnect between strategic guidance and capability development, confused accountabilities, poor appreciation of risk, and a need for structural reform in Defence procurement. Government supports the thrust of the report's findings and Defence is already implementing a number of initiatives which will address some of the Committee's concerns.

3. In particular, Government has already initiated action on a number of procurement reforms, including:

   a. project management accountability;
   b. progress with the Projects of Concern process;
   c. reforms to Support Ship Repair and Management Practices (the Rizzo Report);
   d. capability and procurement reforms; and
   e. reforms in the sustainment of Australia's Collins Class submarines (the Coles Review).

4. This is also why the lessons learnt from the Coles Review will also play an important role in the development of the Future Submarine Project, including the need to take a long term view of maintenance and sustainment of the Future Submarine from the outset of the project.

5. Nevertheless, Government will draw upon the advice in the Committee's report and integrate this advice into existing reforms. Within Defence, the Capability Development and Materiel Reform Committee will progress such matters.

Areas of agreement

6. The following are areas where there is broad agreement with the report:

   a. The need for continuous improvement, as evidenced already with a range of capability development and acquisition reforms.
   b. Providing personnel with the right skilling to perform their duties.
   c. Recognising there are critical skills (e.g. engineers) where Defence needs to attract these skilled personnel.
   d. Where possible, encouraging longer tenures.
   e. As per the Black Review, Defence agrees there is a need for an alignment of accountability and responsibility.
   f. While risk management policies and procedures are in place, further training in the application of these may be worth exploring.
   g. Building an improved test and evaluation (T&E) capability, including the development of an equal stakeholder relationship between the Services T&E organisations and the Defence Science and Technology Organisation (DSTO), enabling the early engagement (pre-first pass) of T&E activities for the identification and mitigation of risks.

7. The rationale for agreeing in principle to these four recommendations is as follows:

   a. Recommendation 5 (Mandatory gate reviews). Recommendation 5 reflects current practice as defined in Gate Review policy documentation. However, Gate Reviews have not been held for 'DCP Entry' as there is currently no clear milestone for this event and at that point there is often little for the Defence Materiel Organisation (DMO) to review. The first clear and useful milestone is Project Initiation and Review Board (PIRB) and corresponding Project Initiation and Options Definition Gate Reviews have been instituted.

   b. Recommendation 10 (DSTO's independent advice). While, there is no precedent for a Ministerial Directive to a Defence group head, the Chief Defence Scientist (CDS) is currently
required by government to advise on technical risks for all major capability submissions. This was confirmed in the government's response to the Mortimer Report. Defence's existing processes ensure that DSTO advice is both independent and available without modification and CDS's advice on technical risks is included verbatim in the submission to Cabinet.

c. Recommendation 11 (DSTO and risk assessments). Defence agrees to strengthen the role of the Technical Risk Assessment (TRA) in test and evaluation (T&E) by ensuring the TRA addresses the potential for T&E. Defence is of the view that the TRA is best conducted by technical experts in DSTO and should remain as independent advice. All submissions currently presented to Government on major capital projects include advice on technical risks that are provided directly by the Chief Defence Scientist. To ensure that the risks are appropriately described and presented, DSTO provides training in technical risk assessment and has implemented a review group to ensure the quality of TRAs.

d. Recommendation 19 (2013 White Paper). Recommendation 19 contends that, in developing the 2013 White Paper, Defence should ensure that all procurement proposals are costed and scheduled realistically, and that industry should be comprehensively consulted prior to the inclusion of procurement proposals. Defence notes that the approach taken in the development of this White Paper is somewhat different to that used to develop the 2009 White Paper, and that procurement proposals will continue to be developed and considered through the current two-pass capability development process. Defence also considers that the way in which in the 2013 White Paper is developed, the inclusion of capability proposals and the consultation processes are properly decisions for Government.

8. The seven recommendations agreed in part are as follows:

a. Recommendations 2, 3 and 4 (Capability Managers, DMO and Capability Development Group (CDG)). Both Kinnaird and Mortimer recommended that service chiefs should be accountable for service specific procurements in the context of a stronger assurance role to ensure that there is appropriate oversight and coordination of all elements necessary to introduce a capability. For example, Kinnaird stated that "Capability managers will be accountable for monitoring and reporting to Government for the whole of capability from the point where government approves a particular capability option, that is at second pass approval, through to the time that the capability is retired from service. During the acquisition phase, the capability manager monitors the development of all capability elements, including equipment delivery by the DMO. This responsibility does not imply any authority to directly instruct the DMO on any aspect of its function as the manager of equipment acquisition." In addition, a recent review undertaken by Independent Project Analysis, an independent international benchmarking organisation, made the observation that the current organisational structure with materiel equipment acquisition centralised in DMO is consistent with best practice. However, Defence does not agree to the aspects of these recommendations that suggest transferring financial resources for acquisition to Capability Managers. Funding following government approval is provided to DMO to improve DMO's authority and accountability for outcomes (that is, the delivery of the materiel equipment elements of a project). This approach has previously been weed by Government following the Kinnaird review and reinforced by the Mortimer review.

b. Recommendation 6 (Relocation of Independent Project Performance Office). The Independent Project Performance Office (IPPO) was specifically formed in the DMO following the Mortimer Review to improve DMO's project management performance through the provision of expert analysis, advice and assistance to DMO projects. This ensures the necessary commercial, engineering and project management expertise is readily available and brought to bear in an environment of management ownership, accountability and follow through. The relocation of the IPPO outside of DMO would diminish the effectiveness of this arrangement. The remainder of Recommendation 6 is agreed.

c. Recommendation 15 (streamlining and consolidation of skills). Defence does not agree to adopt in full the recommended organisational
changes specified in Recommendation 13. However, Defence agrees that Strategic Policy Division and CDG should have more strategic analytical skills. Defence agrees that DMO has the resources and support to build on the efforts already under way to develop its multi-discipline skills base.

Following from the recommendations of the Black review, further work is currently being undertaken to build the skills base of CDG and DMO, including optimising the utilisation of the Capability and Technology Management College to provide better and more focused support to CDG and DMO. The Australian Public Service (APS) Job Families and business skilling initiatives will drive skill development of the military as well as the APS Strategy workforce.

d. Recommendation 16 (Chief of Navy to manage SEA 1000). As you announced on 6 September this year, Mr David Gould has been appointed as General Manager Submarines and he has been given responsibility for the oversight of the maintenance of the current Collins Class fleet and the Future Submarine Project. Hence, the intent of this recommendation has been met, but management of SEA 1000 will be overseen by Mr Gould rather than Chief of Navy. The remainder of Recommendation 16 is agreed.

e. Recommendation 26 (Planning for investment). Defence recognises the importance of certainty to industry and continues to improve the planning for the Public Defence Capability Plan within the inherent limitations of the project development environment. The Public DCP is intended to provide as much information as is known within the four year Forward Estimates period. The DCP and Defence Capability Guide seek to provide as much information as possible, noting that an increasing level of uncertainty is inevitable in the outer years. The Department will engage with industry to address the level of information that can be generated and published about projects plans at early stages of their development. Although Defence regards continuity as an important aspect of maintaining the supply chain, the timely delivery of required military capabilities must remain the key feature of capability planning. Defence agrees that to the extent permissible to protect sensitive information, data on the reasoning and analysis underlying Defence's demand can be published. Defence agrees to publish information based on the most reliable cost estimates it is able to generate, noting again the inherent uncertainty for projects in the outer years.

9. Notably, Defence has agreed to Recommendations 2, 3 and 4 in part. These recommendations relate broadly to increasing and enhancing the role of Capability Managers in capability acquisition, and Defence supports this intent. In this respect, Defence has already undertaken a range of initiatives to strengthen the role of Capability Manager's in this process, as outlined in paragraphs 14 to 16 below.

Aspects of report not agreed

10. Defence has not agreed to four recommendations on the basis that some activities are no longer undertaken for very sound reasons or that, even reflecting the Committee's considered views, there are sound reasons to adopt an alternative approach in some cases.

11. The four recommendations not agreed are as follows:

a. Recommendation 9 - DMO becoming a statutorily independent agency. The Government has previously considered whether DMO should be an executive agency, as has past governments. In each case, the decision has been made after careful consideration to have DMO as a prescribed agency.

b. Recommendation 13 - Service Chiefs as sole client with the contracted suppliers. The report envisages the accountability for all service specific procurement items should be exclusively transferred with budgets to Service Chiefs, who should be responsible for all procurement and sustainment of their materiel. The Committee also envisages the movement of individuals between DMO and the Capability Manager at varying times in the project phases. This recommendation is quite contrary to the current business model approved by Government following the Kinnaird Review. A recent review undertaken by Independent Project Analysis Inc, an independent international benchmarking organisation, made the observation the current organisational structure with materiel equipment
acquisition centralised in DMO is consistent with best practice. Whilst not agreeing to Recommendation 13, Defence will examine Recommendations 2, 3, 4 and 13 to ensure the primacy of the Capability Managers' role is maintained. Defence's Capability Development and Materiel Reform Committee will progress this matter.

c. Recommendation 17 - Respond publicly to the Committee's criticisms about lessons not learnt and current planning on submarines. As SEA 1000 is still pre-first pass, it is premature to respond to criticisms raised by the Committee. The project will be brought through the normal first and second pass process to ensure appropriate lessons are applied and the necessary contestability is applied to affirm this.

d. Recommendation 20 - Additional PBS reporting. The reporting requirements proposed by this recommendation would mix data from pre-second pass activities, when option sets are being developed, against costs detailed in an acquisition contract versus the evolving costs for the sustainment of a capability as it matures and ages. The existing Portfolio Budget Statement reporting enables data to be appropriately compared via the extant reporting mechanisms and avoids creating significant overheads with little obvious benefit.

Clarifications

12. Report contradictions. Defence considers that the report contains some internal contradictions which means that accepting one recommendation would have an adverse impact on another of the report's recommendations. For example, the recommendations to empower the Capability Managers (Recommendations 2, 3 and 13) are contrary to ensuring DMO's independence, with adequate resources (Recommendations 9 and 14). The Government understands the intent of the report and intends to take a holistic perspective to both the report's recommendations and extant reform measures. Thus, for example, Defence is already updating the Memorandum of Arrangements (MOA) between Defence and DMO. This MOA will be used to ensure the relationship between the Capability Managers and DMO is adequately described and agreed.

13. Capability Manager roles and joint capabilities. The report identifies that "capability managers have been sidelined with CDG and DMO assuming key positions during the acquisition phase" and "capability managers require the authority that now resides with CDG as departmental coordinator and centre of power" (both quotes from para 15.39 of the report).

14. Defence has recognised that there is room for improvement in these areas and has made a number of changes to its practices over the past six months to address these issues, including:

a. providing authority to Capability Managers through including them as a signatory, together with CDG and DMO, on Materiel Acquisition Agreements (MAAs); and

b. the implementation of Capability Manager Steering Groups to assist Capability Managers to review, monitor and control the process and progress for their post-second pass projects as these projects progress through the acquisition process.

15. The report's discussion on Capability Managers focuses on each of their capability areas. In this context, Defence is also taking a number of steps to better integrate capability to support Joint Force Operations and the Joint Force-in-Being. It is also important to recognise that while the Service Chiefs and Deputy Secretary Intelligence and Security have clear and easily identifiable responsibilities for the delivery of capabilities and materiel that will be operated in the maritime, land, air and intelligence environments, there are some joint capabilities that do not fit neatly within any one of their areas of responsibility alone.

16. This is particularly the case for joint command, control, communication, computer, intelligence, surveillance, reconnaissance, electronic warfare and ICT-dependent operational capabilities. Under Defence's Capability Coordination Model, a Capability Coordinator is designated to ensure delivery of a cohesive joint capability that will meet the needs of the Capability Managers and Chief of Joint Operations. Where this model is invoked, the Capability Coordinator is required to engage closely with the Services and Groups to ensure their requirements are understood, and that all
parties are kept informed of any issues and the status of the capability. The Vice Chief of Defence Force, as the Joint Capability Authority, is responsible for:

a. ensuring that new and extant capabilities are developed in accordance with joint concepts and doctrine;

b. appointing Capability Coordinators to be responsible for the delivery of joint capabilities that service the ADF and Defence; and

c. providing the conceptual basis for the future joint force and integration of its component capabilities.

17. Recommendation 18 - AIR 8000 Phase 2 Statement of Operational Requirement (SOR). This recommendation implies Air Force did not intend to conduct T&E against the approved SOR. This is not correct. As part of the acquisition process, T&E results from the United States Air Force (USAF) for the capability will be reviewed and the Aerospace Operational Support Group will conduct T&E against key requirements to provide early identification of potential issues with the AIR 8000 Phase 2 project that could delay introduction into service. Whilst formal T&E against the SOR was not conducted prior to second pass, evaluation of the capability against the requirements was completed using evidence available from both the manufacturer and USAF to further mitigate risk of any non-compliance with the SOR.

18. Paragraph 8.54 — DSTO moral hazards and conflicts of interest. Paragraph 8.54 of the report states "there is another matter of concern with potential conflicts of interest or moral hazard in that the opportunities for collaborative activities and funding have in the past driven DSTO to recommend a course of action that may not be in Defence's best interest". Without any reference or further details to validate this statement. Defence refutes this statement. As both a developer and an adviser on technology to Defence, DSTO recognises the potential conflict of interest and has established an independent Probity Board to advise the Chief Defence Scientist on how to manage any potential conflicts, including through independent review of DSTO's advice.

Way ahead

19. There are aspects of this report where its advice can be incorporated into existing reform activities. The governance and oversight of all these activities will be provided by the Capability Development and Materiel Reform Committee, which is chaired by the Chief Executive Officer Defence Materiel Organisation. Such an approach avoids creating unnecessary, duplicative reporting mechanisms.

Australian Government Response to the Report of the Senate Select Committee on Men's Health

LIST OF ABBREVIATIONS

ALSMH Australian Longitudinal Study on Male Health
ALSWH Australian Longitudinal Study on Women's Health
FMA Financial Management and Accountability Act 1997
FSP Family Support Program
MBS Medicare Benefits schedule
MSOAP Medical Specialist Outreach Assistance Program
MSOAP- ICD Medical Specialist Outreach Assistance Program – Indigenous Chronic Disease
NPA IPHS National Partnership Agreement on Improving Public Hospital Services
NPA HHWR National Partnership Agreement on Hospital and Health Workforce Reform
NPA PHR National Partnership Agreement on Preventive Health
NHMRC National Health and Medical Research Council
PBS Pharmaceutical Benefits Scheme
PCFA Prostate Cancer Foundation of Australia
RPHS Rural Primary Health Services
INTRODUCTION

1. The Australian Government welcomes the report of the Senate Select Committee on Men's Health and the opportunity to respond to its recommendations. The Australian Government is committed to improving the health of Australian males and has achieved significant milestones in the area of male health in the context of a broad health reform agenda to improve health outcomes for all Australians.

2. The overarching policy initiative to address male health was the release in May 2010 of the National Male Health Policy (the Policy; Attachment A). The Policy, a 2007 election commitment, is only the second male health policy to be released worldwide and places Australia at the forefront in addressing male health issues. The overarching aim of the Policy is to provide a framework for improving the health of all males across Australia and achieving equal health outcomes for population groups of males at risk of poor health.

3. The assumptions underpinning the Policy, drawn from the consultation process and an extensive review of the literature conducted during its development, are:
   • The health of Australian males is important.
   • There are health inequities between males and females.
   • Not all male population groups have the same health outcomes.
   • Health is holistic.

4. The Policy sets six key priority areas for action.

5. Priority 1: Optimal health outcomes for males – Develop and deliver health-related initiatives and services taking into account the needs of Australian males and ways of promoting optimal health outcomes for males.
   • Increase recognition at all levels of the valuable roles males play.
   • Encourage programs and policies to take account of the needs of males compared to females and differential impacts on groups of males.
   • Develop and modify programs and courses to develop workforce capacity in male health.

6. Priority 2: Health equity between population groups of males – Develop and deliver health-related initiatives and services taking into account the needs of different population groups of Australian males and ways of promoting health equity between different groups of males.
   • Encourage priority to be given to males that are most disadvantaged.
   • Encourage tailored health promotion programs and services that are readily accessible for groups of males.
   • Encourage priority of funding for services that promote positive, family-oriented approaches in Aboriginal and Torres Strait Islander male health.

7. Priority 3: Improved health for males at different life stages – Develop and deliver health-related initiatives and services taking into account the needs of Australian males and different population groups of males, in different age groups and during key transition points in the life course.
   • Actively promote and value the role of males as fathers.
   • Explicitly recognise the positive roles of Aboriginal and Torres Strait Islander males in their traditional roles.
   • Encourage health service providers to make use of transition points in male lives for positive health promotion opportunities.

8. Priority 4: A focus on preventive health – Develop and deliver health-related initiatives and services taking into account the needs of Australian males and different population groups of males at risk of poor health outcomes.
• Encourage employers to collaborate with key health organisations to deliver workplace health programs.

• Develop preventive health and health promotion activities that focus on males with the poorest health outcomes.

• Continue strengthening health awareness raising actions especially addressing mental health and wellbeing, preventing chronic disease, improving sexual and reproductive health, and reducing risky behaviours.

• Encourage collaborations to deliver consistent and evidence-based health promotion messages and programs.

• Continue to encourage safe work practices and improve the health of males in the workplace.

9. Priority 5: Building a strong evidence base on male health – Build the evidence base, particularly in relation to population groups of males at risk of poor health; widely disseminate evidence; and use it to inform the development of policies, programs and initiatives.

• Give attention to research addressing the social determinants of health, and particular groups of males such as those from rural and remote areas and Aboriginal and Torres Strait Islander males, and involve Aboriginal and Torres Strait Islander males in partnership arrangements in research.

• Regularly collect and report data on sex, geographic location, sexual orientation and other demographic factors.

• Routinely build evaluation of health outcomes into health programs and services, and widely disseminate the outcomes, including to males.

• Explore the potential for surveys such as the Australian Health Survey to collect male data especially for marginalised groups.

• Monitor scientific developments to inform evidence-based approaches to preventive health.

10. Priority 6: Improved access to health care for males – Tailor health care services and initiatives to facilitate access by males, particularly in relation to population groups of males at risk of poor health.

• Encourage health service providers to deliver services in ways that are responsive to male needs including extending opening hours and programs such as the Father's Day Health Checks.

• Encourage health services targeting Aboriginal and Torres Strait Islander males to work in partnership with Indigenous males and provide culturally appropriate services.

• Encourage health care services to recognise that some groups of males feel marginalised and put in measures to counteract this, for example, providing males or staff from diverse backgrounds where possible, and ensuring a variety of literature in the waiting room.

• Encourage general practice to take up incentives for evidence-based chronic disease health checks.

11. To accompany the release of the Policy, the Australian Government has committed $16.7 million to support male health programs. This includes:

• $6.9 million over four years for Australia's first national longitudinal study on male health.

• $6 million over three years to promote the role of Aboriginal and Torres Strait Islander men as fathers and partners, grandfathers and uncles, and encourage them to participate in their children's and families' lives, especially in the antenatal period and early childhood years (the Strong Fathers Strong Families Initiative).

• $3 million over four years to support Men's Sheds across Australia through the Australian Men's Shed Association.

• $400,000 over four years for regular statistical bulletins on male health.

• $350,000 over four years for the development of a range of health promotion materials targeting males.

12. In August 2010, following the release of the Policy, the Minister's Male Health Reference Group (the Group) was established to advise on progress in addressing male health policy challenges and to ensure an ongoing focus on male health. The Group was established by the Hon Warren Snowdon MP, Minister for Veterans'
Recommendation 1
The Committee recommends that the Commonwealth Government give due consideration to the findings of this committee and to the evidence gathered by it in the course of this inquiry in developing the National Men's Health Policy.

Response
14. The development of the National Male Health Policy (the Policy) was informed by a wide range of sources including a thorough review of male health literature and extensive consultation with male health stakeholders, including experts, consumers and policy and program stakeholders. Broad ranging Policy Consultation Forums were conducted across Australia during 2009, with more than 1300 people participating in 26 public forums held in regional and metropolitan locations in each State and Territory. Individuals and organisations also made more than 90 submissions which were considered in the development of the Policy. The Policy therefore reflects the views of males, male health experts, policy makers and program deliverers across Australia.

15. The evidence gathered in the course of the Senate Inquiry contributed to the development of the Policy and the six priority areas noted for action. For example: the specific health needs of Aboriginal and Torres Strait Islander males and gay males highlighted in the Inquiry, contributed to the development of Priority 2 'Health equity between population groups of males' in the Policy. Both Aboriginal and Torres Strait Islander males and those who are gay, bisexual, transgender, or from intersex groups, are identified as those at risk of poor health outcomes.

16. Similarly, the Inquiry's recognition of the need for education and awareness raising in regard to men's health and the specific factors that impact on men's health outcomes contributed to the development of Priority 5 'Building a strong evidence base on male health' and Priority 6 'Improved access to health care for males'.

17. The Policy is further supported by nine supporting documents (Attachment B) that provide a comprehensive assessment of the evidence relevant to male health, current actions and potential future actions for key areas addressed in the Policy. The supporting documents are:
- Social Determinants and Key Actions Supporting Male Health
- Healthy Minds
- Healthy Routines
- Healthy Reproductive Behaviours
- Healthy Limits
- Healthy Workers
- Access to Health Services
- Action Males can take Now
- National Aboriginal and Torres Strait Islander Males Health Framework Revised Guiding Principles

18. The broad range of sources that contributed to the development of the Policy has ensured a document that recognises the significant strengths of males in Australia as well as highlighting the challenges in male health and possible policy and program responses.

Recommendation 2
The Committee recommends that legislative drafting instructions and administrative procedures applying in all Commonwealth Government departments and agencies include a mandatory requirement that they consider the impact of legislation and policies on men as well as women.
Response

19. The Australian Government is committed to ensuring all people are able to participate in society and receive the protection of the law, regardless of their sex or gender. The Sex Discrimination Act 1984 prohibits discrimination on the basis of sex in a range of public activities including work, accommodation, education, the provision of goods, facilities and services, the activities of clubs and the administration of Commonwealth laws and programs.

20. Commonwealth anti-discrimination legislation is located in four separate and distinct laws: the Racial Discrimination Act 1975, the Sex Discrimination Act 1984, the Disability Discrimination Act 1992, and the Age Discrimination Act 2004. The Australian Government is seeking to consolidate the federal anti-discrimination laws and provide the opportunity to explore opportunities to improve the effectiveness of the legislation to provide equality of opportunity to participate and contribute to the social, economic and cultural life of our community. A single Act will address current inconsistencies and make the system more user-friendly by clarifying relevant rights and obligations. Importantly, there will be no diminution of existing protections currently available at the federal level.

21. The impact of gender on health outcomes and the experience of the health system are widely acknowledged. Gender issues are routinely considered by the Australian Government in policy planning, research, implementation and evaluation to ensure that gender inequities are not perpetuated and national resources and knowledge are distributed appropriately. The importance of gender equity is one of the foundation principles of both the National Male Health Policy and the National Women's Health Policy 2010.

22. The Department of Families, Housing, Community Services and Indigenous Affairs has a significant role in considering the impact of legislation and policy on men and women. This is pursued through avenues such as reviewing submissions of portfolios from across government, prior to consideration by Cabinet, advising on and making recommendations that will achieve gender-equitable outcomes.

23. A range of other initiatives to promote and support the consideration of the impact of legislation and policies on men and women are being implemented. For example, the establishment of a Gender Panel, a procurement panel of gender experts, by the Department of Families, Housing, Community Services and Indigenous Affairs was announced in March 2011. The Gender Panel provides opportunities for Government departments and agencies to draw on the expertise of panel members to enhance their capacity to support the integration of gender equity for men and women into policy, programs and research.

24. The Department of Families, Housing, Community Servicer and Indigenous Affairs is also continuing to support the COAG Select Council on Women's Issues in developing a framework for considering gender equality of outcomes between women and men.

25. The Australian Government will continue to observe its international human rights obligations in the course of developing and implementing policies, programs and legislation. This includes ensuring that these activities do not result in gender inequality and provide, so far as practicable, equal opportunity for males and females.

Recommendation 3

The Committee strongly recommends that a Longitudinal Study of Men's Health building on the work already undertaken by Andrology Australia and other stakeholders be established and funded by the Commonwealth Government.

Response

26. Under the National Male Health Policy (the Policy) the Australian Government has committed $6.9 million over four years for the Australian Longitudinal Study on Male Health (ALSMH). The ALSMH will provide longitudinal and population-based research into the health of Australian males by examining the social, economic, environmental and behavioural factors that affect the length and quality of life. The primary objective of the ALSMH is to provide a national research resource of current
and valid information on male health that is relevant to the development of male health and wellbeing policies and service provision.

27. The scope of the ASLMH was informed by a number of sources, including the work undertaken by Andrology Australia and advice from the Minister's Male Health Reference Group. The ASLMH is being undertaken by the University of Melbourne. The establishment and pilot phase of the ASLMH commenced in June 2011.

28. The ASLMH will complement significant existing studies including the Australian Longitudinal Study on Women's Health, the Australian Health Survey and the Longitudinal Study on Australian Children.

29. Under the Policy $400,000 over four years is also provided for the development and publication of a suite of regular male health bulletins to provide up-to-date data and information for health professionals, academics, policy makers and the general public. The first male health bulletin – The health of Australian males – prepared by the Australian Institute of Health and Welfare, was released in June 2011. The bulletin provides a summary of the health and wellbeing of the Australian male population by outlining the lifestyle factors influencing male health, the health status of Australian males and access to health services.

30. The Australian Government is also currently providing significant funding for male health related research, as outlined in response to Recommendation 12.

Recommendation 4

The Committee recommends that the Commonwealth Government investigate the feasibility of introducing a structured, comprehensive annual health check for men. The proposed health check should be designed to be carried out in a range of contexts – general practice, the workplace and through community health programs. Consideration should also be given to providing a specific Medicare item which provides adequate time for consideration and minimises the costs to the patient.

Response

31. The Australian Government is committed to ensuring access to health care for all males, particularly those at risk of poor health. Priority Area 6 under the National Male Health Policy is 'Improved access to health care for males'. This priority action area recognises the role of health services in being responsive to male health needs and addressing barriers that men may face in effectively accessing health care.

32. Existing Medicare Benefits Schedule (MBS) health assessments, available for males and females, primarily target specific critical life stages or medical conditions and are supported by four time-based health MBS assessment items. Rather than creating new health assessment items for men, the Australian Government considers that effort should be directed towards clarifying for both patients and doctors, that existing Medicare items are available to support regular, clinically relevant health assessments.

33. The current set of MBS health assessment items are of direct benefit to men. The health assessment items include services for:

- Older people (aged 75 and older);
- Aboriginal and Torres Strait Islander peoples;
- Pre-school children about to enter the school system;
- Refugees and humanitarian entrants;
- People at risk of developing Type 2 diabetes;
- People with an intellectually disability; and
- People aged between 45 and 49 years old (inclusive) who are at risk of developing a chronic disease.

34. For example, the 45 Year Old Assessment helps to ensure that men aged 45 to 49 years old who are at risk of developing a chronic disease receive a health check that assesses a range of risk factors such as smoking, lack of exercise, alcohol use, high cholesterol and family history of chronic disease.

35. Existing support through Medicare, which covers a very wide range of medical, nursing and allied health services, provides a very broad scope for doctors to assess men's health and generally to meet their chronic and acute health care needs.
36. The Australian Government, through the Healthy Workers Initiative under the National Partnership Agreement on Preventive Health, also provides up to $289.2 million for the States and Territories to fund healthy living programs in workplaces. Funding commenced in July 2011. Programs will be introduced to a wide range of workplaces, including those with a high percentage of male workers, and target obesity, nutrition, alcohol abuse and smoking.

37. The National Male Health Policy (the Policy) also recognises the important role of men in taking responsibility for their health needs and in being aware and informed in relation to health issues. Under the Policy funding is provided for the development and distribution of a range of health promotion materials for males. The first phase of this activity focuses on providing health promotion materials to all Men's Sheds across Australia through the DIY Health Toolbox. Funding is also provided to Andrology Australia, the Australian Centre of Excellence in Male Reproductive Health, to distribute Men's Health GP Summary Guidelines to interested General Practitioners across Australia and undertake training of General Practitioners in the use of these Guidelines in culturally and linguistically diverse communities.

**Recommendation 5**
The Committee recommends that the feasibility of offering incentives to nurses to undertake training as men's nurse practitioners be investigated by the Commonwealth Government.

**Response**
38. From 1 November 2010, eligible nurse practitioners and midwives have had access to the Medical Benefits Schedule (MBS) and the Pharmaceutical Benefits Scheme (PBS). This access is provided under the Health Legislation Amendment (Midwives and Nurse Practitioners) Act 2010 and reflects the Australian Government's broader health reform agenda, supporting improved access to primary health care services and promoting multidisciplinary team-based approaches to health care. This initiative will facilitate more effective use of this workforce, particularly in primary health care and rural settings, including eligible nurse practitioners treating men's health issues.

39. The Australian Government also funds the Nursing and Allied Health Scholarship and Support Scheme to assist students to enter the workforce, nurses to re-enter the nursing workforce and existing nurses to up-skill or undertake other continuing professional development activities. This assistance includes nurse practitioner scholarships. These programs will increase the capacity of the health workforce and will benefit the overall population.

40. The Australian Government is also building the health workforce through a range of scholarships for registered and enrolled nursing students under the Nursing and Allied Scholarship and Support Scheme and Aged Care Nursing Scholarships, including for nurse practitioners. Registered nurses working in the areas of men's health may apply for these scholarships, administered on behalf of the Australian Government by the Royal College of Nursing Australia, for courses that enable them to be registered as a nurse practitioner.

41. In recognition of the significant burden of disease associated with mental illness and to assist in the treatment of mental disorders, the Australian Government funds the Mental Health Nurse Incentive Program. This program assists health care practices to engage mental health nurses to provide both men and women with serious mental health issues with better coordinated treatment and care.

**Recommendation 6**
The Committee recommends that the Commonwealth Government initiate discussions with its State and Territory counterparts with the object of introducing, as appropriate, programs that encourage boys to take responsibility for their health and wellbeing.

**Response**
42. The Australian Government has recognised the importance of the health and wellbeing of boys. One of the six priority areas for action of the National Male Health Policy is 'Improved health for males at different life stages', which recognises the importance of boys' early years in establishing patterns of behaviour which may have long term consequences for health and the
opportunities for supporting health that early life-course transitions present.

43. The Healthy Children Initiative under the National Partnership Agreement on Preventive Health provides up to $325.5 million to States and Territories to fund healthy living programs for children and young people aged from birth to 16 years. Funding commenced in July 2011. Programs will be delivered in a range of settings such as schools, early childhood education and care environments, and focus on physical activity and nutrition programs. While programs target the general population of children and young people, young males can be reached through these settings and help in establishing health nutrition and physical activity habits.

44. The Australian Government is also undertaking a wide range of activities which address the social and emotional wellbeing of boys and youth. Under the National Male Health Policy $6 million is provided for the Strong Fathers Strong Families (SFSF) Initiative which aims to promote the role of Aboriginal and Torres Strait Islander men within the family, as fathers and partners, grandfathers and uncles, and encourages them to participate in their children's and families' lives, especially in the antenatal period and early childhood years. SFSF promotes a clear message that positive male role models are important in the life of Aboriginal and Torres Strait Islander children.

45. The National Suicide Prevention Program promotes activities across the Australian population, as well as for specific at-risk groups, such as boys and young males. For example, the Yiriman Project in Western Australia focuses on youth activities with support from senior Aboriginal men and links with local agencies such as cultural activities and camps that build strong relationships, self-identity and confidence in young people in the Fitzroy Valley. Similarly, the Wesley Mission Expanding Horizons project in Queensland is aimed at young people aged between 13 to 17 years who are engaging in self-harming behaviours or who have expressed suicidal ideation.

46. Programs that encourage boys to take responsibility for their health and wellbeing in general fall under the Health and Ageing portfolio. However, the Department of Families, Housing, Community Services and Indigenous Affairs also fund a number of initiatives which connect with the Department of Health and Ageing's agenda under the National Male Health Policy.

47. The Family Support Program (FSP) funds services to support families and children to improve family functioning, safety and child development. The FSP recognises that helping men develop and maintain strong family relationships has a positive benefit on overall health outcomes of men and boys, particularly in reducing the risks of depression and associated problems including self-harm and suicide. A number of FSP service providers are providing family and relationship services with a particular focus on services to men and their families to help them improve and better manage their relationships, raise their awareness of family relationship issues, develop their parenting skills and increase their skills and participation. The Government also provides funding for Mensline Australia, a 24 hour-a-day, seven days a week, confidential telephone counselling information and referral service. Mensline is a national service funded to increase men's access to a range of support services. Funding to Mensline also provides for a website which targets youth and younger men.

48. The Australian Government recognises that student wellbeing and safety are essential for academic development. All students should be able to learn and develop in safe, supportive and respectful environments. As part of a national approach to supporting schools to build safe school communities, the Australian Government collaborated with State and Territory education authorities to review and revise the National Safe Schools Framework (the Framework). The Framework was endorsed by all ministers for education through the Ministerial Council for Education, Early Childhood Development and Youth Affairs in December 2010.

49. In addition, while the Australian Government plays a leadership role and provides funding for areas of national educational significance, schooling in Australia is the responsibility of the State and Territory government and non-
government education authorities. This includes the provision of learning programs that encourage boys to take responsibility for their health and wellbeing.

50. The KidsMatter Primary school initiative is the national primary school mental health promotion, prevention and early intervention initiative developed in collaboration with beyondblue, the Australian Psychological Society and Principals Australia. As part of the 2010 election, the Australian Government announced it would expand the KidsMatter Primary School initiative to an additional 1,700 schools by 2014 with funding of $18.4 million from the start of 2011.

51. The Australian Government remains committed to supporting boys within the family, schools, communities and more broadly and to developing boys' capacity to take responsibility for their own health and wellbeing.

52. All Australian government have established the Australian Curriculum, Assessment and Reporting Authority (ACARA) to develop an Australian Curriculum from Foundation to Year 12. Education ministers have agreed to the prioritization of Health and Physical Education (HPE) within phase three of the development of the Australian Curriculum and to make HPE a course learning requirement for all Australian students from Foundation to Year 10.

53. The development of an Australian Curriculum in HPE is currently underway, with ACARA initially preparing a curriculum "shape paper". ACARA is consulting extensively with the education community in developing the curriculum.

54. The Australian Curriculum for HPE may provide Australian students with the opportunity to learn about male health and wellbeing issues.

Recommendation 7
The Committee recommends that the Commonwealth Government take the initiative in conjunction with the States and Territories in examining strategies for improving trauma treatment in Central Australia.

Response
55. On 2 August 2011, a new National Health Reform Agreement was signed by all governments. The Agreement sets out the intention of the Australian Government and State and Territory governments to work in partnership to improve health outcomes for all Australians. This agreement outlines a revised range of initiatives to be implemented under the National Health Reform Agreement. As part of these reforms, the Commonwealth is providing additional funding to the Northern Territory through the National Partnership Agreement on Improving Public Hospital Services (NPA IPHS) and National Partnership Agreement on Hospital and Health Workforce Reform (NPA HHWR). Investments in improving emergency department services form part of the new national strategy for Australia's health and hospital system.

56. Through the NPA IPHS, the Australian Government has committed $3.4 billion to the States and Territories including $750 million over five years to improve access to timely and safe health services for emergency departments. This is through the National Emergency Access Target (NEAT), where 90% of patients presenting to a public hospital emergency department will be admitted, referred for treatment, or discharged within four hours. Funding of $48.8 million has been allocated to the Northern Territory from which Darwin Hospital Emergency Department will receive $5.6 million in facilitation funding and $5.9 million towards capital development. Alice Springs Hospital Emergency Department will receive $0.7 million in facilitation funding and $1.6 million towards capital development.

57. Through the NPA HHWR, the Australian Government has committed $1.5 billion to the States and Territories including $750 million to take pressure off public hospital emergency departments and reduce waiting times for treatment. Funding of $9.8 million has been allocated to the Northern Territory from which Darwin Hospital Emergency Department will receive $5.9 million and Alice Springs Hospital Emergency Department will receive $2.3 million.

58. Initiatives such as these and others under the National Health Reform Agreement are enhancing trauma treatment across Central Australia through building the capacity of the Royal Darwin Hospital, which incorporates the
National Critical Care and Trauma Response Centre, and Alice Springs Hospital.

**Recommendation 8**

The Committee recommends that the Commonwealth Government take the initiative, in cooperation with the States and Territories, to reduce complexity and simplify the application process for health related grants.

**Response**

59. On 1 July 2009, the Australian Government introduced the Commonwealth Grant Guidelines (the Guidelines) that provide a whole-of-government policy framework grants administration. The Guidelines apply to all agencies subject to the Financial Management and Accountability Act 1997 (FMA) and are intended to improve the transparency and accountability of grants administration. The Australian Government has mandated transparent and accountable decision-making processes for grants and timely public reporting through agency websites.

60. The Guidelines also recognise the importance of adopting processes that are in proportion to the scale and risk profile of grant activities, and the need to work collaboratively and in partnership with grant recipients, including voluntary and 'not-for-profit' organisations.

61. All grants processes undertaken from 1 July 2009 will take into account both the mandatory and sound practice elements of the Guidelines. This includes grants processes that involve State governments where they are covered under Regulation 3A (1) and not otherwise exempted under 3A (2) of the FMA Regulations. Accordingly, the issue of proportionality in relation to application processes will be considered in the context of the scale and risk of the requisite program.

62. In 2010, the Australian Government commissioned a review of the administrative arrangements in the Health and Ageing portfolio. The purpose of this review was to examine the alignment of resources within the portfolio to ensure it is best placed to implement and manage the Government's key health and ageing priorities and programs, including the National Health Reform agenda, as well as position the portfolio to respond to emerging health and ageing challenges over the medium and longer term.

63. The review of the portfolio has resulted in the establishment of larger, flexible funding pools from 1 July 2011. These funding pools will simplify and streamline grant funding processes for stakeholders. In addition, over time, many grant recipients currently maintaining and reporting against multiple funding agreements will move to an arrangement where they operate under one single agreement with the Department. This will reduce the administrative burden for grant recipients, leaving them more time to focus on their core business.

**Recommendation 9**

The Committee recommends that the integration of health service provision to recognise the interconnectedness of men's health issues be made a central part of the forthcoming national men's health policy.

**Response**

64. The National Male Health Policy (the Policy) recognises and addresses the interconnectedness of male health issues and the wide range of social determinants that influence male health. The Policy recommends that this be taken into account in the development and delivery of policies and services that impact on male health. The Policy provides a framework for improving male health across Australia, with a focus on taking action on multiple fronts and recognising the social determinants of health.

65. The interconnectedness of men's health issues is recognised in the range of programs funded under the Policy. For example, $3 million over four years is provided to support Men's Sheds across Australia. This program recognises the role of Men's Sheds as meeting places where men, particularly marginalised and isolated men, can find social support and camaraderie and the significant contribution to male health and wellbeing that such support can have. Support for men's sheds with a high veteran concentration is also offered by the Department of Veterans' Affairs through its Veteran and Community Grants Program.

66. Similarly, the first ever Australian Longitudinal Study on Male Health is based on a
social determinants model of male health and is designed to provide information on the social, economic, environmental and behavioural factors that affect the health of men and boys in Australia. This information will assist in developing policy and program responses across the range of Australian Government portfolios that impact on male health.

67. A key role of the Minister's Male Health Reference Group is to draw attention to the interconnections in male health and wellbeing and provide advice in relation to relevant policy and program responses.

68. The Policy is being implemented in the context of broader health care reforms and cross-government initiatives that impact on men's lives and will allow major gains in health for Australian men into the future. To ensure the health system is more responsive to the needs of individuals and local communities, Medicare Locals are being established as a coordinated network of primary health care organisations. Medicare Locals are critical to supporting and driving improvements in primary health care for both patients and health care providers and will provide both males and females with increased access to information about services available in their local areas as well as making it easier to navigate their local health care system.

69. Medicare Locals will also support primary health care professionals and organisations to identify and address local health care needs and improve the delivery of integrated primary health care. As they develop, each Medicare Local will develop plans for their particular population and its health needs, including preventive health activities.

70. The interconnectedness of male health issues is recognised across the range of Australian Government portfolio areas. The majority of the Department of Families, Housing, Community Services and Indigenous Affairs programs, including mental health programs, are targeted to the broader population, and impact both males and females and may include specific sub-activities targeted at males. For example, while the Communities for Children initiative targets the whole community, when a need is identified, specific strategies focus on particular target groups such as Aboriginal fathers.

71. In a targeted manner, the Department of Veterans' Affairs delivers Men's Health Peer Education with the specific aim of raising awareness about men's health issues by encouraging all members of the veteran and ex-service community to share the responsibility for managing their own health and well-being.

72. The Australian Government will continue to address the interconnectedness of male health issues through activities under the National Male Health Policy and more broadly.

**Recommendation 10**

The Committee recommends that the Commonwealth Government investigate standardised service models for mental health to facilitate a uniform standard of care throughout Australia.

**Response**

73. The Fourth National Mental Health Plan – An agenda for collaborative government action in mental health 2009-2014 (the Fourth Plan), endorsed by all Health Ministers in September 2009, identifies for action the development of a national service planning framework that establishes targets for the mix and level for the full range of mental health services.

74. The development of the national service planning framework will draw upon established models of mental health service planning that have been developed using Australian epidemiological data as a foundation. This will enable a nationally agreed population-based model that will inform governments and service coordinators how to best meet the mental health service needs of their populations, including the necessary resources.

75. The revised National Standards for Mental Health Services (the Standards) were endorsed by the Australian Health Ministers' Conference in September 2010. The Standards provide a blueprint for new and existing services to guide quality improvement and service enhancement activities. Consumers and carers are able to use the Standards as a checklist for service quality and as a guide about what to expect from mental health services.
76. There is a strong values base in the Standards relating to human rights, dignity and privacy which has been guided by the principles contained in the National Mental Health Policy 2008, the United Nations' Principles on the Protection of People with a Mental Illness and the Australian Health Ministers' Mental Health Statement of Rights and Responsibilities.

77. The Fourth Plan also commits governments to better target services and address service gaps through cooperative and innovative service models for the delivery of primary mental health care. Through the Fourth Plan governments are also committed to a review of the Mental Health Statement of Rights and Responsibilities and ensuring accreditation and reporting systems in health and community sectors incorporate the Standards.

78. The National Suicide Prevention Program (the Program) promotes suicide prevention activities across the Australian population, as well as for specific at-risk groups, such as young males. The Program has men as a priority target group for funding and 13.6% of the national Suicide Prevention Program has been committed to target this priority group specifically from 2011-12 to 2012-13.

79. Recognising the social determinants that increase the risk of suicidality for men, and that men are least likely to seek help, the Government is providing $23.2 million over four year to provide more support and services for men as part of the Mental health: Taking Action to Tackle Suicide package. These measures will increase the capacity of the beyondblue helpline to assist up to 30,000 more each year, expand the beyondblue National Workplace Program to increase coverage to specific sectors and to subsidise participation by small businesses, and deliver targeted awareness campaigns to encourage men in high risk groups to seek assistance for depression and mental illness. A National Stigma Summit, held in October 2011, brought together leading experts in research, media, consumer and carers to assist in the development of these targeted awareness campaigns.

80. Further investment of $22.6 million is also being provided through other elements of the Mental health: Taking Action to Tackle Suicide package for community prevention activities for high risk groups, including men.

Recommendation 11

The Committee recommends that the Commonwealth Government ensure that the Australian Prostate Cancer BioResource is provided with sustainable funding at a level that would enable it to complete its tissue collection and carry out the necessary work in support of prostate cancer research outlined in chapter 4.

Response

81. The Australian Government recognises the importance of strategies that aim to prevent conditions that have adverse impacts on male health, including prostate cancer. The Australian Government is committed to supporting research into the causes, diagnosis, and effective treatment of prostate cancer, and to providing quality care and support for men diagnosed with prostate cancer, and their families and carers.

82. The National Health and Medical Research Council (NHMRC) will provide close to $5 million from 2004 to 2015 to the Australian Prostate Cancer BioResource through the nationally competitive Enabling Grants Scheme.

83. The Australian Prostate Cancer BioResource facility was reviewed by the NHMRC in 2009 and it was agreed to extend funding to early 2015 in recognition that prostate cancer was a National Health Priority Area, and that the facility was operating at a high international standard with strong in-kind support from its host institutions.

84. In addition, the 2008-09 Budget committed $15 million over five years from 2008-09 for the establishment of two dedicated prostate cancer research centres, located in Victoria and Queensland, to develop improved diagnostic tests, screening tools and treatments for prostate cancer. The establishment of the dedicated prostate cancer research centres aims to enhance collaboration, boost research efforts in the field, and encourage additional, complementary research groups to focus on this disease.

Recommendation 12

The Committee recommends that the Commonwealth Government provide funding to the Prostate Cancer Foundation to ensure that the
Prostate Cancer Information Pack program proceeds.

Response

85. The Australian Government remains committed to ensuring the availability of quality information for people diagnosed with cancer. The Australian Government acknowledges the valuable work undertaken by the Prostate Cancer Foundation of Australia (PCFA) in supporting men with prostate cancer, including the piloting of a National Prostate Cancer Information Pack.

86. The Australian Government, through Cancer Australia, is providing a total of $3.97 million over 3 years, to 30 June 2014, to the PCFA to develop resources for men diagnosed with prostate cancer, their families and carers, and for the establishment of up to 90 peer support groups for men with prostate cancer, particularly in rural and regional Australia.

87. Through Cancer Australia, the Australian Government is also working to improve the coordination and quality of cancer care nationally. A total of $4.4 million is being provided, to 30 June 2013, to fund a range of organisations through the Building Cancer Support Networks Grants program (the Program). To date 66 projects have been funded under the Program. Through the Program, Cancer Australia works with the community and organisational partners to identify and respond to the support needs of people affected by cancer, in order to facilitate increased access to cancer support in each State and Territory.

88. Under Round 1 of the Program, PCFA was funded to provide information and increase support to existing groups, and to establish new groups in Queensland, Northern New South Wales and the Northern Territory. Funding was also provided to the Association of Prostate Cancer Support Groups South Australia, to provide support and information to patients and their families and carers. Under Round 4 of the program, Cancer Australia is partnering with the PCFA to fund a range of face-to-face and online training to be delivered to prostate cancer support group conveners and peer group facilitators.

Recommendation 13

The Committee recommends that the Commonwealth Government expedite funding for the provision of specialist prostate cancer nurses, particularly in rural and regional Australia.

Response

89. The Australian Government funds the Nursing and Allied Health Scholarship and Support Scheme to assist students to enter the workforce, nurses to re-enter the nursing workforce and existing students to up-skill or undertake other continuing professional development in many areas, which may include prostate cancer. This assistance includes scholarships for nurses to undertake study/professional development and while these programs are not aimed at men's health directly, increasing the capacity of the health workforce will benefit the overall population.

90. The Prostate Cancer Foundation of Australia (PCFA) is piloting the Prostate Cancer Specialist Nursing Program. Under this national 3-year pilot program selected area health services will host a cancer specialist nurse. The PCFA will evaluate the pilot and bring the results of the evaluation to the Australian Government for consideration.

91. A wide range of primary and allied health care services are provided to rural and remote areas through a variety of programs. The Rural Primary Health Services (RPHS) program funds a range of organisations – State and local government entities, Aboriginal Medical Services, Medicare Locals and other non-government organisations to provide additional primary and allied health care services in rural and remote communities. The actual service delivered, including mental health, community nursing, nursing in a specialist role, podiatry, physiotherapy, community health education and promotion services, depend on identified needs of the target communities. Service providers are able to determine which mix of services and health professionals best suit the needs of their communities and the availability of health professionals.

92. The program is directed at rural populations located in Australian Standard Geographical Classification – Remoteness Area (ASGC-RA)
categories 2 (Inner Regional) to 5 (Very Remote) with priority given to small rural communities and communities located in ASGC-RA 3 to 5.

93. The Medical Specialist Outreach Assistance Program (MSOAP) was established in 2000 to improve the access of rural and remote communities to medical specialist outreach services. MSOAP aims to complement medical specialist services provided by the State and Northern Territory governments and private providers by encouraging specialists to deliver outreach services to targeted areas of need in rural and remote Australia. This is achieved by meeting costs associated with delivering outreach services such as travel, accommodation and venue hire.

94. MSOAP service delivery is determined in consultation with an Advisory Forum in each jurisdiction to ensure that specialist services are directed towards the priority health needs of local communities. MSOAP has been highly effective in increasing access to medical specialists' services for people living and working in rural and remote Australia. Over 100 speciality disciplines and sub-specialities are supported under MSOAP, including oncology specialist services, which specifically relates to men's health. In the current year MSOAP plans to deliver 24 surgical urology services and 10 oncology services in regional and remote locations throughout Australia.

95. The Medical Specialist Outreach Assistance Program – Indigenous Chronic Disease (MSOAP-ICD) aims to increase access to a range of health services provided to people in rural and remote Indigenous communities for the treatment and management of chronic disease. The focus of the program is on the provision of services by multidisciplinary teams, which may include specialist nurses.

96. The program commenced in April 2010 as part of the Australian Government's contribution to the National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes.

**Attachments A & B**


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**COMMITTEES**

Gambling Reform Committee
Legal and Constitutional Affairs Legislation Committee

**Report**

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (16:47): I move:

That the reports of the Joint Select Committee on Gambling Reform and the Legal and Constitutional Affairs Legislation Committee be printed.

Question agreed to.

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (16:47): I seek leave to move a motion to provide for consideration of the committee reports and the government responses just tabled.

Leave granted.

Senator POLLEY: I move:

That consideration of the committee report and the government responses to committee reports be listed on the *Notice Paper* as separate orders of the day.

Question agreed to.

**DOCUMENTS**

Parliamentary Service Commissioner Annual Report 2011-12

**Tabling**

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (16:48): I present the 2011-12 report of the Australian Parliamentary Service Commissioner.

Ordered that the report be printed.
Responses to Senate Resolutions

Tabling

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (16:48): I present responses to Senate resolutions as listed at item 13 on today's Order of Business:

Minister for Foreign Affairs (Senator Bob Carr) to a resolution of the Senate of 14 August 2012 concerning polio eradication

Minister for Mental Health and Ageing (Mr Butler) to a resolution of the Senate of 13 September 2012 concerning suicide

Minister for Foreign Affairs (Senator Bob Carr) and the Minister for Families, Community Services and Indigenous Affairs (Ms Macklin) to a resolution of the Senate of 13 September 2012 concerning the United Nations Declaration on the Rights of Indigenous Peoples

Office of the Premier of New South Wales, the Premier of Queensland (Mr Newman) and the Chief Minister of the Northern Territory (Mr Mills) to a resolution of the Senate of 19 September 2012 concerning domestic violence

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:48): I move:

That the Senate take note of the item Minister for Mental Health and Ageing (Mr Butler)—Suicide (agreed to 13 September 2012).

I seek leave to continue my remarks.

Leave granted; debate adjourned.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:49): by leave—I move:

That the Senate take note of the item Minister for Foreign Affairs (Senator Bob Carr) and the Minister for Families, Community Services and Indigenous Affairs (Ms Macklin)—United Nations Declaration on the Rights of Indigenous Peoples (agreed to 13 September 2012).

This is a motion that I propose to the Senate that marked the fifth anniversary of the development of the United Nations Declaration on the Rights of Indigenous Peoples. I note that both Senator Carr as Minister for Foreign Affairs and Ms Macklin as Minister for Families, Community Service and Indigenous Affairs have both responded to the motion. Senator Carr reiterated Australia's commitment to the work to promote human rights and human dignity of all Indigenous peoples, both domestically and internationally.

The motion specifically mentioned the International Labour Organization's Indigenous and Tribal Peoples Convention of 1989 and its ratification, and Senator Carr pointed out that the Commonwealth has just started talking to the states and territories about compliance and carrying out a comprehensive assessment of that compliance with states and territories before they move to ratify the convention. This convention came into being in 1989. I know that year very well; it is the year my son was born. It is 23 years ago, and we are only now looking at our compliance. It is exceedingly disappointing.

I will cover these points more extensively when I speak to Minister Macklin's letter, but it is interesting to note that the minister reiterates Australia's commitment to the promotion of human rights and human dignity of all Indigenous peoples, yet the government would not refer its Stronger Futures legislation to the human rights committee. I also note the numerous complaints that have been made internationally and to the United Nations by our own Aboriginal and Torres Strait Islander peoples about both the Northern Territory intervention and Stronger Futures.

I would like to concentrate on Minister Macklin's response to the motion. She is obviously coming from a very positive perspective, talking about taking the declaration seriously, particularly relating to the participating economic and social
development and rights of Aboriginal and Torres Strait Islanders in line with the government’s commitment to closing the gap. However, she does not mention things like the deaths in custody, or the fact that most of the extensive recommendations by the Royal Commission, which are now over 21 years old, have not been implemented. She also conveniently does not address income management on which we will be having a substantive debate shortly after this debate. She does not mention that the Native Title Act needs some significant amendments and has never delivered fully on its promise to Aboriginal and Torres Strait Islanders. While the government has an exposure draft of legislation to amend that legislation out at the moment, that draft does not deal with the obvious issues that need to be dealt with—for example, reversing the onus of proof which is absolutely critical if we are truly going to deliver on the promise of native title.

Recently the ANAO report came out. This report looks at some issues surrounding the administration and performance of some of our agencies delivering Indigenous outcomes. One of the key points was that whilst you would expect FaHCSIA to take a leading role as it is our lead agency on Aboriginal and Torres Strait Islander policy, it is not taking a leadership role and it is not engaging properly. I believe one area that needs to be addressed is: how can this agency claim that it is taking leadership in this area when it is failing to adequately consult Aboriginal and Torres Strait Islander people? I have said in this place before and I will say it again: the government does not properly consult with the Aboriginal and Torres Strait Islander people. A key part of this declaration, of DRIP, is participation and consultation along with fully informed prior consent. Yet legislation that arguably is having one of the biggest impacts on Aboriginal and Torres Strait Islanders to date is the stronger futures legislation and the past NT intervention. It is quite obvious from talking to communities in the Northern Territory that there has not been adequate consultation on this legislation and there was no fully informed prior consent, a key part of the declaration.

There is no way the government can say that it received fully informed prior consent to the stronger futures legislation. That legislation puts in place a number of punitive measures. I will not concentrate on income management because we are going to talk about that later, but one of the punitive measures is the legislation that is supposed to be getting kids back into school. There is a very simplistic approach to addressing the barriers to education, and it is quite obvious that attaining an adequate education is a major problem for Aboriginal and Torres Strait Islander students. You only have to read the 'Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People' report by Professor Larissa Behrendt, released not long ago, to see that only 47.2 per cent of Aboriginal and Torres Strait Islander young people attain a year 12 certificate, compared to 79.4 per cent of other Australian students. That is a vast difference. You have to look at that figure and say something is wrong here. Then when you look at the number of university enrolments you will see that only 1.4 per cent of university students are Aboriginal and Torres Strait Islander. There are obvious barriers there that we need to address.

The declaration also puts a lot of emphasis on language, and it emphasises bilingual education. The 'Our Land Our Languages' report is very important. It talks about the importance of first languages and the importance of getting an education in a first language. It also points out the importance of first language in early learning.
environments. All these things the minister conveniently does not address in this report. The minister also does not address the fact that the stolen generations were not compensated. There was the apology which I acknowledge was a very significant moment in this country, but we did not go on to reparations. We did not go on to compensating the stolen generations for the disempowerment and the intergenerational trauma that that very poor part of Australia's history played and is continuing to play in Aboriginal communities.

The government did set up the Healing Foundation and put a bit more $26 million into the running of that foundation. It is important to note that the funding for the foundation finishes in June 2013. It is very important that the government commit to keep on funding that foundation, because that work is only just starting to bear fruit. It takes a lot for projects to gain the trust of the communities, and also for communities to develop community owned projects research has shown to be so important. These projects are one of the key things that research is showing to be important. If we are really going to get policies that adequately address the issues of Closing the Gap, of disempowerment, of intergenerational trauma, the key thing we need to be doing is empowering communities to develop projects and to manage the projects that are culturally appropriate for their regions. That is what the Healing Foundation is trying to do.

Further work that highlights some of the problems in delivering funding that will make a difference is in Olga Havnen's report. Until she was sacked by the Northern Territory government, Ms Havnen was looking at the provision of remote services in the Northern Territory. Her report clearly highlights fundamental problems with getting change on the ground and highlights the fact that we need to be doing things differently. I notice that this report is not addressed here. I also notice an issue about which I am particularly passionate, the impact of otitis media on Aboriginal children, is not addressed. These children have subsequent poor life outcomes. You do not have to be Einstein to realise that there is a high rate of people in the criminal justice system with hearing impairment—90 per cent of Aboriginal prisoners in the Darwin Correctional Centre have a hearing impairment. You do not have to be Einstein to work out that there is something going on. Why aren't we addressing that problem at source? We should not just be concentrating on health outcomes—although those outcomes are very important. We need to join the dots to look at how we then deliver early intervention in very early childhood to make sure those children are developing the language-processing skills that are needed so that when they start their first day at school they are ready and prepared, like their non-Indigenous colleagues. They need to be able to hear the teacher and understand the process. (Time expired)

Question agreed to.

Senator FIERRAVANTI-WELLS (New South Wales) (16:59): by leave—I go back to the motion to take note of the response by Minister Butler on suicide agreed to on 13 September. I thank the chamber for leave to speak briefly in relation to the minister's response. Following on from the theme of Senator Siewert in her previous contribution about the lack of detail, I too would like to focus on some points in that area and on where Minister Butler has failed to provide necessary detail, particularly in relation to suicide prevention and what is being rolled out in this area. I remind the Senate that this motion was agreed to by the chamber, that it was about suicide and that it marked the
important R U OK? Day, which was on 13 September 2012.

Importantly, that motion set out some vital statistics in relation to suicide and I would like to repeat those for the chamber. Today, six Australians will die through suicide and more than 200 will make a suicide attempt. One in four deaths among young people occur through suicide. Suicide is the leading cause of death for our young people aged between 15 and 24. Suicide is the biggest killer of men under 44 and women under 34. Suicide currently ranks 15th in the overall causes of death in Australia.

The motion asked people to regularly check with each other—friends, colleagues, family—’Are you okay?’, to start a conversation that could change a life. Basically the motion called upon the government to increase efforts to raise awareness about the problems and complexity of suicide, especially amongst our young people. The minister, in his very pithy response, simply referred to the National Mental Health Reform package, which he says will see a significant investment. I question that because of the very slow pace at which the rollout of this package is happening. I am not the only one being critical; it is very clear in the mental health community there is a lot of criticism of Minister Butler and his failure to roll out important programs, especially in the area of suicide prevention, and I will come to that.

This package, which was in the 2011-12 budget, came at the end of some very serious pressure on this government to actually take action in the mental health area. I remind the Senate that this came after two motions were passed—in this place and the other place, in October and November of 2010, respectively—where the coalition, with the support of Independents both in this place and the other place, were successful in getting these motions up, which, I remind the Senate, those opposite and their Greens alliance partners voted against. After sustained pressure by the mental health sector and efforts by the coalition to support that pressure, Labor was finally shamed into doing something on mental health in the 2011-12 budget.

As I have repeatedly said, and as is now being said by others, it is very clear that this was simply a smoke and mirrors package because despite the headline figure, which certainly looked impressive, the net spend over the forward estimates was only $583 million. Of course, once you take out $581 million from GP mental health services and allied health treatment sessions from the Better Access program it is very clear that this was simply a smoke and mirrors operation. What was worse was that these cuts were made without proper consultation with practitioners and caused enormous concern throughout the community, especially among mental health practitioners. Then, of course, we saw that in that first year—2011-12—there was only $47 million in new funding and almost $63 million of cuts from existing programs. What was very clear was that the government failed to properly explain how many of the 'new initiatives' were actually new money rather than simply recycled money, reannouncements and reorganising of the deck chairs.

Like just about everything that this government has done, it has the brush of the never-never about it, tainted with that possibility that things may happen into the future. Why do I say that? I say that because it is all tied up with a 10-year road map on mental health which, again, has been heavily criticised. One in five Australians need help now, Minister Butler. They do not need to wait 10 years for a timetable that this government cannot finalise and certainly has
not yet been finalised despite all the talk that has occurred. Let me remind the Senate of some other important statistics. I mentioned earlier the six Australians committing suicide every day, but this is only the official statistic. It does not reflect the statistic that was referred to in the last National Survey of Mental Health and Wellbeing in 2007, which talked about the more than 360,000 people who had contemplated suicide that year.

So, every year we have 360,000 people who contemplate suicide. That statistic then goes down for people who actually take some action towards suicide, and ultimately we come to that 2,000-2,500 official figure of people who suicide. But, as practitioners in this area will tell you, that 2,000-2,500 figure is not reflective of the actual number of suicides and does not take into account many of the single-person fatalities that happen on country roads late in the evening and a range of other deaths in our community, which, sadly, get reported as accidental deaths but in reality are suicides. Indeed, I reiterate that it is vitally important that all governments work to ensure that a mechanism is put into place so that the actual figures and the proper statistics are reflected in the work that we do, so that we deal with the actual figure, not just the official figure, which we know is not really reflective of what is happening out there.

As I said, one in five Australians need help now, not to wait for a 10-year timetable. For those people suffering a mental illness today, for their families, their friends and their carers, regrettably all we see from this government is another hallmark smoke-and-mirrors trick. Let me take a moment to reflect on suicide prevention. I remind the Senate that in 2010 the big headline figure was about $277 million to be spent on suicide prevention, supposedly over the forward estimates. But in that first year, in an area where we know that moneys need to be rolled out, and we know they need to be rolled out quickly, unfortunately we saw only about $7 million of that being rolled out. Indeed, not even the amount that had been budgeted for in that year—$9 million—was spent. Naturally, this has drawn criticism from people like Professor John Mendoza and others in the mental health space who are understandably and justifiably critical of this government's failure to take definite action in this area. I seek leave to continue my remarks.

Leave granted.

BILLS

Public Service Amendment Bill 2012

Explanatory Memorandum

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:10): I table an addendum to the explanatory memorandum relating to the Public Service Amendment Bill 2012. This is an addendum that responds to concerns raised by the Scrutiny of Bills Committee.

Personal Liability for Corporate Fault Reform Bill 2012

Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012

Report of Legislation Committee

Senator BOYCE (Queensland) (17:10): On behalf of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, I present two reports of the committee: Personal Liability for Corporate Fault Reform Bill 2012; and Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012. I will speak briefly on both reports.

Ordered that the reports be printed.

Senator BOYCE: by leave—I move:

That the Senate take note of the reports.
I particularly want to spend more time on the Personal Liability for Corporate Fault Reform Bill 2012, but the other one tabled, as senators will be aware, is the Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012. This legislation was referred by the House of Representatives Selection of Bills Committee to the joint parliamentary committee on 20 September. We received only four submissions in relation to the Personal Liability for Corporate Fault Reform Bill but they were very worthwhile submissions. We held a public hearing in Sydney on 22 October and at that hearing we took evidence from the Law Council of Australia, Chartered Secretaries Australia, the Treasury and the New South Wales Department of Premier and Cabinet.

This bill implements the Council of Australian Governments' Principles on Directors Liability reform which has the aim of harmonising the imposition of personal criminal liability for corporate fault across all of the Australian jurisdictions. It is part of the COAG National Partnership Agreement to deliver a seamless national economy. It commits all Australian jurisdictions to a nationally consistent and principled approach to the imposition of personal criminal liability on directors and corporate officers for corporate fault. It aims to remove regulatory burdens on directors and corporate officers that cannot be justified on public policy grounds and to minimise inconsistency between Australian jurisdictions in the way that personal liability for corporate fault is imposed in Australia.

The bill proposes to: amend a number of Commonwealth acts to remove personal criminal liability for corporate fault where such liability is not justified; remove the reverse onus of proof where the directors themselves must establish a defence to a charge; replace personal criminal liability for corporate fault with civil liability where a non-criminal penalty is appropriate; and clarify the circumstances where personal criminal liability is justified. If implemented properly, this will be a significant improvement to the crazy laws that have developed over time and, I might add, primarily under state Labor governments, that have put a huge burden onto company directors, completely out of proportion to their responsibilities.

The reforms in this bill are a culmination of earlier views on the area of personal liability of directors. They note 'an increasing tendency for personal liability provisions to be introduced in Australian law as a matter of course and without robust justification'. Certainly, 'without robust justification' would be an argument that has been put by every organisation that is involved with company directors. As a result, in some cases a company director could face a criminal penalty for a breach of the law by a corporation when he or she had no knowledge of or any control whatsoever over that breach. Further, imposing personal liability without justification has been a very inefficient way to run law. The argument has been put that the threat of excessive risk of personal criminal liability has led directors to take a cautious approach to their strategic and entrepreneurial responsibilities. In fact, Professor Bob Baxt, perhaps the doyen of company directors, has estimated that about $16 billion a year is lost to the Australian economy by the cautious approach and by the loss of talent in the company director field because of fear of prosecution.

Witnesses to this inquiry recognised that the bill's reform will reduce the level of risk for directors and the burden on company directors while providing greater certainty. It will focus on key areas of liability laws while reducing the burden of these laws to enable greater focus on corporate
performance, which presumably is what a board of directors is there for in the first place.

When the reforms are implemented by all jurisdictions, the number of laws containing directors liability provisions nationally will be significantly reduced. For example, New South Wales anticipates the number of its statutes with personal liability provisions will be reduced from 1,000 currently to around 150. I commend the New South Wales government for its leading role in the area of directors liability reform. I also note that the Campbell Newman government in Queensland has made the point that currently there are over 300 state provisions that company directors who operate not just in that state but nationally, including Queensland, need to be aware of.

The Law Council of Australia, the Institute of Company Directors and Chartered Secretaries Australia have all expressed concern with the reverse onus of proof in section 8Y of the Taxation Administration Act. The Institute of Company Directors said, 'The effect of section 8Y of the Taxation Administration Act is that if a corporation commits a taxation offence, a director of the corporation will be deemed to be guilty of the same offence.' In other words, the provision reverses the fundamental legal principle that a person is innocent until proven guilty. The Law Council argued in favour of removing that and certainly challenged the argument from the ATO that said the section was used to 'prosecute directors who repeatedly and seriously neglected their company's tax obligations'. It is argued that if the legislation is aimed at repeated and serious neglect then the reversal of burden of proof on the whole national pool of directors rather than just the very small minority is clearly inappropriate.

While supporting the general aim of this legislation, the coalition continue to have some concerns about the issues that have been raised by some of the witnesses. There was concern from the Chartered Secretaries Australia and the Law Council of Australia that the COAG principles and guidelines are not adequate to properly implement this reform and they would like to see a model provision brought in so that this can be used as the basis. The Office of Parliamentary Counsel has said that it is not feasible to develop a model provision, but we remain concerned about this. The committee made two recommendations in regard to this and, in my view, it is extremely important to look at recommendation 2, which is that within 12 months of the operation of this bill the Treasury implement a review of the areas that continue to concern stakeholders and provide a copy of that review both to the minister and to our committee, so that we can continue to ensure that this bill does what it is set out to do—reduce red tape and reduce the ridiculous situation that has developed in terms of personal liability of company directors in Australia and the consequent cost that has had on our economy because of concerns about being innovative or concerns simply about putting your name forward.

I would like to move now to the second bill, Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012, which the committee has supported in its report. The committee received six submissions on this bill. This legislation reduces the final rate of withholding tax on fund payments from Australian clean building managed investment trusts to foreign investors in 'information exchange countries'. For fund payments made to these investors, the bill cuts the withholding tax rate from the current rate of 15 per cent to 10 per cent. This conditional 10 per cent will apply if the
managed investment trust invests in new, energy efficient office, hotel and retail buildings that commenced construction on or after 1 July 2012.

It is not surprising that stakeholders support this reduced rate, this incentive, for foreign investors to invest in Australian clean buildings. Some would argue that it should be aimed at all Australian building stock but it is not. I seek leave to continue my remarks. (Time expired)

Leave granted; debate adjourned.

**Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012**

**Report of Legislation Committee**

**Senator THORP** (Tasmania) (17:21): At the request of the chair of the Economics Legislation Committee, Senator Bishop, I present the report of the committee on the provisions of the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and related bills, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Dental Benefits Amendment Bill 2012**

**Report of Legislation Committee**

**Senator THORP** (Tasmania) (17:22): At the request of the chair of the Community Affairs Legislation Committee, Senator Moore, I present the report of the committee on the provisions of the Dental Benefits Amendment Bill 2012, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**DELEGATION REPORTS**

**Parliamentary Delegation to Malaysia and Sri Lanka**

**Senator KROGER** (Victoria—Chief Opposition Whip in the Senate) (17:22): I present the report of the Australian Parliamentary Delegation to Malaysia and Sri Lanka, which took place from 5 December to 14 December 2011, and seek leave to move a motion to take note of the document.

Leave granted.

**Senator KROGER:** I move:

That the Senate take note of the document.

I want to make a few brief remarks about the delegation visit. The parliamentary delegation visited both Malaysia and Sri Lanka immediately following the rise of parliament in December last year, and that visit essentially reaffirmed already strong ties with both of those countries. We share with Malaysia and Sri Lanka membership in the Commonwealth and similar bicameral systems based on the Westminster system. We also ongoing frank and constructive dialogues with both of those countries through parliamentary exchanges and visits such as the visit that we undertook in December. It would be remiss of me not to note that we were very warmly received in each of those countries and had significant and impressive access to senior decision makers, local officials and community representatives during that couple of weeks. I would like to note that both parliaments were incredibly generous with their time and hospitality and were very welcoming of the opportunity to have very open dialogue with them.

I record my appreciation for a number of people who made this visit as worthwhile as it was. For the Malaysia leg of the delegation I would like to extend the thanks of the
delegation to the speaker and members of the Malaysian parliament for hosting the delegation. So many of them spent most of their time with us while we were in country. I would also like to thank those who met the delegation in Malaysia, including United Nations officials, the leadership team from the Monash University site where we have a partnership arrangement, a number of journalists, ASEAN and Australia/New Zealand dialogue participants and also members of the Australian Defence Force who were based there. We had a very interesting tour and visit of the site. The Australian High Commission in KL was fantastic, particularly the high commissioner, Miles Kupa; the deputy high commissioner, Jane Duke; Arthur Spyrou; Anthea Lawrence; and Clare Derrington. It would be remiss of me not to recognise DFAT, who provided us with very comprehensive briefings before our departure.

In Sri Lanka there are also a number of people I want to recognise. Our visit in Sri Lanka was very extensive; it is the first time that Australia has visited Sri Lanka in some time, so it was an opportunity for many in the Sri Lankan government, along with many in the Tamil movement, to have a very open and direct dialogue with us. So I would like to recognise the speaker and members of the Sri Lankan parliament who hosted us during our time, particularly in the south; the Secretary General of Parliament, Dhammika Dasayanake; and parliamentary officers. His Excellency Admiral Samarasinghe has been extraordinarily generous in his time and hospitality. He actually flew to Sri Lanka to meet us there and assist us in some of our meetings that took place there, so I thank the admiral for that.

We also met with a number involved in the Tamil community in Jaffna and Kilinochchi, which is a district in northern Sri Lanka. In particular I would like to recognise a number of those government ministers, representatives of political parties, government officials, security force personnel and community representatives whom we met. They are all in this document. We met quite a large number of them. But I would also like to recognise the Australian High Commission in Colombo and in particular would like to applaud the contribution that the former high commissioner, Kathy Klugman, made to our diplomatic mission there. She subsequently came back to Australia shortly after our visit. I hope it did not reflect on our visit to Sri Lanka that her term finished expeditiously; I think she returned in the next week or so. She has been sensational in, firstly, advancing our interests there and certainly in keeping dialogue open in terms of our views on the ground.

We had an extraordinarily interesting visit to our aid development programs that we fund up in Jaffna and Kilinochchi. We observed where much of our AusAID money is directed, including in land mine clearing exercises and programs. In consideration of the time I am only mentioning a couple things here. We also looked at housing projects which we fund and which I have to say were so impressive that I thought they should be used as a prototype for other programs because of the way they were deployed to ensure value for money. I suggest that others look at those programs.

Clearly, given that we were the first delegation to visit Sri Lanka in some time, the issue of the Lessons Learnt and Reconciliation Commission, which was appointed as a commission of inquiry by President Rajapaksa, was discussed at some length by all parties. It was something that came up in all dialogues and I would like to note that this was an inquiry commissioned by the Sri Lankan government itself to investigate the facts and circumstances
which led to the failure of the ceasefire agreement that was made operational on 27 February 2002, the lessons that should be learnt from those events and the institutional, administrative and legislative measures which needed to be taken in order to prevent any recurrence of such concerns in the future.

In closing, I refer to a statement by the former foreign minister, Kevin Rudd, in response to the commissioning of this inquiry. I think this statement reflects what we all hope for. The statement noted:
The Australian Government has consistently urged Sri Lanka to investigate all allegations of crimes committed by both sides to the conflict, including those raised in the UN Secretary-General’s Panel of Experts report.
Mr Rudd also expressed concerns that the report had comprehensively addressed such allegations. But, in making those observations, he did also note that we all look forward to the demilitarisation of the northern areas of Sri Lanka and that we should and do help all governance processes, so that we can help and encourage the bringing back of civic administration and management of the region so that the military can withdraw. It was a very, very interesting visit, and the report is one that I commend to the Senate.

Question agreed to.

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

Leave granted.

The speech read as follows—

CLEAN ENERGY LEGISLATION AMENDMENT (INTERNATIONAL EMISSIONS TRADING AND OTHER MEASURES) BILL 2012

The Australian government accepts the advice of scientists that greenhouse gas emissions are contributing to climate change and this poses great risks to our environment, our economy and our society. Climate change is a diabolical international problem with an achievable international solution. Australia has a choice. We can be part of growing international action to reduce greenhouse gas emissions and use the market to reduce emissions at least cost to our economy. Or we can reject the advice of scientists and economists, ignore our international responsibility, and put our future prosperity at risk.

The Australian government has a responsibility to act in our national interest to be part of the international solution. Australia is one of the top 20 greenhouse gas emitters internationally, and the highest per capita emitter amongst the advanced economies. Anyone who suggests to the Australian community that we can have a free ride, that other nations with lower per capita emissions and less developed economies must take all the responsibility, is engaged in an act of deceit. That pathway will lead to retaliation in our trading relationships.

Does anyone seriously think that our Asian trading partners, that are so vital to our economic future, that have lower per capita income, that are dragging hundreds of millions of people out of poverty, will give us a free ride in tackling climate change? Australia must do its fair share—and it is in our economic interest to do so. The economies that will be competitive in the 21st century will be those that innovate, those that move to clean energy, those that reduce the emissions intensity of their economy. If we are the innovators, if we reduce the emissions intensity of our economy, if we utilise our
renewable energy resources, Australia will have the competitive edge.

The Gillard government has begun this process through the enactment of the clean energy legislation and the commencement of the carbon price. And let us be clear—we have introduced an emissions trading scheme that commences with a three-year period where the carbon price is fixed. After that transitional period, we will have a fully flexible emissions trading scheme where the carbon price is set by the market—a market that will be international. The carbon price began 80 days ago. From 1 July 2015, when emissions trading commences, national greenhouse gas emissions will be capped, enabling Australia to meet targeted cuts in emissions each year. These targeted cuts in emissions reflect the commitments made by Australia in the international community—commitments that reflect our fair share of the task in tackling climate change, commitments that both sides of politics have signed up to. But the baseless fear campaign by those opposite against action on climate change has demonstrated that they have no commitment at all. The only thing that matters over there is shallow political opportunism.

As our Prime Minister made clear just over a year ago, the government is on the right side of history. This bill makes amendments to the Clean Energy Act 2011 and related acts which will extend the international dimension of our contribution to the challenge of climate change. They give legislative effect to an interim link between Australia’s emissions trading scheme and the European Union Emissions Trading System, along with a number of changes to Australia’s scheme to facilitate this. This bill also makes minor changes designed to improve the flexibility of Australian auctions of carbon units and to recognise specific circumstances around the treatment of natural gas under the Australian scheme.

International linking

This bill means that from 1 July 2015, we will be linking the Australian carbon price to the European Union Emissions Trading System. It confirms that the fixed carbon price will end in 2015 and we will move to a fully-flexible emissions trading scheme where the Australian carbon price reflects the price in the largest carbon market in the world. In other words, the Australian carbon price will reflect the price in our second largest trading bloc and be the same as in at least 30 other countries—including the UK, France and Germany. Our carbon price will be consistent with that which applies in countries inhabited by 530 million people—making a mockery of the fallacious argument that Australia is acting alone, or has a carbon price ahead of the pack.

The European Union Emissions Trading System was the first international carbon market and now makes up more than three-quarters of the world’s carbon market. It has operated since 2005 and has delivered cost-effective emissions reductions. Overall, linking the Australian emissions trading scheme with the European Union Emissions Trading System is good for Australian industry, good for the economy and good for the environment. Linking means that an Australian business with a carbon price liability will be able to purchase a carbon emissions unit—effectively a permit to emit a tonne of greenhouse gas—in either the Australian or European carbon markets. Those permits can be bought now, for compliance in the period following 1 July 2015.

Businesses know that the most cost-effective way to cut pollution is through an open market mechanism and that is exactly what this will provide. Providing Australian businesses access to the world’s largest carbon market allows emissions to be reduced in the most efficient way, by broadening the pool of carbon units that can be used by businesses. As well as benefiting businesses, linking also has wider economic benefits. Linking will reduce the cost of the emissions reduction effort to the Australian economy. As Treasury modelling demonstrates, without the ability to purchase international permits, the cost of reducing emissions would double in order to meet Australia’s bipartisan unconditional reduction target.

We have always recognised the benefits of linking and that is why it has always been the Labor government’s policy to link with international carbon markets. In fact, linking with international carbon markets has been Australian
government policy since 2007 under Prime Minister John Howard. The Australian government’s 2007 Shergold report stated:

“As a supporter of the development of a global system, Australia has a direct interest in promoting links between comparable schemes. Any Australian domestic trading scheme should be designed to enhance the scope for links, both formal and informal, with as many different systems as possible.”

It is common sense to support international linking because it assists in providing emissions reduction at least cost and contributes to knitting together different national and regional schemes. It develops a common carbon price across economies, a common incentive to cut emissions, and fairly shares the burden of doing so.

We have a responsibility, as the leaders of this nation and as elected representatives of the federal parliament, to act in the interests of all Australians, both current and future generations. Ultimately, the scientists have warned us that the planet is warming and that warming is caused by rising concentrations of greenhouse gases in the atmosphere. They have warned us that continued warming will have severe consequences, which may include more frequent droughts, more days with high fire danger, changes in rainfall patterns, increased heat waves and more intense cyclones. This poses a risk to the environment, our economy and our way of life. No responsible government can ignore these risks. Responsible governments must take action—action that is environmentally effective, economically efficient, and socially fair: action we can take to protect our country and minimise the risk of the most extreme impacts occurring.

This is a global problem and it requires global efforts to reduce pollution. There are many out to mislead the Australian public by saying that Australia is acting alone and our efforts are meaningless unless part of global action. But this argument falls down on two fronts. Firstly, Australia is far from acting alone. Every major economy is taking action—from 2013, 850 million people will live in a place where polluters pay for their pollution. The world is acting and we are part of that action. The second reason the argument of these detractors falls down is because many of these same people who say a global solution is required also categorically oppose international linking. If you accept that climate change is a global problem that needs a global solution, it follows that you should support opening up trade with other countries to ensure pollution is reduced at the least cost. A globally coordinated approach must be fundamental to Australian climate change policy.

Because the Australian and European systems both cap the overall level of emissions, the use of a European allowance by an Australian emitter means that one less tonne of carbon pollution is released in Europe. Our challenge is to reduce global emissions. One tonne of pollution reduced in Europe delivers the same environmental benefit as a tonne of pollution reduced in Australia. We are an open economy and a trading nation. This is one more commodity that needs to be included in our trading relationships with other countries. By opening up trade in carbon, we will ensure that pollution is reduced at the least cost which will benefit households, businesses and the environment. The type of economic xenophobia and anti-market rhetoric that has been used when it comes to linking emissions trading schemes is backward and irresponsible.

We are proud to stand on this side and say this will be the first intercontinental linkage of emissions trading schemes. It represents an important development towards the establishment of an interlinked global carbon market and global action on climate change. It is the first link between Europe and emerging carbon markets in the Asia-Pacific. Emissions trading schemes are being developed in:

- China—our largest trading partner
- Korea—our fourth largest trading partner
- California—the world’s 8th largest economy, in its own right

In fact, market based mechanisms to reduce pollution are in place or being developed in eight of our top ten trading partners. Other key economies in the Asia-Pacific, such as Indonesia, Thailand and Vietnam, are also entering the carbon market. This will lead to the development of a cooperative Asia-Pacific carbon market in the future. The link with the EU is also
very important for the competitiveness of Australian industries. The linking arrangements have the potential to increase the effective assistance delivered to our emissions-intensive trade-exposed industries by the Jobs and Competitiveness Program. For example, if a highly emissions-intensive activity is able to source Kyoto units on the market for half of the price of European allowances, their effective assistance rate in 2015-16 would rise to 97 per cent. The assistance delivery also retains the incentive for emissions savings.

This bill and the amendments it contains are intended to provide the legislative foundation for this link and future links with other emissions trading schemes. The link with the European Union Emissions Trading System will first allow European allowance units to be used for compliance under the Australian scheme for liabilities incurred between 1 July 2015 and 30 June 2018. This will be followed by a full bilateral link from 1 July 2018 where units from both schemes may be used for compliance in either system. To simplify the linking arrangements and facilitate the convergence of Australian and European carbon prices, the government has announced that it will no longer proceed with the carbon price floor, and that it will restrict the quantity of eligible Kyoto units that Australian entities can use to discharge their liability.

This bill eliminates the price floor from existing legislation by removing the requirement for a minimum auction reserve price for the financial years 2015-16, 2016-17, and 2017-18, and repealing the act that provided for a surrender charge on eligible international emissions units. The bill also limits Australian entities’ use of eligible Kyoto units to 12.5 per cent of their total liability and provides the government with the ability to introduce other limits on eligible international emissions units should this flexibility be required in the future. In relation to the designated limit of 12.5 per cent for Kyoto units, the bill provides that this designated limit percentage may not be changed before 1 July 2020. This will provide certainty to Australian liable entities in relation to their allowable surrender of international units, and hence certainty in relation to their emissions reduction investment and compliance strategies.

The bill also provides the government with flexibility to implement the most appropriate set of registry arrangements to establish the interim link with the European Union Emissions Trading System, and flexibility in establishing future registry arrangements with other jurisdictions should links to other schemes be concluded in the future.

**Equivalent carbon price**

The bill also alters the current arrangements for applying an equivalent carbon price to synthetic greenhouse gases and some liquid fuel use, to ensure that it reflects the effective carbon price faced by liable entities under the Australian emissions trading scheme when linked to the European Union Emissions Trading System.

**Auctions**

The government proposes to make minor and technical changes to the design of the auction scheme for the Australian emissions trading scheme, to improve its operation and streamline the arrangements. These changes take account of further consultation on the detailed design of the auction scheme and the commencement of the detailed design process. The amendments increase the carbon unit auction limit from 15 million to 40 million for 2015-16 carbon units that are auctioned in 2013-14, and 20 million for all other advance auctions before a pollution cap is set. The amendments also establish that where there is not a pollution cap in place, units cannot be sold at auctions held more than three years in advance of their vintage year. In addition, the bill provides for the approach to setting auction reserve prices to be determined in a ministerial determination.

Finally, the bill simplifies the treatment of relinquished carbon units.

**Natural gas**

In order for the carbon price to maintain effective and complete coverage of natural gas, the bill allows regulations to be made to provide for coverage of alternative natural gas arrangements, supporting competitive neutrality in the industry. The bill also amends the National Greenhouse and Energy Reporting Act 2007, so
that from 1 July 2013 the methods to measure and adjust liabilities for liquid and gaseous fuels may be set out in a disallowable ministerial determination. This will give more certainty to the liquid and gaseous fuels sectors and more flexibility in emissions reporting, which is appropriate given the complex commercial arrangements in these sectors.

Conclusion
Countries around the world are taking action to tackle climate change. Australia’s carbon price is now part of this global action. With emissions trading schemes in 33 countries and 18 sub national jurisdictions expected to be in operation from 2013, it is likely this linking arrangement is the first of many to come, which will lead to a deep and liquid global carbon market. It gives the lie to the claims that no other countries are acting. Linking to the European Union Emission Trading System is a historic achievement not only for Australia but for global action on climate change. When future generations look back on the Clean Energy Act, the emissions reductions it will have driven and the global carbon market it supported, they will thank the members of this parliament who have rejected delay and embraced a clean energy future.

Debate adjourned.

Judges and Governors-General Legislation Amendment (Family Law) Bill 2012

Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012

Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill 2012

Assent

Messages from the Governor-General reported informing the Senate of assent to the bills.
the Social Security (Administration) Act 1999, be
disallowed.


In moving this disallowance motion I would like to point out the reasons I think the Senate should support it. I am well on the record as not supporting income management, and I will articulate that yet again here, as well as why I think this is a disastrous approach and why it would be a good idea to stop it going any further.

These regulations activate the income management powers, which are an extension of an expansion of the intervention powers which were brought in under the banner of Stronger Futures. One of the regulations deals with the extension of income management to the long-term unemployed in the Northern Territory. This is a technical regulation due to some changes that were made under Stronger Futures. The other motions extend income management to trial sites around Australia and provide powers to the minister to introduce the place based income management in the five trial sites of Bankstown, Shepparton, Logan, Rockhampton and Playford.

The Greens have consistently opposed income management because it is a radical and frankly terrifying departure from the basic principle of the social security safety net that makes Australia a fair and more equitable country. Maybe it is not fair to use the word 'radical', because this is actually one of the most socially conservative policies yet to come from the government. This government now has a strong track record in implementing punitive social policies. It is a government which, last time we met in this place, finished a job that even John Howard was not prepared to do they pushed another 150,000 single parents and their children onto the significantly lower Newstart payment. At least the Howard government grandfathered that cohort of parents.

It is a government that apologises for generations of trauma but then just as quickly moves to give its own, hands-on demonstration of a paternalistic approach to another generation of Aboriginal Australians. It is a government that favours delivering a budget surplus rather than providing better outcomes for low-income families.

If it is not a radical departure from the basic tenets of our social security system, which is based on ensuring a minimum income for all eligible citizens without seeking to disempower the recipient by supplying their income in kind rather than in cash, then I do not know how else to describe a policy whose stated objective is to control how income is spent in order to 'encourage socially responsible behaviour, including in relation to the care and education of children'. The concept of income management is clearly rooted in a notion of new paternalism that flies in the face of nearly 50 years of continual progression away from the heavy-handedness of a less enlightened era.

The social security net is one of the most important features of our democracy and the way of life in Australia. It is meant to ensure that there is some minimum standard of living for each and every Australian. There are already stringent tests to access that support in the first place. To now impose upon some of the recipients of that support that they must now demonstrate somebody's version of socially responsible behaviour is to promote the idea that disadvantage is primarily a result of the individual's failure to
demonstrate the necessary social values and norms.

I do not deny that there is some welfare dependency in this country. There is of course—and I have spoken about this at length—entrenched poverty and patterns of prolonged interaction with the social security system in our communities. However, income management is not the answer. We need to be addressing the barriers.

For those who are inclined towards increasingly heavy-handed top-down solutions when they are confronted by wicked social problems, income management feels like a really easy solution. But the only people it actually helps are those who seek to deny the basic rights of all Australians to a minimum standard of living, regardless of their personal circumstances and regardless of gender, ethnicity, education or ability.

I have no doubt also—while I have had a go at the government—that those in opposition also have strong views around this particular measure. It was them after all who introduced income management in the first place. In fact we have evidence of these views most recently in the speech by the shadow Treasurer, Joe Hockey, which he gave earlier this year, in which he suggested that our social safety net was an entitlement and sought to imply that we need to be removing some of these entitlements; whether he actually meant the social security net is unclear.

A safety net is not a luxury; it is a basic right that we offer to all Australians. After all, anyone can find themselves out of work, laid off, ill, in crisis or living with crisis or family breakdown. Looking after one another is one of the proudest traditions in this country. Our social security system is a powerful demonstration of the basic values of equality and of opportunity.

This decision to start punishing and maligning the individual when there are clearly structural barriers, entrenched poverty and generational trauma violates this tradition. And for what? The evidence we have suggests that this is only making sure that some people are even further disadvantaged and socially excluded. Concerns about the application of this policy on disadvantaged communities were possibly best expressed by Professor Tony Vinson, a member of the government's social inclusion board, who raised concerns that his widely respected research on disadvantaged regions—a well-known piece of work—would be wrongly used to target social security recipients or income management. He said:

... charting the distribution of disadvantage throughout Australia was intended to concentrate positive, inclusive forms of assistance for individuals and families caught in entrenched disadvantage, not to increase their exposure to sanctions.

The fact is that income management is a huge social experiment in new paternalism. Even the way the minister describes these five sites as 'trial sites' demonstrates that the government is embarking on a brand new path with this policy.

The government has consistently emphasised the importance of evidence based policy. For example, Minister Macklin has spoken of her 'unshakeable belief in the power of responsive, evidence based policy to drive progressive reform at many different levels'. However, we believe the growing body of evidence from the last four years worth of income quarantining in the Northern Territory demonstrates that this policy is not working.

I will point out here that the process of Stronger Futures and the extension of it to these trial sites has gone in the absence of meaningful evaluation. When I asked in
estimates about the progress of the evaluation of the current NT process, I was
told there was a draft for the first part of it
which was sitting with either the department
or the minister. It still has not been released.

While I am at that point, there was an article
on Saturday, 15 September, in the Weekend
Australia which said:

NEW research from a major study of indigenous
children and their families in 11 sites around
Australia shows overwhelming support for
income management, with 77 per cent of
respondents saying income management had led
to positive changes to communities.

It goes on to document that.

When I went to the FaHCSIA website to
find that information on that Saturday, guess
what? It was not there. Wave 3 of that
longitudinal survey was not there at the
time—it is now but it was not then—and
wave 4 is still not available. When I asked in
this chamber, through an order for the
production of documents motion—which the
chamber supported—those documents
indicated to me that wave 4 data had not
been released. In fact, on the note that I got,
it says: ‘Wave 4 data has not yet been
released.’ That is a document that was tabled
in the Senate in response to my order for the
production of documents motion. So I ask:
how come that information was released
when it was not publicly available
information and any other member of the
community could not check the validity of
that information? Maybe I am too cynical,
but my cynical response is that that was a
leak so that the government could claim,
without any evidence or any backup that
anybody could look at, that people are happy
on income management.

But when you look a bit deeper and look
at the survey that was undertaken you see
that there are in fact some issues around that.
The question does not differentiate between
whether it is compulsory income
management or voluntary income
management—and people's responses to
voluntary versus compulsory income
management are very different. It combines
Centrepay in with the question about income
management. Centrepay is completely
different from income management. The
survey was over a large number of
Aboriginal communities, not just those who
were subject to income management. I
question the use of that data, but it is an
example of more of the same. Income
management and the so-called successors of
income management have been a matter of
spin by this government to try to justify
continuing this top-down paternalistic
approach.

I had some other background work done
on income management. The background
briefing I received, looking at weighing and
summarising the evidence, said:

There is no clear evidence that the policy is
working. In none of the locations in which it
operates is there unambiguous evidence for or
against the effectiveness of income management.
The overall picture emerging from the available
evidence is one in which positive changes have
been uneven and fragile.

There are no demonstrable improvements
that justify the continuation of income
management. The independent report from
March 2010 by the Australian Indigenous
Doctors Association, in collaboration with
the University of New South Wales Centre
for Health Equity Training, Research and
Evaluation and with support from the Fred
Hollows Foundation, raised serious concerns
about the continued future wellbeing of
Indigenous children and families under the
Northern Territory intervention. The health
impact assessment found that compulsory
income management had ‘profound’ long-
term negative impacts on psychological
health, social health and wellbeing as well as
cultural integrity.
The study of income management, looking at women's experiences, which was completed by the Equality Rights Alliance in May and June 2011, shows that, of the more than 180 women with direct experience on income management who participated, 79 per cent wanted to exit the system, 85 per cent had not changed what they bought and 74 per cent felt discriminated against. That discrimination has a palpable impact on people. The government conducted a telephone inquiry of store owners and concluded on that basis that the sales of fresh food had increased. I said at the time that was a very dubious way of collecting information. Earlier on in the income management experiment, the Menzies Institute demonstrated, using other assessment tools, that there had not been a measurable impact on the sale of tobacco or junk foods.

On top of the example I used about spin on results, this adds up to there not being quantifiable evidence to show that income management works. In fact, there is evidence to show that it disempowers people. The Public Health Association of Australia, in evidence to the recent Senate inquiry, acknowledged that this practice disempowers individuals. They said:

In addition to undermining autonomy and self-determination—which are pre-requisites for good health and wellbeing—universal compulsory income management violates Australia's human rights commitments and the principles of citizenship.

Given the lack of evidence and the potential to negatively impact on the community empowerment, it is deeply concerning to the Australian Greens that income management is being rolled out in these five new trial sites and that the Social Security Legislation Amendment Act, as it is now, empowers the minister to give referral powers to the state and territory agencies, ostensibly extending income management by stealth across Australia. These are, we believe, inappropriate powers to hand over to the states.

Let us look at the instruments that I am seeking to disallow and look at what they talk about—and, specifically, I am referring to Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2012. This is the instrument that puts in place allowing the income management of so-called vulnerable people. And why could you be vulnerable? Financial hardship, failure to undertake reasonable self-care—who's definition?—homelessness or risk of homelessness. I will take you to one of the paragraphs that talks about financial hardship. It says:

(a) the person is unable, due to a lack of financial resources, to obtain goods or services, or to access or engage in activities, to meet his or her relevant priority needs; and

(b) the lack of financial resources mentioned in paragraph (a) is not solely attributable to the amount of income earned, derived or received by the person.

Of course, you have to put that in! You have to put that in because every single person on Newstart would be experiencing financial hardship, as we know that Newstart is $130 below the poverty line. So just when do you decide that a person is in financial hardship when they are already living $130 below the poverty line? Who decides? Centrelink, a social worker, decides that some one is living in financial hardship. Then there is 'failure to undertake reasonable self-care', where it says:

(a) the person is engaged in conduct that threatens the physical or mental wellbeing of the person;

Under homelessness it says:

(c) is using, or is at risk of needing to access, emergency accommodation or a refuge.
What is 'at risk'—that they are living in poverty; that they are not able to know where their next rent payment is going to be made? People are very nervous about this vulnerability criteria and what it actually means. Then it goes onto decision-making principles and talks about the person who ‘is applying appropriate resources to meet some or all of the person’s relevant priority needs.’ Again, it comes back to: if you are living on Newstart you cannot meet all your relevant priority needs. Income management is about punishing people. It is a top-down punitive approach that does not address the fundamental barriers of how people manage to get off Newstart and into paid employment.

I have also been asking constantly about the cost of these particular measures. Last time I asked about the cost—bearing in mind at estimates we were told only 102 people had gone on at the five trial sites at the moment—the government could not tell us what the total cost of establishing and setting up income management in these five trial sites was. I have had a bit of a stab at it, as have other people at some of the other sites and, in the Territory scheme, which affects around 20,000 people, the community calculated it as $4,100 per person per annum. Just to put this into a bit of perspective: this is a third of the allowance paid to unemployed people on Newstart.

I was trying to do some figures on the costs of the rollout of income management in Western Australia. Looking at the figures that we were able to access, it works out at about $11,900 over the period of time that the trial has been operating. Those were only the figures I was able to get hold of at the time and that were publicly available. This is a significant cost and, again, the amount per person from information that we got from estimates and the income management in the APY Lands is $8,000 per person.

My proposition is that that money would be far better invested in helping people overcome the barriers to gaining employment, to gaining education. Imagine if we invested that sort of money in early childhood learning to overcome the impacts of otitis media. You would automatically raise the number of kids that would go on to year 12. I also believe that you would be diverting a lot of people out of the criminal justice system for those that were listening to my talk earlier about the impact of otitis media and poor hearing, and interaction with the criminal justice system.

This is not the appropriate way to be helping the most disadvantaged in our community. These powers in these trial sites as yet do not address the issues around long-term unemployed and disengaged youth other than the instrument that deals with that issue in the Northern Territory. Again, income management is not the best way to deal with long-term unemployment. We have heard a wealth of evidence in the inquiry into Newstart that is ongoing at the moment that clearly shows where money needs to be invested and where we need to be addressing long-term unemployment. Income management is not the way to address that.

There is no evidence that income management works. There are other measures that we should be addressing that would truly close the gap and give people long-term support. It is interesting to note some of the reports that have come from the financial counsellors, because part of this measure was supposed to be financial counselling. The financial counsellors have concerns. (Time expired).

**Senator SCULLION** (Northern Territory—Deputy Leader of The Nationals) (17:59): I also rise to speak to the Disallowance of the Social Security (Administration) (Declared income
management Areas) Determination 2012 and the four other associated disallowance motions.

I have just listened very carefully to Senator Siewert who is a very credible individual who speaks with great passion about Indigenous communities, but the Greens are a political party that have a longstanding policy of opposing policies whose genesis was part of the Northern Territory emergency response. I am very pleased to see that Senator Crossin, the other senator for the Northern Territory, is also in the chamber and I hope she makes a contribution to the debate today. It is one of those rare moments where we will agree pretty much on everything, I hope, which is probably once a decade. Both parties have spoken along the same lines and pretty much because we can speak with some confidence.

When the Northern Territory emergency response legislation was first considered—obviously, very controversial legislation—in the last year of the Howard government, I can recall assisting its passage. I think it was the second longest debate in Federation. I was minister at the time and I took it through this place. I understood it was very controversial. There were lots and lots of question about what if and what would happen. I can understand people's concerns about whether it had a net positive impact some time ago.

It is useful to look at its genesis. This was a response not because we decided we would just like people in the Northern Territory to have some assistance in managing their income; it came from what was quite clearly a shocking report. Evidence was given in over 73 communities, evidence was given freely and expertly in a particular way. I think that it should be the benchmark for taking evidence in many of these communities from witnesses, women, victims. The report, amongst other things, reported the systematic sexual abuse of children. Whilst that was the headline out of it, it made some very important links between chronic alcoholism and the dysfunctionality that followed: the breakdown of law and order—and I am talking about customary and mainstream law—and the breakdown of what any human being would consider to be social norms.

Some of the evidence was quite clear: why were communities so dysfunctional? How come we had this level of breakdown of social norms and lack of responsibility from parents—did they know where their kids were; just the whole horror story. And wherever we talked there was alcohol. It was variously described by people from both sides of this place as 'the rivers of grog'.

Clearly, that had to stop and, again, there was quite a clear, causal link between the availability of cash as a payment, invariably from Newstart or some welfare payment in the community. Sadly, there are far too many people in the communities who are poor. That is the circumstance: they are just simply poor. Far too many of them are reliant on a welfare payment. Of course, I think that the link has been clearly made between that and access to alcohol and other substances of abuse.

Therefore, the cash payments had to be quarantined, or, 50 per cent of them had to be set aside. That ensured a 50 per cent reduction in the funds available to buy alcohol. It is very simple. A lot of people try to confuse it, but that was in effect what happened. Fifty per cent of the funds in the community, whether they were in your bank or were taken out were simply not available to buy alcohol. It was not available to buy cigarettes, it was not available to buy pornography and a whole range of annoying things like that—not cigarettes so much, but
I think that people were pretty embarrassed about the pornography thing, and rightly so. But clearly, the main motivation was to stop the alcohol.

Anecdotally, and from my observations, it was quite startling. I saw changes which were stark in the communities that I had been travelling around many of for a decade or so, particularly in the northern Northern Territory.

Perhaps the Greens would argue that there were a number of things that may have caused that and that it was not only the income quarantining—perhaps it was the provision of the extra 63 police officers, the Substance Abuse Intelligence Desk or the very intelligent application of law enforcement and compliance to ensure that alcohol did not get out of the community. Sure; that was all part of the Northern Territory Emergency Response legislation. But most importantly, the income quarantining led to a 50 per cent reduction on the funds that could possibly be used to purchase grog, ganja and other substances of abuse.

I think that when looking at this disallowance motion the real question is whether it is more important to look at and listen carefully—which it always is—to the Greens' position or to listen to what is overwhelmingly the position of the communities, particularly the women in those communities, who have been quite vocal and who have made their position on this very, very clear.

I acknowledge to Senator Siewert that at the time, who would have known? As the parliament we often think, 'This will be the solution,' and in five years' time we think, 'Oh, we probably could have tweaked that,'; with the benefit of hindsight, perhaps that would have been the case. But I am not so sure with this particular piece of legislation. I think that we got it pretty much right—and I know that there have been pockets of resistance, as I would call them. I think there is some pretty good evidence that counters that resistance.

I think that the first one was a joint study conducted by FaHCSIA and the Australian Institute of Health and Welfare. They looked at the—

Senator Siewert: Oh, don't tell me—

Senator Scullion: I can tell you that it has a lot more credibility than the Equality Rights Alliance who you were quoting to me a minute ago, Senator Siewert! If you could just afford me the decency that I afforded you, I would most appreciate it!

They went on to say that three options were given about income management: good, bad and undecided. The headline number here from an objective study conducted by impartial assessors, who had no vested interest in the communities that these measures targeted, is that double the number of respondents said that income management was good rather than bad. It is a very simple headline right across the communities.

There were a number of communities: Tennant Creek was actually just under fifty-fifty, so only 46 per cent of them said that it was good. However, places like Gapuwiyak in Arnhem Land said that 92 per cent responded 'good' and Aputula in Finke in the central desert responded with 80 per cent saying it was 'good'. I think that the worst one in terms of our side of the argument was Nguiu and the Tiwi Islands, where only 23 per cent said it was good.

But overall, the headline number was that double the number of respondents said it was good rather than bad; exactly twice as many of the people who get income managed. I would have thought that it was those individuals who would know best. In fact, on
25 August we had a change of government in the Northern Territory. Whilst that is probably unremarkable, three of the people who were elected in the southern end of the Northern Territory—two in the southern end and one sort of in the middle—were women, one of whom was re-elected and the other two who were new candidates. They were Bess Price, Alison Anderson and Larisa Lee.

Certainly, through my relationships with Bess and Larisa we often discussed these matters through that process, as you would. I know that I said there were some compelling arguments from people; they were all saying that we have done the wrong thing and all those sorts of things. I have to say to Senator Siewert that I do not think we get too much argument from her but that I would have thought we would from people like Bess Price, Alison Anderson and Larisa Lee, who are Aboriginal women who have spent much time in these communities. This is not only with the visiting that we tend to do, with respect to my colleague on the other side, Senator Crossin. I would love to say that I do more than that, but I certainly have not lived in them in the same way that these women have. They were born and brought up in these communities, and they certainly are able to reflect on the before and the after. I have to say that I have been very impressed with the answers that I get.

The Greens certainly cannot put their hands on their hearts and claim to have more experience on Indigenous issues and more experience of life in the bush and remote areas of the Northern Territory than Ms Price, Ms Anderson and Ms Lee.

The reason that I make the point about this is that there has been a bit of a question about what people in the Northern Territory think about the intervention. There were possibly other issues; perhaps one other issue was a shire, to be honest. But if you ever needed a plebiscite on income management or the intervention, which was a bad and dastardly thing, then the election was fought on the basis of the intervention—certainly in Bess Price's and Alison Anderson's electorates. You would get more of the intervention if you voted for Alison Anderson and you would get more of the intervention if you voted for Bess Price—it was not so much with Larisa; she had a number of other issues. But they voted for them in their droves. There was an 18 per cent swing for Bess with a concerted process. There were a number of other issues; I do not want to distract from this particular issue.

In Central Australia, given the debate and given the issues that were canvassed there, particularly by the First Nations Political Party and the Greens who ran a single issue—'This is all about the intervention. You don't need any more intervention'—it was a clear plebiscite. No-one voted for them—well, close to no-one. I do not want to be misrepresented; there were a couple of people who were obviously lost on the day. So there was a clear plebiscite on this issue. Those are individuals whose life revolves around whether or not their income is quarantined. They had a choice to give some sort of mandate regarding whether they wanted it or not and they spoke out very clearly.

While I was talking to Bess a few weeks ago, she shared with me some of her perspectives about Indigenous culture. She grew up with descendants from pre-white settlement. It is very hard to imagine in our context, even in here, that there are people like her alive today, but that is how remote those places are. As a young woman she knew people who predated people coming in with their Land Rovers and helping people out. She was able to help me understand, as have many of my Indigenous friends, why it is that we have the demand-share system, as
we call it in Indigenous communities. Often it is the case that when you have food you are culturally obliged to share it with your kin. There are some very practical reasons for that. If you have a kangaroo, you do not put half of it in the fridge or eat a foot and put the rest of it away. You simply do not have that opportunity. There are no fridges for storage, so you have to eat it all now. The demand-share system effectively deals with that circumstance and says, 'This is how you separate it. This is how you deal it. When Uncle asks you for something, you have to give it to him.' There are a whole range of very practical cultural processes around that. But, sadly, the notion of property and sharing has not translated well into a modern, cash based economy where one person has the resource. The obligation to use that now, even as they are trying to save, is very difficult. Its translation, sadly, is lost in that circumstance.

Imagine for a moment a woman who is raising a family and gets a pension or a Newstart payment as cash deposited into her account. There are plenty of people in her extended family in the township, including some who have a substance-abuse problem. Sometimes how they spend their money is not a choice. She is obliged to help. If she refuses, it is a serious matter. It is not a serious matter later; it is a serious matter now. Someone is instructing you to provide something to him or her to meet cultural obligations, and that makes it very difficult. Sometimes if you break those laws, you can be vulnerable to not only verbal abuse but also assault or isolation in the community. It is a very serious thing. It is not our notion of humbug—'I just wonder if I can borrow a tenner until Friday.' It is nothing like that at all. It makes it very hard for the people who wish to break out.

Let's have a quick look at what happened when we introduced the BasicsCard. I do not know about the Central Desert, but I have certainly spent a fair bit of time recently in some of the more northern coastal communities after its introduction. It was not right across the board, but I can remember the difference in many of the women who understood what was happening with it. When someone started humbugging, the women would say something like, 'BasicsCard: yaka rupiah,' meaning, 'There's no cash.' It is an answer to someone who is humbugging them: 'BasicsCard.' They cut off 'Yaka rupiah' and it became just 'BasicsCard'—nothing. They are far better off in that situation. I can tell you that the beneficiaries are very much the people who used to be the victims.

I refer again to the AIHW report of 2009. There are dozens of measures about the effectiveness of welfare quarantining. I will go through a couple of them. It is not only about money; it is about whether you have the capacity to have cash for alcohol. Participants were asked if their families were eating more fresh fruit and vegetables. This was not storekeepers; this was participants in the Institute of Health and Welfare report. It was reported that 56.9 per cent said yes and only 8.3 per cent said no. Also, vandalism was reported as going down by 18 per cent; there was 29 per cent less violence on the streets; 47 per cent of people reported feeling safer in their communities—that is something we take for granted, but that figure is pretty significant; 66 per cent said children are better looked after; 60 per cent said alcohol and drug abuse is down; 52 per cent reported that humbugging is down; and 63 per cent said there is less gambling.

Bess told me about a man in her family group who looks after six children and said that welfare quarantining saved his life—it was as simple as that. He said, 'I am now able, even in a cultural sense, to say, 'Look, I've got to look after these kids. I've only got..."
this much cash. Humbug me for some of that, but the rest of it is going to be for food for the kids.” I did a survey myself in a community of Wadeye that has had its challenges in the past. It has gone through some in the last couple of weeks. It has had challenges with alcohol, violence and gangs in the past. When I last went to Wadeye I spent a bit of time there. I commissioned a different survey. I hired local people who spoke the local language and ask them to find out what the people in Wadeye thought about a number of issues, and the BasicsCard was one of them. They had four options on how they rated the BasicsCard: really good, good, okay and bad. Forty-eight per cent said it was really good. That is top marks: 48 per cent. Seventy-three per cent rated it as either good or really good. That is a pretty significant statistic. The result is that money is not being wasted in funding the addictions of friends and kin. Money is actually being spent on looking after children and buying food and shelter. The Greens stand up in this place and claim to be acting in the interests of Indigenous people, but 73 per cent of people in Wadeye support the BasicsCard and, in that plebiscite, 0.7 per cent of people in Wadeye voted for the Greens candidate at the last election.

Indigenous women in the APY lands have been calling for welfare quarantining for a couple of years. They have seen the effects of the Basics Card across the border, they have seen the reduction in hunger, they have seen the kids getting fed, they have heard the women and elderly say that they are safer, and they have been asking for welfare quarantining to come into the Northern Territory. They have been able to observe. They are not subject to it, but they are subject to discussions with their peers. They say: ‘What’s this about? Is this about what the Greens tell us? Was this was introduced by a government to punish people?’ They would say ‘Yaka—nothing.’ They would say: ‘This is here to help us. The help that comes to us is simply because we do not get the cash anymore.’ A mother would say, ‘I am able to know that of the welfare that comes to me, to my husband and to our family half has to be used for things like rent, food and clothing—and all those sorts of issues we take for granted.

I know this has been an ongoing issue for the Greens, and I think I represent everyone in the Northern Territory, particularly the Indigenous people, when I say that they do not support it. Aboriginal people who are subject to this legislation and to welfare quarantining do not support the disallowance of this motion. It is never too late for the Greens to change their minds. It is never too late to represent the people they claim to represent. If they are at cross-purposes with anyone in this debate they are at cross-purposes with those they purport to represent in the centre of Australia.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (18:16): I am pleased to speak in this debate about the disallowance of five regulations relating to income management. The federal Labor government is driving major reforms to support vulnerable and disadvantaged people as they balance their budgets, go back to work and give their children the best possible start in life. I am sure everyone here would agree that it is neither fair nor acceptable for children to grow up in a family where no-one has ever worked.

This trial is a new approach balancing new responsibilities with new opportunities. Since 1 July 2012 income management has been operating in Playford in South Australia
in addition to four other trial locations around the country: Logan and Rockhampton in Queensland; Greater Shepparton in Victoria; and Bankstown in New South Wales. There are already more than 100 people participating in income management across these five sites; most of these are volunteers.

Income management helps families ensure their welfare payments are spent in the best interests of their children. It ensures that money is available for life essentials and provides a tool to stabilise people's circumstances and ease immediate financial stress.

We have heard people argue about rights. It is all well and good to make sweeping philosophical statements in the abstract, but I remind people to remember the rights of children—to a decent meal, to decent clothes for school, to feel safe and provided for and to go to school. This is about making sure that kids get the best start in life. It is not about taking away rights; it is about helping people to stabilise their circumstances.

It is also important to remember that income management is only one part of a suite of measures our government is using to help support vulnerable people. As part of our government's plan we are also investing $13.6 million over five years to deliver financial management program services to assist vulnerable individuals and families in the five income management place-based locations.

Our party is about a pragmatic and evidence based policy that seeks to help the vulnerable and the disadvantaged. The evidence we are already seeing is that income management works. More than 1,200 are now participating in income management in Western Australia. More than 1,000 of these people have volunteered to become part of income management. More than 200 people were referred to income management by child protection authorities. An evaluation of people participating in the trial in Western Australia found most respondents said that income management had improved their lives and those of their families. A recent news story reporting on income management interviewed a mum in Western Australia named Karen. Karen is currently participating in income management, and in her interview she commented: "It's got me out of debt. I've actually got money in the kitty that I'm saving up."

I urge the Senate not to support these disallowance motions.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:20): I would like to address a couple of the issues that came up just then. One is that this is evidence based. I have been through a number of examples where it is not evidence based, and I was very disappointed that Senator Scullion referred to the AIHW report. I asked questions in estimates about this a couple of years ago when that quote was being extensively used. The AIHW refused to be involved in that survey process, so their name was put on the report because they looked at one tiny part of that survey. They said that their ethics committee said they would not be involved in that process. To continue to keep quoting it is exactly what the government wanted—they wanted to attach the institute's name to it so they could get some cred for that report. They went around and asked people. It was not a quantitative analysis at all; it was a qualitative analysis. I think we should stop using that report.

The government says this is about the rights of children. I will quote that back to the government every time it says it cannot afford to increase Newstart. Does the government care about the children that it is...
dumping onto Newstart from Parenting Payment Single? Did it read Anglicare’s report from two weeks ago that showed so many children going hungry and that people cannot afford to feed their families? Where was the government’s care for the children then? Now the government says it cares about income managing people, but it does not look at the long-term psychological damage it is going to do to those families. We hear there is evidence that so many people, mainly women, in the APY Lands want to go on to income management. The Greens have repeatedly said we do not object to voluntary income management. If people do choose to go on to income management, that is their choice. There is a very different approach between voluntary income management and compulsory income management. I did not talk about voluntary income management because I ran out of time, but I have said repeatedly we do not object to voluntary income management.

Senator Scullion spoke about income management in the Northern Territory, but he did not deal with the trials. These motions relate to the trials in Bankstown, in Rockhampton, in Logan, in Playford and in a small part of the Northern Territory. But Senator Scullion did not talk about how income management is being rolled out without evidence that it works. Of course, he brought up the tried and true, saying it was all based on the *Little children are sacred* report and that that is the genesis of the Northern Territory intervention. We all know clearly that income management cannot be justified by the *Little children are sacred* report. That report made a large number of recommendations, most of which have not been implemented. It is a flawed argument to keep going back to that report when even the authors of that report do not support the Northern Territory intervention. But they keep quoting it to justify their stance on income management.

Income management is a flawed policy response. As a country we would be much better off investing the money that is being wasted on income management in really addressing the barriers to overcome disadvantage, to really support families that are doing it tough and help them overcome the barriers that they face. That is where the money would be better invested, instead of spending at a minimum $4,000 per person, a bit more than a third of the money they receive on income support. We would be much better off redirecting that money, and by supporting this disallowance motion you would give us another chance to spend the money properly. I urge senators to support this disallowance motion.

**The ACTING DEPUTY PRESIDENT (Senator Furner):** The question that the motion moved by Senator Siewert be agreed to.

The Senate divided. [18:29]

(The Acting Deputy President—Senator Furner)

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<th>Ayes</th>
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AYES

Di Natale, R
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

NOES

Back, CJ (teller)
Cameron, DN
Collins, JMA
Crossin, P
Furner, ML
Kroger, H
McEwen, A
Moore, CM
Pratt, LC

Bilyk, CL
Cash, MC
Conroy, SM
Farrell, D
Johnston, D
Ludwig, JW
McLucas, J
Payne, MA
Ronaldson, M
Defence Trade Controls Bill 2011

In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Cameron): The committee is considering opposition amendment (1) on sheet 7296 moved by Senator Johnston. The question is that the amendment be agreed to.

Senator JOHNSTON (Western Australia) (19:30): I would like to speak further to the amendment, if I may. By way of explanation, I was speaking just prior to question time. To reiterate a little, just so we all know where we are at, I was quoting directly from the US Export Administration Regulation. I do need to say that having used the exact words of the legislation in the amendment, I acknowledge that the department, and therefore the government, is most concerned about the use of the term 'fundamental research'.

Having said that, I want to be persuaded as to why you think, in the face of what I will deal with in a minute regarding United States legislation, we should be more restrictive than they are. This is complex and I think everybody needs to come to this debate with an open mind, but having read those clauses out—and tell me if there is something I am missing here—I do not for one second want to see our research situation be any less competitive or be more restricted by this legislation than would be the case in the United States as I have set out using the words in their legislation.

A number of people in the research institutions—and here I have taken from Universities Australia's submissions—have said that adopting this amendment brings Australia's system of export control into alignment with the laws in place in the United States pertaining to university research. Complementary resolutions would ensure implementation proceeds transparently in accordance with the transition arrangements through the round table process and endorsed by the committee. That is their words. That is what they see as fundamental. I take it the Greens are probably going to support the opposition in this amendment. That is why I think, Minister, it is really important if you see it as fatal, then let us put it on the record now, let us have the discussion.

I want to also mention that in looking at the Congressional Record—and I had a little bit of time today to go through some of these elements—there is quite a detailed assessment of how the treaty should work and what compliance threshold and gates there are to it. At S7722 the Congress specifies that:

... the President shall certify to Congress that the Government of Australia has—

(A) enacted legislation to strengthen generally its controls over defence and dual-use goods, including controls over intangible transfers of controlled technology and brokering of controlled goods, technology, and services, and setting forth:

(i) the criteria for entry into the Australian Community …

(ii) the record-keeping …

... … …

(iv) the requirements for Exports and Transfers of United States Defense Articles outside the Approved Community—
and so on. I am pretty comfortable with all of those threshold/gate type issues for us to comply with what the congress has intended. I do not think there are any problems there. All I am saying is that their regime appears to be reflective of the exact terminology we are using in this amendment.

I will finish this part of the debate by trying to deal with some of the material that Australian researchers have given me. They say to me:

US researchers in accredited higher education institutions enjoy broad exclusions from export control under the relevant Export Administration Regulation (EAR) and International Traffic in Arms Regulations (ITAR), for fundamental (basic and applied) research in science and engineering that is ordinarily published and shared with the scientific community.

And here is that expression again that you see in the amendment. They continue:

Our Defence department has taken a much narrower view of what can be left out of their proposed regulatory net. They only concede exemptions that are already written into the DSGL—items in the public domain and the results of basic scientific research.

This is the nub of the issue that we are seeking to ventilate. They say:

The Australian government’s investment in research, like the private sector’s, is largely driven toward achieving outcomes for Australia’s national priorities to support economic prosperity, health and innovation. As a result, the majority of Australian research is pursued with some application in mind. The narrow definition of basic research in the DSGL thus captures a large swathe of research activities where there is low-risk and arguably no-risk for the transfer of information that would lead to harm and where the risk can be managed more appropriately and effectively at the institutional level with benefit of the disciplinary expertise in the university and in accordance with established academic codes of practice.

The paper goes on to say:

As the National Tertiary Education Union has said—

They also have been talking to opposition senators—

in its letters to members of parliament recently:

“We are dismayed that the Government would seek to legislate such a radical reform without completing a regulatory impact assessment, or consulting with those likely to be affected by the change. The implications of this amendment must be thought through carefully before it is passed, and not left to be considered after the legislation has been formalised.”

I am forced to say that an awful lot of material in this bill is left to regulations which are yet undrafted. There are no regulations but we refer to them constantly, and you will see that in further amendments and in further matters. It troubles me that we are doing this important legislation in this way. In other words, we are flying blind.

The researchers go on to say:

In the US and the UK, and in other advanced western economies, export control over dual-use technologies is not entrusted to defence departments; in the US it is the Department of Commerce and the Department of State, in the UK the Department of Trade and Innovation.

These are the departments that have oversight and regulatory power.

Importantly, in the US and UK we see that open academic research is explicitly protected from the type of restrictions contained in our Bill. The introduction of export controls in the US and the UK was also the subject of considerable public debate prior to their passage.

For example, in the UK, the Baroness Miller of Hendon spoke eloquently in the House of Lords when export controls on intangibles relating to controlled technology were introduced in the UK.

She said:
“The extension of the control of export of goods to the control of intangibles—the control of thoughts and ideas—is a radical step, unheard of in a democracy. It has serious constitutional implications. Goods are exported if they are physically moved out of the country. It is physically impossible to control ideas. But that is what the Government are trying to do. By virtue of Clause 2(2)(c), they are even attempting to control the exchange of ideas within the United Kingdom. It is for that reason that a solid body of academia is totally opposed to some of the Government’s proposed provisions—

I think we are in a very similar situation here—

which are inappropriate in a country where universities have been centres of learning, research and discovery for over 900 years.”

As a result of the baroness’s speech, section 8 was inserted into the UK Export Control Act, seeking to protect certain freedoms for academics. I will revisit and recite section 8. 1. The Secretary of State may not make a control order which has the effect of prohibiting or regulating any of the following activities—

(a) the communication of information in the ordinary course of scientific research;

(b) the making of information generally available to the public; or

(c) the communication of information that is generally available to the public, unless the interference by the order in the freedom to carry on the activity in question is necessary (and no more than is necessary).

2: The question whether any such interference is necessary shall be determined by the Secretary of State by reference to the circumstances prevailing at the time the order is made and having considered the reasons for seeking to control the activity in question and the need to respect the freedom to carry on that activity.

This is where we are seeking to take the legislation, because I really believe that the two examples—the UK and the USA—are very good ones. Their regulatory regimes, given that they are bigger countries than we are, have bigger budgets than we do, and, may I say, have more established—and I do not want to denigrate any of our research institutions— institutions that have been doing technical research for a little longer than we have. If that is the regime that they have, all I am saying to you, Minister, is that I am happy to come with you but you need to convince me that we are on all fours. If it is a constitutional matter in the United States—amendment 1—then I do not think that is going to satisfy me, because I think that is the nature of their constitution. I think we can participate to that extent, but the wording of, particularly, 9A(c) in this amendment, which says, ‘fundamental research, which is basic and applied research in science and engineering’ et cetera, is directly on all fours with what is happening in the United States. I see no good reason why we should take a step back in this important area of public policy. I am happy to engage you further on this but I need to be convinced that you think that this is fatal to the thrust of the legislation.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:41): Thank you, Senator Johnston. I will take on the task of trying to persuade you because it is the government’s view that the amendments proposed by you would be, to use your phraseology, ‘fatal’. Having taken on this noble task of trying to change your mind, let me get to it.

Firstly, you quoted from the US Export Administration Regulations, both before question time commenced and now, which has given us an opportunity to look at that point. Export administration regulation 734.3 B3(2) states that in the US technology will not be controlled if it arises during or results from fundamental research. This provision was then used to support the opposition amendment (1) proposition to insert section 9A. We say that the quoted EAR and the
amendments that flow from that in fact support the government's position, because, unlike the quoted EAR, the Australian legislation will not control technology that arises during or results from fundamental research at all. This is a critical point that makes us different from the regulatory regimes that you have looked at elsewhere. That is why no fundamental research exemption is necessary and, further, we say it would create a loophole in the bill.

To reiterate, the US does not exclude fundamental research from the requirement to obtain a permit for the export of controlled technology. It is simply not correct to suggest that universities and researchers in the United States do not have to comply with US export controls. US government advice on this matter is conclusive. However, to ensure that there is transparency in the assessment that this bill does not disadvantage Australian researchers, the government, as already indicated to you and to the Australian Greens, will support the Greens' amendment to the functions of the steering group established for the transition period—again, I think we have covered that before we were rudely interrupted by question time—so that the group's functions include whether this act, the regulations, and the implementation arrangements are not more restrictive than the United States exports control regulations in relation to university activities. That would build into the legislation an accountability mechanism that addresses the concerns raised by a few members of the university and research sectors and, indeed, the concerns that you have articulated here in the Senate.

The fact is your proposed amendment would carve out an exemption to all the provisions in the bill to any person claiming to be acting as a researcher. If passed, such an amendment would undermine all of the strengthened export controls, the very purpose for which this bill is designed to create. It will mean that Australia will not meet the commitments made by this government, and indeed by the Howard government, under the Wassenaar agreement. It will also mean that Australia's defence export control arrangements will not be strengthened to the threshold required for ratification of the defence trade treaty with the United States and that the benefits from the treaty will not be forthcoming for Australia's defence industry.

Prior to question time, I did answer in a little detail some of your concerns. I want to briefly look at your proposed clause 9A and take you point by point through the government's views of that. Your proposed clause 9A(a):

... information in the public domain;

I reiterate, information in the public domain is already excluded from the proposed controls. Your 9A(b):

... information that has been, or is intended to be, published ...

We say that information that has been published is in the public domain and is already excluded from the proposed controls. The legislation does not regulate information intended to be published unless the publication will include control information. Your 9A(c):

... fundamental research ... basic and applied research ... where the ... information is ordinarily published ...

The government's position is that basic scientific research is already excluded from the proposed controls. The legislation does not control the conduct of research. It is not appropriate to exempt applied research as this can involve the transfer of controlled technology overseas and it is only in this circumstance that a permit would be required to enable the government to assess the risk in
supplying the technology overseas. Your proposed subclause 9A(d):

… educational information or instruction provided … by a higher education provider;

The government asserts that all education and instruction provided by a higher education provider in Australia will not be controlled. It is anticipated that almost all educational information and instruction materials would be considered in the public domain and hence not controlled. Highly specialised courses containing controlled technology may be controlled if sent overseas. Finally, your proposed subclause 9A(e):

… information that is the minimum necessary information for patent applications.

The government assert, again, that information supplied to IP Australia for a patent will not be controlled. I will provide a little further detail regarding the removal of the publishing offence. The legislation does not seek to regulate publications and it does not require publications to be reviewed by the government. The offence provision will only be relevant to researchers if their intended publication communicates specific controlled technology that is listed in the DSGL. Once DSGL technology is published in the public domain, the public domain exemption could be used and the DSGL controls would no longer apply. This would have the effect of decontrolling any published information.

It does not make sense to require an Australian researcher to apply for a permit to supply controlled information to a researcher overseas but then allow the same Australian researcher to publish the same controlled information to the public at large. The publishing offence will have an exemption to allow publication of controlled information in rare circumstances when the minister believes that the public interest to publish the controlled information outweighs the need to protect the security of that information. We envisage that this will be a rarely used mechanism and in circumstances perhaps similar to the H5N1 situation.

You will recall, Senator Johnston, that the H5N1 influenza was a fast mutating and highly pathogenic strain of the influenza virus, referred to in common parlance as the bird flu. Its rapid spread across Asia, Europe and parts of Africa sparked fears of a global pandemic. Despite the H5N1 research being controlled by US technology controls, the US decided to allow the public release of H5N1 research in early 2012 in order to facilitate international pandemic preparedness efforts. In making this one-off decision, the deciding body noted that the research did not appear to enable direct misuse in ways that could endanger public health or national security.

All of this will be tested during the pilot program that will be conducted during the transition period and overseen by the Strengthened Export Controls Steering Group. Senator Johnston, the concerns you have outlined are all proper and legitimate concerns, but they have been comprehended by the legislative regime and the framework we are proposing. We are able to demonstrate that each of your concerns is either dealt with elsewhere or something that is not required.

Senator JOHNSTON (Western Australia) (19:50): Thank you, Minister. Forgive me if I persist. You tell me that the legislation does not apply to information in the public domain. You say that is already dealt with and exempted. Are you are talking about the exemptions in the DSGL?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:50): Yes.
Senator JOHNSTON (Western Australia) (19:50): You see, that is the problem. I am a little unconvinced because those exemptions are very narrowly drawn, as I said to you earlier this evening. They only concede what are already written into the DSGL. The department takes a very narrow view of those exemptions. I do not think it is good enough to say, in the face of this legislation and in the face of what is replicated in US law when there is no such replication in the DSGL, word for word, that what I am seeking to do here is already covered because it is not.

I want to come along on this journey with you but I have to tell you: you're not taking me there when I have the words that they are using and our words are more restrictive than theirs. I am seeking to arrest that, and you are saying, 'No, no, no; those words are okay.' It may be that the roundtable, two-year transitional period and all of the things we are going to do with the last amendment fix that, but I am very much unconvinced if you are telling me those DSGL exemptions are what you are hanging all of this on.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:52): Firstly, I made the point earlier in the debate that the US system is quite a different model and regulates a much broader range of circumstances than is proposed by this bill. That will not come as news to you. For example, foreign students are required to obtain permits for using controlled technology during their studies in the US. In response to university-sector concerns, Defence sought advice from the US government's agencies with responsibility for US export controls on the regulation of the US university and research sectors: both the Department of State and the Department of Commerce. I have taken you to that in comments I gave before question time; indeed, I quoted the US ambassador and his own advice on this important point.

The DSGL exemptions to which you refer and about which you ask are being used by both the US and Australia to implement the Wassenaar controls. Australia and the United States have, through the obligations of the Wassenaar instrument, the same list. We are effectively talking, on this occasion, of the two regulatory regimes trying to achieve the same thing. So we say there is no difference of substance between the intent of the US system and their lists and that proposed here.

Senator JOHNSTON (Western Australia) (19:54): The reason I read to you the US export administration regulations is that they deal with exports, which is the main mischief we are seeking to arrest here. Exporting is the most obvious way of dealing with controlled goods, and that is what we want to stop, but let me reiterate because I am not sure we are getting to the point that I would like to get to: the reassurance that we can withdraw this amendment in confidence.

As I said to you just before question time, the items that are not subject to export administrative regulation are those on the control list. If it is a matter of the control list and you want to take issue with that definition, maybe we can look at that, but I do not think it is. I think the list is exactly the same. 'On the commercial control list that are already published or will be published, to arise during a result from fundamental research' et cetera et cetera. Fundamental research is as I have set out. It is qualified under a paragraph. The intent behind these rules is to identify as fundamental research basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community. That is a pretty broad statement in the face of export-control legislation. All I am saying is that the
exemptions in the DSGL are nowhere near as broad as that. They do not impact upon what is the direct mischief sought to be arrested by this legislation.

I think that, for us to be on all fours here and not to be disadvantaged in our future research, we can fit within the regime that the US has set out because they are happy with it. If people have to have permits to do things, if foreign nationalities are issues and if things of that nature come in, we can deal with that. I think that is a matter for the regulation and the minister. But the broad thrust of where the Americans have gone is the space we want to be in, and I am just not sure that we are getting there given their legislation. I think we are in a much worse position, and that really does concern me. But I remain to be persuaded.

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (19:57): I will continue to seek to persuade you. You are looking at the US system as a model. We say the US system is in fact more onerous than the framework we are offering. The critical point here is fundamental research. Our legislation is not seeking to control fundamental research in the same way as it is envisaged by the US system. An amendment to exclude activities conducted where there is an intention to publish would completely undermine the entire operation of the strengthened export control provisions, and it is a critical distinction between the framework offered here and that applying in the United States around this issue of fundamental research. I think that should give enormous comfort to the universities and research institutions with whom you have spoken, because ours is a regime that is not trying to control the conduct or outcomes of the fundamental research you quite reasonably are trying to protect.

**Senator JOHNSTON** (Western Australia) (19:58): Minister, let us come at it another way. You are saying that the exemptions in the DSGL are going to be interpreted by the department, in overseeing, administering and enforcing this legislation, in a way that does not impugn fundamental research? I will get you answer that formally in a moment, because this is the nub of the issue. All of these researchers want to know that their fundamental research as defined will not be the subject of this legislation.

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (19:59): To be forensic about it, the US system seeks to control the results of fundamental research. This framework does not seek to control the results of fundamental research.

Perhaps I can assist further. The US does not exclude fundamental research from the requirement to obtain a permit for the export of controlled technology. The US export controls are complex, and this issue needs to be considered very carefully. It is simply not correct to suggest that universities and researchers in the United States do not have to comply with US export controls. The US export control arrangements span multiple agencies and control lists, and that is one of the virtues of the Australian framework in comparison. There are numerous circumstances in which an export approval is required and numerous sets of exemptions that may apply.

The fundamental research exception quoted in the proposed amendment relates only to dual use technology in the US and is an exception only for the outcomes of fundamental research. This type of exemption does not apply in Australia because the bill does not contain any provisions which seek to regulate the
outcomes of research. The US government has provided specific advice to Australia's Chief Scientist and the Senate committee on this critical point. The US government, the authority on US export controls, has made the following points very clear: there is no exception that allows controlled technology to exported out of the US for fundamental research without US government authorisation. In fact, with limited exception, export controlled technology used by foreign researchers or students while in the US requires government authorisation prior to its transfer. This goes further than the provisions in this bill, which do not apply domestic controls within Australia.

Senator JOHNSTON (Western Australia) (20:01): I follow you on that, but I am not talking about the export of controlled goods. This is a global exemption that gives comfort to those carrying out fundamental research, basic and applied, in science and engineering, not with respect to goods. Clearly, if you are doing research with controlled goods, putting the words 'controlled goods' takes it to another dimension. This dimension that we are looking at is where the goods may or may not have a dual use. But what we are saying is that it is fundamental and applied research in science and engineering where the resulting information is ordinarily published. So we are taking a step back from the controlled goods. I do not have any issue with controlled goods. Let's control those 100 per cent—get the permits; do all the things we need to do. But, when we are doing, for example, a vaccine for uterine cancer, I really do not think that the fundamental research underlying that requires a permit—and I do not think it does in the United States. But the way this legislation stands now, the way it as is broad as it is, with the really narrow exemptions in the DSGL, I think we are locking ourselves into getting permits for that sort of research.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:03): The permits are only for transfer overseas. They are not required for research conducted domestically within Australia. The inclusion of a fundamental research exemption was raised during the consultation process and it was discussed at length during the roundtable meetings chaired by Australia's Chief Scientist. The roundtable meetings recognised that not all research involving controlled technology will involve the level of detail that would require a permit. The agreed outcomes recognised that some research might involve the transfer of sensitive technology, and that should not be exempted from legislation.

The agreed outcomes instead proposed an implementation model which reduces the need to interact with government agencies on the legislative regime. This is specifically captured in the Chief Scientist's agreed outcomes as a model to be tested as part of the pilot. This model, to be tested during the transition period, involves academic institutions and a supplement to the Code for the Responsible Conduct of Research. It enables institutions to access technology and to determine when a permit might be required. The steering group will report to parliament on the effectiveness of this model. There will be an opportunity to amend the legislation based on the steering group report.

Our position, Senator, is that the regime proposed by the government is less onerous than that that applies in the United States. It is a model that is found in one bill and does not involve the miscellany of legislation and agencies that it does in the United States. The proposed framework of the government is going to be put through a transition period.
in which this parliament obviously ultimately has the final say. All of these things should give you comfort that the concerns that gave rise to your amendment are being adequately catered for.

The CHAIRMAN: The question is that opposition amendment on sheet 7296 moved by Senator Johnston be agreed to.

The Senate divided. [20:10]
(The Chairman—Senator Parry)

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

AYES
Back, CJ
Birmingham, SJ
Brandis, GH
Cash, MC
Cormann, M
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H
Mason, B
Nash, F
Payne, MA
Ronaldson, M
Ryan, SM
Smith, D
Whish-Wilson, PS
Wright, PL

Bernardi, C
Boyce, SK
Bushby, DC (teller)
Colbeck, R
Di Natale, R
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B
Ludlam, S
Mille, C
Parry, S
Rhiannon, L
Ruston, A
Siewert, R
Waters, LJ
Williams, JR
Xenophon, N

NOES
Bilyk, CL
Cameron, DN
Carr, RJ
Conroy, SM
Faulkner, J
Furner, ML
Ludwig, JW
Marshall, GM
McLucas, J
Polley, H (teller)
Singh, LM
Sterle, G
Thorp, LE

Bishop, TM
Carr, KJ
Collins, JMA
Farrell, D
Feeney, D
Gallacher, AM
Madigan, J
McEwen, A
Moore, CM
Pratt, LC
Stephens, U
Thistlethwaite, M
Urquhart, AE

PAIRS
Abetz, E
Boswell, RLD
Eggleston, A
Macdonald, ID
McKenzie, B
Sinodinos, A

Brown, CL
Lundy, KA
Crossin, P
Evans, C
Hogg, JJ
Wong, P

Question agreed to.

Senator JOHNSTON (Western Australia) (20:12): I move opposition amendment (2) on sheet 7296:

(2) Clause 11, page 14 (after line 21), after subclause (3), insert:

(3A) If a person makes an application under subsection (1), the Minister must decide whether or not to give the person a permit:

(a) if the Minister considers the application to be non-complex—within 15 days after the application is made; or

(b) otherwise—within 35 days after the application is made.

(3B) If the Minister fails to make a decision within the period required under subsection (3A), the Minister is taken to have decided to give the person a permit to do each activity covered by the application.

I will speak to that motion whilst the minister is gathering his thoughts.

This is the one where we are seeking to put a fairly rigorous scheduling regime in place for the approval process. In the event that the previous opposition amendment is unsuccessful in another place, we think that this one is very important because, whilst it is onerous—15 days for non-complex and 35 days for complex applications—we are asking the minister to not further inhibit the funding cycles, the research process, by getting on with the job on these time frames. I do not think they are anything out of the ordinary. I would be interested to hear what the government's attitude is.

Obviously (3B) is pretty strict: if the minister fails to make a decision within the period required under (3A)—15 days for
non-complex applications, 35 days for complex applications—then 'the minister is taken to have decided to give the person a permit to do each activity covered by the application'. So it is a self-triggering mechanism. If the 35 days from the date of receipt of the application expires and nothing happens, and the minister does not address the issue—say yes or no—then he is deemed to have said yes. I think that is a very suitable solution to the demise of the previous resolution—if it meets its demise.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:15): I regret to inform you, Senator, that the government does not support this amendment. Defence is conscious of the fact that exporters require quick, clear decisions to be competitive. For routine applications, the assessment time is up to 15 working days, commencing from the date a complete application with all the supporting documentation is received. For sensitive applications requiring referral to members of the Standing Interdepartmental Committee on Defence Exports, the assessment time is up to 35 working days. DECO will inform applicants of this referral.

There can be exceptional circumstances where an assessment may go beyond 35 days. These are cases usually raising very complex and sensitive matters of foreign policy and national security. It is not always possible to resolve such matters in the additional 20 working days, especially where competing interests need to be considered by multiple departments and ministers. While such cases are relatively rare, Defence obviously works to resolve them as quickly as possible.

DECO processes approximately 2,500 applications each year relating to goods controlled on the Defence Strategic Goods List under regulation 13E of the Customs Act. These applications are assessed within the government's time frame of 15 working days for routine applications and 35 days for sensitive applications, except for a very small number of very sensitive applications which do take longer—and of course they take longer because of their very sensitivity. DECO also processes approximately 300 cases each year under the Weapons of Mass Destruction Act catch-all legislation. Noting that approximately 2,500 cases are processed each year, current statistics indicate DECO has fewer than 30 cases that have exceeded the normal time frame.

Let us be clear: what we are talking about here is a very small number of cases. These cases raise the most sensitive of foreign policy and national policy issues. They are difficult to resolve. Many people and agencies are involved, and this does take time.

The government says it is not in Australia's interests to have legislation that automatically allows the most sensitive and difficult cases to proceed without there being adequate assessment—a sentiment with which I am sure you would agree. This would have a very serious consequence if potentially dangerous technology was put in the wrong hands, and the kind of technology that could be involved might then go on to commit human rights abuses, develop chemical, biological and other weapons and, of course, equip foreign military forces—with implications for global security and stability. In these cases it would be very easy to say no due to the potential risks involved. However, where these risks can be properly assessed and where that assessment indicates that an export will not contravene our policy criteria, it is obviously in Australia's interests to allow that trade or collaboration to proceed. So I guess our final pitch to you on this one, Senator, is: is it better to say no quickly or sometimes in those rare number of
cases to take a little longer but be able to say
yes with a sense of confidence and
assuredness?

Senator JOHNSTON (Western
Australia) (20:18): You are very persuasive,
Minister, and indeed I am persuaded not to
divide on the voices. However, I make the
point that I anticipate that those 2,500
applications will triple. I would like to know
at some point, were the officials to feel
comfortable to bring to the roundtable the
statistical analysis, what the time frames for
those 2,500 applications are and what the
average time is. I am sure it is much longer
than 15 days.

Generally speaking, I am very conscious
of the fact that whilst the department and the
Defence Export Control Office do not have
physicists, biologists, metallurgists et cetera
at its fingertips, and therefore a very large
amount of time is going to be required with
sensitive and complex applications, I
anticipate that the stakeholders at the
roundtable will be quite demanding as to
what type scheduling regime they are
confronting. So, on that basis, I foreshadow
that consideration is a very important
one as to the functionality and the way they
do their business. Research often in
educational institutions and universities is a
business, and they will want to know where
they stand. They cannot be put into the ether
of the Defence Export Control Office for
four or five months. That is what this
regulation sought to arrest. I am happy with
your explanation—persuasively put as it
was—and we will not divide on the voices.

Senator LUDLAM (Western Australia)
(20:20): I indicate on behalf of the
Australian Greens—and this may come as
some surprise to the government and
probably some relief to Senator Johnston, by
the sounds of things and the rather peculiar
mixed messages that he is sending—that we
will be supporting this amendment. We were
also persuaded. This might have come down
as a bit of a lineball. I recognise that the
opposition is basically creating an incentive,
encouraging efficiency and encouraging
some quick decision making for deciding on
permits promptly and I do have some
sympathy with the opposition in those
intentions—for reasons that I guess I have
made reasonably abundantly clear during the
day.

But we recognise that making that cut-off
period for decision making automatic may
have unintended consequences. I would tend
to agree with Senator Feeney when he
identifies that the ones that are lagging and
are taking the longest are likely the examples
that are the most sensitive that involve dual-
use technology and might involve materials
or pieces of equipment that could be used for
producing weapons of mass destruction and
it is unlikely that trivial things are going to
be held up behind the statutory time frames
that Senator Johnston is proposing here that
would then call for an automatic
presumption that the permit was granted.

If there were real consultation between
multi agencies, probably with international
authorities or perhaps with groups like the
IAEA—and you could imagine a couple of
different scenarios—and the answers were
not provided within time, my reading of this
amendment is that the permit would
automatically be granted. I suspect that sets
up a degree of inflexibility that, in the wrong
circumstances, could be quite dangerous. We
believe that there must be some potential for
contingency. The time frames put by the
opposition, I guess, make sense, but not
necessarily the part 3B that states that the
permit is approved automatically. So we will
not be supporting the amendment. I suspect,
as Senator Johnston has indicated, there will
not be a division called.
I cannot help but wonder what the fate of this amendment would be if the Greens had chosen to support it. Senator Johnston has dropped about a dozen hints in the last hour or two that he is desperate to drop the other amendment that the Senate just passed. I wonder what kinds of incentives exactly are being offered to the government here.

Senator Feeney was not able to persuade Senator Johnston to drop this amendment now. I encourage the coalition: stick by your guns on this one—bad pun, actually, under the circumstances. Stick with the arguments that you have put. That was well argued. I hope your arguments are sustained by your colleagues in the other place so that we pass this substantive amendment to this bill. Between us, the amendments that the government has made, that the Greens have made and that the coalition have put forward that we have supported, we will be able to say we have made substantive improvements to this bill. So I do not know what the dark hints about withdrawing the amendment are all about. I cannot support this one, opposition amendment (2), but I understand the thinking behind it.

Question negatived.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:23): I move government amendment (9) on sheet BM290:

(9) Clauses 10 and 11, page 10 (line 4) to page 15 (line 16), omit the clauses, substitute:

10 Offence—supply of DSGL technology

(1) A person (the supplier) commits an offence if:

(a) the supplier supplies DSGL technology to another person; and

(b) either:

(i) the supply is from a place in Australia to a place outside Australia; or

(ii) if the supply is the provision of access to DSGL technology—at the time of the provision of access, the supplier is in Australia and the other person is outside Australia; and

(c) either:

(i) the supplier does not hold a permit under section 11 authorising the supply of the DSGL technology; or

(ii) the supply of the DSGL technology contravenes a condition of a permit that the supplier holds under section 11; and

(d) there is no notice in force under subsection 14(1) in relation to the supplier and the supply.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exceptions

(2) Subsection (1) does not apply if:

(a) the supply is of DSGL technology in relation to original goods; and

(b) the supply is by an Australian Community member or by a member of the United States Community; and

(c) the supply is to an Australian Community member or a member of the United States Community; and

(d) the supply is for an activity referred to in Article 3(1) (a), (b), (c) or (d) of the Defense Trade Cooperation Treaty; and

(e) at the time of the supply, the original goods are listed in Part 1 of the Defense Trade Cooperation Munitions List; and

(f) at the time of the supply, the original goods are not listed in Part 2 of the Defense Trade Cooperation Munitions List.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.

(3) Subsection (1) does not apply if:

(a) the DSGL technology is supplied by a person who is a member of the Australian Defence Force, an APS employee, a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; and
(b) he or she supplies the DSGL technology in the course of his or her duties as such a person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3); see subsection 13.3(3) of the Criminal Code.

(4) Subsection (1) does not apply in the circumstances prescribed by the regulations for the purposes of this subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4); see subsection 13.3(3) of the Criminal Code.

Geographical jurisdiction

(5) Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Definition

(6) In this section:

place includes:

(a) a vehicle, vessel or aircraft; and

(b) an area of water; and

(c) a fixed or floating structure or installation of any kind.

Senator JOHNSTON (Western Australia) (20:24): Minister, I note the wording of this amendment talks about the supply from a place in Australia, and you then define at the bottom of the amendment the word, 'place'. Can you explain why you are doing that? I would have thought the words 'within Australia' would have sufficed, notwithstanding that that could be:

(a) a vehicle, vessel or aircraft; and

(b) an area of water; and

(c) a fixed or floating structure or installation of any kind.

Correct me if I am wrong: I am interested in why we have gone down this path and what is the intent in this quite novel description of a place. If you could assist me with that, I would be obliged.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:25): Unfortunately, I am not in a position to assist you. I guess that is a matter for the drafter and I do not have their advice to hand. I will take that on notice.

Senator JOHNSTON (Western Australia) (20:25): Further down your subsection (3), you have provided some exemptions which I know are very, very important for the substance of the act through a whole lot of activities. Those activities include broking, arranging—all of those. What you do is you exempt:

… a person who is a member of the Australian Defence Force, an APS employee, a member or special member of the Australian Federal Police or a member of the police force of a State or Territory; and

(b) he or she supplies the DSGL technology in the course of his or her duties as such a person.

That is a very important exemption that I am pleased to see in this section but there are many other sections—can I draw the departmental officials' attention to—that could equally benefit from having that exemption put in. It concerns me that there are a number of places in the legislation where that exemption has not been put in. I think it would be good if we looked at that closely to achieve that purpose.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:26): Thank you for that, Senator. One of the benefits of the approach the government is adopting is that the steering group will have the opportunity to look at that very matter and, should your reasoning prevail, make those sorts of recommendations to this parliament so that those changes can be made.

Senator LUDLAM (Western Australia) (20:26): Just briefly: this is one of those amendments that by rights should have gone to the Senate Standing Committees on Foreign Affairs, Defence and Trade so that it
could have been properly assessed so that we could have taken evidence so that we could have put these propositions to the witnesses who have given up an enormous amount of their time and effort to try and inform this parliament of some of the mistakes that are being made. All I will say, as I have said on a number of government amendments, is: this has not been properly analysed. I will not be calling a division but I want to record my thorough objection to the way that the government is handling this bill.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:27): By leave—I move government amendments (10), (11), (17), (21), (22), (24) and (25) on sheet BM290:

(10) Clause 14, page 16 (line 24) to page 17 (line 12), omit subclause (1), substitute:

(1) If the Minister believes or suspects that, if a person were to supply to another person particular DSGL technology in any circumstances or in particular circumstances, the supply would prejudice the security, defence or international relations of Australia, the Minister may give the person a notice:

(a) prohibiting the person from supplying that DSGL technology; or

(b) prohibiting the person from supplying that DSGL technology unless conditions specified in the notice are complied with.

Note: Section 67 deals with giving notices under this Act.

(11) Clause 14, page 18 (lines 9 to 25), omit subclause (10), substitute:

**Offence**

(10) A person commits an offence if:

(a) the person supplies DSGL technology; and

(b) the supply contravenes a notice, or a condition specified in a notice, that is in force under subsection (1); and

(c) the person knows of the contravention.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

(17) Clause 27, page 33 (lines 8 to 10), omit note 2, substitute:

Note 2: The offence in section 10 (about supplying DSGL technology) may not apply to the holder of an approval.

(21) Clause 63, page 75 (line 7), omit "an activity", substitute "a supply".

(22) Clause 71, page 82 (lines 26 and 27), omit "technology relating to goods", substitute "DSGL technology, or technology relating to goods".

(24) Clause 73, page 85 (table item 1, column 2), omit "activity", substitute "supply".

(25) Clause 73, page 86 (table item 1, column 1), omit "an activity", substitute "a supply".

The concept of defence services has been removed from the bill. Explicit coverage of these services is unnecessary as the services will now be covered by the definition of DSGL technology. All of these amendments relate to removing this concept of defence services and consequential amendments to reflect the amendment of the definition of DSGL technology.

Senator JOHNSTON (Western Australia) (20:28): Minister, with respect to amendment (10)—so we are all on the same page, I will indicate what it says:

(1) If the Minister believes or suspects that, if a person were to supply to another person particular DSGL technology …

He may issue a notice prohibiting such a supply unless conditions that he imposes are in the notice. Is that a reviewable decision by the minister?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:30): I thank the Senate for its forbearance. No, that decision is not reviewable.

Senator JOHNSTON (Western Australia) (20:30): Thank you, Minister, for that. Is that satisfactory? I am concerned that
the minister is going to have a unilateral, unfettered and absolute discretion to extinguish an export by an Australian corporation, with no right of reply, by-your-leave or any other expression of disdain or dissent from such a decision. Is that appropriate? It may well be, but it gets a bit nerve racking when you give all this power to the minister.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:30): We say, obviously, that it is appropriate in these circumstances. There are a limited number of decisions under this bill which are treated in this manner and, obviously, this represents an issue of potentially enormous importance.

That importance flows from the fact that there is potentially highly sensitive content and the fact that it may involve issues of the highest consequence to government. These decisions are of high importance relating to Australia's security, defence or international relations and, obviously, these are decisions that any minister of the Crown would make only in the context of having the most thorough and persuasive advice.

Senator JOHNSTON (Western Australia) (20:31): From that I can take it that if a researcher is doing work on a low noise oscillator, which is a very important component in a whole host of military applications, but that oscillator is used for a peacetime objective, then the minister can stop him without any right of reply from that institution or that researcher? In other words, Minister, a piece of fundamental research, basically applied.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:32): I guess that the first point the government would make here is that the offences of which you speak and which are created by this bill are delayed for two years,

and that these are, again, matters that the steering group will have an opportunity to look to. I guess that I would repeat the fact that obviously it is a decision that the minister would not make lightly.

I guess that there have been recent decisions of government that are perhaps analogous; they did have important commercial implications for parties, obviously, but they were made by a government that was dealing with issues of enormous sensitivity. So I do not think that this is unprecedented, and obviously it is a power that would either be exerted responsibly or the government of the day would suffer the implications of treating it otherwise.

Senator JOHNSTON (Western Australia) (20:33): Given that answer, I think that the two-year transition period is important. I realise that the minister has to have some ultimate sanctioning authority in this process. I just wanted to clarify exactly, or attempt to clarify, the length and breadth of that authority.

I go to amendment 11, wherein it is set out that:

A person commits an offence if:

(a) the person supplies DSGL technology;

(b) the supply contravenes a notice, or a condition specified in a notice, that is in force under subsection (1); and

(c) the person knows of the contravention.

I draw attention to the fact that you have included intent in this offence. The penalty is 10 years imprisonment or 2,500 penalty units, or both.

I do not take any issue with the seriousness of the penalty; I think it needs to be very serious. But the fact is that you have introduced intent into that, and yet when you come to amendment 12—and, for the sake of completeness that is:
A person commits an offence if:

(a) either:

(i) the person publishes DSGL technology to the public, or to a section of the public, by electronic or other means; or

(ii) the person otherwise disseminates DSGL technology to the public, or to a section of the public, by electronic or other means;

—there is no requirement for intent, and so what you have is an absolute offence. You have a supply, which is intentional, but the publishing and the dissemination may be inadvertent and the person is still liable to the 10 years.

That greatly concerns me. I think that is anomalous. I think that you want to have someone publishing DSGL technology intentionally and I think that you want to have someone disseminating such technology intentionally. But I am open to persuasion, as I always am.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:35): I am advised that the Criminal Code has a general requirement concerning intent, and so that reflection in the legislation is mundane. I am looking at the exceptions:

… the Minister may, in writing, approve a person publishing or otherwise disseminating specified DSGL technology to the public or to a specified section of the public. The Minister may give an approval only if the Minister is satisfied it is in the public interest to do so.

So there are mechanisms within the framework to contemplate the publishing of that material.

Senator JOHNSTON (Western Australia) (20:36): Minister, obviously if he is applying for a permit he realises he is dealing with something that is sensitive and in breach. But if he does not realise that and he is out there as a researcher doing research into something that is not defence-related, but publishes something with respect to that work that is being developed in another area—and can I tell you that this is very common?—he will be caught under this section even though he has no intent to breach the legislation.

This concerns me greatly. I do not expect you to make any changes now. I am drawing it to your attention so that the working group can deal with this, because I am absolutely convinced you need to put an intention clause in there so that it is, as I say, an intentional publication.

You talk about the public interest. I note that is a very subjective term. What do we see, if anything, the minister considering in the public interest?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:37): That is a difficult question to answer, as you would appreciate, Senator. I look to the example I used a little earlier, and that was bird flu research. The minister is able to waive the requirements and introduce something into the public domain where, as was the case with bird flu, there was a broader, vaster public good required. I am unable to anticipate what the next example of such an occasion might be, but clearly the regulatory regime proposed by the government does contemplate those sorts of circumstances and the government responding.

Senator JOHNSTON (Western Australia) (20:38): Thank you, Minister. I appreciate that answer. I go to subclause (4), which says:

If the Minister gives an approval under subsection (3), the Minister must give the person the approval.

Why is there a distinction between the minister actually giving an approval and the physical handing of the approval, which is not a notice or a certificate or anything like that, to the person who is the beneficiary of
the approval? I think this creates an unnecessary confusion—‘You've got an approval, but did the minister give you the approval?’ Do you follow me? I do not see that as necessary. Is there something I am missing there? Can the department help me with that?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:39): I am advised that it is a drafting convention to establish the requirement that such a person has the written approval to hand as a document so that confusion does not arise if the person says they received verbal approval or an email or some other intangible approval. I am advised that is a drafting convention.

Senator JOHNSTON (Western Australia) (20:40): With respect, it should talk about something in writing, if you follow me. I have no real issue with it other than the fact that it is very confusing to people.

I turn to amendment (17). I am very concerned when you, in note form, spell out that the offence in section 10 relating to the supply of DSGL technology ‘may not apply to the holder of an approval’. Surely that should have been a section, not just a note.

I know that other people want to get some work done tonight, so I will keep going. In amendment (22) you have used the expression again: ‘relating to goods’. That is a nebulous broad term, particularly when the Commonwealth is exercising a right of forfeiture. I take it that there is no right of appeal and that it is not a reviewable decision. Thank you.

Senator LUDLAM (Western Australia) (20:41): I want to ask a very quick question to follow up on a question that Senator Johnston raised right at the outset. It related to judicial review and whether the minister's decisions around permitting were reviewable. Senator Feeney's answer on advice was fairly unambiguous as he said no. I test this proposition with the minister: does the bill anywhere—I may have missed it—formally exclude the operation of the Administrative Decisions (Judicial Review) Act?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:42): No.

Senator LUDLAM (Western Australia) (20:42): So a minister's permitting decision would be judicially reviewable?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:42): Yes.

Senator LUDLAM (Western Australia) (20:42): That was not actually the answer that you gave to Senator Johnston. So there is no formal or internal review mechanism enshrined in this act, but it could be judicially reviewed if the minister had made an error at law somewhere?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:42): Just to clarify: previously, I was working on the basis that we were talking about administrative review, not judicial review.

The DEPUTY PRESIDENT: The question is that government amendments (10), (11), (17), (21), (22), (24) and (25) on sheet BM290 be agreed to.

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:43): by leave—I move government amendments (12) and (23) together:

(12) Page 18 (after line 28), at the end of Division 1, add:

14A Publishing etc. DSGL technology

(1) A person commits an offence if:

(a) either:
(i) the person publishes DSGL technology to the public, or to a section of the public, by electronic or other means; or

(ii) the person otherwise disseminates DSGL technology to the public, or to a section of the public, by electronic or other means; and

(b) the person does not hold an approval under this section authorising the publication or dissemination of the DSGL technology.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Exception

(2) Subsection (1) does not apply if the DSGL technology has already been lawfully made available to the public or to the section of the public.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the Criminal Code.

Approvals

(3) The Minister may, in writing, approve a person publishing or otherwise disseminating specified DSGL technology to the public or to a specified section of the public. The Minister may give an approval only if the Minister is satisfied that it is in the public interest to do so.

(4) If the Minister gives an approval under subsection (3), the Minister must give the person the approval.

Note: Section 67 deals with giving approvals under this Act.

Geographical jurisdiction

(5) Section 15.2 of the Criminal Code (extended geographical jurisdiction—category B) applies to an offence against subsection (1).

Approval not a legislative instrument

(6) An approval under this section is not a legislative instrument.

(23) Clause 73, page 85 (line 2), after "section 14, ", insert "subsection 14A(3), ".

Senator LUDLAM (Western Australia) (20:43): I indicate that the Greens will strongly oppose these amendments and that we will be seeking to call a division when we get to it. I have a couple of general questions to put to the minister first regarding these government amendments. Are there equivalent provisions in US statutes, either in EAR or ITAR regs, that explicitly make it a crime to publish, as there is in clause 14A of this bill?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:44): The US system operates differently. The conduct in the US system that you are describing would be considered an export, and exports are controlled.

Senator LUDLAM (Western Australia) (20:44): That may even have helped. So you will not be able to point me to a particular provision, but you are saying that these things are regulated differently in the United States. My reading of proposed section 14A is that academic communication inside Australia, whether to a foreigner or to an Australian, if dealing with DSGL listed technology, would potentially be a crime and require approval from the Minister of Defence. Is that a fairly simple proposition to put to you?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:45): If a person is publishing materials that are excluded under the DSGL then they are effectively de-controlling that material, and so my answer to you is yes.

Senator LUDLAM (Western Australia) (20:46): It would then appear to me that the definition of ‘publication’ becomes extremely important. At what point in the research continuum would a researcher be required to apply for a permit if contemplating publication of DSGL listed technology? If it is not at the point of publication then is it not
the case that the minister would effectively control what kind of research could be done? Is this potentially criminalising the research endeavour, or merely at the point of publication?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:47): The first issue is at what point a researcher seeks to make such a disclosure. I draw you back to the example I tried to use earlier in this debate when talking about the mass spectrometer. Where information is of a highly technical nature—in that example, if a researcher was indicating how the blueprints of that piece of equipment might be used to produce weapons of mass destruction—then obviously that is something we seek to have control over. If the research is going to the more mundane aspects of how that piece of equipment works and the technical arrangements around it then we would not.

Senator LUDLAM (Western Australia) (20:47): Can you confirm for me that this offence was not in the original drafting of the bill, but arrived as a result of the amendments that the government circulated post round tables and post the work of the committee?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:48): Yes, it is new. With your indulgence, I might go through this in a little more detail.

Senator Ludlam: Yes, because I was going to ask.

Senator FEENEY: This is an amendment that introduces a new offence for publishing or disseminating DSGL technology. Proposed subclause 14A(1):

… makes it an offence for a person to publish or otherwise disseminate DSGL technology to the public, or to a section of the public, by electronic or other means where the person does not hold an approval under this section.

This offence will cover persons who intentionally release controlled DSGL technology into the public domain. As a safeguard, the offence provision will include the ability for the Minister to give written approval for the publication or dissemination of DSGL technology if it is in the public interest to do so.

We talked about that a few moments ago.

The offence does not apply if the DSGL technology has already been lawfully made available to the public, or to a section of the public.

The offence will be relevant to researchers only if their intended publication communicates specific controlled technology that is listed on the DSGL—that is, if the publication includes the information that communicates how to develop, produce or, in some cases, use items that are listed on the DSGL. Once DSGL technology is published in the public domain the public domain exemption could be used and the DSGL controls would no longer apply. This would have the effect of de-controlling any published information. It does not make sense to require an Australian researcher to apply for a permit to supply controlled information to a researcher overseas but allow that same Australian researcher to publish the same controlled information to the public at large.

Defence envisages that the publishing offence will have an exemption to allow publication of controlled information in rare circumstances where the minister believes the public interest to publish the controlled information outweighs the need to protect the security of that information. We envisage that this will be a rarely used mechanism, and you have heard me use the bird flu example. All of this will be tested during the pilot program and will be conducted during the transition period and thereby overseen by
the Strengthened Export Controls Steering Group.

**Senator LUDLAM** (Western Australia) (20:50): At the risk of labouring the point, I call the minister on a couple of definitions. Firstly, what definition of ‘the public interest’ will apply in this case? I know that is a notoriously difficult concept to pin down. Secondly, proposed subsection (2) of this amendment reads:

Subsection (1) does not apply if the DSGL technology has already been lawfully made available to the public or to the section of the public.

Where can we find a definition of ‘section of the public’? What is the cut-off between public and not public as far as interpretation of these clauses is concerned?

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (20:51): The intent of the word ‘section’ is to capture things such as an open conference and, perhaps, a discourse within a professional group or a faculty. That is probably as much as I can assist you with.

**Senator LUDLAM** (Western Australia) (20:51): I am quite keen to hear Senator Johnston's take on these amendments. I am still not convinced as to why these amendments snuck in, to be honest—why the government drafted this initial bill, sat it on the table and consulted the hell out of it for 12 months without such an offence for publication. You would understand why, when attracting a penalty of imprisonment for 10 years or 2,500 penalty units—and it is my understanding the government is also proposing to hike the amount of money that a penalty unit will cost you—was not seen fit to include in the original iteration of the bill, I am strongly inclined to strike this amendment out. I am very keen to hear Senator Johnston's views on why that should not be the case.

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (20:52): I want to speak to Senator Ludlam's point about the timing and how this matter came to be before us. Discussions with the university sector on the issue of publication commenced on 10 July 22. The proposal to introduce a publication offence with the ability to apply for permits was formally raised in Defence's submission to the Senate on 8 August 2012. Subsequent to the Senate committee's preliminary report, Mr Ken Peacock AM and Mr Alex Zelinsky raised this issue in all of their consultations. The result was their recommendation to remove the associated permit framework and to simply have an offence relating to publication. This made it clearer that the legislation is not attempting to introduce a regime that requires all publications to be reviewed for a permit and that it would be quite rare that a publication would have the level of detail that would meet the high threshold of concern. The publication issue was formally raised and discussed at the roundtable meetings chaired by Professor Chubb.

Researchers and institutions have previously grappled with the balance between national security interests and the public good of disclosing the outcomes, and some examples of that were noted by attendees. During roundtable discussions it was noted by some research organisations that the legislation would in fact help to provide a framework for institutions when considering these sorts of issues when publishing. The issue did not feature heavily in the final roundtable discussion because the focus by then was on the scope of the controls. The narrow scope of the controls consequently narrows the effect on publication. The reduced scope of the controls in the institutional assessment model was broadly supported by roundtable
attendees, I am advised, with the exception of one party.

Senator JOHNSTON (Western Australia) (20:54): As I indicated previously when talking about the intent in section 14 subsection 11, wherein knowledge is specifically nominated as an element of the offence, publishing is a very important prohibition with respect to DSGL technology—there is no doubt about that. The minister has confirmed that inadvertent release of DSGL technology or the inadvertent dissemination, which may be the erroneous pressing of the send button, is not caught by the provision. You have been very clear on that, Minister, and I thank you for that. But in this day and age I think we need to be a little careful that we do cover this provision, this activity, this potential conduct. People do need to be aware that if they are dealing in DSGL technology as defined they need to be very, very careful what they do, because it may be that they will be fighting off an application or a prosecution for 10 years imprisonment or 2½ thousand penalty units or both. Minister, you have answered me with respect to the public interest, and I think that is a very nebulous, subjective term. The coalition will be supporting the government's amendment, because I think it is necessary.

Senator LUDLAM (Western Australia) (20:56): That is a bit of a shame. I have no other questions. I am not at all satisfied and we will call a division on this one, Chair, when you put the question, because it is one of the more egregious amendments and one that I think would have been really valuable for the committee to examine. My understanding is that this issue was quite a major topic of the roundtables and one that was unresolved. The minister even acknowledges that it was not resolved to the satisfaction of at least one party, and I am glad to hear the minister acknowledge that.

Creating a whole new offence for the publication or other dissemination of DSGL technology by the public or sectors of the public by other means was not proposed in the original bill. It was not proposed that either publication or the wider concept of dissemination would be potentially criminalised. I think the practicalities of what this clause would mean for research should have been better contemplated. This is the sort of thing that we could have used a day or a half-day committee hearing to bounce off expert witnesses and they could have told us exactly how this is going to play out in the real world.

Because it is about the possible publication of information about controlled material at some point in the future, it effectively means that the defence minister, even if it is not his intention, can censor research itself. On some of the advice that we have, because researchers will need to consider making applications at the commencement of the research process not necessarily at the point when they are ready to hit to print but much further upstream, it is not clear from the supplementary EM what the words 'publish or otherwise disseminate' mean. But it would appear to be a very broad offence provision. Other legislation defines 'publication' very broadly to mean publishing in newspapers or via TV, radio, internet, articles and so on. Whereas I think we are assuming the rather more narrow interpretation of publishing as in it going into a peer reviewed journal. As the term 'publication' is used in other statutes, it is very much more broad than that.

The Greens will therefore oppose this amendment, partly because it has not been examined. We were not given the courtesy of examining this amendment during the committee process. We will also oppose it because it introduces a chilling effect, quite a dangerous one, attaching a 10-year criminal
offence to the publication of scientific research, unless you are willing to tug the sleeve of the defence minister who quite frankly probably has better things to do. I think this is a very dangerous amendment to introduce at such a late stage into this bill. Whatever the opposite of commending is, that is what we are doing to this amendment to the chamber.

The TEMPORARY CHAIRMAN (Senator Parry) (20:58): The question is that government amendments (12) and (23) on sheet BM290 be agreed to.

The Senate divided. [21:03]

(The Temporary Chairman—Senator Parry)

Ayes................. 29
Noes................... 9
Majority............... 20

AYES

Back, CJ    Bilyk, CL
Bishop, TM  Boyce, SK
Colbeck, R  Cormann, M
Eggleston, A  Farrell, D
Feeney, D  Furner, ML
Gallacher, AM  Johnston, D
Kroger, H  McEwen, A (teller)
Mclucas, J  Moore, CM
Parry, S  Polley, H
Pratt, LC  Ruston, A
Scullion, NG  Singh, LM
Smith, D  Stephens, U
Sterle, G  Thistlethwaite, M
Thorp, LE  Urquhart, AE
Williams, JR

NOES

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

Question agreed to.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)

(21:05): by leave—I move government amendments (19) and (20) on sheet BM290 together:

(19) Clause 58, page 71 (line 3) to page 72 (line 8), omit the clause, substitute:

58 Keeping and retaining records

Permit holders under Part 2

(1) A person must keep records of supplies that the person makes under a permit given to the person under section 11.

(2) A person must keep records of arrangements that the person makes under a permit given to the person under section 16.

Approval holders under section 27

(3) A person who holds an approval under section 27 must keep records of activities that the person does that are prescribed by the regulations for the purposes of this subsection.

Form of records

(4) Records under this section must contain the information prescribed by the regulations for the purposes of this subsection. The regulations may prescribe different information for different kinds of records.

Retention of records

(5) The person must retain the records for a period of 5 years.

Offence

(6) A person commits an offence if:

(a) the person is subject to a requirement under this section; and

(b) the person contravenes the requirement.

Penalty: 30 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the Criminal Code.

(8) Section 15.4 of the Criminal Code (extended geographical jurisdiction—category D) applies to an offence against subsection (6).

(20) Clause 59, page 72 (line 11), omit "make", substitute "keep".

In response to concerns raised during consultation and in response to
recommendation (5) of the Senate committee's preliminary report, the record-keeping requirements have been eased. They now focus on the requirement to keep records rather than to make individual records for activities. This is consistent with existing good business practice of keeping records. Amendment (19) substitutes a new clause 58, which provides for the keeping and retaining of records. Amendment (20) makes a consequential amendment to the wording in clause 59. The amendments will reduce the administrative burden on industry and the academic and research sectors. The record-keeping requirements are intentionally broad and provide that the person must only keep records of the relevant activity that the person does, rather than making records within the prescribed time frame. The regulations will prescribe the information that is to be included in a record. The regulations are currently being redrafted to reflect these amendments. I commend the amendments to the Senate.

Senator JOHNSTON (Western Australia) (21:06): That is a very interesting description of what I am reading between the amended clause 58 and the previous, unamended clause 58, because you gave a seven-day leeway. You allowed someone seven days to get their records in order before they were in breach of the section and you did not make it an offence of strict liability. Now you have done that and you have said a person must keep records so that a minute after a transaction or dealing has gone forward they have got to have records. What you have just read out is, may I say respectfully, completely the opposite of what you have achieved here. I am not going to vote this amendment down. I think it is a pecadillo in the scheme of the other sins of this legislation, of which there are many. But can I say, whoever is writing your script does not get it, with respect.

Senator LUDLAM (Western Australia) (21:07): That is an excellent question, Senator Johnston. If only we had the opportunity in the questions to test that against some of the expert witnesses who would have fronted up and given you some answers. If they had, I suspect you would not have liked the answers very much. If the Minister has something to say I would be delighted to hear it. Senator Waters informs me that the opposite of commending an amendment is to either condemn it or decry it, so I will do both of those things and move on.

The CHAIRMAN (21:07): The question is that government amendments (19) and (20) on sheet BM290 be agreed to.

Question agreed to.

The CHAIRMAN (21:07): Senator Ludlam, do you wish to move Australian Greens amendment (3) on sheet 7297—that is, the last one on the running sheet? I believe the other two are not applicable any more.

Senator LUDLAM (Western Australia) (21:08): All right. I did not realise we were going to get there quite so quickly. I move:

(3) Page 86 (after line 20), after clause 74, insert:

74A Strengthened Export Controls Steering Group

(1) As soon as practicable after this section commences, the Minister must appoint, in writing, the members of a Strengthened Export Controls Steering Group.

(2) The Group's functions are to advise the Minister and Research Minister on:

(a) the adequacy of the organisational and governmental arrangements, and the identification, assessment and management of risks, costs and administrative burden, associated with intangible transfers of DSGL technologies; and

(b) the oversight, design and delivery of a pilot program to identify the adequacy of this
Act, the regulations, the implementation arrangements and the resources for regulating intangible transfers of DSGL technologies; and

(c) recommendations for amendments to this Act, the regulations and the implementation arrangements in view of the pilot program; and

(d) whether this Act, the regulations and the implementation arrangements are not more restrictive than United States export control regulations in relation to university activities.

The Group also has any other functions determined, in writing, by the Minister.

(3) The Group must:

(a) consider quarterly progress reports from participants in the pilot program on implementation of the strengthened export controls; and

(b) through its Chair, report to the Minister and the Research Minister every 6 months; and

(c) if required by the Minister and the Research Minister, provide additional reports.

(4) The Group must advise the Department in relation to obtaining appropriate technical and scientific expertise regarding Australian Government consideration of the control lists of international regimes and of the Defence and Strategic Goods List.

(5) The Group may establish subgroups to support its functions. Subgroups must report to the Group.

(6) The Group's membership must include:

(a) Australia's Chief Scientist, as the Chair of the Group; and

(b) no more than 4 representatives of the industry sector, one of whom is a co-Deputy Chair; and

(c) 2 representatives of the university sector nominated by Universities Australia, one of whom is the other co-Deputy Chair; and

(d) the Chief Executive Officer of the National Health and Medical Research Council, or its nominee; and

(e) the Chief Executive Officer of the Australian Research Council, or its nominee; and

(f) a representative of the Department; and

(g) a representative of the Department administered by the Research Minister.

(7) The Group must meet at least once each quarter.

(8) A quorum of the Group is constituted by the Chair, one representative referred to in paragraph (6) (b), one representative referred to in paragraph (6) (c) and the representatives referred to in paragraphs (6) (f) and (g).

(9) The Group must report every 6 months, in writing, to the Minister and the Research Minister, including any dissenting views of a member of the Group.


(11) The Defence Export Control Office must provide a secretariat for the Group.

(12) The secretariat must:

(a) prepare and circulate agendas in conjunction with the Chair; and

(b) work with the authors of agenda papers to ensure quality and timeliness; and

(c) ensure that the agenda approved by the Chair and papers are received by members at least 1 week before each meeting; and

(d) prepare and provide to the Chair, within 1 week of the meeting, the minutes of the meeting; and

(e) circulate the meeting outcomes to all members following clearance by the Chair, and maintain Group records.

(13) The office of a member of the Group is not a public office within the meaning of the Remuneration Tribunal Act 1973.

(14) The Group may determine the procedure to be followed in performing its functions.

(15) The Minister must cause a copy of the Group's final report to the Minister to be tabled in each House of the Parliament within 15
sitting days of that House after the day the Minister receives the final report.

(16) The Group is abolished immediately after its final report is given to both the Minister and the Research Minister unless, before then, the Minister and the Research Minister determine, in writing, that the Group is to remain in existence until the end of a specified period.

(17) An instrument under this section is not a legislative instrument.

(18) In this section:

Research Minister means the Minister administering the Science and Industry Research Act 1949.

I might test quickly with Senator Johnston whether that means he has withdrawn opposition amendment No.3? I get an indication that he has. I will keep it fairly brief then as the hour is getting fairly late.

This amendment effectively strengthens the Export Controls Steering Group, which we have spoken of a little bit during the debate. Again, it is an amendment that I am very pleased that we were able to get in negotiation with the government. I thank the Minister's staff and the drafters who have been scrambling around after this rather awkward process, trying to pull the amendments together. It is an amendment that is not satisfying enough to make me want to vote for the bill, so I will make that fairly clear then as the hour is getting fairly late.

This amendment effectively strengthens the Export Controls Steering Group, which we have spoken of a little bit during the debate. Again, it is an amendment that I am very pleased that we were able to get in negotiation with the government. I thank the Minister's staff and the drafters who have been scrambling around after this rather awkward process, trying to pull the amendments together. It is an amendment that is not satisfying enough to make me want to vote for the bill, so I will make that very clear, but as with the earlier Greens amendment that we passed, again in negotiation with the government, I am pleased that at least, I believe, we will come to greatly appreciate the fact that the Export Controls Steering Group will have move teeth than it otherwise would have had. We will be able to learn more about the actual operation of the bill. I commend this amendment to the chamber.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (21:09): Hopefully, Senator Ludlam, you draw great comfort from the fact that the government has adopted your amendment and that we remain amenable to reason in these negotiations and the proceedings that come from them. The government supports the Greens' amendment to insert a new clause 74A, which will establish the Strengthened Export Controls Steering Group. The government had tabled an amendment to implement the steering group but this amendment has a greater level of specificity, which will give greater assurance to stakeholders that the steering group will operate as agreed during the Chief Scientist's roundtable. I note that this includes an additional function for the steering group—to advise ministers whether the bill creates a more restrictive regime than in the United States in relation to university activities.

Senator JOHNSTON (Western Australia) (21:10): The opposition endorses and adopts all of those words of the Minister. The Greens' amendment is the preferred option of the three.

Senator LUDLAM (Western Australia) (21:10): I acknowledge for the record that it is a very rare thing in this place for that kind of outcome to occur, and it has taken a lot before. As this is probably the last amendment that we will be dealing with, I want to thank my staff, particularly Felicity Ruby, who has worked through the entire weekend. I suspect Senator Johnston and the Minister have put a number of their staff in the same position, to catch up with the mad scramble that has been dished up to them by a bad process. I will acknowledge without condition that it is rather a rare and wonderful thing that an improvement can be made on the fly to a bill by negotiation, and it is worth acknowledging when that occurs. I do commend this amendment to the chamber.
The CHAIRMAN (21:11): The question is that Australian Greens amendment No.3 on sheet 7297 be agreed to.
Question agreed to.
Bill, as amended, agreed to.

In Committee

Customs Amendment (Military End-Use) Bill 2011

The CHAIRMAN (21:12): We now move to the second bill, which is the Customs Amendment (Military End-Use) Bill 2011. There are two government amendments to that.

Bill—by leave—taken as a whole.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (21:11): by leave—I move:
(1) Schedule 1, item 1, page 5 (after line 16), at the end of Division 1AA, add:

112BC Statement to Parliament

As soon as practicable after the end of each financial year, the Defence Minister must cause a statement to be tabled in each House of the Parliament about the exercise of the Defence Minister's powers under this Division during that year (whether or not the statement is part of an annual report).

(2) Schedule 1, item 2, page 5 (line 17), before "definition", insert "paragraph (b) of the".

The CHAIRMAN (21:12): The question is that government amendments on sheet BM278 be agreed to.
Question agreed to.
Bill, as amended, agreed to.
Bills reported with amendments; report adopted.

Third Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (21:13): I move:

That these bills be now read a third time.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Feeney that the bills be read a third time be agreed to.

The Senate divided. [21:17]
(The Deputy President—Senator Parry)

Ayes .................30
Noes .................9
Majority.............21

AYES

Back, CJ
Bishop, TM
Collins, JMA
Edwards, S
Farrell, D
Feeney, D
Gallacher, AM
Marshall, GM
McLucas, J
Parry, S
Pratt, LC
Singh, LM
Stephens, U
Thistlethwaite, M
Urquhart, AE

NOES

Di Natale, R
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Question agreed to.
Bills read a third time.

Australian Charities and Not-for-profits Commission Bill 2012

Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012

Second Reading

Debate resumed on the motion:
That these bills be now read a second time.
Senator CORMANN (Western Australia) (21:19): Whenever this government introduce a piece of legislation, it is generally because they want to impose a new tax or they want to impose more red tape on the Australian community. This bill is all about imposing more red tape and on this occasion on our charities and not-for-profit sector. This bill provides for the establishment of a new statutory office, the Australian Charities and Not-for-profits Commission, which will be the new Commonwealth-level regulator for the not-for-profit sector. This bill supposedly sets up more bureaucracy at the federal level on the promise that eventually, perhaps one day, it will lead to less bureaucracy at the state level, except that none of the states have agreed to it. So we will have yet another level of government, another level of additional red tape, which will make it harder for one of the very important sectors in our community to do its business on a promise that eventually, one day, perhaps in the never-never, it might lead to less red tape.

This Australian Charities and Not-for-profits Commission is proposed to have far-reaching powers that will elevate it to one of the most powerful Commonwealth regulators. The coalition opposes this proposed great big new bureaucracy for charities and not-for-profits because it treats the sector as untrustworthy and the people involved in it as tainted. It introduces a new regime of red tape for the not-for-profit sector and it will hinder the activities of charities and not-for-profits, and it will discourage involvement from the community in our charities and not-for-profits.

The states generally oppose the creation of this new regulator, except for the Labor state government in South Australia. The states have not agreed to handover their powers with respect to charities and not-for-profits. The states' powers in this area are quite extensive, as I am sure you would be well aware, Madam Acting Deputy President Moore. The states have not agreed to handover to the Commonwealth their powers with respect to charities and not-for-profits—such as powers with respect to incorporated associations, fundraising and reporting. If this legislation passes the Senate, the new regulator will be an additional layer of red tape and will not achieve its primary objective of reducing regulation. This government is quite extraordinary: it can say that something does one thing when quite manifestly it does the exact opposite. The government is saying that the objective is to lead eventually to less red tape, but, 'Trust us, we have to go through this phase of increased red tape in order to get to this ultimate phase of less red tape.'

In our judgement, Labor's approach would hurt the sector, hindering the activities of charities and not-for-profits and discouraging involvement in this very important part of our community. Labor is creating a roadblock for the operation of charities and the not-for-profit sector and for people's involvement in community organisations. Labor's approach reverses the cornerstone assumption of trust, essentially creating legislation that assumes people involved in those charities and not-for-profit organisations who volunteer are untrustworthy and tainted. The Australian Charities and Not-for-profits Commission would discourage involvement in the voluntary sector. In our judgement, we should trust the voluntary sector. We should trust those people who get themselves involved in charities and not-for-profit organisations.

The coalition's plan will help support volunteers who get themselves involved in those many community organisations across Australia that do such a good job. We
believe the government should get out of the way of those organisations and let them do what they do best: help people and help the community. We support a small commission to focus on innovation, education and advocacy, but our approach is to cut red tape. An example of our approach, of course, is the proposal in the family services area, where contracting reforms and cutting red tape out of contracting for services will make it easier for agencies that get involved in this area.

The sector, incidentally, does not support the government's proposed creation of a big new regulator for charities and not-for-profits. The Uniting Church in Australia, as part of our inquiry into this legislation, said: …it is important to recognise that the introduction of any new reporting obligation on congregations, no matter how minor, will be another layer of legislative obligation and reporting for local members who are generally neither skilled nor trained for this burden.

From the same organisation:
… we remain yet to be convinced that the proposed legislation will work for the sector and its donors, eliminate the red-tape overload, and be adequately reflect the sector’s diversity in terms of compliance requirements.

From a totally different corner of the community organisations sector, Surf Lifesaving New South Wales said:
… reducing red-tape by reducing duplication of reporting requirements and assisting the efficiencies of the sector, however this will not occur without the involvement of the states and territories to align reporting requirements with the ACNC reporting framework.

That, of course, is not happening as part of this legislation.

The Australian Baptist Ministries have submitted:
… the reporting requirements for medium sized entities are too onerous. In our view the increase in compliance obligation will make it more difficult to fill volunteer roles within local congregations as well as requiring more time to be spent on compliance matters and therefore less time on matters that will provide a benefit to the community.

There is also an assumption of state uniformity and co-operation in various parts of the proposed legislation. If this does not eventuate the result will be an additional compliance burden for charities and not-for-profit organisations, particularly those that operate in multiple states, We of course know from the states that that is exactly what will happen. There is not going to be this cooperation from the states around state uniformity and cooperation for the foreseeable future.

There are approximately 600,000 entities in the not-for-profit sector, of which it is estimated around 400,000 may access Commonwealth tax concessions either through the Australian Taxation Office endorsement process or by self-assessment. The Australian Securities and Investment Commission has a smaller role in the regulation of the sector at the Commonwealth level. ASIC is currently responsible for regulating approximately 11,000 not-for-profit entities incorporated as companies limited by guarantee under the Corporations Act 2001. That is a mere 11,000 out of 600,000-odd entities that there are across Australia, so it is a very small level of involvement in terms of regulatory oversight currently at the federal level, with most of the oversight happening at the level of the respective states.

ASIC regulates professional trustee companies as well as some charities which are incorporated as other types of companies under the Corporations Act 2001 and ASIC also has responsibility for the registration of incorporated associations and cooperatives if they wish to operate outside their home jurisdictions. The states and territories regulate incorporated associations and
charitable trusts—although public and private ancillary funds are regulated at the Commonwealth level—as well as fundraising activities and imposing reporting and governance requirements on entities that receive state and territory government funding. Not-for-profit agencies have raised the issue that reporting requirements are inconsistent across the sector. The reporting requirements are increasingly and excessively complex and burdensome. The reporting requirements do divert resources away from frontline service delivery and towards complying with the needs of government. The sector is also very concerned that there is currently no single reference point for not-for-profits to access information, education and guidance.

This is why the coalition supports a small commission to engage in innovation, advocacy and education but not in this massive, superpowerful Commonwealth regulator on top of all the other regulatory arrangements—one that will choke charities and not-for-profit organisations in excessive and unnecessary additional red tape. Labor is effectively reversing the current approach, telling the sector they need a watchdog to promote transparency and trust from the sector. The community trusts the not-for-profit sector, and there is no identification from the government of the mischief that warrants the suite of powers that would be granted to the new commissioner. What is the problem that this government is trying to fix? Why do they want to provide all of these additional powers to a Commonwealth bureaucrat here in Canberra to make life more difficult for not-for-profit organisations and charities across Australia? People across Australia do not overwhelmingly welcome more power for a Canberra based bureaucrat to make their lives more difficult, and the government have not provided a justification for these powers or stated what sort of mischief they are trying to address.

The government claims it will consult further on the content requirements of financial reports and implement this through regulations: 'Trust us, we are from the government; we are here to help!' But registered entities will be required to prepare their first financial reports for the 2013-14 financial year, with the first financial reports due by 31 December 2014 unless a substituted accounting period applies. We on this side of the chamber know only too well that any such commitment to consult is worthless. Just look at the track record under this government so far.

At best, they will bungle the consultation. At worst, it will be much like their approach to a range of other legislation—a complete sham process. At this point I am forced to point out that what we have here is the government's attempt at legislating a policy that they announced back in May 2011 to create an Australian Charities and Not-for-profits Commission, which was to come into operation on 1 July 2012. The start date of the Australian Charities and Not-for-profits Commission has been delayed. It was then expected to start on 1 October 2012. Who knows what the ultimate timetable is going to be.

This reflects yet again the rushed approached to legislation, where the government is trying to meet deadlines and failing. This package of charities legislation was of course introduced on 23 August, the last sitting day before a fortnight's break in parliamentary proceedings. Yet, on 18 September, less than a month later, the Assistant Treasurer had the nerve to introduce 2½ pages of amendments to the package of charities legislation and a supplementary explanatory memorandum of 15 pages in relation to legislation which was
due to come into effect less than two weeks later. And, of course, everybody across Australia would be expected to comply with all of the requirements.

The government cannot get their policy right, and that, of course, is why their legislation keeps changing. Clearly the bills were not ready to be introduced on 23 August. They should not have been introduced on 23 August. The government should have done their homework first. But, as on so many occasions before, they did not and now they are trying to patch things up as they go along. They are just making it up as they go along. We also have some more amendments to deal with in front of us now in the context of dealing with this legislation in the Senate this week. The government have the numbers in this chamber, I suspect. The fact that the bills are coming up for debate at this juncture indicates their sense of priorities. The Assistant Treasurer, in our view, should accept responsibility for a state of affairs where they are having to chop and change and make amendments as they go because they got things wrong when they first introduced the legislation.

The main bill, the Australian Charities and Not-for-profits Commission Bill 2012, provides the Australian Charities and Not-for-profits Commissioner with a range of enforcement powers. These powers are modelled on those given to other Commonwealth regulators, such as ASIC, the Australian Prudential Regulatory Authority and the Australian Competition and Consumer Commission. They provide the ACNC with the authority to issue warnings, issue directions, enter into enforceable undertakings, apply to the courts for injunctions, suspend or remove responsible entities and appoint acting responsible entities.

Of particular concern to us are the information gathering, monitoring and sanctioning powers, including the ability of the ACN Commissioner to remove a director. The bill specifies the conditions that must be satisfied before the ACN Commissioner can use enforcement powers, the scope and range of the commissioner’s enforcement powers and the associated penalties for contravening enforcement powers issued by the ACN Commissioner. The ACN Commissioner will be able to exercise enforcement powers only over registered entities. The ACN Commissioner may generally only use enforcement powers against federally regulated entities. However, the commissioner may revoke the registration of any registered entity.

Groups in the not-for-profit sector have raised the issue that the reporting requirements, government standards and the ACNC enforcement powers are inconsistent with or overlap the common law of trusts and state and territory trustee legislation, are inconsistent with or overlap the Corporations Law and ASIC's regulatory role, are inconsistent with or overlap the ATO’s guidelines on public and private ancillary funds, are possibly inconsistent with the Australian Constitution and are inconsistent with the overarching purpose of the ACNC legislation. I consider these comments about the ACNC's extensive powers by the Australian Catholic Bishops Conference to be a particularly appropriate description of this issue:

The lengthy list of powers proposed in the ACNC Bill focuses on matters which appear more appropriate for a criminal investigation authority rather than a body which is intended to promote and educate.

…… …

All groupings of systemic schools, independent Catholic secondary schools and many primary schools will be classified as "large charities" and
therefore be subject to the highest level ACNC financial reporting and accountability requirements.

The outcome for schools is an unreasonable compliance burden …

This is what this government is imposing on not-for-profit schools across Australia—an unreasonable compliance burden.

In the same vein is the submission of World Vision Australia:

WVA considers that the tone and structure of the enforcement powers continue to suggest a heavy-handed approach weighted against the interests of registered entities and responsible entities. Further efforts should be made to ensure that the powers are better targeted, fairer, not used to inappropriately interfere with an organisation's legitimate operations and do not impose undue costs on an entity in taking action against the ACNC.

Unless and until the states and territories agree to hand over their powers to the Commonwealth regulator and harmonise their laws, these bills are going to necessarily add an additional layer of red tape which the sector will be forced to comply with. The smooth functioning of the ACNC is also dependent on a number of Commonwealth departments agreeing to either hand over their regulatory powers to the ACNC or to harmonise their regulatory requirements with the ACNC. From listening to the evidence at our various inquiry hearings, that is far from certain to happen.

The coalition believes that a reduction in red tape should be a priority issue where any reform of the not-for-profit space is concerned. It is our contention that these bills will actually take us in the wrong direction if the objective is genuinely to create less red tape for this sector.

Stakeholders remain concerned that these bills create unnecessary uncertainty with respect to the obligations and responsibilities of both the entity and those charged with governance of the entity. This issue arises from the fact that the requirement of the financial report and the requirements of those charged with governance with respect to financial reports are not presently specified with these provisions to be enacted by regulation by the minister. The sector is concerned that this will lead to a situation where not-for-profit agencies have limited input into decisions regarding how they are to be governed. Moreover, it exposes the risk that these standards can be subject to change frequently and at the whim of the minister or the government of the day.

The extraordinary range of services the not-for-profit sector provides covers programs extending from parenting skills, training, through marriage and family education and counselling, to divorce, mediation, drug and alcohol assistance, family violence—providing information and support to hundreds of thousands of Australians annually. Many agencies are motivated by charitable intentions; they are professionally conducted and often utilise the valuable contributions of volunteers. Taking the area of family services as an illustration of the current red-tape burden and inefficiency which I say will be exacerbated by these bills, we must not lose sight of the fact that government contractual reporting requirements costs family service agencies significant sums of money to administer. Much data is collected but little of it is every used.

The coalition supports transparency and accountability in the use of taxpayer funds. We also support simplicity and efficiency. The community sector has a long history of responsible governance and management. The coalition will respect and trust this. We will not support the creation of a heavy-handed regulatory body that would add to the red-tape burden for charitable organisations and duplicate state and territory legislation.
Senator SIEWERT (Western Australia—Australian Greens Whip) (21:39): I rise to make a contribution to this debate on the Australian Charities and Not-for-profits Commission Bill 2012 and the Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012. I make my contribution based on a significant amount of work on these particular bills, in close consultation with many people from the not-for-profit and charity sectors, and I make this contribution based on where we are at today with the government's range of amendments that have been circulated.

At the outset, I will say that when we first saw the exposure draft, it caused a great deal of concern for the Australian Greens and for the not-for-profit sector. To give the government their due, they actually listened to what the not-for-profit sector said and made some amendments. The bill that came out was still not near the mark. But the bill we are now discussing with amendments is getting there. After very close consultation with the sector, I believe that, with the amendments, it has strong support. I will not be selectively quoting from submissions that were made to three of the various parliamentary inquiries, because things have moved on since that point.

The Australian Greens—and we have never made any secret of this—are strongly supportive of charities and the not-for-profit sector. We believe they play an essential role in our democracy. These organisations deliver services to hundreds of thousands of Australians every day. These services include: health, community services and development, disability, employment and training, aged care and community care, family support, children and youth services, mental health services, drug and alcohol treatment, Indigenous affairs, support for culturally and linguistically diverse people, victims of violence and abuse, housing and advocacy—and that is not even a full list; I have not mentioned any of the not-for-profit organisations outside of community services.

They are an essential part of our community. Our community could not function without them. The most vulnerable people in our community would not have the support they have, if it were not for the not-for-profit sector. I put this in a context because that is the context that I came from when I looked at this bill. I did not want to see anything put in place that would undermine the essential role of the not-for-profit sector. We want to in fact support that role. I was deeply concerned that the various earlier iterations of what we are looking at now would have had an adverse impact on the charities and not-for-profit sector.

The concept of a body that is dedicated to the administrative needs of the not-for-profit sector is a good one. The concept of a body that operates as a one-stop shop for the over 60,000 or so charities—that currently negotiate a maze of government departments as they attempt to meet their obligations under the current tax legislation and funding arrangements—is a good one. But it needs to be adequately funded and it needs to be focused on the administration and delivery of support services for charities and not-for-profits rather than on the regulation of this highly diverse sector that is so vital to our community yet has limited resources with which to meet its administrative and governance obligations. In other words, this has to be 'for' not 'of'; this distinction is a critical one.

As it stands, even with the amendments that were introduced in the lower house as a response to some of the recommendations made through the previous inquiries, this legislation is still too heavily slanted towards a reform 'to' the sector rather than 'for' the sector. Without further amendments, this
legislation would establish or set up a commission that perpetuates the problems we have experienced right through this reform process.

The reform is critical because not-for-profits are a critical part of our society. They provide significant assistance to vulnerable citizens as well as to the natural environment and to animal welfare and the arts, when the not-for-profits are chronically underfunded and rely on donations from the public and/or government grants. Both these sources of funding are accompanied by significant regulatory and tax compliance burdens—as they should be; they should be transparent and accountable. But we should also not overburden these organisations.

Regulation at the moment is fragmented across jurisdictions and within jurisdictions. Some organisations, big organisations, have counted up to 600 grants for an organisation. The ATO regulates tax concessions, and some have company structures and therefore have to report to ASIC. Indigenous corporations report to the Office of the Register of Indigenous Corporations. And then there are the various state and territory regulations—many of which are different. This is a huge reporting burden. The overburden report, from a couple of years ago, highlighted the vast number of grants within federal government agencies that Aboriginal health organisations have to report to.

The sector has been calling for reform, genuine reform—and this is a very, very important point—for a significant period of time. So to say that the sector does not support this reform is actually not correct; the sector does, but it wants proper reform, not reform in the name of reform. The sector wants the removal of administrative barriers and it wants to make sure that the red tape is dealt with. That is a very strong message.

Like the sector, we recognise that this legislation is only one part of a larger project that needs to address issues such as governments contracting, wage equity, taxation arrangements and bringing the definition of 'charity' into the 21st century. These reforms will not be achieved simply by setting up a not-for-profit commission. But, if we can get the commission right, we will be on a path to enabling some of these other reforms and strengthening the not-for-profit and charity sector.

The Australian Greens recognise the opportunity we have to set up a one-stop shop which will help to unify a range of regulations that are currently fragmented across different legislation and to focus on addressing the barriers to good governance. But, like the sector, we still had serious concerns about this legislation and its ability to meet the needs of the sector. As it stood, without amendments, we had a strong concern that it would undermine the sector. We need to make sure that we have an independent, strong, well-functioning sector, and we certainly did not want any legislation that undermined the independence of the sector.

I have talked extensively to the sector and have participated in the various inquiries to reach the conclusions that we did in assessing this legislation. The legislation has three objectives: accountability and public trust; a vibrant and robust independent sector; and red tape reduction. Taken together, these three objectives can set the framework for a regulator who is responsive to the sector, promoting good governance and transparency. We do not believe that the legislation as it stood was balanced enough to ensure that the regulator had the capacity to walk that fine line between ensuring transparency and accountability—and, if they did not get it right, undermining the independence and the diversity of our civil
society. However, there are a series of amendments circulating that have been developed by the government in response to both the concerns expressed through dissenting reports and through submissions from the community.

This is a really good example, we believe, of where we can work with the government, working the balance of power, listening to the stakeholders and negotiating constructively to help strengthen and improve legislation. Unfortunately, I cannot say the same for those opposite who—particularly when I was listening to the contributions in the House of Representatives—were focusing their comments on past versions of the legislation. In fact, tonight, we got a contribution that completely ignored amendments that had already been made to the legislation that we are debating.

The amendments that have been developed, we believe, will go a long way to ensuring that we get the ACNC right. We absolutely need to get this legislation right. We the Greens and I am sure the government and the broader community want a diverse, vibrant, independent third sector. This is a critical feature of a functioning democracy. Not-for-profit organisations and non-government organisations are often the trailblazers who promote positive social and environmental outcomes, well before the government is ready to shift its policy. The NGO sector are the leaders of change.

Without our not-for-profit sector, I doubt that we would have achieved many of the most important political and social reforms—such as the vote for Aboriginal and Torres Strait Islander peoples and, more recently, the action to address climate change. Not-for-profit organisations are playing a really important right now, for example, in the current debate, to shift community attitudes. Rather than denigrating those who are on income support and on low incomes and unemployed Australians, including single mums, they are now helping to shift that debate to see people in these unfortunate situations as those most vulnerable Australians.

Government is more and more dependent on the NGO sector. The NGO sector provide services and support in many cases much better than government can. But, critically, they also advocate for change. There are some things that some governments do not like. Sometimes there is a desire for government to stop those organisations playing this role.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore) (21:50): Order! I propose the question:

That the Senate do now adjourn.

Fisher, Mrs Margaret

Senator FAULKNER (New South Wales) (21:50): Tonight I want to celebrate the achievements of Byron Bay resident and champion tennis player, Margaret Fisher. Margaret Fisher has competed on the grass courts of Wimbledon and has played in the prestigious Queen's Club Tournament, the Dutch Open and the British Open. She is the current Australian super-senior women's singles and doubles champion and recently became the mixed doubles silver medallist at the super-seniors world championships in Umag, Croatia. Margaret's recent success in Croatia was a great achievement, made more remarkable by the fact that she is a retired pensioner who has reached the venerable age of 82.

When Margaret was a young girl growing up in country New South Wales she dreamed of one day playing at Wimbledon. In her
early twenties, working as a teacher in Grafton, she saved every penny for four years to get to London, to be one step closer to realising her dream. The journey from Sydney to Tilbury, in those days by sea, took 45 days, stopping in Perth, Ceylon, Bombay, Aden, through the Suez Canal to Marseilles, and finally Tilbury, England—quite an adventure for a young woman travelling alone.

Margaret worked as a relief teacher on weekends and battled it out on tennis courts all over the UK on weekends—finally working her way into qualifying and so securing her place at Wimbledon. Margaret had realised her dream.

After qualifying, late one evening Margaret crept on to Wimbledon’s centre court and celebrated by dancing barefoot on the hallowed turf. She also, very cheekily, dug up a clump of grass from behind the baseline as a souvenir, and that souvenir still takes pride of place on her coffee table and is a constant reminder of that great time in her life—February, 1953.

Playing at Wimbledon and living in London was a magical experience for Margaret. She was given two new state-of-the-art tennis racquets by the Slazenger company, rubbed shoulders with London’s fashion elite, was reprimanded for failing to attend a garden party hosted by the Queen in the Queen's coronation year but was chauffeured to and from Wimbledon in a Rolls Royce.

Margaret bowed out of the tournament losing to the 10th seeded American, Barbara Davidson, in the first round—but she had achieved her goal.

Margaret returned to Australia and settled in to work and to raise four children. She always managed to keep tennis in her life but could not find the time to play tournament tennis again until her retirement.

In 2010 her brother convinced Margaret to play in the super-seniors tennis championship on the Gold Coast. Surprising even herself, after many years of not picking up a racquet, Margaret finished runner-up in the singles, inspiring her to take on the world championships in Turkey later that year.

Margaret baked cakes for local markets, held raffles with prizes donated by local businesses and saved every dollar to get herself to Turkey. She played hard and finished runner-up in the over-80s women’s singles. Coming so close to taking out the title only hardened her resolve. Margaret was determined to battle it out for the world over-80s title again, this time in Croatia this year.

After a 40-hour journey—this time by air and much shorter than her journey to Europe 59 years before—Margaret arrived by bus in the city of Umag, a small city on the Adriatic coast of Croatia, the venue of the 2012 super-seniors world championship. Despite bowing out of the singles competition, Margaret won a silver medal in the over-80s mixed doubles with Sydney resident, Doug Corbett. ‘You’re never too old to learn, Margaret said after returning from Croatia.

She lamented that, while she had practised enough and was certainly fit enough in her preparation, she simply had not been able to play enough tennis under tournament conditions. Nonetheless, Margaret was certainly thrilled to walk away with a medal.

Mr Deputy President, as well as paying tribute to Margaret’s performances on the tennis court, I would also like to acknowledge her contribution to the Australian community—particularly in the field of education. As an educator, Margaret has pioneered maths and reading centres, and English-as-a-second-language pilots in Australian schools. She was a very able and committed educator and was respected by students and colleagues alike.
Margaret also became well known and well respected around this place after she embarked on a new career path as a staffer to various federal ministers, MPs and senators during the late 1980s and early 90s. I am one of those who can attest to her high standards, competence and dedication. Many would know Margaret's daughter Virginia Dale—also a long-term staffer in Parliament House currently working in foreign minister Senator Carr's office.

Since the world championships, Margaret has been recuperating at home in Byron Bay. Inspired by the story of the great Rod Laver, she says she is already planning her next attempt at the super-seniors world title next year. I want to take this opportunity tonight to wish her well and to congratulate her for these wonderful achievements. She really is an inspiration to us all.

The DEPUTY PRESIDENT: I trust there is a statute of limitations in relation to the turf that was removed!

National Breast Cancer Awareness Month

Senator CASH (Western Australia) (21:58): October is Breast Cancer Awareness Month and tonight I rise to speak on this important issue. Breast cancer is one of the leading causes of death by cancer in Australian women. Approximately 13,500 women in Australia are diagnosed with breast cancer each year and one in eight women will be diagnosed before their 85th birthday, with one in four of these women under the age of 50.

When my fraternal grandmother passed away from breast cancer, over 50 years ago, it was something that was not spoken about. There is now great national awareness across Australia about breast cancer and especially the importance for women of regularly checking their breasts in addition to having regular mammograms, so they know what feels normal to them so that if and when that normal changes, they can seek advice or a further check-up from a doctor.

Today, women are able to seek support from their families and from the community in the form of support groups run by organisations like Breast Cancer Network Australia and also Breast Cancer Care WA, which provides emotional, practical and financial support for women with breast cancer and which holds an annual Purple Bra Day to raise money to assist in continuing its support for breast cancer patients.

Under the guidance of founder and patron Ros Worthington OAM, Breast Cancer Care WA has grown since its beginnings in 2000 to provide support and educational services across the spectrum, including specialist breast care nurses; financial assistance for rural patients; specific programs for Indigenous women and their families; help with basics, like cleaning, while women are undergoing treatment; and many other services.

We have groups like Breast Cancer Care WA, the Breast Cancer Network Australia and the National Breast Cancer Foundation to thank for helping to raise both the profile and awareness of the disease and the funds for research to help find out more about the disease and, of course, to help find a cure. Groups like these are exceptionally resourceful and skilled at raising money, and overwhelmingly do so to provide a public benefit without drawing on the government purse for help.

For that reason in particular I believe it is important to draw attention to the work that they do and to commend them in the highest possible way for that work, without which women with breast cancer, as well as their families, would suffer a far more dramatic journey through diagnosis, treatment and, hopefully, remission.
Pink Ribbon Day was held a week ago on 22 October, and it is a testament to the work of the National Breast Cancer Foundation that the 'Pink Ribbon' brand is now so well known throughout Australia and is so well supported by Australians of all ages and from all walks of life. Here in Canberra, five of the landmark buildings—the Museum of Australian Democracy at Old Parliament House; the National Library of Australia; Questacon—the National Science and Technology Centre; Black Mountain Tower and Parliament House—are lit up in pink this month as part of the Estee Lauder Companies Global Landmark Illumination Initiative, to assist in raising money for research. Global illumination and the National Breast Cancer Foundation are in partnership in an international campaign to bring about not just greater awareness of breast cancer but also to promote early detection. The Canberra sites are five of 45 sites around Australia which are being lit up in pink this year.

The National Breast Cancer Foundation was established in 1994, and will soon be celebrating its 20th anniversary. During its existence, $81 million has been awarded across Australia to fund more than 300 Australian-based research projects that have helped to improve the health and wellbeing of women affected by breast cancer. The research is across the spectrum of the experience that women with breast cancer have, in order to improve understanding of the basics of the disease right through to research targeted at improving the quality of life for survivors of the disease.

As stated on its website, its aspirational goal is:
… to achieve zero death from breast cancer by 2030.

However, while there are 37 Australians being diagnosed every day with breast cancer and seven who pass away every day from the disease, there is still much work to be done. Fourteen thousand, six hundred and ten women are predicted to be diagnosed with breast cancer in Australia this year alone, and that figure is projected to reach 17,210, or 47 diagnoses on average a day by 2020.

It is important to note than men, too, can develop breast cancer, with about one per cent of cases affecting men. Unfortunately, this is an increasing diagnosis rate and is one of the major reasons why early detection is so important.

I also want to take this opportunity to remind women how they can best reduce their chance of developing breast cancer or cancer of any kind. This information is taken from the National Breast Cancer Foundation website:

- Reduce your alcohol consumption. Your risk of breast cancer increases with each standard drink per day.
- Maintain a healthy weight throughout your life.
- Active women of all ages have a reduced risk of breast cancer compared to women who do not exercise. …
- Ensure you eat a balanced diet, …
- Breastfeeding for at least 12 months can reduce your breast cancer risk.

All women, even those who are under the age of 50 and therefore not yet recommended to be having mammograms, should look for the following signs and remain breast aware:

- A lump, lumpiness or thickening of the breast.
- … … …
- Changes in the skin of the breast, such as any puckering or dimpling of the skin, unusual redness or other colour change.
- Changes in the size or shape of the breast. …
- Unusual and persistent pain that is not related to the normal monthly cycle and occurs only in one breast.

Younger women should also be aware that they are not immune to the disease, and need to be vigilant about the warning signs. The following testimonial is from a young woman named Skye, who was diagnosed with breast cancer at the tender age of 29:

Starting chemotherapy was the toughest time of my life, it was scary and I felt just awful. After a period I got used to the cycles and was able to feel okay most of the time. I set about getting back my life. I was fortunate enough to move in with some very supportive friends, bought myself some treats and started looking for work again, and realised not only did I have a life worth living, but what a fantastic life it would be!

I am now out of the dark and into the ever-increasingly bright light. Cancer truly does give you that all important perspective on life. Each day brings a beauty to it that I might have otherwise missed. Sunsets have never been more beautiful, birds singing never sounded sweeter. It has also given me a strength that I never knew existed, and a confidence that I can tackle anything life throws at me. As for love... he’d have to be a pretty special guy to fit into my life now, as it is full to bursting, doing all the things I love in life, including bringing awareness to young women about breast cancer. This is my life now, and I wouldn’t change it for the world.

This time last year I had the great honour of hosting a Pink Ribbon morning tea in Rockingham, in my patron electorate of Brand, with Donna Gordin, the federal Liberal candidate for Brand for the next election, and the member for Mackellar, the Hon. Bronwyn Bishop.

We were delighted to raise more than $1,200 on that day. We were privileged to have breast cancer survivor Valma Sulc share her very personal story of her experience with cancer with us. In fact, she was doing that publicly for the first time.

Better research, science and awareness of breast cancer now means we have a better chance of catching cancer early and treating it with greater success. I would urge everyone to make sure the women in their lives—whether they are wives, partners, friends, sisters, daughters, mothers, aunties or others—are taking care of their health and are aware of what is normal for them, and are not just taking note but taking action when that changes. I commend the scientists, the volunteers and the organisations working to help increase survival rates. To Australian families currently dealing with cancer, I commend you on your courage and wish you the strength of body and spirit to continue.

**Income Management**

Senator Rhiannon (New South Wales) (22:08): Today an important motion to disallow the income management regulation was voted down on the combined vote of Labor and the coalition. I congratulate Senator Rachel Siewert for bringing forward that disallowance motion. Once again we saw Labor and the coalition voting together on a failed policy. Income management is not just a failed policy; it is an expensive policy being implemented with no real justification. Income management is not the answer to meet the challenges many communities face. I have seen this in my state of New South Wales, where the government is moving ahead with a trial of income management. This is policy paternalism at its worst.

As I talk to communities that are trying to grapple with this very offensive policy that is being rolled out, I often think of the very moving day in 2008, Sorry Day, when the public came together under the leadership of the then Rudd government to apologise for an earlier abusive policy. I wonder whether we will face this in the future. If the income management policy is allowed to continue, I
fear that future generations will also have to give a public apology for this abusive policy. It is worth remembering how we got to this point. We had income management in the Northern Territory and there was no proof that it was making a difference, and then the government came up with its plan to extend income management.

The potential benefit that it supposedly could bring to individuals and their families has not been proved. We were told that the benefits had to be evidence based before it would proceed, but that has not been forthcoming. It is worth remembering the words of the Minister Jenny Macklin. She stated:

... an unshakeable belief in the power of responsive, evidence-based policy to drive progressive reform at many different levels.

Again, the evidence-based policy is not income management.

When you look at Parliamentary Library analysis of the available evidence from the Northern Territory, Queensland and Western Australia you find very few studies available that have attempted to directly measure the impact of income management separately from other policy interventions. Evaluations, as have been attempted, need to be treated with great caution. What you see when you start to read them is that are a range of methodological problems with them. There is a lack of comparison or baseline data, there is a limited amount of quantitative data, there is a strong reliance on qualitative measures, and questions about the independence of some evaluations also jump out at you. There is insufficient evidence to support extending the government's controversial income management trial. That is how you would have to sum it up.

Also, we have evidence before us because there was a very important Senate inquiry into the Stronger Futures bill. That evidence is a reminder about why today's disallowance should have been passed. That inquiry received a number of submissions pointing to the lack of evidence that income management leads to better outcomes or improved ability for individuals to budget. What the evidence did point to is the fact that income management has not been discussed with the five trial sites. I have seen this very clearly at Bankstown. While the government says it has consulted with the local people, once you sit down and meet with those people you find they have not been informed about why their area has been picked or what the nature of the trial is. That is certainly a factor that causes concern and anguish to many of those people.

Clearly, income management is highly contentious and the way the government has pushed it out to states is quite troubling. One of the people that I have met with on a number of occasions at Bankstown is Margaret Goneis. She is Chair of the Aboriginal and Torres Strait Islander Advisory Committee in Bankstown. Margaret has explained that many in her community are quite fearful about losing their independence if the income management scheme is continued. This was particularly troubling to the older members of the community. Many of them explained to me how they have worked hard over many years to manage their pension in a responsible way for them and their dependents and all of a sudden they are hearing that their life is about to change. When they go to shops, they may have to join another queue because they have to pay for some of the goods with the BasicsCard that goes with the income management scheme. Members of the Muslim Women's Association also raised their concerns. Many of them do not shop at the big shopping centres; they have a range of small shops along the shopping strip that characterises
Bankstown. They were worried about where they would be able to use their BasicsCard. So many of these people spoke about feelings of implied racism and the humiliation they felt because they were being singled out—that when they went into a shop they would have to produce a BasicsCard and they felt that many people would look at them differently if they had to do that.

In my many visits to Bankstown and meeting with the different communities about this issue I have found that there is a robust, caring community in Bankstown. Yes, there is high unemployment, like in many areas—not just working-class areas like Bankstown—and there are social problems, but they felt that the government had no right to single them out and victimise them in this way. I was very pleased that Senator Rachel Siewert was able to join me at one of these meetings, which we found very informative as people pointed out to us why they were so disturbed by the way the income management trial was being imposed on them and why they specifically objected to being singled out and put onto a Centrelink scheme that would be micromanaging their budgets.

I understand that there are only 66 shops in Bankstown that are authorised to accept a Basics Card, and that leaves out markets and many smaller shops, particularly the halal Vietnamese stores, where many people on low incomes regularly shop. It was another reminder for me of just how divisive this policy is.

More than 50 groups in Bankstown have voiced their opposition to the income management policy, and they are certainly sending a strong message to all the politicians who meet with them that they do not believe that we should stop voicing our concerns about this. They are urging that this trial should not continue. It is not making a difference to people's lives, it is not helping them learn how to manage their incomes, it is not helping kids go to school or whatever other justifications the government has come up with. It is not helping to reduce family violence, but it is putting people under stress and adding to their concerns.

The strong message I am getting from the Bankstown community is that this trial should be ditched, and if the government has some money to put into these communities they should consult and work in a constructive way to assist people who are on different entitlements in any way in which they might be short of money. So many of those benefits, as Rachel Siewert has pointed out many times with Newstart, are just inadequate. There are many ways that the government can get this right if they consult properly.

**Cancer Council**

Senator **BILYK** (Tasmania) (22:17):
Tonight I rise to speak about the Cancer Council and the worthy work it does in providing support to cancer patients and their families. The Cancer Council plays a very important role in educating the wider community about cancer, including the different types, the causes and the treatments as well as what can be done to help prevent it. They also continue to conduct research so that we can learn more about cancer in the hope that the rate of cancer diagnosis continues to decrease and survival rates increase. We would all be pleased to have a cancer free world, and I believe that we can one day achieve that.

I would like to share some statistics about cancer. It is estimated that 121,500 new cases of cancer will be diagnosed in Australia this year, with that number set to rise to 150,000 by 2020. One in two Australian men and one in three Australian
women will be diagnosed with cancer by the age of 85. Each year in Australia 17,500 women are diagnosed with breast and gynaecological cancers. Cancer is a leading cause of death in Australia, with more than 43,000 people estimated to have died from cancer in 2010.

Nearly 15,000 more people die each year from cancer now than 30 years ago. This statistic is due mainly to population growth and ageing. However, the death rate, or number of deaths per 100,000 people, has fallen by 16 per cent. More than 60 per cent of people diagnosed with cancer in Australia will survive more than five years after diagnosis. The survival rate for many common cancers has increased by 30 per cent in the past two decades. The most common cancers in Australia, excluding non-melanoma skin cancer, are prostate, colorectal or bowel, breast, melanoma and lung cancer. Around 434,000 people are treated for one or more non-melanoma skin cancers each year, with 448 people dying in 2007.

Cancer costs more than $3.8 billion in direct health system costs, which represents 7.2 per cent of Australia’s health costs. Australia spent $378 million on cancer research in 2000-01. This figure accounted for 22 per cent of all health research expenditure in Australia.

As a cancer survivor myself, I know exactly how important the work of the Cancer Council is, and it is for this reason that I am very keen to support the organisation whenever I get the opportunity. I have held a number of fundraisers for the Cancer Council in my office and have also hosted a team in the Huon Valley Relay for Life event over the last couple of years. I have registered and am hosting a team at the Hobart Domain in 2013, as the Huonville event is now going to be held only every two years.

Last month I hosted a Girl's Night In fundraiser in my office. Girl's Night In promotes awareness about women's cancers and raises much needed funds. For my Girl's Night In I invited family, friends, colleagues, some members of the local business community and, of course, representatives of the Cancer Council. To make the night as successful as possible in both fun and fundraising I invited a couple of retailers to display and sell their products. There was a Laura Benini shoe display and a PartyLite collection, and my office certainly looked different with all the shoes and candles spread out.

I take this opportunity to thank everyone who attended and/or made a donation to this worthy cause. A special thanks must go to Gayle Farr and Lynne Heath for the Laura Benini and PartyLite displays. Gayle and Lynne not only set up wonderful displays for the guests to look at but also agreed to donate a percentage of their proceeds from any sales made on the night to the Cancer Council. Lynne also donated a lovely raffle prize.

I would also like to thank Lyndall Jolly who, although unable to attend on the night, donated a Mary Kay pack for the raffle. My parliamentary colleagues Senator Carol Brown, Senator Lin Thorp and Julie Collins, the federal member for Franklin, were unable to join us on the night but they still made generous donations in support of this great cause, and I thank them for that. It was wonderful to have Denise Rodrigues from the Cancer Council with us on the night. From the entry fee, sale of raffle tickets and the donations, we raised over $850 which was a great effort by everyone involved and it was wonderful to have so many people attend. And of course I am pleased to note
that my colleague and good friend Brendan O'Connor, the member for Gorton, is holding a Girls' Night In at Parliament House tomorrow night, so I hope that goes well.

I would like to finish by talking about what the money is used for. At $10 per book, the money can be used to produce 80 cancer information books, or $45 can be used to pay for Cancer Council helpline calls to support and reassure women following their diagnosis. A night's accommodation for people who have to be away from home while having treatment can be covered with about $100, while $500 can go towards funding a research grant into ovarian cancer. The Cancer Council really does make a difference to so many lives, and I congratulate everyone involved for the work they do. I would also like to thank my staff for their great effort in decorating the office and coordinating our Girls' Night In event.

In closing I would like to mention National Bandanna Day which was held on 26 October. National Bandana Day raises money for CanTeen. This is an organisation especially devoted to people between the ages of 12 and 24 who are living with cancer. The organisation was founded in 1985 when a group of young cancer patients joined together to discuss the impact of cancer on adolescents. They felt that there was no organisation that could offer them the support they needed during their cancer battle. A group of health professionals agreed that young people needed a support system that was appropriate to their age group and CanTeen was the result.

CanTeen provides cancer patients and their siblings support as they live with cancer. It also supports people who have parents with cancer. Importantly CanTeen also provides support to people who have lost a loved one. It is really great to see so many people supporting CanTeen in the inventive ways bandannas are worn. My office is situated in a shopping centre, and I noticed a number of adults and children wearing bandannas both on their heads and around their necks. I saw a baby with one tied to the pram and a dog with one as well. I thought it was great that people were getting into the spirit of this day.

I urge everyone to support the Cancer Council, CanTeen or other similar organisations in any way they can. Whether it is by making a financial donation or volunteering to help out at an organisation, your contribution is certainly appreciated by those relying on the services and the support provided. I would also like to take this opportunity to remind people to be vigilant about their health. Lead a healthy and active lifestyle, know your family history and talk to your doctor if you have any concerns. Prevention is better than cure and early detection is vital in order to give yourself the best chances of making a full recovery. I look forward to continuing my association with and support of the Cancer Council, especially the Cancer Council Tasmania.

Senate adjourned at 22:25

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.]

A New Tax System (Family Assistance) Act—Child Care Benefit (Work/Training/Study Test Exemption) Amendment Determination 2012 (No. 1) [F2012L02035].

Acts Interpretation Act—Statement pursuant to subsection 34C(6) relating to the extension of specified period for presentation of a report—Wreck Bay Aboriginal Community Council and

Aged Care Act—
Accountability Amendment Principles 2012 (No. 1) [F2012L02060].

Aged Care (Residential Care Subsidy—Amount of Accommodation Supplement) Determination 2012 (No. 2) [F2012L01882]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].

Allocation Amendment Principles 2012 (No. 1) [F2012L02055].

Certification, Quality of Care and Sanctions Amendment Principles 2012 [F2012L02062].

Community Care Subsidy Amendment Principles 2012 (No. 1) [F2012L02056].

Community Visitors Grant Amendment Principles 2012 (No. 1) [F2012L02059].

Residential Care Grant Amendment Principles 2012 (No. 1) [F2012L02061].

Residential Care Subsidy Amendment Principles 2012 (No. 3) [F2012L02057].

User Rights Amendment Principles 2012 (No. 3) [F2012L01881]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 19 September 2012].

User Rights Amendment Principles 2012 (No. 4) [F2012L02058].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 20 of 2012—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2012L02090].

Broadcasting Services Act—Broadcasting Services (Events) Notice (No. 1) (Amendment No. 13 of 2012) [F2012L02024].


Civil Aviation Act—
Civil Aviation Regulations—Instrument No. CASA 320/12—Authorisation and permission—helicopter winching operations [F2012L02050].

Civil Aviation Safety Regulations—

Instruments Nos CASA—
EX154/12—Exemption – flight in Class D airspace within 16 kilometres of an aerodrome [F2012L02067].

EX156/12—Exemption – from standard take-off and landing minima – Thai Airways [F2012L02064].

EX159/12—Exemption – certified aerodrome operators [F2012L02072].

Revocation of Airworthiness Directives—
Instrument No. CASA ADCX 023/12 [F2012L02065].

Cocos (Keeling) Islands Act—Emergency Management Ordinance 2012 [F2012L02040].

Commissioner of Taxation—Public Rulings—
Class Rulings—

Erratum—CR 2012/82.


Miscellaneous Taxation Ruling—Notice of Withdrawal—MT 93/2.

Currency Act—Currency (Perth Mint) Determination 2012 (No. 2) [F2012L02052].

Customs Act—CEO Instruments of Approval Nos—
14 of 2012—Incoming passenger card (English) [F2012L02015].
15 of 2012—Incoming passenger card (Arabic) [F2012L02016].
16 of 2012—Incoming passenger card (simplified Chinese) [F2012L02018].
17 of 2012—Incoming passenger card (traditional Chinese) [F2012L02019].
18 of 2012—Incoming passenger card (French) [F2012L02020].
19 of 2012—Incoming passenger card (Greek) [F2012L02023].
20 of 2012—Incoming passenger card (Indonesian) [F2012L02033].
21 of 2012—Incoming passenger card (Italian) [F2012L02025].
22 of 2012—Incoming passenger card (Japanese) [F2012L02026].
23 of 2012—Incoming passenger card (Korean) [F2012L02027].
24 of 2012—Incoming passenger card (Malaysian) [F2012L02034].
25 of 2012—Incoming passenger card (Spanish) [F2012L02028].
26 of 2012—Incoming passenger card (Thai) [F2012L02029].
27 of 2012—Incoming passenger card (Vietnamese) [F2012L02030].

Defence Act—
Determinations under section 58B—Defence Determinations—
2012/57—Army – targeted rank and employment category completion bonus.
2012/58—Post index and Army bonus – amendment.
2012/59—District allowance – amendment.
2012/60—Living-in, maternity leave and transfer allowance – amendment.
2012/61—International campaign allowance – amendment.
2012/62—Additional risk insurance and deployment allowance – amendment.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—
EPB303DC/SFS/2012/48 [F2012L02042].
EPB303DC/SFS/2012/56 [F2012L02066].

Federal Financial Relation Act—
Federal Financial Relations (General purpose financial assistance) Determination No. 43 (October 2012) [F2012L02070].


Financial Management and Accountability Act—
Notice under section 39A—NBN Co Limited.

Select Legislative Instrument 2012 No. 248—Financial Management and Accountability Amendment Regulation 2012 (No. 8) [F2012L02091].

Food Standards Australia New Zealand Act—
Australia New Zealand Food Standards Code—Standard 1.4.2—Maximum Residue Limits Amendment Instrument No. APVMA 10, 2012 [F2012L02068].


Health Insurance Act—Health Insurance (Endovenous Laser Therapy) Determination 2012 (No. 2) [F2012L02063].

Health Workforce Australia Act—Health Workforce Australia (Eligibility) Instrument 2012 (No. 1) [F2012L02069].

Higher Education Support Act—VET Provider Approval No. 22 of 2012—Actor’s College of Theatre & Television Pty Ltd [F2012L02071].

Migration Act—
Instruments IMMI—
11/059—Revocation of section 499 Direction No. 25 [F2012L02036].
12/102—Eligible passports [F2012L02053].
12/111—Determination of daily maintenance amounts for persons in detention [F2012L02017].
Select Legislative Instruments 2012 Nos—
237—Migration Amendment Regulation 2012 (No. 6) [F2012L02021].
238—Migration Legislation Amendment Regulation 2012 (No. 4) [F2012L02041].
Statement for period 1 July to 31 December 2011 under section 197AB, dated 24 October 2011.

Military Rehabilitation and Compensation Act—Military Rehabilitation and Compensation (Warlike Service) Determination 2012 (No. 2) [F2012L02031].

Paid Parental Leave Act—Paid Parental Leave Amendment Rules 2012 (No. 1) [F2012L02054].

Primary Industries (Customs) Charges Act and Primary Industries (Excise) Levies Act—Select
Legislative Instrument 2012 No. 240—Primary Industries Legislation Amendment Regulation 2012 (No. 2) [F2012L02088].

Primary Industries (Excise) Levies Act and Primary Industries (Customs) Charges Act—Select Legislative Instrument 2012 No. 241—Primary Industries Legislation Amendment Regulation 2012 (No. 3) [F2012L02089].


Radiocommunications Act—


Radiocommunications (Unacceptable Levels of Interference – 1800 MHz Band) Determination 2012 [F2012L02045].

Safety, Rehabilitation and Compensation Act—
Approval of Form of Application for Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02079].

Approval of Form of Application for Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02078].

Variation of Criteria for Approval or Renewal of Approval as a Workplace Rehabilitation Provider (Rehabilitation Program Provider) [F2012L02075].

Variation of Operational Standards for Workplace Rehabilitation Providers (Rehabilitation Program Providers) [F2012L02074].

Stronger Futures in the Northern Territory Act—Stronger Futures in the Northern Territory (Food Security Areas) Rule 2012 [F2012L02073].

Veterans’ Entitlements Act—
Amendment Statements of Principles concerning—
Malignant Neoplasm of the Prostate No. 77 of 2012 [F2012L02076].
Malignant Neoplasm of the Prostate No. 78 of 2012 [F2012L02077].

Select Legislative Instrument 2012 No. 236—Veterans’ Entitlements Amendment Regulation 2012 (No. 2) [F2012L02039].

Statements of Principles concerning—
Acute Lymphoblastic Leukaemia No. 75 of 2012 [F2012L02087].
acute Lymphoblastic Leukaemia No. 76 of 2012 [F2012L02086].

Giant Cell Arteritis No. 71 of 2012 [F2012L02082].
Giant Cell Arteritis No. 72 of 2012 [F2012L02083].

Myeloma No. 69 of 2012 [F2012L02081].
Myeloma No. 70 of 2012 [F2012L02080].

Solar Keratosis No. 73 of 2012 [F2012L02084].
Solar Keratosis No. 74 of 2012 [F2012L02085].


Water Act—
Water Charge (Termination Fees) Amendment Rules 2012 [F2012L02043].

Water Market Amendment Rules 2012 [F2012L02044].

Governor-General’s Proclamation—Commencement of provisions of an Act
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Treasury: Agencies Staffing
(Question Nos 1112 and 1146)

Senator Humphries asked the Minister representing the Treasurer, upon notice, on 12 September 2011:

(1) Have staffing numbers in agencies within the Minister's portfolio been reduced as a result of the efficiency dividend and/or other budget cuts; if so, in which areas and at what classification.

(2) Are there any plans for staff reduction in agencies within the Minister's portfolio; if so, can details be provided i.e. reduction target, how this will be achieved, services/programs to be cut etc.

(3) What changes are underway or planned for graduate recruitment, cadetships or similar programs, and if reductions are envisaged can details be provided, including reasons, target numbers etc.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Australian Prudential Regulation Authority

(1) and (2) APRA's planned 2011/12 staffing numbers have been reduced by 10 (to 607) due to a reduction in the deficit for which it sought approval.

(3) APRA has no plans to change graduate recruitment in 2012 at this stage.

Australian Taxation Office

(1) The ATO has not specifically reduced staff as a result of the efficiency dividend or other budget cuts.

(2) The ATO's expected full time equivalent (FTE) levels over the next three years are set out below. These expected FTE levels include the Australian Valuation Office (AVO) and the Tax Practitioner's Board (TPB).

<table>
<thead>
<tr>
<th>Year</th>
<th>Operating Budget ($m)</th>
<th>Change ($m)</th>
<th>Change %</th>
<th>Average Affordable FTE</th>
<th>Change in FTE</th>
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<td>2011-12</td>
<td>3,174.3</td>
<td></td>
<td></td>
<td>21,793</td>
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<tr>
<td>2012-13</td>
<td>3,243.2</td>
<td>68.9</td>
<td>2.2%</td>
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<tr>
<td>2013-14</td>
<td>3,135.4</td>
<td>-107.8</td>
<td>-3.3%</td>
<td>20,509</td>
<td>-1,020</td>
</tr>
</tbody>
</table>

The ATO's budget is forecast to increase by $70 million in 2012-13 then reduce by $107 million in 2013-14. Assuming a 9% pay rise over the next 3 years, the ATO estimates that staffing numbers in that period will reduce by 1,284 FTE. To do this the ATO will rely on natural attrition, controlled recruitment and the flexibility provided through its temporary workforce. While there is an increase in the ATO's budget in 2012-13 (as a result of increased funding for a range of new policy initiatives), there is a reduction in FTE driven largely from the cost of pay increases and efficiency dividend. In 2013-14 there is a larger reduction in FTE due to new policy funding for the Strategic Compliance Measures finishing, pay increases and efficiency dividend. The ATO is currently in negotiation on a new Enterprise Agreement.
As Tax Time (July to October) is the ATO's peak workload time, the number of actual staff employed has increased by 249 (1%) from 25,009 at 30 June 2011 to 25,258 at 14 September 2011. Please note this refers to actual numbers of people employed, not FTE figures, and includes part-time staff. Ongoing staff numbers have decreased by 137 (0.5%); non-ongoing staff numbers have decreased by 40 (8%); and irregular/intermittent staff numbers have increased by 426 (18%). All staff numbers/FTE include all ATO, AVO and TPB staff.

Following Tax Time, the ATO plans to reduce overall staffing levels over the remainder of the 2011-12 financial year. To do this the ATO will reduce its temporary workforce, as well as rely on natural attrition, and control recruitment to manage within its budget.

(3) The ATO aims to recruit at least 200 graduates each year depending on budget and business needs. In 2012 the ATO plans on recruiting around 280 graduates. In 2011 the ATO recruited 403 graduates, the highest number ever recruited. This was possible because of additional funding received in the May 2011 Budget for specific compliance activity. Graduate recruitment is a key strategy to invigorate and renew the ATO's workforce.

The ATO also plans to recruit 12 information technology apprentices and cadets, an increase from the eight recruited in 2011.

APS 1 Project
This recruitment project aimed to build and sustain the entry level workforce across all sub-plans, with 126 APS 1s commencing work in May and June 2011. Approximately 70% of placed candidates have a degree or are completing one, 41% are male, 59% are female and 70% are under 30 years of age. The ATO is planning for further similar campaigns to be undertaken each year.

Indigenous programs
The ATO is working to improve its recruitment and development of Indigenous Australians. In 2012 the ATO plans to recruit 6 Indigenous cadets.

The ATO is also planning an intake of 10 school-based trainees for the first year of a school-based traineeship 'Indigenous School to Work' program. This program was previously a three year sponsorship program as part of the Queensland Government Education's toward Employment Program but has been transitioned to create a formal employment pathway into the ATO for Indigenous Australians.

The ATO will also offer a 12 month entry level traineeship program designed to recruit Indigenous jobseekers with limited experience in government. The ATO will pilot the program in selected sites in 2012 before expanding it in 2013.

Disability programs
In 2012, the ATO is implementing a school-based traineeship program to create a formal employment pathway into the ATO for people with disabilities. This will replace the previous two year scholarship program for high-school students which commenced in 2007. The ATO has awarded 18 scholarships since the program started.

The ATO also has a 'Stepping into Program' overseen by the Australian Employers' Network on Disability. This program provides work experience to university students in the final year of their degree who may otherwise find it difficult to obtain experience due to their disability. The ATO started participating in 2007 and have provided placements for 43 students over this time. Continued participation in the program is planned for 2012 with a similar sized intake to previous years.

Community Programs
The ATO also provides a range of work experience and temporary employment programs through its partnerships with external community organisations. These programs enable the ATO to tap into diverse segments of the community and broaden its entry base.
The largest of these programs is Youth to Work, an 18 month program which targets young people aged 17-24 with limited education and/or work experience. To date over 300 young people have been part of the program. Similarly, the Pathways Program, in partnership with a not-for-profit organisation Whetelion, provides 12 months casual work for disadvantaged youth or those who are becoming disengaged from the community.

Other programs target skilled migrants, young mums, and disadvantaged university students and offer a mix of sponsorships, casual and non-ongoing employment opportunities. These programs offer the ATO's business areas a flexible pool of talented workers and the ATO expects the demand for these programs will continue to grow.

**Australian Bureau of Statistics**

1. The ABS has not reduced staff numbers in 2011-12. New funding for economic statistics programs and the peak in Population Census cyclical funding have more than offset the impact of the efficiency dividend, resulting in net recruitment rather than reduction in ABS staff numbers over the year.

2. Towards the end of the 2011-12 financial year, processing of the Population Census will begin to phase down. Over the period May 2012 to December 2012, temporary employment contracts for some 650 non-ongoing staff working at the equivalent of APS1-6 levels will conclude, as scheduled. Some 75 ongoing ABS staff working at APS5- SESB1 levels at the Census Data Processing Centre will progressively move back to mainstream ABS operations over this period. The effect of the latter is expected to slow ongoing staff recruitment demand, rather than result in a need for a program of deliberate ongoing staff reductions.

3. The ABS has an annual graduate and cadetship intake, and the number of graduates is determined annually by the operational requirements of each area within the ABS. The ABS is expecting to recruit 165 graduates for the 2012 intake. This is a slightly smaller intake than the previous year (180).

**Australian Securities and Investment Commission**

1. ASIC reduced staff within the Deterrence and Shared Services areas after a review of ASIC's business functions. These redundancies were unrelated undertaken as a result of changes required in technology, processes and skills to deliver on the recommendations of the review, rather than arising from the efficiency dividend or budget cuts. We also achieved departmental efficiencies by reducing travel expenses, office requisites, consultants, forensic costs, computer expenses and corporate operating costs.

2. At this stage, there are no planned staff reduction initiatives.

3. The number of graduates recruited in 2011/2012 will remain the same as the 2010/2011 intake of 22. We plan to recruit two indigenous cadets to commence in January 2012. This is the first time ASIC has recruited cadets.

**Inspector-General of Taxation**

NIL.

**Productivity Commission**

1. No.

2. No.

3. Nil.

**Australian Office of Financial Management**

1. No.

2. No.

3. Graduate recruitment is the major recruitment pipeline for AOFM. It is undertaken with a view to workforce plans and varies from year to year. Graduate recruitment targets generally vary from 1 to 5
graduates in any year taking into consideration turnover and work priorities. This process is ongoing and no changes to it are planned.

**Australian Competition and Consumer Commission**
(1) No.
(2) No.
(3) The number of graduates engaged by the ACCC each year is subject to business area requirements and funding and is determined annually. At this stage the ACCC does not expect to reduce the number of the graduate intake next year.

**Royal Australian Mint**
(1) The staffing numbers at the Royal Australian Mint have not been reduced as a result of the efficiency dividend and/or budget cuts.
(2) There are no plans for staff reduction.
(3) The Royal Australian Mint has no changes underway or planned for graduate recruitment, cadetships or similar programs.

**Corporations and Markets Advisory Committee**
(1) No. CAMAC has only 3 full-time staff. It has therefore not reduced staffing numbers as a result of the efficiency dividend and/or other budget cuts, but has made adjustments in other areas.
(2) No.
(3) None. These programs are not suitable for an agency of CAMAC's size.

**National Competition Council**
(1) The National Competition Council has not reduced staffing numbers as a result of the efficiency dividend and/or other budget cuts.
(2) The National Competition Council has no plans for staff reduction.
(3) The National Competition Council has no changes underway or planned change for graduate recruitment, cadetships or similar programs.

**Housing Affordability**
*(Question No. 1459)*

Senator Ludlam asked the Minister representing the Treasurer, upon notice, on 10 November 2011:

With reference to the Select Committee on Housing Affordability in Australia report, A good house is hard to find: Housing affordability in Australia, dated June 2008:

(1) Of the 33 recommendations, of which at least eight directly relate to the department, how many have been implemented to date.

(2) Can an update on any action be provided, including progress and outcomes made on all recommendations relating to the department, since the report was released.

(3) Given that recommendation 4.1 states ‘In the interests of more informed discussion of arrangements to encourage affordable housing, the Treasury be asked to publish current estimates of various taxation and related measures affecting the housing market’, can a current estimate of taxation and related measures affecting the housing market be provided, including a disaggregated breakdown for spending across all relevant departments.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:
(1) & (2) Please refer to the responses given at the 2011-12 Senate Community Affairs Committee Supplementary Estimates Hearings by the Families, Housing, Community Services and Indigenous Affairs Portfolio. Question 86 on Hansard Page 20/10/2011, CA49.

(3) As noted in the Government response to the Select Committee’s report, a number of estimates of tax and other measures affecting housing are currently published.

The Tax Expenditures Statement is published annually. Estimates of the capital gains tax concession on owner occupied housing were developed for the 2008 Tax Expenditures statement, and are now included annually. The publication also estimates the tax expenditure from exempting certain regional and remote area employer provided housing from fringe benefits tax.

The Australian Taxation Office publishes Taxation Statistics annually. The detailed tables give estimates of negatively geared rental housing each year.

The Australian Prudential Regulation Authority regularly publishes data on First Home Saver Accounts. Departmental expenditure estimates for the First Home Saver Accounts program are also available in the Treasury Portfolio Budget Statement published annually.

**Foreign Affairs**

*(Question No. 1499)*

Senator Kroger asked the Minister for Foreign Affairs, upon notice, on 20 December 2011:

(1) Since 3 December 2007, when Mr Rudd was Prime Minister or later as Foreign Minister:

(a) how many times did he visit the United Arab Emirates (UAE) in total;

(b) what meetings has he had with Sunland Group Limited or its representatives in either the UAE or Australia;

(c) has he ever received free accommodation or hospitality at any property owned or controlled by the Sunland Group Limited in either Australia or the UAE;

(d) what representations have been made by him to any of the ruling families of the UAE, its Government or to individual Emirates, on behalf of Sunland Group Limited or its related entities;

(e) has he attended any meetings with any:

(i) members or representatives of the Al-Qasimi royal family with Soheil Abedian also in attendance,

(ii) members or representatives of the Al Maktoum Royal Family with Soheil Abedian also in attendance at such meeting,

(iii) members or representatives of the Al Nahyan Royal Family with Soheil Abedian also in attendance at such meeting,

(iv) members of the Gulf Australia Business Council with Soheil Abedian or Sahba Abedian also in attendance, and

(v) consular staff of the UAE Embassy in Australia with either Soheil Abedian or Sahba Abedian in attendance; and

(f) has he ever requested Soheil Abedian or Sahba Abedian to make representations on behalf of himself or the Australian Government in respect of the UAE vote for Australia's United Nations Security Council seat bid; if so, what was the nature of these representations.

(2) What representations has the Minister personally made on behalf of Australia to the UAE in respect of the interests of Matthew Joyce and Marcus Lee.

(3) Is the Minister aware of evidence given in an open court, under oath, in the Victorian Supreme Court hearing of *Sunland Waterfront (BVI) and Others v. Prudentia Investments Pty Ltd and Others*
which shows clearly that Matthew Joyce, Marcus Lee and their co-accused are the innocent victims of a false complaint.

(4) Has the Minister brought recent developments in the Victorian Supreme Court hearing of *Sunland Waterfront (BVI) and Others v. Prudentia Investments Pty Ltd and Others* to the attention of relevant authorities in the UAE; if not, when will he do so.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) (a) 5 visits, including one stopover (not including transits);
(b) The records of the Department of Foreign Affairs and Trade (DFAT) and the Office of the Foreign Minister indicate that the Minister has not had any meetings with the Sunland Group or anyone claiming to represent Sunland. This has been checked against the list of Sunland executives as provided by DFAT. It is estimated that Sunland has up to 1,000 employees;
(c) No;
(d) None;
(e) (i) – (iv) The Minister has no record or recollection of any meeting with members or representatives of these families with Soheil Abedian also in attendance;
(v) No;
(f) No.

(2) Mr Rudd made representations on the case to the UAE Foreign Minister on 9 June 2011. These representations have been followed up by Mr Rudd's staff as well as the Australian Embassy in the UAE.

(3) The Minister has been briefed in general terms on the cases of Mr Joyce and Mr Lee.

(4) Through respective legal representatives, the transcript of the civil court case in Victoria has been brought to the attention of relevant authorities in the UAE.

**Shonan Maru**

*(Question No. 1554)*

Senator Birmingham asked the Minister for Foreign Affairs, upon notice, on 15 February 2012:

(1) Can details be provided of all resources committed by the department, as well as known contributions from other agencies, towards the return to Australia of three protesters who boarded the Japanese vessel Shonan Maru No. 2 in January 2012.

(2) What was the department's total expenditure on this exercise.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) Officers from the Department of Foreign Affairs and Trade's North Asia Division, International Organisations and Legal Division, Consular, Public Diplomacy and Parliamentary Affairs Division, and the Australian Embassy in Tokyo worked on this issue.

Questions regarding expenditure by other agencies are best answered by those agencies.

(2) The Department managed the incident from within existing resources.

**Treasury: Office Locations**

*(Question Nos 1737, 1760 and 1781)*

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 22 March 2012:
(1) Can a list be provided of all office locations for each department or agency within the Minister's portfolio, detailing:
   (a) the department or agency;
   (b) the location;
   (c) the size;
   (d) the number of staff at each location and their classification;
   (e) if the office location is rented, the amount and breakdown of rent paid per square metre;
   (f) if the location is owned by the department or agency, the:
      (i) value, and
      (ii) depreciation, of the building; and
   (g) the type of functions and work undertaken.

(2) For each department and agency within the Minister's portfolio, can details be provided of all public relations, communications and media staff, listed by department or agency, including:
   (a) the number of ongoing staff, specifying:
      (i) their classification,
      (ii) the type of work they undertake, and
      (iii) their location;
   (b) the number of non-ongoing staff, specifying:
      (i) their classification,
      (ii) the type of work they undertake, and
      (iii) their location; and
   (c) the number of contracted staff, specifying:
      (i) their classification,
      (ii) the type of work they undertake, and
      (iii) their location.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:
<table>
<thead>
<tr>
<th>Location</th>
<th>Size (m²)</th>
<th>Number of staff</th>
<th>Classification of staff</th>
<th>Lease cost per year (m²)</th>
<th>Value/Depreciation</th>
<th>Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Treasury Building, Langton Crescent, PARKES ACT 2600</td>
<td>18,587</td>
<td>996</td>
<td>APS 1—Secretary (Canberra, Melbourne and Sydney)</td>
<td>Office rental—$370.00 (ex GST)</td>
<td>N/A</td>
<td>Please refer to the Treasury Annual Report 2010-11 (Departmental overview – page 9)</td>
</tr>
<tr>
<td>Deployees</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>N/A</td>
<td>6</td>
<td>EL 1—SES 1</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>7</td>
<td></td>
<td>EL 2—SES 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td>2</td>
<td></td>
<td>EL 2—SES 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial Centre Taskforce Secretariat (Markets Group)</td>
<td>92</td>
<td>1</td>
<td>EL2</td>
<td>$864.80 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Takeovers Panel</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Level 10, 63 Exhibition</td>
<td>253.1</td>
<td>6</td>
<td>APS3—</td>
<td>$348.71 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Location</td>
<td>(c) Size (m²)</td>
<td>(d) Staff*</td>
<td>(e) Lease cost per year (m²)</td>
<td>(f) Value/Depreciation</td>
<td>(g) Type of Work</td>
<td></td>
</tr>
<tr>
<td>--------------</td>
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<td>----------------------------</td>
<td>------------------------</td>
<td>----------------</td>
<td></td>
</tr>
<tr>
<td>(Markets Group) Street, MELBOURNE VIC 3000</td>
<td>Director</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jakarta – Financial Minister – Counsellor, South East Asia C15-16 Kuningan, Jakarta Selatan 12940, Indonesia</td>
<td>46</td>
<td>1</td>
<td>SES 1</td>
<td>$400.00 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tokyo – Financial Minister – Counsellor, Tokyo 2-1-14 MITA Minato-Ku, Tokyo, Japan</td>
<td>44.4</td>
<td>1</td>
<td>SES 2</td>
<td>$1,780.56 (ex GST)</td>
<td></td>
<td></td>
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<tr>
<td>London—Financial Minister – Counsellor, London Australia House, The Strand, London, United Kingdom</td>
<td>54.4</td>
<td>1</td>
<td>SES 1</td>
<td>$709.61 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paris—Financial Minister – Counsellor, Paris 4 Rue Jean Ray, Paris, France</td>
<td>35.1</td>
<td>1</td>
<td>SES 1</td>
<td>$814.67 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beijing—Financial Minister – Counsellor, Beijing Australian Embassy, 15 Donazhiminenwai</td>
<td>52.9</td>
<td>1</td>
<td>SES 1</td>
<td>$678.30 (ex GST)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>Number of staff</td>
<td>Classification</td>
<td>Lease cost per year (m²)</td>
<td>Value/Depreciation</td>
<td>Type of Work</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>-----------------</td>
<td>-----------------</td>
<td>--------------------------</td>
<td>--------------------</td>
<td>--------------</td>
<td></td>
</tr>
<tr>
<td>Dajie, Sanlitun, Beijing, PRC</td>
<td>1</td>
<td>SES 1</td>
<td>$1,241.72 (ex GST)</td>
<td>N/A</td>
<td>Please refer to the Treasury Annual Report 2010-11 (Departmental overview – page 9)</td>
<td></td>
</tr>
<tr>
<td>No.1 – 50 G Shantipath, Chanakyapuri, New Delhi, India</td>
<td>29.6</td>
<td>SES 1</td>
<td>$1,241.72 (ex GST)</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1601 Massachusetts Avenue, Washington DC</td>
<td>1</td>
<td>SES 1</td>
<td>$591.78 (ex GST)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The information provided in the table above was taken from the Treasury HRMIS dated 23 March 2012.

*Further information on staff breakdowns can be found in the Treasury Annual Report 2010-11 (refer to staffing information on page 131).
## Australian Bureau of Statistics

<table>
<thead>
<tr>
<th>Location</th>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Number of Staff</th>
<th>(e) Classification of Staff</th>
<th>(f) Lease cost per annum (m²)</th>
<th>(g) Value/Depreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Office</td>
<td>ABS House, 45 Benjamin Way Belconnen ACT 2617</td>
<td>31,812.70</td>
<td>1879</td>
<td>APS1 – SES 3</td>
<td>$443.61</td>
<td>$117.45</td>
</tr>
<tr>
<td>NSW Office</td>
<td>Levels 7 – 10, 44 Market St Sydney NSW 2000</td>
<td>4,987</td>
<td>402</td>
<td></td>
<td>$490.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>VIC Office</td>
<td>485 La Trobe St Melbourne VIC 3000</td>
<td>5598.8</td>
<td>285</td>
<td></td>
<td>$364.95</td>
<td>$185.71</td>
</tr>
<tr>
<td>QLD Office</td>
<td>639 Wickham St Fortitude Valley QLD 4006</td>
<td>4,400</td>
<td>212</td>
<td></td>
<td>$407.93</td>
<td>$263.19</td>
</tr>
<tr>
<td>SA Office</td>
<td>Levels 9-11, ANZ House, 11 Waymouth St Adelaide SA 5000</td>
<td>4,580.80</td>
<td>253</td>
<td></td>
<td>$481.96</td>
<td>N/A</td>
</tr>
<tr>
<td>WA Office</td>
<td>Exchange Plaza, 2 The Esplanade Perth WA 6000</td>
<td>4,840</td>
<td>202</td>
<td></td>
<td>$371.63</td>
<td>N/A</td>
</tr>
</tbody>
</table>
(b) Location | (c) Size (m²) | (d) Staff | (e) Lease cost per annum (m²) | (f) Value/Depreciation
---|---|---|---|---
Office | Storage | Number of Staff * | Classification of Staff | Office | Storage
TAS Office | 200 Collins St | 3,222.20 | 0.00 | 141 | $384.42 | N/A
Hobart TAS 7000
NT Office | Civitas Building | 1,429 | 105.6 | 47 | $376.96 | $88.70
22 Harry Chan Avenue Darwin NT 0800
Census Data Processing Centre (DPC) | 250 Spencer Street Melbourne VIC 3000 | 31,147.20 | Included in Office Space | 729 | APS1 – SES 3 | $179.79 | N/A

*Short term accommodation to meet Census operations.

*Includes non-ongoing and inoperative staff as at 3 April 2012.

(g) The ABS provides statistics on a wide range of economic, social, population and environmental matters, covering government, business and the community. It also has a legislated role to coordinate the statistical operations of official bodies and liaise with international organisations.

The ABS functions include:

- To constitute the central statistical authority for the Australian Government and by arrangements with the Governments of the States and Territories provide statistical services for those Governments;
- To collect, compile, analyse and disseminate statistics and related information on a wide range of economic and social matters;
- To formulate, and ensure compliance with, statistical standards;
• To ensure coordination of the statistical operations of official bodies;
• To provide advice and assistance to official bodies in relation to statistics;
• To liaise with statistical agencies of other countries and international organisations; and
• takes collection of statistics throughout Australia and compiles the statistics in its central office in Canberra and regional offices located in the eight state and territory capitals.

In addition to the national statistical responsibilities, regional offices also have primary responsibility for the delivery of statistical services to their state or territory. In Western Australia and Tasmania, the Regional Director administering the ABS regional office is also the State Government Statistician.

The ABS provides a range of information solutions for customers, including self-serve statistics accessible through the ABS website, a national information and referral telephone service, user-pays information consultancies and support for the complex needs of researchers through streamlined access to, and use of, microdata. The ABS is also supporting a national approach to improving statistical literacy and capability across the Australian population.

### Australian Competition and Consumer Commission

<table>
<thead>
<tr>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff*</th>
<th>(e) Lease cost per annum (m²)</th>
<th>(f) Value/Depreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of Staff</td>
<td>Classification of Staff</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adelaide, SA</td>
<td>743</td>
<td>39 APS3 to EL2</td>
<td>$393.30</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brisbane, QLD</td>
<td>952</td>
<td>44 APS3 to SES1</td>
<td>$650.94</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Canberra, ACT</td>
<td>7380</td>
<td>306 APS2 to SES3</td>
<td>$397.24 (6851 m²)</td>
<td></td>
</tr>
</tbody>
</table>

CHAMBER
<table>
<thead>
<tr>
<th>Location</th>
<th>(b) Location</th>
<th>(c) Size (m2)</th>
<th>(d) Staff*</th>
<th>(e) Lease cost per annum (m2)</th>
<th>(f) Value/Depreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canberra ACT 2601</td>
<td>Canberra ACT 2601</td>
<td>232</td>
<td>6</td>
<td>APS3 to EL2</td>
<td>$415.00</td>
</tr>
<tr>
<td>Darwin, NT</td>
<td>Level 8 National Mutual Centre</td>
<td>232</td>
<td>6</td>
<td>APS3 to EL2</td>
<td>$415.00</td>
</tr>
<tr>
<td></td>
<td>9-11 Cavenagh St DARWIN NT 0800</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hobart, TAS</td>
<td>Level 2</td>
<td>279</td>
<td>5</td>
<td>APS5 to EL2</td>
<td>$271.12</td>
</tr>
<tr>
<td></td>
<td>70 Collins Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hobart TAS 7000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Melbourne, VIC</td>
<td>Level 35, The Tower</td>
<td>7561</td>
<td>370</td>
<td>APS 1 to SES2</td>
<td>$346.77 (6085m2)</td>
</tr>
<tr>
<td></td>
<td>360 Elizabeth Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Melbourne Central</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Melbourne Vic 3000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perth, WA</td>
<td>3rd floor, East Point Plaza</td>
<td>557.4</td>
<td>28</td>
<td>APS1 to SES1</td>
<td>$538.30</td>
</tr>
<tr>
<td></td>
<td>233 Adelaide Terrace</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Perth WA 6000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sydney, NSW</td>
<td>Level 20</td>
<td>3136.8</td>
<td>114</td>
<td>APS2 to SES2</td>
<td>$621.00</td>
</tr>
<tr>
<td></td>
<td>175 Pitt Street</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Sydney NSW 2000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Location</td>
<td>(b) Location</td>
<td>(c) Size (m2)</td>
<td>(d) Staff</td>
<td>(e) Lease cost per annum (m2)</td>
<td>(f) Value/Depreciation</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-----------------------</td>
<td>---------------</td>
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<td>------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Townsville, QLD</td>
<td>Level 6, Central Plaza 370 Flinders Mall Townsville Qld 4810</td>
<td>184</td>
<td>3</td>
<td>APS2 to EL1</td>
<td>$346.11</td>
</tr>
</tbody>
</table>

*Includes ongoing and non-ongoing employees as at 1 April 2012. This list excludes Commissioners.

# Prior to 30 July 2012 the ACCC Hobart office was located at 3rd Floor, AMP Building, 86 Collins Street, Hobart TAS 7000

(g) All staff in the Australian Competition and Consumer Commission's (ACCC) offices across Australia support the ACCC in its role as an independent statutory authority which administers the Competition and Consumer Act 2010 and other acts. The ACCC promotes competition and fair trade in the market place to benefit consumers, business and the community. It also regulates national infrastructure industries. Its primary responsibility is to ensure that individuals and businesses comply with the Commonwealth's competition, fair trading and consumer protection laws.

### Australian Office of Financial Management

<table>
<thead>
<tr>
<th>Location</th>
<th>(b) Location</th>
<th>(c) Size (m2)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per annum (m2)</th>
<th>(f) Value/Depreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1, E Block, Treasury Building, Langton Crescent, Canberra ACT 2600</td>
<td>779.3</td>
<td>41</td>
<td>APS4 to SES3</td>
<td>$370</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Please refer to the AOFM Annual Report 2010-11 (AOFM Overview – page 3)
### Australian Prudential Regulation Authority

<table>
<thead>
<tr>
<th>Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per annum (m²)</th>
<th>(f) Value/Depreciation</th>
<th>(g) Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 5, 100 Pirie Street, Adelaide, SA 5000</td>
<td>293.3</td>
<td>6</td>
<td>$376.62</td>
<td>N/A</td>
<td>Prudential supervision and support functions</td>
</tr>
<tr>
<td>Level 9, 500 Queen Street, Brisbane, QLD 4000</td>
<td>422</td>
<td>15</td>
<td>$525.00</td>
<td></td>
<td>Prudential supervision and support functions</td>
</tr>
<tr>
<td>Level 4, 10 Rudd Street, Canberra, ACT 2601</td>
<td>187.3</td>
<td>3</td>
<td>$400.00</td>
<td></td>
<td>Prudential supervision and support functions</td>
</tr>
<tr>
<td>Level 21, Casselden Place, 2 Lonsdale Street, Melbourne, VIC 3000</td>
<td>1484</td>
<td>69</td>
<td>$458.02</td>
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<td>Prudential supervision and support functions</td>
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<tr>
<td>Level 15, QV.1 Building, 250 St Georges Terrace, Perth, WA 6000</td>
<td>158</td>
<td>5</td>
<td>$862.50</td>
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<td>Prudential supervision and support functions</td>
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<tr>
<td>Level 26, 400 George Street, Sydney, NSW 2000</td>
<td>8,466.60</td>
<td>526</td>
<td>$545.28</td>
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<td>Prudential supervision and support functions</td>
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* APRA staff are engaged under the APRA Act
### Australian Securities and Investment Commission

<table>
<thead>
<tr>
<th>Location</th>
<th>Size (m²)</th>
<th>Staff</th>
<th>Classification of Staff</th>
<th>Lease cost per annum (m²)</th>
<th>Value/Depreciation</th>
<th>Type of Work</th>
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<tbody>
<tr>
<td>part Level 7-8, 100 Pirie Street, Adelaide SA</td>
<td>1,553</td>
<td>81</td>
<td>Refer below</td>
<td>$360.36</td>
<td>N/A</td>
<td>Regulatory—Office work</td>
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<td>Part Level 19 and 20-22, 240 Queen Street, Brisbane QLD</td>
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<td>160</td>
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<td>Part level 2, 2 Allsop Street, Canberra ACT</td>
<td>500</td>
<td>20</td>
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<td>$420</td>
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<td>Part level 7, 24 Mitchell Street, Darwin NT</td>
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<td>3</td>
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<td>$438.60</td>
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<tr>
<td>Part level 2, 70 Collins Street, Hobart TAS</td>
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<td>17</td>
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<td>$255.12</td>
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<tr>
<td>Level 24-30, 120 Collins Street, Melbourne VIC</td>
<td>8,107</td>
<td>431</td>
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<td>Level 13, 120 Collins Street, Melbourne VIC²</td>
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<td>Level 3, 4 and part 6, 66 St Georges Terrace, Perth WA</td>
<td>2,314</td>
<td>100</td>
<td></td>
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<td>Level 8, 160 St Georges Terrace,</td>
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<td>0</td>
<td></td>
<td>$573.36</td>
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<td>(c) Size (m²)</td>
<td>(d) Staff</td>
<td>(e) Lease cost per annum (m²)</td>
<td>(f) Value/Depreciation</td>
<td>(g) Type of Work</td>
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<tr>
<td>Perth WA ¹</td>
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<td>874</td>
<td>$721.08</td>
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<td>Level 5-10, 100 Market Street, Sydney NSW</td>
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<tr>
<td>Level 9-10, 77 Castlereagh Street, Sydney NSW ²</td>
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<td>312</td>
<td>$371.64</td>
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<td>Call Centre and Information Processing</td>
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<td>17 Eastern Park Road, Traralgon VIC</td>
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</table>

¹ Currently in a rent free period until March 2012 as part of a lease agreement
² Currently vacant and in the process of being surrendered
³ Sub-leased from March 2012
⁴ Lease ends Mary 2012 and has been vacated

d) Classification of Staff

The way in which the number of staff in each location (listed above) has been calculated is based on the Australian Government Property Data Collection (PRODAC) specification and methodology, which is reported annually to DoFD and does not require details of staff classifications. The effort required to provide this level of detail would require an unreasonable diversion of resources to compile the data.
### Australian Taxation Office (including the Australian Valuation Office (AVO), Tax Practitioners Board and the Australian Business Register)

<table>
<thead>
<tr>
<th>Region</th>
<th>Location</th>
<th>Size (m²)</th>
<th>Type of Work</th>
<th>Lease cost per year (m²)</th>
<th>Classification of staff</th>
<th>Number of staff</th>
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</thead>
<tbody>
<tr>
<td>ACT</td>
<td>9-11 Huddart Court, Mitchell ACT</td>
<td>1980.40</td>
<td>Storage facility</td>
<td>$91.09</td>
<td>N/A</td>
<td>Storage facility—COMP</td>
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<tr>
<td></td>
<td>SAP House, Bunda Street, Canberra ACT</td>
<td>6,859</td>
<td>Sub-leased¹</td>
<td>$451.00</td>
<td>APS3-APS5</td>
<td>6</td>
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<tr>
<td></td>
<td>Ethos House, 28-36 Ainslie Avenue, Canberra ACT</td>
<td>355.40</td>
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<td>$560.20</td>
<td>COMP</td>
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<tr>
<td></td>
<td>14 Moore Street, Canberra ACT</td>
<td>2,607</td>
<td>APS2-EL2.2, SES2</td>
<td>$452.28</td>
<td>EST, CS&amp;L</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>Narellan Street, Canberra ACT</td>
<td>22,655</td>
<td>Graduate, APS1-SES2</td>
<td>$424.58</td>
<td>EST, COMP, OPS, CS&amp;L</td>
<td>951</td>
</tr>
<tr>
<td></td>
<td>Genge Street, Canberra ACT</td>
<td>41,096</td>
<td>Graduate, AVO valuer, APS1-SES2</td>
<td>$424.58</td>
<td>EST, COMP, OPS, CS&amp;L</td>
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<td>75 Railway Street, Rockdale NSW (co-location with DHS)</td>
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<td>$300.82</td>
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¹ Sub-leased to Australian Government

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CHAMBER
<table>
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<tr>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per year (m²)</th>
<th>(f) Value/Depreciation</th>
<th>(g) Type of Work</th>
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<tbody>
<tr>
<td>56-64 Archer Street, Chatswood NSW (co-location with DHS)</td>
<td>N/A</td>
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<td>APS 3</td>
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<td>COMP</td>
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<td>598 High Street, Penrith NSW (co-location with DHS)</td>
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<td>APS 3</td>
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<td>COMP</td>
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<td>12-22 Woniora Road, Hurstville NSW</td>
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<tr>
<td>266 King Street, Newcastle NSW</td>
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<td>Graduate, APS1-SES1</td>
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<td>EST, COMP, OPS, CS&amp;L</td>
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<tr>
<td>2-12 Macquarie Street, Parramatta NSW</td>
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<td>1,707</td>
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<tr>
<td>121-123 Henry Street, Penrith NSW</td>
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<td>Latitude East, 52 Goulburn Street, Sydney NSW</td>
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<td>EST, COMP, OPS, CS&amp;L</td>
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<tr>
<td>(b) Location</td>
<td>(c) Size (m²)</td>
<td>(d) Staff</td>
<td>(e) Lease cost per year (m²)</td>
<td>(f) Value/Depreciation</td>
<td>(g) Type of Work</td>
</tr>
<tr>
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<td>NAB House, 2 Lang Street, Sydney NSW</td>
<td>752.60</td>
<td>15 APS3-APS4, APS6-EL1</td>
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<td>COMP</td>
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<td>93-99 Burelli Street, Wollongong NSW</td>
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<td>315 APS1-SES1</td>
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<td>10 APS4-APS6</td>
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<td>Unit 2, 5 Stodard Rd, Prospect NSW</td>
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<td>Cnr Kite &amp; Lord Place, Orange NSW</td>
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<td>4 APS4-APS6</td>
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<td>75-77 Lord Street, Port Macquarie NSW</td>
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<td>8 APS4-EL1</td>
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<td>COMP</td>
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<td>164 Molesworth Street, Lismore NSW</td>
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<td>7 APS3 EL1 AVO valuer</td>
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<td>Lease cost per year (m²)</td>
<td>Value/Depreciation</td>
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<td>VIC Region</td>
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<tr>
<td>12-14 Little Ryrie Street, Geelong VIC (co-location with DHS)</td>
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<tr>
<td>990 Whitehorse Road, Box Hill VIC</td>
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<td>Casselden Place, Melbourne</td>
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</tr>
<tr>
<td>Staff moved into new Melbourne building during May and June 2012</td>
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<tr>
<td>VIC</td>
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<td>Melbourne</td>
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<td>Leases in place,</td>
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</tr>
<tr>
<td>Location</td>
<td>Size (m²)</td>
<td>Staff Number</td>
<td>Classification of staff</td>
<td>Lease cost per year (m²)</td>
<td>Value/Depreciation</td>
</tr>
<tr>
<td>--------------------------------</td>
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<tr>
<td>VIC</td>
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<td>414 La Trobe Street, Melbourne VIC</td>
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<td>Size (m²)</td>
<td>Number of Staff</td>
<td>Classification of Staff</td>
<td>Lease Cost per Year (m²)</td>
<td>Value/Depreciation</td>
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<tr>
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<tr>
<td>QLD Region 95 Brisbane Road, Biggera Waters QLD (co-location with DHS)</td>
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<td>(Access Site)</td>
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<td>(c) Size (m²)</td>
<td>(d) Staff</td>
<td>(e) Lease cost per year (m²)</td>
<td>(f) Value/Depreciation</td>
<td>(g) Type of Work</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------</td>
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<td>----------------------------</td>
<td>------------------------</td>
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<tr>
<td>Streets, Chermside QLD</td>
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<tr>
<td>Bldg1 Banfield Street, Chermside QLD</td>
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<td>235-259 Stanley Street, Townsville QLD</td>
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<td>88 Abbott Street, Cairns QLD</td>
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<td>APS4-APS6</td>
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<td>34 East Street, Rockhampton QLD</td>
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<tr>
<td>72 Nerang Street, Southport</td>
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<td>APS3-EL2.2</td>
<td>$362.66</td>
<td>COMP, CS&amp;L</td>
</tr>
<tr>
<td>Location</td>
<td>Size (m²)</td>
<td>Number of staff</td>
<td>Classification of staff</td>
<td>Lease cost per year (m²)</td>
<td>Type of Work</td>
</tr>
<tr>
<td>----------</td>
<td>----------</td>
<td>----------------</td>
<td>-------------------------</td>
<td>-------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>Bell Street Mall, 10 Russel Street, Toowoomba QLD</td>
<td>199</td>
<td>7</td>
<td>APS4-EL1</td>
<td>$310.01</td>
<td></td>
</tr>
<tr>
<td>Unit 3, 50 French St, Eagle Farm QLD</td>
<td>379</td>
<td></td>
<td>Storage facility</td>
<td>$223.05</td>
<td>Storage facility—COMP</td>
</tr>
<tr>
<td>Region 68 Reid Promenade, Joondalup WA (co-location with DHS)</td>
<td>N/A</td>
<td>0⁴</td>
<td>APS 3</td>
<td>Nil</td>
<td>N/A</td>
</tr>
<tr>
<td>Cnr William/45 Francis Street, Northbridge WA</td>
<td>21,033</td>
<td>1,346</td>
<td>Graduate, AVO valuer, APS1-SES1</td>
<td>$518.53</td>
<td>EST, COMP, OPS, CS&amp;L</td>
</tr>
<tr>
<td>191 St. George Terrace Parmelia House, Perth WA</td>
<td>2,112</td>
<td></td>
<td>Sub leased</td>
<td>$417.38</td>
<td>Sub leased</td>
</tr>
<tr>
<td>50 Rundle Mall Plaza, Adelaide SA</td>
<td>13,309.10</td>
<td>890</td>
<td>Graduate, AVO valuer, APS3-SES1</td>
<td>$270.57</td>
<td>N/A</td>
</tr>
<tr>
<td>SA</td>
<td>16,378</td>
<td>1,375</td>
<td>Graduate</td>
<td>$412.82</td>
<td>EST, COMP, OPS, CS&amp;L</td>
</tr>
</tbody>
</table>
### Senate Location Details

<table>
<thead>
<tr>
<th>Region</th>
<th>Location</th>
<th>Size (m²)</th>
<th>Number of staff</th>
<th>Classification of staff</th>
<th>Lease cost per year (m²)</th>
<th>Value/Depreciation</th>
<th>Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide SA</td>
<td>91 Liverpool Street, Port Lincoln SA</td>
<td>13.86</td>
<td>1</td>
<td>AVO valuer</td>
<td>$383.20</td>
<td>AVO</td>
<td>AVO</td>
</tr>
<tr>
<td>TAS</td>
<td>8 Boland Street, Launceston TAS (co-location with DHS)</td>
<td>N/A</td>
<td>2</td>
<td>APS3, APS5</td>
<td>N/A</td>
<td>COMP</td>
<td>COMP</td>
</tr>
<tr>
<td></td>
<td>200 Collins Street, Hobart TAS</td>
<td>8,096</td>
<td>685</td>
<td>Graduate, AVO valuer, APS1-SES1</td>
<td>$362.74</td>
<td>N/A</td>
<td>COMP, OPS, CS&amp;L</td>
</tr>
<tr>
<td></td>
<td>49-51 Cattley Street, Burnie TAS</td>
<td>760</td>
<td>62</td>
<td>APS2-EL1</td>
<td>$316.32</td>
<td>OPS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hamilton House 45-54 Charles Street, Launceston TAS</td>
<td>536</td>
<td>18</td>
<td>AVO valuer, APS4-EL2.1</td>
<td>$272.43</td>
<td>COMP</td>
<td></td>
</tr>
<tr>
<td>NT</td>
<td>16 Hartley Street, Alice Springs NT</td>
<td>377</td>
<td>7</td>
<td>APS3, APS4, APS6, EL1</td>
<td>$253.84</td>
<td>N/A</td>
<td>COMP, CS&amp;L</td>
</tr>
<tr>
<td></td>
<td>24 Mitchell Street, Darwin NT</td>
<td>1,273</td>
<td>23</td>
<td>AVO valuer, APS3-EL2.2</td>
<td>$482.92</td>
<td>COMP</td>
<td>COMP, CS&amp;L</td>
</tr>
</tbody>
</table>
Sub leased’ – refers to premises that are leased from the ATO by other organisations including private companies and Australian Government departments.

Staffed two days per week by one APS 3 from Sydney (Lang St) office

Staffed two days per week by one APS 3 from Parramatta (Macquarie St) office

Staffed one day per week by APS 3 from Northbridge (Francis St) office

COMP – Compliance related functions and activities;
OPS – Includes contact centre operations, debt and client account management, including lodgment and exception processing;
AVO – Australian Valuations Office functions and activities;
CS&L – Corporate Services, including people and financial management, legal services and relationship management related functions,
EST – Enterprise Solutions and Technology includes any information technology-related activities and includes the following business lines: Business Solutions, Information and Communications Technology, Office of Chief Knowledge Officer.

Corporations and Markets Advisory Committee

<table>
<thead>
<tr>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per annum (m²)</th>
<th>(f) Value/Depreciation</th>
<th>(g) Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 16, Metcentre</td>
<td>224</td>
<td>3</td>
<td>1 ASIC 4; 1 Executive Level 2; and 1 SES</td>
<td>$695.65 (ex GST)</td>
<td>Policy advice on Corporations and financial markets law</td>
</tr>
<tr>
<td>60 Margaret Street</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SYDNEY NSW</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
### Inspector-General of Taxation

<table>
<thead>
<tr>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per annum (m²)</th>
<th>(f) Value/Depreciation</th>
<th>(g) Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suite 2, Level 19, 50 Bridge Street, Sydney 2000</td>
<td>310.4</td>
<td>8</td>
<td>$793.10 (ex GST)</td>
<td>N/A</td>
<td>Review systemic tax administration issues and report to the Government with recommendations for improving tax administration for the benefit of all taxpayers.</td>
</tr>
</tbody>
</table>

### National Competition Council

<table>
<thead>
<tr>
<th>(b) Location</th>
<th>(c) Size (m²)</th>
<th>(d) Staff</th>
<th>(e) Lease cost per annum (m²)</th>
<th>(f) Value/Depreciation</th>
<th>(g) Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part level 18, 200 Queen Street, Melbourne VIC 3000</td>
<td>218</td>
<td>8</td>
<td>531.63 (Ex GST)</td>
<td>N/A</td>
<td>Recommendations relating to access to major infrastructure services</td>
</tr>
</tbody>
</table>
### Productivity Commission

<table>
<thead>
<tr>
<th>Location</th>
<th>Size (m²)</th>
<th>Staff</th>
<th>Lease cost per annum (m²)</th>
<th>Value/Depreciation</th>
<th>Type of Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 2, 15 Moore Street, Canberra City ACT 2600 (excluding 490m² sub-let)</td>
<td>2743 (excluding 490m² sub-let)</td>
<td>75</td>
<td>$417</td>
<td>N/A</td>
<td>As specified in section 6 of the Productivity Commission Act 1998 (in general, include the conduct of inquiries and research, and the provision of secretariat services).</td>
</tr>
<tr>
<td>Level 12, 530 Collins Street, Melbourne VIC 3001</td>
<td>2817</td>
<td>118</td>
<td>$350</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Royal Australian Mint

<table>
<thead>
<tr>
<th>Location</th>
<th>Size (m²)</th>
<th>Staff</th>
<th>Lease cost per annum (m²)</th>
<th>Value/Depreciation</th>
<th>Type of Work Undertaken</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denison Street, Deakin ACT 2600</td>
<td>Office Space 4231.3</td>
<td>210 Apprentice — SES2</td>
<td>Office space $356.66</td>
<td>N/A</td>
<td>Producing and supplying Australia’s circulating and collectible coinage as well as coins for other countries, along with medals, medallions, tokens and seals for private clients, both national and international. The Mint also manages the National Coin Collection and is an award winning national tourist attraction hosting a public gallery, museum and shop with more than 210,000 visitors each year.</td>
</tr>
<tr>
<td></td>
<td>Factory Space 6690.3</td>
<td></td>
<td>Factory space $100.85</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Storage space 2462.4</td>
<td></td>
<td>Storage space $55.34</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(2)

**Treasury**

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff 10</td>
<td>2xEL2, 2xEL1 (part time totalling 1.2 FTE), 2xAPS5, 1xAPS4</td>
<td>The work undertaken includes internal and external communication strategy development and implementation activities, event management, communication tasks for the annual Budget process and media monitoring and liaison.</td>
<td>Canberra</td>
</tr>
</tbody>
</table>
### Number of Staff

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(2xEL1 and 1xAPS6 on maternity leave)</td>
<td></td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Australian Bureau of Statistics

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>12</td>
<td>2xEL2, 4xEL1, 1xAPS6, 3xAPS5, 2xAPS4</td>
<td>These staff undertake duties related to ABS Communication and Public Relations and Census Media and Public Relations.</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>4</td>
<td>1xEL1, 2xAPS6, 1xAPS5</td>
<td>These staff undertake duties related to Census Media and Public Relations</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Australian Competition and Consumer Commission

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>4.8</td>
<td>1 SES1, 1 x EL2, 1.8 x EL1, 1xAPS6</td>
<td>SES1: Sydney, EL2, EL1 and APS6: Canberra, 0.8 EL1: Melbourne</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>1</td>
<td>APS4 (Vacant)</td>
<td>Canberra</td>
</tr>
</tbody>
</table>

### Australian Office of Financial Management

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Australian Prudential Regulatory Authority

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>4 Manager Media and Communications, Senior Communications Advisor, Desktop Publisher and Graphic Designer, Communications Advisor</td>
<td>Media and Communications staff's responsibilities include internal and external communications and desktop publishing of documents, such as APRA's policy and discussion papers, standards and guidance to industry.</td>
<td>Sydney</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0 N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0 N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Australian Securities and Investment Commission

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>9.6 2xEL2 (Part Time 0.4 + 0.6), 4.6xEL1, 4 ASIC4</td>
<td>Media Liaison (Job Share), Internal Communications, Intranet, Strategic Issues Management, Manage Internet Content, Edits ASIC Publications, Edits ASIC Internet Content, Edits ASIC Digest, Intranet Support.</td>
<td>Sydney, Melbourne</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>4 2xSES (One is Vacant)2xEL2 (One is Vacant)</td>
<td>Management, Strategic Issues Management, Internal Communications, Publishing and Editing (Manager), Parliamentary Liaison</td>
<td>Sydney</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0 N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Australian Taxation Office

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>11.73</td>
<td>1xAPS5, 5xAPS6, 4.75xEL1, 0.98xEL2.1</td>
<td>ATO (including the Australian Valuation Office, Tax Practitioners Board and the Australian Business Register) staff are engaged in externally focussed strategies, programs, projects, advice and management in relation to public relations, communications and media.</td>
<td>Adelaide</td>
</tr>
<tr>
<td>66.09</td>
<td>6xAPS4, 5.93xAPS5, 23.42xAPS6, 21.94xEL1, 8.80xEL2.1</td>
<td>As at 31 July 2012: there are 7 FTE in the ATO’s Public Affairs Branch working in media management including preparing and issuing media releases and responding to media enquiries there were 16.5 FTE across the ATO working on the Super Reforms campaign.</td>
<td>Brisbane</td>
</tr>
<tr>
<td>77.64</td>
<td>5.60xAPS4, 12.61xAPS5, 20.69xAPS6, 28.81xEL1, 7.32xEL2.1, 2.61xEL2.2</td>
<td>In promoting willing participation with the tax and superannuation systems, the ATO places significant emphasis on supporting taxpayers to understand their rights and responsibilities. The ATO also make an ongoing investment in communication to maintain levels of compliance. In line with this approach, other staff work in various specialist areas including, but not limited to:</td>
<td>Canberra</td>
</tr>
<tr>
<td>1</td>
<td>1xAPS5</td>
<td>Access and Diversity Unit which provides information for taxpayers from culturally and linguistically diverse backgrounds</td>
<td>Darwin</td>
</tr>
<tr>
<td>4.56</td>
<td>2.56xAPS6, 2xEL1</td>
<td>strategic and corporate communications</td>
<td>Hobart</td>
</tr>
<tr>
<td>54.11</td>
<td>2.75xAPS4, 6xAPS5, 23.03xAPS6, 17.73xEL1, 3.6xEL2.1, 1xEL2.2</td>
<td>advertising account management and advertising campaigns for specific focus areas (such as superannuation)</td>
<td>Melbourne</td>
</tr>
<tr>
<td>Number of Staff</td>
<td>Classification</td>
<td>Type of Work Undertaken</td>
<td>Location</td>
</tr>
<tr>
<td>-----------------</td>
<td>--------------------------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>5</td>
<td>1xAPS5, 2xAPS6, 2xEL1</td>
<td>tax time communications</td>
<td>Newcastle</td>
</tr>
<tr>
<td>49.35</td>
<td>7xAPS4, 5xAPS5, 16.61xAPS6, 16.74xEL1, 4xEL2.1</td>
<td>tax help and schools program, aggressive tax planning area which is responsible for warning taxpayers about tax avoidance schemes.</td>
<td>Sydney</td>
</tr>
<tr>
<td>6.98</td>
<td>6.11xAPS6, 0.87xEL1</td>
<td>The nature of ongoing legislative change requires the ATO to have an investment of staff to effectively communicate tax and superannuation law change to taxpayers.</td>
<td>Townsville</td>
</tr>
<tr>
<td>2</td>
<td>2xEL1</td>
<td>Tax practitioners are an important part of the tax and superannuation systems and the ATO also invests in providing the tax profession with ongoing communications, especially in relation to tax time.</td>
<td>Wollongong</td>
</tr>
</tbody>
</table>

Communication staff in the ATO undertake work including:

leading, coordinating and providing professional and strategic advice targeted at external audiences, such as the development and implementation of external communication strategies

developing information products to assist taxpayers in understanding their rights and obligations

managing ATO participation in whole-of-government campaign processes and campaigns as well as non-campaign advertising, advising on, ensuring and assuring ATO compliance with whole-of-government advertisement guidelines.

The ATO is reviewing its methodology of attributing staff to marketing communication activities to ensure that methodology accurately reflects the work undertaken.
<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Corporations and Markets Advisory Committee**

<table>
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<tr>
<th>Number of Staff</th>
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<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>3</td>
<td>1 SES, 1 Executive Level 2 and 1 ASIC 4</td>
<td>All 3 of CAMAC's staff are involved in public relations, communications and media work</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Inspector-General of Taxation**

<table>
<thead>
<tr>
<th>Number of Staff</th>
<th>Classification</th>
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<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### National Competition Council

<table>
<thead>
<tr>
<th></th>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Productivity Commission

<table>
<thead>
<tr>
<th></th>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>1</td>
<td>EL2</td>
<td>Media liaison, communications advice and oversight of publications.</td>
<td>Canberra</td>
</tr>
<tr>
<td>(b) Non-Ongoing Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) Contracted Staff</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Royal Australian Mint

<table>
<thead>
<tr>
<th></th>
<th>Number of Staff</th>
<th>Classification</th>
<th>Type of Work Undertaken</th>
<th>Location</th>
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</thead>
<tbody>
<tr>
<td>(a) Ongoing Staff</td>
<td>2</td>
<td>1xEL1, 1xAPS4</td>
<td>The public relations, communications and media staff engage in externally focussed public affairs activities, including proactively promoting events to media and engaging with media on a daily basis as well as advising on strategic communications.</td>
<td>Deakin, ACT</td>
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<tr>
<td>(b) Non-Ongoing Staff</td>
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<tr>
<td>(c) Contracted Staff</td>
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<td>N/A</td>
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Carbon Tax
(Question Nos 1882 to 1883)

Senator Abetz asked the Minister representing the Minister for Climate Change and Energy Efficiency, upon notice on 14 June 2012:

What percentage of carbon reduction is achieved per dollar of revenue collected under the Carbon Tax.

Senator Ludwig: The Minister for Climate Change and Energy Efficiency has provided the following answer to the honourable senator's question:

The Australian Government, through measures such as the Clean Energy Future package, has committed to achieve a 5 per cent reduction in carbon dioxide equivalent emissions from 2000 levels by 2020. According to Treasury modelling in Strong Growth, Low Pollution, this is a 23 per cent reduction from the projected emissions level in 2020 without a carbon price.

The Clean Energy Future package is broadly Budget neutral over the forward estimates period.

The marginal cost of abatement achieved by the carbon pricing mechanism will be equal to the carbon price. This will vary over time.

The Productivity Commission, Professor Ross Garnaut, the Grattan Institute and the Organisation for Economic Co-operation and Development have advised that a price on carbon is the most cost effective and efficient way to achieve abatement of greenhouse gas emissions.

The Treasury modelling suggests that economic growth will continue to be strong under a carbon price.

Same-Sex Relationships
(Question No. 1894)

Senator Abetz asked the Minister for Foreign Affairs, upon notice, on 22 June 2012:

How many Certificates of No Impediment have been issued to same-sex couples seeking to marry overseas, detailed per month since their introduction.

Senator Bob Carr: The answer to the honourable senator’s question is as follows:

Following the Attorney-General’s media release on 27 January 2012, between 1 February and 13 July 2012 a total of 35 Certificates of No Impediment have been issued to Australians seeking to enter into a same-sex marriage overseas.

It is not possible at this stage to provide data broken down on a monthly basis.

National Broadband Network
(Question No. 1930)

Senator Abetz asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 27 June 2012:

With reference to the answer to question on notice no. 1865 (Senate Hansard, 20 June 2012, proof p. 127), in relation to the National Broadband Network (NBN):

(1) Is this to be interpreted to mean that no information has been collected by the NBN on the documents lodged with local governments.

(2) Has the NBN lodged plans with local governments.

(3) Can the full details requested in question on notice no. 1865 be provided.

Senator Conroy: The answer to the honourable senator's question is as follows:
(1) No.
(2) As outlined in response to Question No. 1865, NBN Co submits plans to each local council in accordance with its obligations under the *Telecommunications Act 1997* for low impact facilities and other applications as required under relevant state or territory planning laws.
(3) The level of detail requested in Question No. 1865 would require a significant diversion of resources to compile. In addition to this, the Tasmanian pre-release sites were designed by Aurora Energy, which was responsible for lodging the appropriate notices and approval applications.

**Household Assistance Package**

(Question No. 1975)

*Senator Birmingham* asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform, upon notice, on 31 July 2012:

In relation to the Household Assistance Package:

(1) What market research, creative testing, advertising design and implementation informed the development and execution of its advertising campaign.

(2) Can a list be provided detailing the cost, contractor, timeline and other relevant factors for all relevant consultancies, including consultancy briefs, consultancy contract values, reports provided as a result, media buy details and other related campaign factors.

*Senator Chris Evans*: The Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform provides the following answer to the honourable senator's question:

(1) A review of existing research was undertaken to inform the development of the Household Assistance Package communication campaign. For phases one and two of the campaign, three rounds of concept testing were undertaken to inform the development of the advertising materials. A creative advertising agency was contracted to develop and refine the materials.

(2) Provided in the table below.

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<th>Contractor</th>
<th>Contract value* (ex GST)</th>
<th>Timeline (contract dates)</th>
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<td>Roy Morgan Research</td>
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<td>Phase One, Wave 2</td>
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<td>Clemenger BBDO</td>
<td>$2,723,000</td>
<td>April 2012-June 2013</td>
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QUESTIONS ON NOTICE
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<th>Contract value*</th>
<th>Timeline (contract dates)</th>
<th>Consultancy brief provided</th>
<th>Reports provided by consultants (or to be provided)</th>
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<tr>
<td>Royce Communications (public relations)</td>
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<td>Universal McCann (creative advertising) (media buying)</td>
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<td>$10,996,546 (Phase Two)</td>
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* Note: contract value is the anticipated expenditure but does not reflect the final cost which may be lower.

**Taxation Office: Workers Compensation**

(Question No. 1980)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 2 August 2012:

1. How many Australian Taxation Office (ATO) staff were on workers compensation as at:
   a. 31 December 2011;
   b. 31 March 2012; and
   c. 30 June 2012.

2. How many people are employed by the ATO.

3. Do ATO staff have monthly processing targets; if so:
   a. how are these targets determined; and
   b. how are they monitored.

4. If monthly processing targets are required what percentage of ATO workers:
   a. achieve their targets;
   b. over achieve their targets; and
   c. under achieve their targets.

Senator Wong The Treasurer has provided the following answer to the honourable senator's question:

1. (a) On 31 December 2011 the number of Australian Taxation Office (ATO) employees with an open, accepted case with Comcare was 595 or 2.4% of total employees.
   (b) On 31 March 2012 the number of ATO employees with an open, accepted case with Comcare was 599 or 2.4% of total employees.
   (c) On 30 June 2012 the number of ATO employees with an open, accepted case with Comcare was 645 or 2.6% of total employees.
(2) As at 31 July 2012, the total number of ATO employees (including ongoing, non-ongoing and casual employees) was 24,764.

(3) No, ATO staff do not have individual workload targets. A range of criteria are used to measure individual staff performance, depending on the type of work undertaken. For example, service representatives in ATO contact centres are assessed and managed under our coaching framework. This framework covers a range of metrics including timeliness, service and the quality of information provided to a caller. The performance of a service representative during a call is assessed against agreed performance expectations. The agreed performance expectations are based on research into industry best practice combined with our own internal expectations such as the ATO values and codes of conduct.

(4) As per response to question 3 above, individual processing targets are not applied.

The percentage of employees with an open, accepted Comcare case is based on the ATO total employees at that date. Total employees includes ongoing, non-ongoing and casual employees.

**Council of Australian Governments: Housing Supply and Affordability Reform Working Party**

(Question No. 1984)

**Senator Ludlam** asked the Minister representing the Treasurer, upon notice, on 3 August 2012:

With reference to the meeting of the Council of Australian Governments (COAG) in April 2010, in which COAG agreed that the Housing Supply and Affordability Reform Working Party would report to COAG on the impact of the First Home Owners Scheme by the end of 2010 [Attachment B, COAG Communiqué 19 and 20 April 2010]:

(1) Has the Working Party reported to COAG on the impact of the First Home Owners Scheme.

(2) What is the current status of the report and when will it be released publicly.

(3) Will a response from COAG be provided on the report and when would this be expected.

(4) Given that the COAG website currently states 'In April 2010, COAG endorsed a housing supply and affordability reform agenda to build on current initiatives and provide new reform options to decrease the time it takes to bring housing to the market, and to reform government policies that artificially stimulate demand or act as barriers to supply', can specific examples of reform of government policies that artificially stimulate demand, to date be provided.

**Senator Wong:** The Treasurer has provided the following answer to the honourable senator's question:

(1) Yes, the Housing Supply and Affordability Reform (HSAR) Working Party reported to the Council of Australian Governments (COAG) on the impact of the First Home Owners Scheme (FHOS) as part of its Final Housing Supply and Affordability Reform Report (the report).

(2) COAG publicly released the report on 30 August 2012.

(3) COAG has agreed to the report's recommendations.

(4) The New South Wales 2012-13 Budget included a proposal to reform the FHOS by restricting grants to the purchase of newly-constructed dwellings.
Senator Ludlam asked the Minister representing the Treasurer, upon notice, on 3 August 2012:

With reference to the Council of Australian Governments (COAG) Housing Reform Agenda and Timeline [Attachment B, COAG Communiqué April 2010] where it was agreed that the Housing Supply and Affordability Reform Working Party would report to COAG on 12 key aspects of housing demand and supply:

1. What is the status to date, for each of the following reports requested on the housing supply pipeline, and when will each be released publicly:
   a. the potential to reform land aggregation, zoning and planning processes and governance, including assessing and leveraging the work of housing and planning ministers and the Business Regulation and Competition Working Group (due mid 2010);
   b. nationally consistent principles for housing development infrastructure charges (due mid 2010);
   c. the merits of measures to ensure greater consistency across jurisdictions, including local governments’ planning approval processes, in the application of building regulations (due mid 2010);
   d. the impacts of titling systems, such as residential strata title arrangements, on the housing supply market (due end 2010);
   e. the efficiency and effectiveness of housing supply/land release targets (due end 2010);
   f. whether strategic planning requirements for cities should be extended to other high growth/large population regions across the country (due mid 2011); and
   g. extending the land audit work to examine ‘under utilised’ land and to examine private holdings of large parcels of land (due mid 2010).

2. What is the status to date for each of the following reports requested on government policies that may act as barriers to supply or that stimulate demand and when will each be released publicly:
   a. the impact of the First Home Owners Scheme (due end 2010);
   b. Commonwealth policies that impact the housing market (due end 2010);
   c. the impact of both Commonwealth and state energy efficiency regulations and environmental acts, including the Environment Protection and Biodiversity Conservation Act 1999, on house prices (due end 2010);
   d. the impact of both supply and demand side affordable housing initiatives, such as inclusionary zoning, dwelling mix and distribution of lot sizes, on the housing market (due mid 2011); and
   e. relevant Commonwealth and state taxation settings, with timeline to be dependent on the Commonwealth Government's response to Australia's Future Tax System.

3. Will a formal response from COAG be provided to these reports; if so, when will this occur.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

1. All of the listed items were examined in the Housing Supply and Affordability Reform (HSAR) Working Party's Final Housing Supply and Affordability Reform Report (the report). The Council of Australian Governments (COAG) publicly released the report on 30 August 2012.
2. All of the listed items were examined in the report. COAG publicly released the report on 30 August 2012.
3. COAG has agreed to the report's recommendations.
Global Extractive Industries Transparency Initiative
(Question No. 1998)

Senator Wright asked the Minister for Foreign Affairs, upon notice, on 6 August 2012:

(1) Given that the Australian Government has previously stated it 'will further support, at home and abroad, global efforts to improve governance and financial transparency in the resources sector' and as part of this support, the Government in 2011 announced it would undertake a pilot of the Global Extractive Industries Transparency Initiative, can an update be provided on the pilot.

(2) Given that the Supreme Court of the United States, in the case known as Kiobel v Royal Dutch Petroleum Co., is considering whether a law of the United States of America (US) – the Alien Tort Statute – applies to corporate human rights abuses that have taken place in countries other than the US, will the Australian Government intervene by filing an amicus curiae brief with the Supreme Court of the United States; if so, what will be the Government's position.

(3) Has the Australian Government consulted with Australian businesses about this case and/or its position on this case.

(4) Have Australian companies, individuals or other entities asked the Australian Government to intervene in this case.

(5) Has the Australian Government consulted with any other stakeholders or outside groups, such as human rights organisations or those whose human rights have been affected by corporate operations, about intervening in this case or Australia's position on this case.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) The Australian Extractive Industries Transparency Initiative (EITI) pilot has been under way since October 2011. A multi-stakeholder group comprising government, industry and non-government organisation representatives has been established to provide guidance on how the pilot will proceed in testing EITI in the Australian context. An Administrator for the pilot has also been appointed.

(2) No

(3) Yes

(4) One company indicated that it would welcome the submission of an amicus curiae brief by the Government.

(5) No

National Broadband Network
(Question No. 2011)

Senator Humphries asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 15 August 2012:

With reference to the rollout for the National Broadband Network (NBN) in the Australian Capital Territory:

(1) Is the rollout on schedule; is not: (a) how long are the delays, and (b) what are the reasons for the delays, detailed separately for each suburb.

(2) How many: (a) private residences; and (b) registered businesses, have an active NBN connection.

(3) What is the average data speed to date.

(4) What NBN packages are available for: (a) private residences; and (b) small businesses, detailed separately including the: (i) data allowance, (ii) data speed, and (iii) costs.

(5) How many: (a) individuals; and (b) small businesses, have signed up to NBN training.
(6) Is any part or suburb of the Australian Capital Territory not scheduled for the NBN rollout; if so, which parts or suburbs.

(7) What was the total forecast funding for the NBN in the Australian Capital Territory in the: (a) December 2010; and (b) August 2012, corporate plans.

(8) How much has the Australian Capital Territory NBN rollout cost to date.

(9) Is any additional funding allocation anticipated.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) As NBN Co recently announced publicly, a number of factors have contributed to delays in Gungahlin including the additional nine months it took to finalise the Definitive Agreements between Telstra and NBN Co, along with initial challenges in the company's planning systems integration. However, NBN Co is still aiming to get areas of Gungahlin connected by the end of the year. To achieve this, NBN Co has reprioritised construction plans to connect central Gungahlin (9CRC-03) and parts of Palmerston (9CRC-04) first. This results in moving dates out for other fibre serving area modules in the area.

(2) As of 17 September 2012, there were 99 active services in ACT greenfields sites, covering Macgregor and Watson. As of 17 September 2012, there were 14 active Interim Satellite Services in the ACT. Data is not available on the breakdown of private residences and registered businesses.

(3) This calculation has not been carried out specifically for the ACT. However, as of May this year NBN Co's analysis showed that overall 38 per cent of active services on the fibre network have been on the fastest speed tier, which is 100/40 megabits per second. In April, this trend was even stronger, with almost 50 per cent of new active services being on the highest speed tier. General information about speeds tiers is available in the NBN Co 2012-15 Corporate Plan on page 64.

(4) This varies from retail service provider (RSP) to RSP. This information is available on individual RSP websites. General information about pricing is available in the NBN Co 2012-15 Corporate Plan on pages 58-59.

(5) The ACT Government has been successful in applying for grant funding to provide both Digital Enterprise, in partnership with the ACT Business Council, and Digital Hub training services in the Australian Capital Territory. The delivery of training to individuals and small business by the ACT Government is still in the design phase and services are expected to commence within the next few months for Digital Enterprise and early 2013 for the Digital Hub.

(6) No. 100 per cent of Australian premises will have access to the NBN.

(7) Both Corporate Plans are available on the NBN Co website at www.nbnco.com.au.

(8) The rollout is not readily broken down by state or territory as much of the infrastructure crosses borders and is shared between states; for example the transit network and satellite services. Estimated network rollout costs across the country and across technologies are available in the NBN Co 2012-15 Corporate Plan on page 44.

(9) Anticipated funding is in the NBN Co 2012-15 Corporate Plan which is available on the NBN Co website at www.nbnco.com.au.

Foreign Affairs

Question No. 2025

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 17 August 2012:

In respect of AusAID funded scholarships to Australian educational institutions for overseas students from developing countries;
(a) what conditions must students awarded scholarships satisfy and what criteria is used to determine whether these conditions have been satisfied,
(b) is there a requirement for students to work in their country of origin once they have completed their scholarship, and
(c) what are the;
   (i) intended countries of origin for the 2012-13 scholarship intake, and
   (ii) processes followed by AusAID in determining which countries students are selected from.

Senator Bob Carr: The answer to the honourable senator’s question is as follows:

(a) AusAID’s Australia Awards are the Australian Development Scholarships, for study in Australia, and the Australian Regional Development Scholarships, for study in the Pacific. Applicants must:
   • be 18 at the time of commencing the scholarship;
   • be a citizen of an eligible developing country;
   • not be married or engaged or in a de facto relationship with a person who holds, or who is eligible to hold Australian or New Zealand Citizenship;
   • not be current serving military personnel;
   • not have held an Australia Award in the previous two years; and
   • be able to satisfy the admission requirements for the relevant education institution.

Applicants for Australian Development Scholarships must also satisfy all of the eligibility requirements set out by the Department of Immigration and Citizenship for a temporary subclass 576 visa.

The proposed area of study for each applicant must be relevant to the development priorities of their particular country, and applicants may also need to satisfy country specific criteria agreed with their government.

Academic transcripts, English language test results, application forms and references are used to assess whether these conditions are met. The Department of Immigration and Citizenship has additional processes in place to determine whether visa conditions are met. Australian tertiary education institutions also have procedures in place in regard to enrolment of students.

(b) Yes.

(c) (i) See attachment A.

(ii) AusAID’s Australia Awards are part of the broader aid program strategies for each country or region. The number of Awards, and the priority areas of study and the level of study for Awards is determined for each country or region on the basis of Australia’s development focus and the needs and priorities of the country or region.

ATTACHMENT A

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AusAID Region | Country | ARDS | ADS
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SAINT VINCENT AND THE GRENADINES | x | | |
SURINAME | x | | |
URUGUAY | x | | |
VENEZUELA | x | | |
Eligible countries total | 12 | 100 | |

### AusAID

**Question No. 2026**

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 17 August 2012:

What measures will AusAID take to ensure that its $5 million donation to the Queen Elizabeth Diamond Jubilee Trust will be used in accordance with AusAID's Transparency Charter?

**Senator Bob Carr:** The answer to the honourable senator's question is as follows:

The Queen's Diamond Jubilee Trust (the Trust) will report to donors on progress, including publishing information on activities on the Trust's website. In line with the Transparency Charter for the Australian aid program, AusAID will publish information about the Trust in a format that is useful and accessible on AusAID's website.

### Foreign Affairs

**Question No. 2027**

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 17 August 2012:

In respect of the formulation of AusAID's Community Society Engagement Framework (CSEF):

(a) what

   (i) analysis was undertaken, and

   (ii) legal advice was sought, by AusAID to ensure that the CSEF is compliant with Australia's international and treaty obligations

(b) when was the legal advice in part (a)

   (iii) sought and obtained, and

(c) what consultation process did AusAID undertake with

   (i) Australian Government, and

   (ii) international government agencies.

**Senator Bob Carr:** The answer to the honourable senator's question is as follows:

(a) AusAID's Civil Society Engagement Framework addresses commitments made in the Australian Government's aid policy An Effective Aid Program for Australia: Making a difference—delivering real results. The Framework is an overarching policy statement that sets out, among other things, how
Australia will work more effectively with civil society organisations in Australia and overseas to increase the impact of aid for the world's poorest.

(i) In formulating the Framework, AusAID drew on a range of sources including the National Compact between the Australian Government and the not-for-profit sector, AusAID's Head Agreement with Australian non-government organisations, the Australian Council for International Development's Code of Conduct and the Office of Development Effectiveness' report Working Beyond Government: Evaluation of AusAID's engagement with civil society in developing countries.

(ii) Legal advice was not sought by AusAID in the formulation of the Civil Society Engagement Framework because it is an overarching statement of purpose and strategy for the Government to broaden and strengthen ties with civil society organisations. Compliance with international and treaty obligations is built in to all AusAID agreements with NGOs, which follow the Commonwealth Procurement Rules and the Commonwealth Grant Guidelines. Legal advice is sought on all AusAID contract and grant agreements with NGOs, including advice on whether the organisation is listed as a terrorist organisation under Australian law or under UN regulations.

(b) See (a) (ii) above.

(c) AusAID conducted a broad consultation process during the development phase of the Civil Society Engagement Framework. The draft Framework was made available on AusAID's website for public consultation in March 2012. Nineteen submissions were received.

(i) The Framework draws on whole-of-Government policy statements, including the National Compact between the Australian Government and the not-for-profit sector and An Effective Aid Program for Australia.

(ii) AusAID discussed the draft Framework with donors including the United Kingdom's Department for International Development (DFID) and the Canadian International Development Agency (CIDA). The Framework was informed by the Organisation for Economic Co-operation and Development—Development Assistance Committee's How Development Assistance Committee Members Work with Civil Society Organisations report and the Office of Development Effectiveness' Working Beyond Government report.

**Foreign Affairs**

(Question No. 2028)

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 17 August 2012:

In respect of the formulation of AusAID's Community Society Engagement Framework,

(a) what investigation(s) has AusAID undertaken to ensure that Civil Service Society Organisations (CSSOs) in Australia and overseas are not encouraging or supporting separatist activities, and

(b) what governance processes has AusAID implemented to ensure CSSOs in Australia and overseas are not encouraging or supporting separatist activities.

Senator Bob Carr: Minister for Foreign Affairs, the answer to the honourable senator's question is as follows:

In line with the Commonwealth Procurement Rules and the Commonwealth Grant Guidelines, AusAID's contracts and grant agreements require our civil society partners to comply with:

- laws in Australia, partner countries and any other applicable laws of other countries
- AusAID policies and guidelines (including counter-terrorism)
- UN resolutions, and

QUESTIONS ON NOTICE
requirements to ensure that funds do not provide direct or indirect support or resources to organisations and individuals associated with terrorism.

NGOs that receive funding from AusAID are required to provide AusAID with financial reports and project plans. Project plans are required to outline objectives, outputs and targets for all activities. These are assessed against the objectives in AusAID's guidelines and are subject to approval before funding is granted.

AusAID's contracts and grant agreements with NGOs require NGOs to have regard for, comply with, and use their best endeavours to ensure that all delivery organisations comply with relevant and applicable laws, regulations and policies, both in Australia and in the partner country. NGOs are also subject to an ongoing program of audits to ensure compliance with these requirements.

Australian NGOs receiving funding under the AusAID NGO Cooperation Program must be accredited. Accreditation is a 'front-end' risk management tool that assesses NGOs' governance, program management capacity, partner management, links with and support from the Australian public, and risk management, including fraud risk.

Defence: Recruiting Agency
(Question No. 2037)

Senator Johnston asked the Minister representing the Minister for Defence upon notice, on 20 August 2012:
For the period 1 January to 30 June 2012, how much was paid to the Australian Defence Force prime recruiting agency for the provision of services.

Senator Bob Carr:
Response: The Minister for Defence has provided the following answer to the honourable senator's question:
The total amount paid to Manpower Services (Australia) Pty Ltd for the provision of Australian Defence Force recruiting services for the period 1 January to 30 June 2012 was $43.356 million.

Strategic Reform Program
(Question No. 2044)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 20 August 2012:
With reference to the White Paper and the Strategic Reform Program 'Indicative Workforce Implications – Military Workforce': for the period 1 January to 30 June 2012, how many uniformed personnel, including full-time and part-time, were employed in implementing the White Paper initiatives?

Senator Bob Carr: The Minister for Defence has provided the following response to the honourable senator's question:
The Government provisioned an additional 1,375 full-time equivalent uniformed personnel for 2011-12 under the White Paper, as reflected in the Strategic Reform Program: Making It Happen booklet and updated at Table 2.14 of the Defence Annual Report 2010-11.
The workforce data detailed in both publications are based on approved allocations at the time of publication and reflect full-time equivalent average numbers, known as Average Funded Strength (AFS) for military personnel. Using the AFS approach, Defence counts full-time and part-time service as one overall average quantity.
This workforce has been allocated to the Services to implement a range of White Paper initiatives including the Defence Capability Plan. The personnel ranged from sailors, soldiers and airmen/women to senior officers on an as needed basis according to the particular White Paper projects and initiatives being actioned, including through the Strategic Reform Program.

Because of the breadth and depth of the White Paper initiatives, the number of personnel varied throughout the specified period and it is not possible to provide a specific total referenced to each White Paper project.

In relation to the overall military workforce, the 2011-12 allocation (published as the Revised Estimate in the Defence Portfolio Additional Estimates Statements 2011-12) was 58,257. Over the period 1 January to 30 June 2012, the Defence military workforce decreased from an Average Funded Strength (AFS) of 58,034 to 57,285, and the overall average over the period was 57,628.

The decrease was due to changes in the external labour market and a consequent acceleration of separation rates, combined with the success of measures in place in 2010-11 and 2011-12 to return AFS to the budgeted level after a period of overachievement.

**Strategic Reform Program**

(Question No. 2045)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 20 August 2012:

With reference to the White Paper and the Strategic Reform Program 'Indicative Workforce Implications - Military Workforce': For the period 1 January to 30 June 2012, what reduction was made in the number of personnel, including full-time and part-time, employed in implementing: (a) efficiency improvements; (b) civilianisation: and (c) support productivity improvements?

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

With reference to the White Paper and the Strategic Reform Program 'Indicative Workforce Implications - Military Workforce', for the period 1 January to 30 June 2012:

(a) Implementation of the efficiency improvements component of the Strategic Reform Program, which includes Shared Services initiatives and business improvement within Groups and Services, has led to a reduction of 82 military positions.

(b) Civilianisation is part of the Defence's workforce reforms element of Workforce Reform and Shared Services and forms part of Defence's move to establish the best mix of its non-combat-related workforce and to enable have the military workforce to focus on primarily undertake combat or combat related roles.

Civilisation requires the dis-establishment of a military position, and the establishment and recruitment to an Australian Public Service position. Where the position is being filled by the military member moving to the Australian Public Service under Section 72 of the Public Service Act 1999, there is no discontinuity in the positions being established/dis-established, and filled.

A phased implementation has realised 156 Average Funded Strength reductions across the 2011/12 financial year.

(c) With regards to implementing the support productivity improvements component of the Strategic Reform Program, there was no reduction in the number of full-time equivalent personnel employed. The support productivity improvements component of the Strategic Reform Program is a continuous improvement plan scheduled to commence in financial year 2014-15, following on from the completed implementation of the other Workforce and Shared Services components of the Strategic Reform Program.
Defence: Reviews  
(Question Nos 2075 to 2077)

Senator Johnston asked the Minister representing the Minister for Defence, Minister representing the Minister for Defence Science and Personnel and the Minister representing the Minister for Defence Materiel, upon notice, on 20 August 2012:

For each portfolio/agency within the responsibility of the Minister/Parliamentary Secretary:

(1) How many reviews are currently being undertaken in the portfolio/agency or affecting the portfolio/agency?

(2) What was the commencement date of each review?

(3) When will each review conclude?

(4) (a) Which reviews were completed in the period 1 November 2007 to 30 June 2012; and

(b) when will the Government respond to the each of these reviews?

(5) As at 30 June 2012, what was the cost of each of these reviews?

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

Response to Question on Notice No.69 taken from Senate Budget Estimates on 28/29 May 2012 provides an update on reviews conducted or were concluded recently by Defence as at 30 June 2012.

This response supplements Parliamentary Senate Question on Notice No. 1500 which details reviews that were being conducted or had recently concluded as at 31 January 2012.