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SENATE

ECONOMICS LEGISLATION COMMITTEE

Thursday, 21 February 2019

TREASURY PORTFOLIO

In Attendance

Senator Seselja, Assistant Minister for Treasury and Finance

Department of the Treasury

Mr Philip Gaetjens, Secretary

Macroeconomic Group

Ms Meghan Quinn, Deputy Secretary, Macroeconomic Group
Mr Ian Beckett, Division Head, Macroeconomic Modelling and Policy Division
Dr John Swieringa, Principal Adviser, Macroeconomic Modelling and Policy Division
Mr Dan Andrews, Principal Adviser, Macroeconomic Modelling and Policy Division
Ms Lisa Elliston, Division Head, International Policy and Engagement Division
Ms Christine Barron, Chief Adviser, International Policy and Engagement Division
Mr Christopher Legg, Chief Adviser, International Policy and Engagement Division
Dr Angelia Grant, Division Head, Macroeconomic Conditions Division
Ms Laura Berger-Thomson, Principal Adviser (Forecasting), Macroeconomic Conditions Division

Corporate Services and Business Strategy Group

Mr Matt Flavel, Deputy Secretary, Corporate Services and Business Strategy Group
Mr Robert Twomey, Chief Financial Officer / Division Head, Chief Financial Officer Division
Ms Shannon Kenna, Division Head, Communication and Parliamentary Division
Ms Phoebe Burgess, Division Head, people and Organisational Strategy Division
Mr Mike Webb, Division Head, Information Services Division

Fiscal Group

Mr Simon Atkinson, Deputy Secretary, Fiscal Group
Mr Jonathan Rollings, Division Head, Budget Policy Division, Fiscal Group
Mr Adam McKissack, Principal Adviser, Budget Policy Division, Fiscal Group
Ms Vicki Wilkinson, Division Head, Social Policy Division, Fiscal Group
Ms Philippa Brown, Principal Adviser, Social Policy Division, Fiscal Group
Ms Joanne Evans, Principal Adviser, Social Policy Division, Fiscal Group
Mr Robert Jeremenko, Division Head, Retirement Income Policy Division, Fiscal Group
Mr Darren Kennedy, Principal Adviser, Retirement Income Policy Division, Fiscal Group
Ms Michelle Dowdell, Principal Adviser, Retirement Income Policy Division, Fiscal Group
Mr Robb Preston, Principal Adviser, Retirement Income Policy Division, Fiscal Group
Ms Kate Phipps, Division Head, Commonwealth-State Policy Division, Fiscal Group
Mr Hamish McDonald, Division Head, Structural Reform Division, Fiscal Group
Mr Damien Dunn, Principal Adviser, Structural Reform Division, Fiscal Group
Mr Tom Dickson, Principal Adviser, Structural Reform Division, Fiscal Group
Ms Kirsten Baker, Principal Adviser, Structural Reform Division, Fiscal Group

Markets Group
Mr Paul Verschuer, Deputy Secretary, Markets Group
Ms Diane Brown, Division Head, Financial System Division
Mr James Kelly, Division Head, Financial Services Reform Implementation Taskforce
Mr Warren Tease, Chief Adviser, Financial System Division
Ms Nghi Luu, Acting Principal Adviser, Financial System Division
Ms Julie Greenall-Ota, Principal Adviser, Financial System Division
Ms Elizabeth Williamson, Division Head, Consumer and Corporations Policy Division
Ms Kate O'Rourke, Principal Adviser, Consumer and Corporations Policy Division
Ms Lucy Vincent, Principal Adviser, Consumer and Corporations Policy Division
Ms Kate Lynch, Principal Adviser, Consumer and Corporations Policy Division
Mr Roger Brake, Division Head, Foreign Investment Division
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Ms Kerstin Wijeyewardene, Principal Adviser, Foreign Investment Division
Mr Tim Baird, Principal Adviser, Foreign Investment Division
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Ms Maryanne Mrakovcic, Deputy Secretary, Revenue Group
Mr Matthew Brine, Division Head, Tax Analysis Division
Mr Graeme Davis, Acting Division Head, Tax Framework Division
Mr Paul McCullough, Division Head, Corporate and International Tax Division
Mr Geoff Francis, Principal Adviser, Corporate and International Tax Division
Ms Kathryn Davy, Principal Adviser, Corporate and International Tax Division
Mr Hector Thompson, Principal Adviser, Corporate and International Tax Division
Ms Marisa Purvis-Smith, Division Head, Individuals and Indirect Tax Division
Mr Patrick Boneham, Division Head, Black Economy Division
Mr Simon Writer, Division Head, Law Design Office

Australian Charities and Not-For-Profits Commission
Hon. Dr Gary Johns, Commissioner, Australian Charities and Not-for-profits Commission

Australian Taxation Office
Mr Chris Jordan, Commissioner of Taxation
Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group
Mr Ramez Katf, Chief Information Officer, Enterprise Solutions and Technology
Ms Jacqui Curtis, Chief Operating Officer, Corporate and Enabling Services Group
Ms Melinda Smith, Chief Service Delivery Officer, Service Delivery Group
Mr Andrew Mills, Second Commissioner Law Design and Practice
Ms Frances Cawthra, Chief Finance Officer
Mr James O'Halloran, Deputy Commissioner, Superannuation
Mr Jonathon Todd, ATO General Counsel, ATO Corporate
Mr Robert Ravanello, Deputy Commissioner, Debt
Mr Jeremy Geale, Deputy Commissioner, Review and Dispute Resolution
Mr Brad Chapman, Deputy Commissioner, ATO People

**Australian Competition and Consumer Commission**
Mr Rod Sims, Chair
Ms Rayne de Gruchy, Chief Operating Officer
Mr Scott Gregson, Executive General Manager, Merger and Authorisation Review Division
Mr Marcus Bezzi, Executive General Manager, Specialised Enforcement and Advocacy Division
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**Australian Energy Regulator**
Mr Warwick Anderson, Acting Chief Executive Officer, Australian Energy Regulator
Mr Peter Adams, General Manager, Market Performance, Australian Energy Regulator
Ms Angela Bourke, Acting General Manager, Consumers and Markets, Australian Energy Regulator
Mr Mark Feather, General Manager, Policy and Performance, Australian Energy Regulator

**Australian Prudential Regulation Authority**
Mr Wayne Byres, Chairman
Mr John Lonsdale, Deputy Chairman
Mr Adrian Rees, General Manager, Diversified Institutions Division
Ms Heidi Richards, General Manager, Policy Development
Mr Warren Scott, General Counsel

**Australian Securities and Investments Commission**
Mr James Shipton, Chair
Mr Daniel Crennan QC, Deputy Chair
CHAIR (Senator Hume): I declare open this meeting of the Senate Economics Legislation committee. The committee will today continue its examination of the Treasury portfolio with questions for the ACCC and the Australian Energy Regulator. The hearing will then follow the order as set out in the circulated program. I would ask photographers and camera operators to follow the established media guidelines and the instructions of the committee secretariat. As set out in the guidelines, senators' and witnesses' laptops, mobile phones and other devices and personal papers are not to be filmed. I remind senators and departmental officials that the committee has set Thursday, 28 February 2019 as the date by which senators are to submit written questions on notice, and it has fixed Tuesday, 26 March 2019 as the date for the return of answers to questions on notice.

Australian Competition and Consumer Commission
Australian Energy Regulator

[09:02]
CHAIR: I now welcome the Assistant Minister for Treasury and Finance, Senator the Hon. Zed Seselja, representing the Treasurer, and also officers of the ACCC and the Energy Regulator. Mr Sims, would you like to make an opening statement?

Mr Sims: No, we're conscious that time is short and there are going to be many questions. We're delighted to go straight into questions.

CHAIR: That's terrific. Thank you very much, Mr Sims. I think that we should probably start with the ACCC's report into retail electricity prices, which I know has been occupying a lot of our minds in recent weeks and months. In that inquiry, the government asked the ACCC to identify a number of measures to bring down electricity prices. Mr Sims, what impact would implementing those measures have on household bills?

Mr Sims: We calculated that both households and commercial industrial customers would see their bills come down by about 25 per cent, and we were reasonably confident that that would happen.

CHAIR: Can you describe for the committee the key recommendations that underpin that reduction by 25 per cent.

Mr Sims: Yes, indeed. The first key recommendation was to write down—or introduce measures for similar effect—the regulatory asset base of the network companies in Queensland, New South Wales and Victoria. Of course, network assets are the biggest component of electricity pricing, which sometimes seems to be lost in the public debate.

We recommended ceasing the subsidy for small-scale solar, simply because it was no longer needed. Small-scale solar is now economic, so we weren't forming a view about the pros and cons of small-scale solar; we were simply saying it no longer needed the subsidy. Thirdly, we recommended a default offer—price replace the standing offers of retail electricity companies—both to get those standing offers down, because there are people paying hundreds of dollars more than they need to, and small business the same, and also to use that default offer as the reference point for discounts. At the moment, customers really can't tell whether a 40 per cent discount is a better offer than a zero per cent discount, so we wanted to standardise that. We also wanted to get rid of conditional discounts where you could be on a 40 per cent discount, you miss paying on time by a few days and, all of a sudden, you lose the 40 per cent discount, which could be a penalty of hundreds of dollars and which is completely unrelated to whatever cost the lack of paying on time caused the retailer.

Those were the dominant message ones. I'll mention a couple of others in the interest of giving you the key ones. We recommended an underwriting scheme for new generation, which had strict conditions to make sure it was only supporting generation provided by new or currently small generators. We recommended a cap in terms of the main players not being able to acquire new generation if that would put them over 20 per cent capacity in any market. Finally, the other big one was recommending a market-making rule, particularly in South Australia, so that there was enough liquidity into the market.

That's a fair bit. I know I've missed one or two, but those were the key recommendations that delivered 25 per cent reduction.

CHAIR: You have to forgive me: my eyesight is not what it used to be. I can't decide whether I can't read or I can't see distance. I want to ask questions of the AER. Is there somebody here? I'm sorry, I literally cannot see.
Mr Sims: So you have an AER rep, you have the—

Senator Seselja: Chair, would you like them both at the table for the next little bit?

CHAIR: Yes, just for a little bit, thank you.

Mr Sims: Warwick Anderson is the acting chief executive of the AER. He was at the table. Now he's surrounded by his colleagues. Between them they can answer anything.

CHAIR: Thank you very much, Mr Anderson. I'm very sorry: the writing that is your title there is so small, forgive me.

Senator WILLIAMS: I'm with you, Chair.

CHAIR: Thank you. The AER released a final decision on the new rate-of-return guidelines at the end of last year. I'm wondering whether you can outline for the committee that decision, how you came to it and what impact it should have on household customer bills.

Mr Anderson: We released the rate-of-return decision in December last year. The form of the rate-of-return guideline has changed from previous rate of returns. Previously, our rate-of-return decisions were not binding. Recently, the COAG Energy Council, through the South Australian parliament, has changed the national electricity law so that our rate-of-return guideline is now binding on us and on the companies who submit material to us. We have worked very hard on developing that rate-of-return guideline. We went through an 18-month process. It was the most extensive consultation the AER has ever done on rate of return. We engaged expert sessions to hear from experts in rate of return. We also had an independent panel review our decision. We ended up with a rate of return that was lower than has been set previously. That reflects current market conditions and rates in the market and the risks involved in providing these network services. The rate of return that's allowed has decreased from about 7½ per cent to just under 6½ per cent.

CHAIR: The government, obviously, asked the AER to establish a default market offer for electricity prices. That was recommended by the ACCC.

Mr Anderson: Yes.

CHAIR: Can you give the committee an update on the progress of implementing that default market offer and potentially give us an idea of when it might come into effect and what impact it will have on prices.

Mr Feather: The AER received a letter in October from the Treasurer and the Minister for Energy asking us to commence work on the default market offer, which is a maximum price for standing offers, as well as the implementation of a reference bill. The timetable for that is for us to release a decision by 30 April this year for implementation by 1 July. At this point, we put out a consultation paper in November last year and following that we had a public forum. We've had a range of around 30 submissions to the consultation paper and we're now in the process of preparing a draft determination which is expected to come out shortly. That is where we're at. We're aiming to put out a final determination by 30 April.

CHAIR: What effect will default market offer for electricity prices will have on consumer outcomes?

Mr Feather: In setting the default offer, there are a number of objectives that need to be met in setting that DMO, default market offer, as we call it. We want to address the ACCC recommendations, which is around reducing unjustifiably high standing offers. There are a lot
of customers in the market who are very disengaged and, as the ACCC has identified, they are paying unjustifiably high prices. At the same time, we need to set an offer that also allows retailers to recover their efficient costs and maintains a level of competition in the market that drives competition and innovation in the markets and there is a balance to be reached. A draft determination will seek to reach that balance by finding that right point.

CHAIR: If a default market offer is implemented by 1 July, how quickly should we see energy prices for consumers come down post 1 July?

Mr Feather: The implementation of the Default Market Offer will take effect from 1 July.

CHAIR: So it should have an instantaneous effect?

Mr Feather: It will apply immediately to standing offers. Retailers would need to comply with the Default Market Offer, absolutely from the 1st of July.

Mr Sims: Could I comment about two effects. One is that it would immediately, of course, reduce the standing offers, because as Mark says, that's what it would do straightaway. The other benefit, which is what we very much had in mind, by setting a price from which all discounts must occur, improves competition generally in the market. You'll see benefits for those on standing offers immediately and you'll see benefits for the rest of the market take a little more time. It's hard to know how long that flow through would occur but we'd expect there would be reductions reasonably quickly for consumers who aren't on standing offers, who just have more clarity of the market.

CHAIR: Good. I've got two energy retailers battling it out for my business right now. I can't work out the apples and the oranges that they're showing me.

Mr Sims: Indeed.

CHAIR: I also wanted to talk to you specifically about the Energy Made Easy comparison website. Who is responsible for Energy Made Easy comparison website?

CHAIR: Can I ask you about the Energy Made Easy website? I understand you've been making improvements but I'd like to know, specifically, what those improvements are and how the service intends to help customers?

Ms Bourke: Our first phase of the redevelopment project took effect in August 2018 last year, and we made a range of usability, accessibility and functionality improvements that were informed by some behavioural insights testing that we'd done previously. We are also going through the next phase of our redevelopment project and that is progressing on schedule and is being informed by extensive consultation with all the users of the websites, not only consumers who want to use the website to go on and search what offers might be good for them, but also the retailers who are required to input all their information into the website, so that consumers can find their offers. The key improvements and enhancements will be delivered iteratively from late 2019 through to July 2020. That is really about building a new technology platform to increase the reliability and availability of the website and that will enable it to deal with more traffic. In the past 12 months, we've had up to almost one million visitors to the site, which is improving and growing. We are building it in a way that will make it easier for us to make ongoing improvements to it in the future, to make sure it can keep pace with other commercial price comparison websites. It will have improved reporting capability and it will reduce the administrative burden. Alongside that, we are making a suite of improvements to make it easier for customers to use the website. We will be introducing
bill upload and bill scanning functionality so that consumers don't have to put in all their usage details themselves. We're doing language translation so that consumers who are from non-English-speaking backgrounds are able to use the website—so, it is more accessible. We're looking at building in the ability to accommodate smart meter data so that, again, consumers can get a more robust calculation. We are also working with CSIRO and Data61 to improve the algorithm. So, it is a pretty comprehensive program of work and we are looking forward to delivering it on schedule.

CHAIR: Is it applicable in every state—I suppose every state other than WA? Where is it not applicable?

Ms Bourke: It doesn't apply in Victoria. The Victorian government has their own price comparison website, which is Victorian Energy Compare. It applies to those jurisdictions that have opted in under the National Energy Retail Law. Currently, that is South East Queensland, New South Wales, the ACT, and South Australia.

CHAIR: As a Victorian, I need to know this: is your website going to be better than the Victorian state government's website?

Ms Bourke: Absolutely.

Senator KETTER: I would like to focus firstly on the recommendation in respect of the underwriting of new generation. Are you aware that the government is stating that the Underwriting New Generation Investments program, which they have announced, is based on your recommendation 4 of your review?

Mr Sims: Yes—aware of that. Various statements have been made and there was a consultation paper that had a few variations. My understanding is that they are trying to model it very much on our recommendation.

Senator KETTER: Your recommendation states—and I note you talked about the fact there were strict conditions around your recommendation—that it must have:

- have at least three customers who have committed to acquire energy from the project for at least the first five years of operation;
- not involve any existing retail or wholesale market participant with a significant market share (say a share of 10 per cent or more in any NEM region);
- be of sufficient capacity to serve the needs of a number of large customers …

Based on the public statements from the government on their program, does the government program restrict eligible projects to those that have at least three customers who have committed to acquire energy from the project for at least the first five years of operation?

Mr Sims: The consultation paper that went out calling for expressions of interest, as I understand it, was much broader than the criteria we specified. We have had discussions with the department about whether, having got the proposals they have got, the ones that come forward will meet our criteria, but we don't know where that will end up. We are hoping it does, but we will see where it gets to.

Senator KETTER: Based on what is out there publicly at the moment—I'm just going to go through each of your points of your recommendation—on the issue of having at least three customers, is it your understanding that what the government is proposing satisfies that aspect of your recommendation?
Mr Sims: Sorry, I missed the start of that.

Senator KETTER: The aspect of your recommendation that states that the underwritten projects must have at least three customers who have committed to acquire energy from the project for at least the first five years of operation.

Mr Sims: We had three criteria—

Senator KETTER: I am going to go through each one. That is the first one.

Mr Sims: As I understand it, the expressions of interest went broader than that criteria.

Senator KETTER: The second one was to not involve any existing retail or wholesale market participant with a significant market share. Is the government's program sticking strictly to that recommendation?

Mr Sims: As I understand it, the expressions of interest did go broader. As I said, we are hopeful when they come out with people who qualified that they will meet that. But expression of interest was broader.

Senator KETTER: At this stage it appears that incumbent energy companies such as AGL and Energy Australia are going to be able to access the program.

Mr Sims: We very much hope not. We have made representations to the department in relation to that, but we will have to see where it ends up. Let's hope there is a difference between what was called for and what actually gets benefit under the scheme.

Senator KETTER: Why do you say you hope not? Is it because it would have an impact on competition or a reduction in competition in the sector, given the dominant position that these companies already have?

Mr Sims: We had two objectives, or probably three—I will try to be very quick. There is a barrier to new generators and small generators getting into the market, and that is that they don't have their own long-tail, long-term base of customers. We identified a problem in the market, so we said, 'By all means, sign up your customers for five years, but to get bank finance you would probably need longer.' So, we have suggested that the government could come in and help after five years. But the benefit of our scheme is that you therefore get more people trying to serve those commercial/industrial customers—get more competition to meet their needs. You get more generation into the market that wasn't one of the big three players. It was a very important part of our recommendation—so, we are hoping and we will just wait and see where it comes out.

Senator KETTER: Your recommendation sets out a very specific model for underwriting new investment. It says:

The Australian Government should operate a program under which it will enter into low fixed-price (for example, $45–50/MWh) energy offtake agreements for the later years (say 6–15) of appropriate new generation projects which meet certain criteria.

Does this strictly reflect the design of the government program?

Mr Sims: It doesn't reflect the invitation to offer, but again we are hoping that it will be met with the people that get awarded, so we will just see where that goes. The importance of that is that we did not want the government underwriting the equity of a project. We wanted them to help with the debt finance. We felt that if the government set a price of $45 to $50 it was absolutely win-win. It helps the project get bank finance but if the government had to pay
out on that the good news was that wholesale electricity prices would be below $45 or $50, which is fantastic. So, we are as keen as you are to see what happens under the scheme.

**Senator KETTER:** Out of the three eligibility criteria set out by the ACCC, the government's program fails to adopt two of those and it entertains forms of support not recommended by the ACCC? Is it fair to say that the program doesn't implement your recommendation No. 4?

**Mr Sims:** It is fair to say that the call for expressions of interest did not do it in the way we would have done it. What we are hoping is that, having got expressions of interest, the ones that qualify meet our criteria. We have been making representations to that effect. We will see what happens.

**Senator KETTER:** It is not a very good way to start the program if they are going broader than what your recommendations are. Doesn't this create confusion if ultimately they adopt a different set of criteria than what they have gone out with to the market?

**Mr Sims:** I have two comments on that. We understand they were just wanting to make sure they had enough people responding to their requests, because they had no idea whether they would get this much or this much. In our role we make recommendations that reflect the view we have and then it's up to governments to come up with the policy. Every government has a right to do things differently. We have a right to recommend and they have a right to pick it up and run with it the way they want to.

**Senator KETTER:** Have you provided any further advice or submissions on the policy in response to the discussion paper?

**Mr Sims:** Just oral. We understand they have quite a number of expressions of interest, so we are saying, 'As you narrow down, keep in mind the three criteria.' But it has just been an oral representation—nothing more than that.

**Senator KETTER:** Is there any documentation that supports—I take it you had meetings with somebody from the relevant department?

**Mr Sims:** I've had a meeting with the minister, Minister Taylor, and people who did the work on the inquiry have met with the department, but it has all been oral.

**Senator KETTER:** Does what you said to the minister reflect what you've said to us today?

**Mr Sims:** Pretty well word for word, yes, with slight adjustment.

**Senator KETTER:** Can you tell us anything else? I am just concerned that what transpired between yourself and the minister has not been made publicly available. Was there any commercial-in-confidence or otherwise confidential information? I think there is significant public interest in knowing exactly what you have said.

**Mr Sims:** No, it was just a discussion around the recommendations in our report. There was no discussion of any proposals that the government has; it was just the concepts in our report and trying to explain what those concepts were meant to achieve. It was really that high-level type of discussion.

**Senator KETTER:** As part of that meeting did you use any briefing document that could be made available?
Mr Sims: No, I don't think so. I have pretty much memorised the retail electricity pricing report, so I can't remember any briefing document. I would be surprised if there was. I can't rule that out but I don't remember it.

Senator KETTER: I would be interested in a summary of what you said. You say that it reflects word-for-word what you have told us this morning, but I am interested if any further information was provided. Obviously if it is commercial in confidence or otherwise confidential—

Mr Sims: I can say now that there was nothing commercial in confidence. It was a discussion about the logic of the retail electricity price inquiry recommendations. It was that simple. It wasn't about any projects or anything like that; it was simply a discussion around the recommendations we made in the retail electricity price inquiry.

Senator KETTER: Can I infer from what you said this morning that your comments to the minister indicated that you are not supportive of the current design of the UNGI program?

Mr Sims: The way I would put it is that we had concerns with the breadth of criteria calling for submissions. We emphasised the importance, in our view, of the three criteria we had in mind, but, as I said, governments are free to vary from our recommendations.

Senator KETTER: Did you propose that the government should return to the original design or the recommendations that you put forward in your report?

Mr Sims: I just explained the logic of those three points and hoped that, as they were culling the projects, however and whenever it goes forward—we didn't discuss timing or anything—they keep those three criteria in mind, particularly the one that it shouldn't involve assistance to the big three players. We were very strong on that; that would really not be what we are trying to achieve.

Senator KETTER: Finally on this issue: did you point out the potential risks of the government approach?

Mr Sims: I pointed out the benefits of what we were proposing and why we were proposing it, I pointed out the benefits to competition of getting some new players in there, I pointed out the benefits—

Senator KETTER: But if they don't get it right, aren't there risks to Australian consumers of electricity?

Mr Sims: I guess that is right, but, absent the recommendation we made, extra investment would probably have come from the big three, because the others couldn't get into the market, so it is more that we were creating opportunity for more competition; we just hope that is picked up by not helping the big three.

Senator KETTER: If they get it wrong, the opposite effect could happen. The dominant position of some of these large companies could be enhanced or increased.

Mr Sims: The way I would put it is there is opportunity to inject more competition into the market. I hope it is taken. If our recommendation had never existed in the first place then you wouldn't get that benefit, so I don't think that, if our recommendation is ignored, it would make things worse off; it is more an opportunity to make things better by getting generation that is not owned by the big three into the market.
Senator WILLIAMS: Thanks to you and your team for being here. I first take you to what Commissioner Hayne, the royal commissioner, recommended for the finance-brokering industry. I am concerned that if, for example, an upfront fee was put on a customer, you went to a finance broker and said: 'I would like to get a home loan. I want to buy this house for $600,000. I have a $200,000 deposit,' the broker says, 'That's a $2,500 up-front fee,' and I say, 'No, I don't want to talk to you'—considering about 60 per cent of loans, as I said, are through brokers, have you done any studies on the effect if trailing commissions on brokers were to be removed?

Mr Sims: We haven't. Our role so far was to do the residential mortgage price inquiry. That clearly showed that the banks other than the big four are very heavily dependent on mortgage-brokers to get their business, because that gives them a distribution network that they otherwise don't have, so mortgage brokers play a pivotal role in supporting the non-big-four players. It's a very important role. We are not part of the Council of Financial Regulators, who advise the government on these things, but the government and Commissioner Hayne have said that, in any assessment of change that affects mortgage-broking, we would be involved to advise on competition, so we're extremely keen to get involved to make sure that we don't damage competition in any change that's made.

Senator WILLIAMS: If any government decision leads to a reduction in competition in the financial sector, that would be bad. For example, if I were to go to a broker and get a home loan of four per cent—0.2 per cent trailing commission to the broker, 3.8 per cent to the bank—if I went direct to the bank, I wonder whether I would get the loan for 3.8 per cent or four per cent. That might be something to consider in the future. I'm very concerned about those 27,000 people employed in the finance-brokering sector and the reduction of competition, so I hope government treads carefully on that. Another point that Commissioner Hayne referred to was point-of-sale finance for motor vehicle companies, machinery companies et cetera. Are you familiar with what he said there?

Mr Sims: My memory is that it was to—remove the exemption against the responsible lending laws, which would give the people selling financial products at point of sale the obligation to work in the interests of consumers.

Senator WILLIAMS: Have a credit licence, be credit assured—Mr Bezzi, is that how you would describe it?

Mr Bezzi: That's a reasonable description. The lending obligations that apply to finance companies would apply to those people at point of sale, as I understand it. I'm no expert on the way those laws apply but, as we understand it, it is essentially levelling the playing field.

Senator WILLIAMS: The way I see it is that the actual car retail outlet, the dealer, may have to have staff with finance accreditation, licensing et cetera, which would cost money and time, but if I went to Toyota to buy a car tomorrow and I filled the paperwork in, the dealer doesn't make the decision on whether I get the loan; it goes off to Toyota Finance and they make the decision, looking at the cash flow, security et cetera, so I fail to see why costs and pressure should be on the dealer itself. That something up for debate.
Mr Sims: It's mainly an ASIC issue rather than one for us.

Senator WILLIAMs: Yes, it is. Finally, I've brought you an issue about the petrol prices in Glen Innes compared to Inverell, where I live. I think it was about 20c a litre dearer at one stage when a constituent brought it to my attention. Did you have any luck sussing out on the fuel prices in Glen Innes, northern New South Wales?

Mr Sims: We did a market study of Armidale and looked at the sites around there.

Senator WILLIAMs: You did good work on Armidale a couple of years ago, which had an immediate effect.

Mr Sims: We still have a few concerns about Armidale prices. That work showed that the cost of freight, of getting petrol to these places, was an added cost but wasn't a big cost. The biggest extra cost of small towns was that they didn't have the throughput, so the level of petrol sold that had to cover the fixed costs of operating the service station was less and the unit costs were higher. That was a big driver of extra costs.

The other issue is that we see stunning anomalies in towns, where a smaller town will have lower prices than a bigger town, and it's hard to work out why that's happening. Sometimes it's got to do with the small town being on a road going between two important destinations— so they're competing with people buying fuel along that road. Sometimes it's due to the fact that the service station wants to get people to buy milk and other stuff from them, whereas other service stations are just there to make money out of petrol. There are a whole range of factors that go into describing those different prices. But it's not against the law to sell petrol at prices that greatly exceed cost.

Senator WILLIAMs: In that example I just gave, Armidale, Guyra and Glen Innes are all on the New England Highway. At the time that I brought to your attention, Guyra was 10 cents a litre cheaper on diesel, in a far smaller community, than Glen Innes—on the same major highway. Let's hope the competition does work in Glen Innes so that consumers can benefit.

Mr Sims: What helps is a bit of focus on this from us but also a local focus, so that the people who are charging these prices have to explain to their communities why they're doing that.

Senator WILLIAMs: Thank you.

Senator KENEALLY: Thank you, Mr Sims, and your team, for being here today. The AEMC is currently considering a rule change that would open up the NEM to competition and would allow consumers to sell demand response into the wholesale market. The ACCC's submission to the AEMC stated that it supports this reform, as does the COAG Energy Council, BlueScope Steel and AEMO. I want to try and understand your view about this proposal as a way to increase competition in the NEM compared to the divestment legislation—the so-called 'big stick' proposal—which the government is promoting to increase competition in the NEM. In your view, would the divestment legislation support demand response to be introduced into the NEM?

Mr Sims: I'll start on that, because I think it's partly for the ACCC, but my colleague on my left lives and breathes these issues permanently.

Senator KENEALLY: What an exciting life he has!
Mr Sims: Seriously, he does in his market—particularly when things are happening in the generation market. They're not substitute things. We recommended—and, as I say, Peter will be much more up-to-date with more recent developments—that demand be able to be bid into the National Electricity Market so that more than just the main retailers could benefit from it; that other people could aggregate demand and bid it straight into the system. They didn't need to make it available to the retailers, who, after all, depending on their position, might not want lower prices; they might want higher prices. So we favour that but we don't see it as in any way related to a big stick or other issues. It sits as an issue in itself.

Senator KENEALLY: I have a couple more questions. Maybe I'll ask those questions and we'll see where this takes us. I do want to pick up on that point you just made. I note that, in its submission, the ACCC said it was strongly opposed to the Australian Energy Council's rule change request for a wholesale demand response register on the basis that it would risk perpetuating the current barriers and fail to promote competition. Would the flipside hold true? If the AEC's register is implemented by the AEMC, would that hinder competition?

Mr Sims: I'm struggling a bit. I did clear that submission. Is that relevant to the demand response issue?

Senator KENEALLY: It is.

Mr Sims: I'm sure you're right; it's just skipping me at the moment. There were three proposals that the AEMC put forward for demand response. We strongly supported the one where they could just bid it in. I know there was a voluntary scheme which we didn't support. I'm sorry; my memory is failing me on the third one, which is obviously what you're referring to. I apologise; I just don't have it at my fingertips.

Senator KENEALLY: I'm happy if you want to take this on notice.

Mr Adams: Demand response is something that the AER would fully support. It's something we've been working to get introduced into the marketplace for a long time. As the technology changes in our market and we have a more distributed generation mix, the ability for the demand response to play in those arrangements is extremely important. So we would support that. In respect of the specific three issues in the submissions, I'd like to take that on notice.

Senator KENEALLY: Let me ask it this way: in the context of demand response reform, you often get retailers arguing that they are best placed to provide wholesale demand response services to customers. Could you give us a little bit more on the benefits of opening up the provision of wholesale demand response services to independent aggregators, and why retailers might be pushing back on that?

Mr Adams: I would suggest that, by opening those arrangements up, the ability to come up with innovative ways and products for customers to be involved in that process is much wider. I think there may be various incentives for certain incumbent players to do things in a particular way. I think we'd be very keen to see new players come into that space and allow customers to have a greater range of options to participate at various levels.

Mr Sims: If I could add: our concern at the ACCC—and Peter is very close to these things—is the retailers having a big role in demand response. They may want higher prices. It's not always in their interests to have lower prices, particularly when they own the guts of the generation. If you have pure play demand response people, they have only one incentive:
to earn money to bid in the demand response. That will always be to the benefit of consumers. Just having the retailers do it may benefit consumers, but it may disadvantage them.

**Senator KENEALLY:** I have one last question in this area. Snowy Hydro supports the AEC rule that could well limit competition and see the retailers have the wholesale responsibility. Is there anything the government could do to direct Snowy Hydro to support a demand response competition? Are there any powers available to the government? I understand that it's not the sole shareholder in Snowy Hydro, but is there anything the government could do to direct Snowy Hydro to support demand response competition?

**Mr Sims:** I don't think it's an issue, unless I'm missing something. We have to direct Snowy Hydro. This is really a policy decision by the COAG Energy Council of how it wants the operation of the market to run. We would like to see the COAG Energy Council, when the process runs through, decide as a policy issue that demand management be allowed to be bid into the market. Snowy Hydro can put its view; of course, it's got the same interest as the big three in this. Volatility can be their friend.

**Mr Adams:** I would just add one point. As we go through this transition, particularly at the wholesale end of the electricity market, the ability to have more flexibility in the way generation and demand side can come in and out of the market will become more critical. There is an enormous amount of work going on around creating a framework about flexible generation. The demand side can play a significant part in that flexibility that will be required in the years to come. Our report into effective competition, in December of last year, identified that that flexible amount of capacity was relatively still concentrated in the market as it stands. So bringing new players into that area of the market will be something that will benefit all.

**Senator KENEALLY:** Thank you.

**CHAIR:** I want to ask some questions on a hobbyhorse issue of mine, which is open banking, with specific reference to the consumer data right. Who should I direct those questions to, Mr Sims?

**Mr Sims:** It depends whether you want a nice, high-level answer or you want to get a real, factual, detailed answer—your choice, Senator.

**CHAIR:** Why don't I start with high-level answers and then we'll move on a bit. Perhaps, Mr Sims, you can describe for the committee exactly what the consumer data right is and how that fits into an open banking regime?

**Mr Sims:** I will do that and I might then call on Mr Gregson to answer. At the moment, I really am focused very much more on mortgages. Mr Gregson has a much broader focus, which is what he should have. At the moment it is very hard to switch mortgages from one bank to another, because you've got to go through a long process to test out what the best offers is they're willing to give you. So it's very hard to switch. It's very hard to determine the best offer a bank will give you. There are many benefits of open banking, which Mr Gregson can talk about, but the dominant one I see is that you can say to your bank, 'I want all my history in relation to my mortgage so that that information is there.' You can either go to another bank that you may be talking or you can go to some intermediary who can help you find the best deal. So you can find the best deal without having to go to all the trouble of
going through torturous processes to provide what data is needed. It will help consumers get a cheaper mortgage and it will help competition in the market.

CHAIR: So we are not just talking about the structural side of the mortgage that you have chosen it is more repayment patterns?

Mr Sims: That is right. The bank has various information on you and an alternative bank would want that information to be able to give you an offer. Currently, you have to go and fill out endless forms. This way that information will be readily available and really at the touch of a button it's in a form that is usable. So open banking is not just to provide the data it has to be in a particular usable form that can go to the other bank or the intermediary.

CHAIR: It's not just specific to a particular product; it's specific to all the transactions or all the credit that you have?

Mr Sims: That's right and that's very much the territory Mr Gregson—

CHAIR: I will ask Mr Gregson, but that was a very good high-level overview. Thank you very much for that.

Mr Sims: Thank you.

CHAIR: Mr Gregson, do you have anything to add as to what open banking is and specifically how the consumer data right fits into an open banking regime?

Mr Gregson: I don't think it is so much how the CDR fits into with an open banking but rather how open banking fits into CDR. CDR is currently before the House—the legislation that was set up, that mechanism. It provides for sector by sector, giving consumers access to their data that is currently held by the data holders. In the case of banks that's the banks. The scheme operates on the basis that the ACCC will write the rules. We'll accredit the third-party data receivers—they're the Fintecs or the switchers. The rules will set out the mechanisms by which the banks might release the data. Consumers will provide the consent and the data receivers how they use that material. We are not doing this alone. We are also working with the OAIC—the privacy commissioner—who is advising government on the designation of future sectors and the privacy issues there, and also advising us on the rules to make sure that there are secure and private platforms to use. We are also working closely with Data61 and the data standards board, who are connected, obviously, and they are providing the technical standards by which the data is released. I am happy to give you more detail and answer specific questions that would help.

CHAIR: One of the most exciting things about this consumer data right is—and, as you said—while open banking fits into the regime it has the potential to be rolled out across telecommunications and energy as well. Obviously, that's a little bit further down the track. The banking certainly comes first. My understanding is that last week a decision was made to delay the implementation of an open banking regime, or to delay the implementation of consumer data right legislation, but there is the imperative to pass that legislation in order to allow banks to make the changes that are required, so that we can introduce this quite transformative measure that will benefit consumers and small businesses. Can you expand on that?

Mr Gregson: I think the timetable issue is one that is particularly useful for senators to understand. That was adjusted in late December last year, in part to reflect some of the complexity we're coming across, to make sure we've ticked off on what we need to from the
privacy and security perspectives. And then we've had full engagement with banks and institutions to make sure that we implement this properly.

Importantly, though, the Treasurer, when giving that new timetable, made sure things were still moving along. So from 1 July, which was the initial implementation date, banks will still be required to provide product information data—that is, information about the product, not the consumer data—and we'll be commencing pilots from July, going through till October and November. That's really important to see that the system is working. Banks can develop their systems; they can test and road-test our IT systems, which they need to interact with. That takes us to February 2020 for when consumer data will start to be available on consumer request. That may sound like a bit of a deferment, but so much will be happening in the meantime, and I think it will be very difficult to progress that unless we keep seeing the progress in the legislation and in the work that we're doing.

CHAIR: So what you're saying, in a very polite and roundabout way, is that the legislation is currently held up in the House of Representatives and it needs to be passed if we're going to meet that 1 July deadline.

Mr Gregson: I certainly wouldn't describe it as being held up. I think it's only just recently been introduced. Let's see how members treat that bill.

CHAIR: I know there are an awful lot of people on the government side of the chamber who are very enthusiastic to pass that legislation. Can I ask you then: has the ACCC met with the opposition, in particular the shadow Treasurer, to discuss open banking with them?

Mr Gregson: Not to my knowledge at this stage.

CHAIR: Do you know whether the government has made the offer to speak to the shadow Treasurer and the opposition, in conjunction with the ACCC, about the importance of this legislation?

Mr Gregson: I believe there have been discussions, and we've made ourselves available, giving opportunity for that to happen.

CHAIR: And the opposition are yet to take up that offer?

Mr Gregson: I'm not familiar with that offer having been taken up as yet. But I should emphasise that it has been a recent engagement.

CHAIR: Are you getting a sense from this recent engagement that the opposition is supportive of the initiative of the consumer data right legislation and, in particular, open banking?

Mr Gregson: We couldn't draw that insight from that level of engagement, but we've seen positive references publicly to the consumer data right from both sides of the House.

CHAIR: So you think that there is a general level of understanding of the urgency of passing this legislation?

Mr Gregson: I'm probably not close enough to give you that answer. The Treasury might be able to help you with that.

Senator KETTER: Mr Gregson, you've just indicated that there were privacy and security systems that warranted the start date for the CDR legislation being delayed. Would you accept that the government was taking a risk by planning to introduce the legislation in late December?
Mr Gregson: No, Senator. Progressing things in a timely and ambitious way is often an appropriate path to take to achieve good for the economy. The examples of security and privacy were just two of a number of complexities that I mentioned. As we get our teeth into this and understand the issues, we find there's a lot of complexity. A lot of that came through the consultation that we've had, both publicly and with others. I think this is just par for the course when you're dealing with complex issues.

Senator KETTER: Okay.

Mr Sims: If I could intervene: going back to my high-level view to Senator Hume, the key change—I think I've got this right—in terms of making mortgage data available was always due for February 2020, and that hasn't changed. So, as far as I'm concerned, the key date for consumer benefit is there, and what we've now got is a better chance to do some testing and make sure the computer systems are as they should be.

Senator KETTER: I'd like to move on to the Food and Grocery Code of Conduct and the review that was conducted. Can you tell me: were the problems that the review found with suppliers ongoing or had things improved?

Mr Sims: I might pass that to Mr Grimwade, who's closer to that.

Mr Grimwade: I'm sorry, Senator. I just missed the end of your question. I wonder if you could repeat it, please.

Senator KETTER: I'm interested in whether the review of the code of conduct found that the problems for suppliers were improving or whether they are still the same?

Mr Grimwade: The review made some recommendations. So, on that basis, I think one can assume that there is a problem that needs to be remedied. We have some particular views on the review itself, and we think that perhaps more can be done to improve the food and grocery code.

Senator KETTER: Was the review concerned with the practice of supermarkets not accepting suppliers' requirement for price increase or proposing to pay them in-kind, like promotional offers, rather than in cash?

Mr Grimwade: That was one of the issues raised in the review, and there was a recommendation by Professor Samuel in regard to the problems in seeking price increases. But there were a whole host of other issues that were canvassed in the review as well.

Senator KETTER: What about the concerns about the delisting processes by supermarkets with short or little notice?

Mr Grimwade: Indeed, the ACCC has conducted two series of audits under the food and grocery code. On those occasions, we found that there were particular concerns arising from delisting practices, including the failure to provide detailed reasons or acknowledge there was a right of review to delisting practices.

Senator KETTER: I understand that the outcome of the review is the proposition that the major supermarkets appoint their own arbiter to deal with disputes with suppliers. Do you have concerns with that proposal?

Mr Grimwade: Yes, we do have concerns with that proposal. We accept that the intention of the review's recommendations in this regard is to have an independent code arbiter appointed for each of the participants in the code. However, there are concerns that, given that
these code arbiters are employees of those firms, suppliers will be reluctant to seek to have
their disputes resolved through those code arbiters. There is also a concern that if you have a
number of different code arbiters sitting across a number of different companies you may end
up with inconsistent approaches to similar disputes.

**Senator KETTER:** I understand that it is proposed that if a supplier is unhappy with an
arbiter's decision, then they can appeal to a reviewer. Can you confirm that in such an instance
the reviewer would only review the process and not the actual outcome?

**Mr Grimwade:** That's the recommendation of the review.

**Senator KETTER:** Are you comfortable with that approach?

**Mr Grimwade:** Our view is that it would be preferable to have an independent code
arbiter who would be capable of resolving disputes across the industry rather than having
separate—

**Mr Sims:** Obviously, it is a Treasury review; we have submitted extensively on it, but
ultimately it will be a Treasury set of decisions.

**Senator KETTER:** So even if there are problems found with the process, what obligation
is then on the arbiter to change their determination?

**Mr Grimwade:** Are you talking about the code arbiter or the reviewer that sits above?

**Senator KETTER:** If the reviewer finds that there's an issue with the process, which is
the only thing that they are entitled to review, what compulsion is there on the arbiter to then
go back and change their decision, if there is found to be a problem with the process?

**Mr Grimwade:** Look, I'd have to go back to the review's recommendations in that regard.
I'm not precisely sure what the obligations on those independent code arbiters are if there is an
issue with the process; it might be that they have to make the decision again. I'm not quite
sure.

**Senator KETTER:** I understand that the previous experience of the ACCC when there
was an investigation involving Coles, I think, was that not a single supplier was prepared to
come forward to give evidence because of fear of retribution. Has anything changed that
would remove a supplier's fear of retribution if they made a complaint against a supermarket?

**Mr Grimwade:** We have a surprisingly small number of complaints from suppliers to us
in relation to supermarkets generally, not just under the food and grocery code. Our
experience and our discussions with the Food and Grocery Council lead us to believe that
there remains some reluctance for suppliers to raise their disputes with supermarkets, because
of the fear of retaliation.

**Mr Sims:** If I could just add, I think the relations between supermarkets and suppliers
have improved since the action we took, but there's no doubt that suppliers are still very
concerned about complaints or about otherwise upsetting the supermarkets, because it is their
livelihood. That's just an inevitable tension that just won't go away. It has improved but that
fear is definitely there.

**Senator KETTER:** Finally on that particular subject, are there any other concerns or
points you'd like to make about the review of the code?
Mr Sims: The dominant one I'll mention as Mr Grimwade is thinking is that we always think these codes should have penalties. If it isn't complied with, have a penalty. Having a law, which effectively this is, without a penalty isn't much use.

Senator KETTER: Let's move to complementary medicine and the task force that has been instigated there. We had a discussion at last estimates about this particular issue, Mr Sims, and issues that have arisen as a result of the guidelines that the ACCC has issued. When you were writing those guidelines, to what extent did you attempt to distinguish between issues of concern relating to foodstuffs as opposed to other types of products?

Mr Sims: I'm going to get Mr Grimwade to answer that. But could I say two things on complementary medicines, by way of introduction. The law changed for a reason and that reason was tremendous complaints where people were saying, 'This can't be made in Australia,' where it's basically just an imported ingredient with a bit of a twist. The government changed the law for a reason. Our guidelines did their best to interpret the law change. We interpreted the change of law, and that is our role.

Senator KETTER: I think you've made that point very clearly, Mr Sims, on previous occasions.

Mr Sims: Sorry to be repetitious; I'll pass to Mr Grimwade to more directly answer your question.

Mr Grimwade: To be clear, we've issued numbers of different series of guidelines relating to the country-of-origin food labelling standard and related issues. We have issued general guidance and short FAQs, but we've also issued guidance directed to particular sectors—in the food sector, for instance, in the dairy sector—but also in the non-food sector relating to complementary medicines. There is no obligation on the non-food sector to comply with the country-of-origin food labelling standard. However, the complementary medicines sector—or many in it—have chosen to take advantage of the safe harbours, which were changed in February 2017. So the guidance we directed to complementary medicines in March 2018 was directed to the commission's interpretation of the new safe harbours.

Senator KETTER: When you were considering the guidelines that you issued, did you give consideration to the situation of a manufacturer that may have no Australian producer of the products that they needed? Nature's Own case comes to mind here, where there are no other suppliers in Australia of the fish oil material.

Mr Grimwade: I think that is a dynamic issue as to the extent to which there might be entry or exit in any particular sector. At the time we were consulting on the complementary medicines guidelines, there was actually an Australian manufacturer who used Australian fish oil. The guidance we have issued is very much focused on the different types of manufacture or encapsulation. Just to make it clear so there is no uncertainty here: we did not say that all complementary medicines in Australia using completely imported goods are not made in Australia. We looked at the different types of manufacturing, and we determined that encapsulation—putting foreign fish oil into little capsules—did not meet the new definition of substantial transformation, whereas tabletization, the manufacturer of creams and ointments, and those sorts of things—

Senator KETTER: So you did not give consideration to whether or not there was any particular Australian producer of one of the inputs in the encapsulation process?
Mr Grimwade: That wasn't the intent of the guidelines; it was to give clarity over our interpretation of the new substantial transformation test—

Senator KETTER: We'll come back to that.

Mr Sims: The issue is: is it made in Australia?

Senator STORER: In referencing recommendation 4 of the report, I was interested in whether the ACCC considered recommending to the government to use a reverse auction to procure new energy generation. Did the ACCC review a reverse auction model?

Mr Sims: We didn't want to do that, Senator, because we had three criteria we wanted met. We didn't want the government underwriting equity. We didn't want the government bringing in new generation unless there was demand for it. The problem with a reverse auction is that it's the government deciding we need energy. We wanted the companies themselves to take the equity risk. We were only interested in helping out with debt finance to deal with the market failure that we saw in terms of new players getting debt financed because they couldn't provide the long-term offtake agreements to back the investment. Reverse auctions were counter to what we were trying to achieve. That was just the focus we had.

Senator STORER: There would be no way to structure the reverse auction to provide that ability for private enterprises to—

Mr Sims: I don't know. Off the top of my head, I can't see how you do a reverse auction to do that. A reverse auction would say: 'We want the power. Give us the best bid and tell us what we need to do to get the power into the market.' We wanted it to be more driven by the market.

Senator PATRICK: Mr Sims, I want to get an update on section 46, the changes to the law and how that has been affecting your operation, and whether or not you're pursuing anything in relation to market power abuse.

Mr Sims: Look, it has transformed us in that area, Senator. The previous law was only workable in very narrow circumstances. The new law came into effect in November 2017.

Mr Bezzi: 6 November 2017.

Mr Sims: We have a number of active investigations in relation to section 46, but the only way we can use the new provision is when the behaviour is all post November 2017. There was no way we would have had cases in court in 2018, but I keep putting pressure on Mr Bezzi by saying I'm very confident we'll have cases in relation to section 46 in court this year.

Senator PATRICK: I won't reveal company names, but have you had two big, large supermarket chains, for example, selling milk for $1—that's okay because that particular operation or market power abuse started well before royal assent?

Mr Sims: The misuse of market power provision is named in a very confusing way that causes a lot of problems. It says 'misuse of market power', which people logically presume to mean you've got market power and you're somehow taking advantage of it to the detriment of consumers. That's not what the law has ever been meant to do. It's actually a competition provision. It says, don't use your market power to substantially lessen competition—in the new wording 'damage competitors'. The old wording had other problems with it. It's basically a competition provision. It's not aimed at companies with substantial market power. Abstracting from milk: if someone said, 'Here's a company with substantial market power and
they're ripping off consumers,' section 46 does not deal with that. That could get caught under various consumer law matters, but this is a competition provision. This is about making sure competitors can compete on their merits. That's what section 46 is about. It has opened up new areas that we can look at that we just couldn't look at before.

**Senator PATRICK:** So in circumstances where you have a monopoly receiver of goods, as might occur with the supermarkets, and they are basically setting their own price to the detriment of the subsuppliers—typically farmers—this law doesn't help?

**Mr Sims:** To the detriment of farmers—Mr Bezzi is the expert on this. It has to substantially lessen competition in a market. If the supermarkets were artificially doing something to the pricing of a branded good when they sell a good themselves, and they were damaging that competitor from competing against them, there might be problems, but I'm not sure that arises in milk.

**Mr Bezzi:** Specifically, we conducted a dairy inquiry, which showed, to our satisfaction at least, that there was no connection between the retail price sought by supermarkets for branded milk and the farm gate price. I can see that Mr Sims wants to add something.

**Mr Sims:** I just want to add that I think the recent behaviour of Woolworths has illustrated our point completely. They've put up the price of milk by 10 cents per litre and paid it to the farmers. Had they put up the price by 10 cents per litre and just flowed that through the value chain so that it went to the processors, we doubt it would have gone to the farmers. The point is: it's the bargaining power of the farmers relative to the processors that's the problem we're trying to deal with—

**Senator PATRICK:** But do you say that's not a section 46—

**Mr Sims:** No, we can't see how that's a section 46 issue, sorry.

**Senator PATRICK:** You're talking about Woolworths and a change of attitude, and saying that you're looking down that value chain. What provisions are you using in the law to deal with that, and do they need to be strengthened?

**Mr Sims:** When we did our market study into the dairy industry, we didn't see, subject to any correction, breaches of the law. We felt this needed changes in the way that—the bargaining position of farmers. We felt the key change was a mandatory code which would require processors to deal with farmers in a particular way—give them information about the price they're going to offer before the farmer has to decide who they give their milk to. A whole range of provisions that make it very difficult for farmers.

**Senator PATRICK:** I accept you can't act outside power. You have the laws that you have and you work within those laws. Another question—a legitimate question—are there missing laws that could be protecting these farmers? I have a similar situation in Whyalla, South Australia. We have GFG, who I want to succeed, but they're the only game in town for a lot of the engineering companies. I'm not in any way suggesting they don't behave properly, but there's no question those companies are, in some sense, captured and have little choice.

**Mr Sims:** The way the law works, Senator, is that if somebody is in a dominant position and they charge more, the presumption is that others will come in and force prices down. What the law protects is: is there anything that the incumbent is doing to stop other competitors from coming in? That's where section 46 comes in. Are you stopping other competitors from entering into your market and competing down the very high prices you're
offering? Where it comes to the position of farmers, which in many markets are in a dreadful position, we think it has a lot to do with bargaining power and transparency of pricing. We have recommendations in beef and recommendations in dairy, which we're going to keep advocating for, which we think will definitely benefit farmers, but it's a law change specific to those industries rather than an across-the-board thing. We really need to understand those industries and change laws in relation to them. In the case of dairy, that mandatory code is a key part of that.

Mr Bezzi: Perhaps I could add: one of the issues we have focused on is the relationship between processors and dairy farmers. In fact, we've taken some litigation against Murray Goulburn using the law relating to unconscionability. We've also made very strong recommendations in our dairy inquiry report about how you even up that bargaining power through a mandatory code. That would outlaw some of the particularly heinous practices, including the retrospective price sit-downs, which really are an exemplification of the poor bargaining power that farmers have in relation to processors, particularly when there are only one or two processors that they can supply their milk to in a particular area.

Mr Sims: Again, I emphasise the Woolworths decision—

Senator PATRICK: I'm mindful I've got 50 seconds left. In terms of those recommendations—for example, the mandatory code of conduct—are you saying mandatory because it ought to be in law?

Mr Sims: Yes. Mandatory code under our act, which the government, as I understand, is pursuing.

Senator PATRICK: Okay. Fantastic. I might take that offline and maybe contact your office.

Mr Sims: We'd be happy to chat, Senator.

Senator PATRICK: Thank you very much.

CHAIR: We are going to take a break now, because the committee has a private meeting. Senator Ketter, do you have further questions for the ACCC?

Senator KETTER: Yes.

CHAIR: We will ask you to stick around, if you wouldn't mind, after the break.

Mr Sims: Always delighted, Senator.

Proceedings suspended from 10:15 to 10:30

CHAIR: The committee will now resume with consideration of the ACCC. Senator Ketter.

Senator KETTER: Thank you. I'll return to the complementary medicines issue, Mr Sims. Mr Grimwade—I'm just refreshing on where we were up to—do you consider that there may be any relevant differences between foodstuffs and complementary medicines, in writing the guidelines?

Mr Grimwade: Certainly, because the guidelines we gave the complementary medicines sector were related to the safe harbours, and particularly what constituted substantial transformation. The change in the test, we knew, would have implications for them, and we had consulted them as we drafted those guidelines. I should note, indeed, that Complementary
Medicines Australia, the industry association, had told us in that consultation process that it did not consider encapsulation constituted substantial transformation or should be 'made in Australia'. So the change in view was somewhat surprising for us.

**Senator KETTER:** Okay. Let's turn to the task force that's been initiated. The ACCC is a member of that task force?

**Mr Sims:** Yes.

**Senator KETTER:** You would be aware that the scope of the task force includes examining how your guidelines interact with the complementary healthcare sector. Is this an indication that the minister believes the ACCC may have overegged the guidelines in this instance?

**Mr Sims:** I haven't heard any suggestion that anybody thinks we overegged the guidelines. I think they just reflect the change in law. But Mr Grimwade may have another view.

**Senator KETTER:** Perhaps it's that they need some revision.

**Mr Grimwade:** The guidelines were essentially endorsed by, or at least consistent with, the findings of the Federal Court in the Nature's Care case, so we have confidence that the guidelines reflect a correct interpretation of the law as it stands. If anything, if parliament were to decide to change the law then we would change the guidelines.

**Senator KETTER:** Do you have a process for reviewing guidelines, and, if so, what is it?

**Mr Sims:** We keep things under review all the time. Tim?

**Mr Grimwade:** Those guidelines were issued less than a year ago. Indeed, the country of origin labelling framework is coming up for review at the end of this year—no, 2020—so we wouldn't think there would be any need to review those guidelines unless the law were to change before then.

**Senator KETTER:** Does that indicate that when you're looking at these guidelines it's a black-letter law process, rather than looking at policy objectives?

**Mr Sims:** It's trying to translate the purpose of the legislation. We were trying, with our guidelines, to be as helpful as we could to the community to point out what the legislation was trying to do. The black letter is in the law, the guidelines were doing their best to interpret that, and the court has suggested our guidelines probably got it about right. If people are unhappy with the process then I think it's a matter of looking at the law. But, as I said at the start, if you change the law back again you'll have another segment of the community worried about whether things that are made in Australia genuinely are.

**Mr Grimwade:** Could I just make a couple of other observations. The guidelines emanated from a request by the industry for us to give them guidance on the change in the substantial transformation test. We make clear in all our guidelines that they are not legal advice—they're not legally binding. They give an indication of our interpretation. The third issue is: they only go to the safe harbours. If you fail to meet a safe harbour, it doesn't mean you've contravened the law; a safe harbour just deems that you haven't contravened the law. So there's still another hurdle to overcome for the commission or a third party to demonstrate that some labelling is misleading or deceptive.
Senator KETTER: I will come back to that. In terms of the ACCC's involvement in the task force, do you think that you have a positive role in the task force or is it simply to enforce your guidelines?

Mr Grimwade: It's not to enforce the guidelines. We were invited on the task force, along with all other Commonwealth agencies or departments who have an interest and can contribute to a review of the application of the safe harbour framework to complementary medicines.

Senator KETTER: The task force—I think it might be in the terms of reference document—talks about the fact that they're looking for appropriate next steps to be taken to address some of the issues that gave rise to the task force. There's obviously potential there for legislative change to be one of the appropriate next steps, depending on the findings of the task force. Do you have any scope to allow a transition period before taking compliance action on breach of the guidelines, given that we have this task force ongoing at the moment? Is there potential for further legislative change down the track?

Mr Sims: Well, we can't anticipate legislative change.

Mr Grimwade: No. First of all, you can't breach guidelines as such—it's either a contravention of the law or it isn't. The fact is: there was a two-year transitional period for industry to comply with the country of origin food labelling standard. There's been a period of transition for complementary medicines to adjust to the change in safe harbours. The fact that there is a task force reviewing—we can't pre-empt the outcome of that and make a decision as an enforcement agency not to enforce the law, because there is a task force.

Mr Sims: The other point is: we don't know where the task force could come out. I know I'm repeating myself, but the push that led to the change of the law is still there. If people want to change the law, they've got to just run the risk that Australians will lose faith in what 'Made in Australia' means. There are big issues at stake here.

Senator KETTER: I understand that, but the scope of the minister for industry's task force includes, 'identify appropriate next steps for responding to the sector's concerns'. That indicates that the minister clearly wishes to find a way through this issue that will enable the sector to continue using the logo, because it obviously has great advantages to them.

Mr Grimwade: I don't have the terms of reference before me but I don't think there is any kind of steering of that task force to come up with a particular outcome. I am certain that those terms of reference also required the task force to consider consumers as well and their rights to have clear, transparent and meaningful labelling.

Senator KETTER: What about the aftermath of the recent Federal Court decision, which means that fish oil encapsulation no longer qualifies as 'Australian Made'? Will there be the potential for—I call it a transition period? Will you allow some sort of grace period for the manufacturers to comply with these new circumstances?

Mr Grimwade: We have on our website, and in indications to different sectors, a compliance and enforcement policy as it applies to those who are adjusting to changes in the country of origin labelling standard and safe harbours. In essence, we've indicated that, if there's inadvertent noncompliance and challenges in adjusting to the changes in the law, we will accommodate that and we will look to assist the industry in transitioning. We've also indicated, however, that if there is blatant noncompliance or an intention to disregard the law
or to mislead and deceive consumers in their labelling, then, in those circumstances, we will escalate. At a meeting late last year we invited the industry to indicate to us what steps they are taking to transition. For instance, if there is misleading labelling, are they taking steps to sticker over those labels when they're selling to Australian consumers? We're not concerned about what they might be indicating to other countries, but we're very concerned about truthful labelling to Australian consumers.

Senator KETTER: Are there any precedents for the ACCC to allow a period of transition following a new change or a new determination?

Mr Grimwade: As I said, there has been a transition in this very case. Not only has the law enabled the transition for two years—the country of origin—but we've enabled the transition from the implementation of the safe harbour change, which occurred immediately in February 2017. So there has been a transition period of over two years for the complementary medicines sector or others who choose to use Made in Australia, Grown in Australia or Produced in Australia representations on their packaging.

Senator KETTER: Has the ACCC notified the other members of the task force that it has decided to require the removal of the logo before the task force completes its activities?

Mr Grimwade: I'll say two things. It's not for us to require. We have indicated to the sector that they should have regard to the findings of the Federal Court in their labelling and that we are concerned that continuation of that labelling may be misleading and deceptive conduct in relation to the encapsulation of fish oils, particularly by Nature's Care, given the findings of the Federal Court. Sorry, I have forgotten the question. I was going to make another point.

Mr Sims: The point is it is not our logo to suggest that they take it down or not take it down.

Senator KETTER: But you've provided advice to them I presume.

Mr Grimwade: Yes. We've given an indication to the representatives of the industry of our expectations in relation to labelling of fish oil following the Nature's Care case. We've invited a response from them as to the next steps they're going to take in relation to that meeting.

Senator KETTER: How was that communicated to the industry?

Mr Grimwade: We had a meeting with AMCL, which owns the AMAG logo; CMA; and another party—I can't remember who. It was followed up by a letter in mid-January I think making the same points we made at the meeting and inviting a response. I don't believe that we've had any response but a request for us to exercise our discretion not to enforce our law—or the parliament's law—in relation to the complementary medicines sector. That request was also made at the meeting.

Senator KETTER: Have you notified the Prime Minister's office that you've taken this course of action?

Mr Grimwade: I'm aware that there have been some discussions with the Prime Minister's office from our own executive office, but I personally have not been involved in those discussions.

Senator KETTER: How many fish oil producers are there now in Australia?
Mr Grimwade: I don't know. I was aware that there was an encapsulator of fish oil that was 100 per cent Australian ingredients. I believe that particular manufacturer was involved in the review of the country-of-origin labelling and safe harbour process the parliament conducted prior to the institution of the new law. I'm not aware whether that manufacturer continues to supply Australian made—

Mr Sims: Senator, Made in Australia is not seen to be an industry protection scheme. It's about letting consumers know whether something has been made in Australia or not. Whether there are Australian suppliers we have certain knowledge, but it's really about: is there faith in the logo? Do people have faith that the logo is doing what it should be doing?

Senator KETTER: Sure.

Mr Grimwade: And of course there's no obligation to use the Australian Made logo.

Senator KETTER: Yes, but it has—

Mr Grimwade: It has a premium attached in export markets, but we're not approving the use of that logo in export markets.

Senator KETTER: Let's turn to the issue of independent mechanics, and my time's getting tight.

Mr Sims: We'll give you short answers.

Senator KETTER: Thank you very much. Treasury has released a paper on the sharing of technical information with independent car mechanics. Can you confirm that it's a discussion paper—it doesn't represent the government's commitment for a mandatory code.

Mr Sims: I thought the government had committed to it and the plan was for how to do it.

Mr Grimwade: My understanding is that the Department of Treasury has issued a discussion paper with a proposal for a mandatory code.

Senator KETTER: With a proposal—okay. So, what role did the ACCC have in developing this discussion paper?

Mr Grimwade: As you will be aware, we spent 18 months developing a new car retail market study, and one of the key recommendations was that there be a mandatory scheme to improve competition between independent repairers and those authorised by manufacturers, given the lack of access independent repairers had to servicing repair information. That—

Senator KETTER: But I'm referring to the discussion paper.

Mr Grimwade: Sorry, I'm just getting to that point. We've been liaising with Treasury about potential implementation options in relation to that recommendation. Yes, there has been some input. We have had an opportunity to review the draft discussion paper, but we are also going to be making a submission which is due on 11 March.

Senator KETTER: Has Treasury asked the ACCC to assist in drafting a mandatory code?

Mr Grimwade: Not that I'm aware of. We will respond to the invitation to make a submission on the discussion paper, and we'll have some strong points to make in relation to how a mandatory code should be developed.

Senator KETTER: The discussion paper suggests that this mandatory code should not include sanctions or penalties for noncompliance. Do you believe that a mandatory code should have penalties attached for noncompliance?
Mr Sims: We always believe mandatory codes should have penalties. As I said before, there's no point having a law if there's no sanction for breaking it.

Senator KETTER: Would there be no incentives to comply if there were no sanctions?

Mr Sims: That's always our view. I know we sound like a cracked record at times, but that's our view.

Senator KETTER: The ACCC recommendation regarding access to sensitive security or environmental data uses the word 'safeguards'. The paper used language about restrictions—that is, the car companies can restrict data based on their broad definition of safety, security and emissions. Is the ACCC concerned that we're looking at the possibility of a weak industry code that can be breached with no consequences?

Mr Grimwade: The real complexity here is how you deal with those safety issues, and that's why there does need to be consultation. We always recognise that, in recommending the code, there had to be a detailed process of working through these issues. It is not a one-zero type issue; there is complexity. We will certainly be talking to Treasury about how that's worded. That'll be the essence of our submission. So, we are thinking through that at the moment, but certainly we'll keep raising the point about penalties.

Senator KETTER: Thank you, Chair.

CHAIR: Excellent. Thank you, Senator Ketter. Unless there are further questions for the ACCC, I think we'll let you go. Thank you very much. Thank you Mr Sims and officers of the ACCC.

Senator WHISH-WILSON: I have a couple of questions.

CHAIR: I'm so sorry. Senator Whish-Wilson; I thought you had questions for APRA. Can I keep—

Senator WHISH-WILSON: I'll put them on notice, if you're in a hurry.

CHAIR: Thank you very much.

**Australian Prudential Regulation Authority**

[10:49]

CHAIR: Welcome to the officers of APRA. Welcome, Mr Byres. Do you have an opening statement for the committee?

Mr Byres: I do have an opening statement, but it's slightly longer than usual, so I was going to suggest, in the interests of time, if you'd allow me to table the full statement, I'll just mention a few quick highlights and perhaps point you to some of the key points in it, rather than give you full chapter and verse.

CHAIR: That would be terrific. Thank you, My Byres.

Mr Byres: Obviously, there are a range of issues on our agenda at present, but the fundamental and important task we have is always to make sure the system is financially sound and stable. That is the case, and, given all of the activity that is going on in the financial system and in the regulatory world, it is important that we don't lose sight of that.

The opening statement talks about a few things. Let me start with the report of the royal commission. We've said we think that's a fair and considered assessment of the failings in the system and a welcome road map for reform, including for regulators and many of the
recommendations made within the report are consistent with submissions that we made to the commission. We have 10 recommendations specifically directed to us for action, and we published a week ago our planned response to those. Four we expect to complete this year, five will be completed by the following year, and the remaining item is addressed as a much more extensive program of supervision in relation to culture in the financial system. How we move ahead on this is primarily a matter of resourcing, on which we are in discussions with the government. We have 12 matters that have been referred to us for potential enforcement action. We already had, prior to the final report, commenced inquiries and investigations on these. I do note that none of the prudential breaches of the law or the prudential standards that have been referred to us carry civil or criminal penalty provisions directly, but there may be other avenues to impose sanctions, depending on the specific circumstances.

Further into my statement, I make some comments on superannuation, and I'll just quickly call out a couple of things. Clearly, further consolidation in the super industry, particularly to weed out underperformers, will undoubtedly be beneficial. There has actually been a considerable consolidation of the industry over the decade. There's a table in my statement that shows that the number of APRA regulated funds has more than halved in that period from more than 450 to under 200 now. That's obviously not entirely APRA's doing, but it is a product, at least in part, of a strengthened prudential regime and prudential supervision, which has consistently and persistently raised the bar on the way trustees look after savings. We've also been working further through our member outcomes project over the past year and identified a number of funds that we think were delivering poor outcomes for members. That scrutiny has led to a number of those funds exiting or planning to exit the industry. I also just want to say that we very much welcome what we hope will be the passage this morning through the parliament of the member outcomes bill. For us, that provides a much-needed and long-awaited strengthening of the legislative framework and will be an essential foundation for APRA to more forcefully pursue instances where trustees may not be delivering high-quality outcomes.

Then, I just wanted to make a couple of remarks on housing, which is over on the final page of my statement. There's obviously a lot of attention on housing markets around the country. As the RBA Governor has noted recently, a correction in prices after a period of such rapid increases is probably inevitable. That it is happening at a time of solid economic growth and relatively low unemployment is helpful. Our focus in recent years has been ensuring that prudentially regulated lenders are well positioned in advance to manage the inevitable softening of the market. The sound lending standards and robust capital positions that have been put in place in recent years have positioned the banking system to withstand the adjustment process. Much of the heavy lifting on lending standards was done in the period from 2015 to 2017 as a stronger focus on serviceability assessments was built into the system, and, therefore, over the past year, two of the temporary benchmarks we put in place for interest-only lending and investor lending have been removed.

Let me stop there. They're the highlights. No doubt we'll talk about some of those issues in more detail.

CHAIR: You sound very busy indeed, Mr Byres. Thank you very much for that. I know that a number of senators have questions for you this morning, so I will try and be brief. I did want to ask you specifically about that legislation for protecting super member outcomes that
we are hoping will pass through the House this morning. Can you give the committee some examples that you might have seen that came out of the royal commission where those new powers that APRA would have would allow you to take action faster and potentially with more consequences than you have been able to do before?

Mr Byres: I think there are two obvious ones. The first one is that, up until this point, in terms of breaches of the covenant, section 52 of the act—the best interests duty—has had no penalty provisions against it. That's been a major gap. So, while there has been a requirement there, there's been no obvious sanction that you could use where you felt there may have been a breach. So the introduction of penalty provisions against that particular section of the act is quite important. And the second issue, which again we asked for and have been seeking for some time, is the enhanced directions power. Many of the things that we would like to achieve require a bit of pre-emption. The existing directions power that was in the Si(S) Act was fairly limited in the circumstances in which it could be used and, in particular, limited the capacity to head off problems before they arose. The new directions power will obviously allow us to be much more pre-emptive, and certainly we intend to use that going forward.

CHAIR: There was one issue in the bill that was passed through the Senate about opt-in insurance for under-25s—changing it to opt in rather than opt out—and obviously the government has indicated that it's going to reintroduce legislation regarding opt-in insurance for under-25s and those with a balance below $6,000 in a separate bill, but there was an amendment that was proposed last week by Senator O'Neill that would apply to APRA. The funds would have to apply to APRA for a carve-out to ensure that they could continue to provide opt-in insurance for specific industries. Is there any advice that has been undertaken by the regulator on how that amendment would be or could be implemented?

Mr Byres: It's not appropriate that I talk about our advice. I think what we have said publicly is that we would obviously do whatever we're tasked to do by the parliament, but it would be a complex piece of legislation to administer.

CHAIR: Does complex mean that it would require additional resources?

Mr Byres: Possibly, but I think, as much as anything, there'd be some difficult judgements that would be required. I'm being deliberately a bit vague, because it would depend a little bit on what was the specific nature of the task that we were asked to do.

CHAIR: Has APRA, then, had any advice on what funds might apply for such a carve-out position?

Mr Byres: No, and I think, without understanding the precise nature of any proposal, it's difficult to answer that with any precision.

CHAIR: Yes, I understand that. Then, have you at any point engaged with any external stakeholders regarding that amendment?

Mr Byres: Only with Treasury, I would imagine.
CHAIR: You would imagine or you know?

Mr Byres: We have spoken with Treasury about it, yes. I'm not aware of any other stakeholders with whom it's been discussed.

CHAIR: In that engagement, was any concern expressed relating to the application of the amendment or any policy that would give effect to it?

Mr Byres: That probably goes to our advice.

CHAIR: Normal practice would be to engage widely with stakeholders before the application of an amendment like that would be considered; is that correct?

Mr Byres: It's a bit difficult for me to comment on government consultation processes. If we propose something, obviously, we have consultation obligations, but in this case it's the parliament that's deciding.

CHAIR: All right. So, of the funds that could potentially be affected and that might apply for a carve-out, has APRA received any advice on the profile of the customers that would be considered—

Mr Byres: Sorry, have we received advice from others?

CHAIR: This is quite a significant amendment, obviously, and while it doesn't apply to the bill that's before the House today, potentially it could be reintroduced with the new bill— and I'm trying to remember the name of the new bill that has been introduced. Senators Seselja, you might be able to remind me of that? I think it's something like the members' interests first bill. If such an amendment were introduced that would affect the members' interests first bill, has APRA considered what the profile of customers might look like who would be affected by those amendments?

Mr Byres: Not really, no.

CHAIR: Okay. Is there any potential scenario that APRA has been advised of, whether that be written or informal, where, as a result of such an amendment or policies that would give effect to what this amendment proposes, APRA may have to decline life-insurance applications, or applications by funds where vulnerable customers could be at risk? Is that an appropriate job for a regulator?

Mr Byres: I think that's at the heart of the complexity of these issues; whether it's a job for us is for the parliament to decide.

CHAIR: Potentially, that would put the regulator at some risk, wouldn't it? It would put the regulator in a position where it would have to decline life-insurance applications.

Mr Byres: Yes, well, we're starting to get into hypotheticals here.

CHAIR: Yes.

Mr Byres: I'm not sure I can offer too much more on that.

CHAIR: All right. Could you then assure the committee that APRA has received no advice, whether it be internal or external, that the proposed amendment would impact on any funding applications in a manner that could have adverse consequences for customers?

Mr Byres: APRA's funding, you said?

CHAIR: Yes.
Mr Byres: I think that if the proposal were to be passed by the parliament then, yes, we would have to look at what the resourcing implications were for that. But, again, it depends on the nature of the specific job we've been given and how widespread—how broad—we think it would be. Then we'd have to work through with the government what the resourcing needs would be.

CHAIR: What would happen if APRA rejected an application for opt-out insurance and then somebody died and couldn't claim that insurance? What are the implications of that?

Mr Byres: Very severe for the individual concerned.

CHAIR: What are they for APRA?

Mr Byres: We would have to demonstrate that we had made a decision in accordance with the law.

CHAIR: Okay. Do you think that sort of decision is outside APRA's authority, bailiwick or whatever it is you want to call it?

Mr Byres: The authority is the authority the parliament gives us. I know this sounds a bit circular, but we do the job we're tasked to do. If we were tasked to do a job, we'd have to look at the capabilities we need to do that job.

CHAIR: Do you think if something like that occurred it would potentially undermine the confidence that the public or the parliament have in APRA?

Mr Byres: That's speculative.

CHAIR: Okay.

Senator KETTER: Mr Byres, firstly, on the issue of the macroprudential work that's been done, we've heard that Treasury conducted no specific work to determine the impact of the macroprudential policies on house prices. Is the chairman aware of the existence of any modelling of the direct impact on housing prices from your macroprudential measures as they were being considered at the time?

Mr Byres: No.

Senator KETTER: Okay. Would this work be within APRA's expertise to carry out?

Mr Byres: Probably not. We're not the right agency to be doing macroeconomic modelling. If we wanted to do precise modelling on those things, we would more likely be relying on the expertise in Treasury and/or the RBA. I don't see there's value in us duplicating that.

Senator KETTER: Okay, so you think Treasury or the RBA would be capable of carrying out that type of work?

Mr Byres: I think they're certainly more equipped than we are because they come at things from a macro perspective.

Senator KETTER: And you think it's advisable that that type of modelling work be done?

Mr Byres: I have to say I sort of question the value and comfort you would get from trying to be too precise about the impact of the measures on housing, particularly because there are so many other drivers of house prices. The work that we were doing was not targeted at house prices. You've probably got sick of me saying that at these hearings. We were
focussing on lending standards. There is a whole raft of issues beyond lending standards that impact on supply and demand for housing—for example, population growth, foreign investment. There have been changes to state government taxes, changes to interest rates. There is a whole raft of issues at play here, and any sort of modelling would probably have assumed all of those things away, but they have a big impact on house prices—I suspect more than we do.

Then you also have the problem that there isn't a single housing market in the country: Sydney and Melbourne have obviously had big run ups and are now having a correction; Adelaide has been pretty flat through the period; Perth is still feeling the after effects of the commodities boom, and prices have been declining; Hobart prices have been increasing. So there are very different market conditions. Regional Australia has a different set of conditions and experiences, so modelling all of those things at that level would be extremely difficult I think.

Senator KETTER: Okay. At the time that macroprudential measures were being considered, did anyone ask APRA about the impact that these measures might have on house prices?

Mr Byres: Did anyone?

Senator KETTER: Within government.

Mr Byres: To be definitive I would have to take that on notice, but I think the answer is no, although there have been a number of discussions in this forum where people have talked about house prices. Hence, I continue to say we weren't targeting house prices, but we were targeting lending standards.

Senator KETTER: So you think it's no?

Mr Byres: I think it's no, but I will take that on notice and confirm.

Senator KETTER: Given the fact you've said you had no modelling and probably no particular expertise to respond to that, that's—

Mr Byres: If you were looking for 'did someone ask for a forecast expressed in percentage points', the answer is definitively no. But we did think about, as we introduced these measures, what would be the impact on the supply of credit, what would be the impact on the average borrower, the average lender's loan size, how would LVRs adjust—those sorts of impacts. So we had a sense of what it might do to the supply of credit, but, as I said, there are many, many other factors other than the supply of credit that are driving house prices.

Senator KETTER: Okay; sure. Going back to before the macroprudential measures were introduced, did you think that they would lead to house prices falling by nine per cent in Melbourne and 12 per cent in Sydney over the past year? I acknowledge there are other factors, but perhaps this was in part as a response to your macroprudential measures.

Mr Byres: If your question is: in 2014, when we started this, did we forecast minus nine and minus 12 figures in 2019, the answer is, no, we did not. That's a precision that I don't think anyone would be capable of attempting.

Senator KETTER: Were you surprised by the falls in these two markets?

Mr Byres: No, not particularly. It was probably inevitable. I think that's the phrase the RBA Governor has used—it's been inevitable after such a sharp run-up that at some point the
market has to pause. There has also been a delayed response from the supply of housing stock, so there's now a lot of housing stock coming on the market, particularly in Sydney. Population growth has slowed. So you have a number of big macro impacts that are playing out, and as the demand for housing softens and the supply of housing increases, it's not unreasonable to think that prices will soften and maybe drop back a bit.

**Senator KETTER:** Okay, well let's move on to the consumer data right issue. You have previously expressed concern publicly about systems readiness of the big financial institutions to respond to the rollout of reforms like CDR and CCR. Can you please outline to the committee your current view about that?

**Mr Byres:** Current view on readiness?

**Senator KETTER:** Systems readiness, yes.

**Mr Byres:** I think they are working very hard to be ready. They've obviously got an obligation, and all of the large banks are working very hard to make sure they can meet that obligation. At this stage I don't have any information that suggests they're not going to get there or be materially unprepared, but it's a relatively ambitious agenda and there's a lot of work to do.

**Senator KETTER:** Okay. So what considerations should government and parliament have in mind as we work through the legislative program? Let's start with the CDR.

**Mr Byres:** Yes. I think all of these things—it is difficult. I think the industry has some legitimate concerns—maybe if I step back. One of the issues that I think we all agree on is that we want this to go well. When it's rolled out, we all want it to go well. It's good for the community, it's good for competition and, if done well, from my perspective there are not really any material prudential concerns. In the interests of getting it right, if that means taking a little bit more time—some of the timetables have been adjusted—then I think that's probably a very sensible thing. I'd much rather get it right than have something go wrong in the early days that means the community's trust in the system is undermined.

**Senator KETTER:** There are major implications for competition, for consumers, innovation, big data flows, privacy, cybersecurity.

**Mr Byres:** Yes.

**Senator KETTER:** Do you think a more staged approach needs to happen for these reforms?

**Mr Byres:** I don't know that we would be advocating a more staged approach; I just think it's important. I think the ACCC is looking at this very carefully. I have no doubt at all that they're very actively engaged in thinking with the industry about making sure, as I said, that it's a success when rolled out. But they are in the driver's seat, in the sense of overseeing the rollout, and I'm happy to defer to their views on that.

**Senator KETTER:** But there is a lot happening as of 1 July this year, a lot to take into account. You don't think that's a factor that needs to be looked at?

**Mr Byres:** I think it's something we all have to be very conscious of. There is a raft of reforms that come from different arms of government. One of the things the industry often complains about is each individual proposal is very sensible on its own merits, but the collective or totality of the proposals is difficult to digest. But that's really something I think
that probably Treasury is best placed to do, from the perspective of overseeing all the regulatory initiatives plus the legislative agenda of the government, and making a judgement about whether the timetables need to be adjusted.

**Mr Lonsdale:** If I could just add to that? I agree with Mr Byres that you always have to look at the totality of reform. That is an issue for the Treasury and the government. One point, though, on these sorts of measures is that they are not new. The ideas behind them presented themselves in the 2014 Financial System Inquiry. That's five years ago. There has been a lot of work done, particularly with the UK, to look at where they're going on things like open banking, so there has been a long gestation period to get to where we are.

**Senator KETTER:** But there's a balance to be struck between rolling out reforms and the institutions and the regulators getting the settings and systems right. Where should the emphasis be? Should it be on making sure we get it right, Mr Byres?

**Mr Byres:** I think we always want to get it right. I think, particularly for an issue like open banking, the danger of getting it wrong is significant. You do not want the community, in the early stages, to lose confidence. We should get it in as quickly as we can, because there's a lot of benefit to come from it, but no quicker than we can afford to make sure it's done properly.

**CHAIR:** Surely that's why the rollout would be deferred until February—

**Mr Byres:** As I said, there have been adjustments to the timetable. You always keep these things under review. But it's a balance and ultimately it's a balance for the Treasury, the government and the Parliament to decide which of the competing agendas we want to push forward with fastest and which ones we're prepared to take a slower pace on.

**Senator KETTER:** So it shouldn't be rushed. You'd agree with that?

**Mr Byres:** I don't think anything should be rushed; but we want to make sure it's done successfully, because there is a lot of benefit if the community comes to accept it.

**Senator WHISH-WILSON:** I was going to ask Mr Summerhayes, if he was here—

**Mr Byres:** I can answer for him.

**Senator WHISH-WILSON:** I'm sure you can, Mr Byres. Obviously, following the now famous speech that he gave to the Insurance Council about carbon risk, I note in a follow-up speech and evidence he gave to this Senate committee, he said:

I don't want to overstate APRA's view of the level of risk to the stability of Australia's financial system as a result of climate change and the transition to a low carbon economy. It's not been escalated to the top of any industry risk register, nor is that likely in the near future.

Has APRA reviewed the IPCC's October 2018 report on global warming?

**Mr Byres:** We don't have any particular view on the report, but we continue more generally to making sure the issue remains very visible and on the radar of regulated institutions. We've recently done a survey to try and get a good handle on the various ways in which people are thinking about the impact of climate risk on their business models, how they're thinking about the impact and what they might do in response. I think it's correct to say that the intent is to put out some kind of paper on that. I'm getting nods, so I'd say yes.

**Senator WHISH-WILSON:** That was going to be one my next questions. To be very simplistic, the IPCC's report was certainly the strongest report we've seen from them. It was quite dire and called for urgent and immediate action across the board, including economic
measures. I was wondering if it had given you any cause to reconsider the level of risk, but it sounds like you might have addressed that.

**Mr Byres:** We're continuing to keep it up. As I think Mr Summerhayes mentioned last time, there's also a Council of Financial Regulators working group thinking about the issues from a cross-agency perspective. It's still very much on the agenda, yes.

**Senator WHISH-WILSON:** Great. There's also a report—I have a copy of it here and I'm happy to table it and give it to you, but I'm sure you can access it—by Market Forces, which was released earlier this week, that found that just 32 per cent of large Australian companies for whom climate change is considered a high risk is disclosing detailed information of specific climate risks and opportunities facing their businesses. Are you concerned that corporate Australia is still not adequately insuring itself, let alone the broader public, against the risk of climate change to their businesses?

**Mr Byres:** In a sense, part of our work is to make sure boards and senior executives in regulated institutions are thinking about the issues. One of the issues we've been exploring is the extent to which our institutions are taking up the TFCD—Task Force on Climate-Related Financial Disclosures—recommendations. ASIC is also looking at those issues from a disclosure perspective as well, and we're coordinating that work through the council working group.

**Senator WHISH-WILSON:** When do you think this report might be available, Mr Rees or anyone else?

**Mr Byres:** I hesitate to say next month, but in the next month or two it would be—

**Senator WHISH-WILSON:** I look forward to that with interest. I have a couple of quick questions on the bank levy. We had a lot of discussions on it in recent estimates after it had been implemented. Do you have any information you could provide us on, for example, how much of the bank levy has been passed on to customers since it's been implemented? Have you been doing any work to look at the effects of the bank levy?

**Mr Byres:** We haven't done any work. The ACCC was tasked with doing that work. They put out a report, which I hesitate to quote from off the top of my head, on that very issue.

**Senator WHISH-WILSON:** I'll go away and have a look at that. I think Senator Ketter has already asked a lot of the questions on lending standards that I wanted to focus on. The previous Treasury Secretary, Mr Fraser, used the word 'bubble' a few years ago, which was widely quoted in the media following that disclosure, but I did put it to the new Treasury Secretary yesterday whether they had elevated this issue at all at the Council of Financial Regulators meeting in November last year. Is that your understanding? Was this issue a key topic? Have lending standards and, for example, changing temporary measures like the interest-only measure that you put in place been discussed at the Council of Financial Regulators meeting?

**Mr Byres:** I've been on the Council of Financial Regulators since mid-2014, and at every meeting we have a discussion on housing because it is significant to financial stability. Every time we have done something—for example, the initial benchmark we put in on investor lending and the one we subsequently introduced on interest-only lending—before we make those decisions, we go to the council, and I get the views of the other members. There's a council working group below the council itself which thinks about various proposals and
gives us feedback on what may or may not be a good idea. The answer to your question is yes, absolutely these things are discussed.

Senator WHISH-WILSON: Are you able to give us an indication as to whether it was one of the key issues discussed?

Mr Byres: It's never a cursory discussion, particularly at the last meeting, where we were seeking views on the removal of the interest-only benchmark, which we subsequently decided to do. Yes, there was a substantial discussion on that, as you would expect.

Senator WHISH-WILSON: Had you had correspondence or a formal or informal process with the Treasury prior to that about the removal of that particular temporary measure?

Mr Byres: The Treasury is a member of both the council and the council working group. It was aware of the papers we were going to put to the council in advance of the meeting so that it could come with its views. The short answer is yes, there's regular discussion with the Treasury.

Senator WHISH-WILSON: I know you are fiercely independent, Mr Byres. I'm not going to question your independence, but I think it's an obvious fact that this issue—lending standards versus the balance in the economy for keeping the money flowing—has become fairly political now. I'm not going to ask you for the advice you may have given to government or your opinion, but we have seen in these estimates this week a number of senior public servants express some concern around the politicisation of their portfolios. Are you concerned that on the issue of lending standards, for example, a day after you changed your interest-only short-term measure, Mr Frydenberg was in the national media saying he wanted to keep the money flowing? Are you frustrated that this issue has been politicised to the point that it has?

Mr Byres: No, and I say that because treasurers, quite rightly, can comment on the economy all they wish to; that is their job and one would expect them to. But, in terms of the decisions we've taken, we've taken them without any input, any discussion or any views being expressed by the government.

Senator WHISH-WILSON: So there has been no political pressure brought to bear on you to change these lending standards?

Mr Byres: No. I told the Treasurer. As you would expect, when we make an announcement we send up a minute, just as a courtesy to explain that we're going to make a decision.

Senator WHISH-WILSON: Do you accept for someone working in a bank—and I said this yesterday—I had a talk to a senior executive at a bank just last week. They have laws put in place they have to abide by, which is what you've talked about today. They either abide by those laws or they don't. Do you accept they are put in a difficult position when the Treasurer and others are out saying, 'The money needs to flow, we need to lend,' when they've got very strict criteria about what they can and can't do. And to be honest they are in a very difficult place at the moment, given the royal commission and the pressure on them. Do you see this as making life very difficult for banks that have to implement these laws?

Mr Byres: I think the challenge the banks have had is that the key responsible lending laws—which APRA doesn't administer; they're administered by ASIC, so everything I say
comes with that caveat—are nonetheless principles-based laws. You will make reasonable inquiries, and what is reasonable is sometimes in the eye of the beholder. ASIC is obviously now trying to help clarify those issues a bit more so that all institutions understand better what is acceptable and what is not. There has been some concern over the past year—a combination of uncertainty as to whether the royal commission might recommend changes to responsible lending obligations but also uncertainty about the outcome of cases before courts that ASIC was pursuing—that meant, yes, I think the industry was quite uncertain as to where the boundary might be into the future and, therefore, it was being quite cautious about it. I think one of the bank CEOs in fact said something to that effect earlier this week. A combination of the royal commission being finalised, clarity that there isn't going to be a change to the legal framework and ASIC coming out with some updated guidance, I think all helps people understand exactly the boundaries within which they can operate and helps give them more confidence going forward.

**Senator WHISH-WILSON:** There's one must question from me, with the chair's indulgence. This is a question I put to ASIC last night. I understand Commissioner Hayne wrote to ASIC and to you on the issue of mortgage brokers, referring companies he believed had breached section 1041G. Can you say which companies they were and if you are doing any investigative processes around that?

**Mr Byres:** He didn't write to us. If it's a Corporations Law breach—

**Senator WHISH-WILSON:** He wrote to ASIC but I understand he also wrote to you. Is that not that case?

**Mr Byres:** Unless one of my colleagues knows of it—I'm sure I would have seen the letter if we got something from the commissioner. I will take it on notice to clarify, but I don't think we received any such letter.

**Senator WHISH-WILSON:** You're not aware of it. Okay. Thank you.

**Senator KETTER:** I want to go to the issue of superannuation and particularly the matter of so-called independent directors. The royal commission sets out a number of recommendations—and perhaps in relation to the behaviour of trustees. I'm not sure if you're aware, Mr Byres, but one of the comments made by Mr Hayne in his final port, on page 245, was—when it comes to the issue of independent directors, he said: 'I do not think that the matters of'—and I'm putting these words in—skilled or efficient management of the fund directors acting as best interests of the members—he said: 'I do not think that the matters I have mentioned about board composition and appointment are best dealt with by legislative change.' Does APRA agree with the views of Mr Hayne in that matter?

**Mr Byres:** I haven't got the quote in front of me, but I think our position has long been that whatever sort of fund it is—whether it is an industry fund, a retail fund, a corporate fund, whatever—it's important to have trustees who bring to the table independence of mind and are not representing particular stakeholders but are genuinely acting in the interests of their members. It is difficult to impose through legislation an independence of mind, so in that sense maybe I do agree with the quote that says you can't just legislate it into existence. But I still hold to the view, and APRA has long held to the view—not just in superannuation but also in the other sectors that we regulate—that independent directors play an important role on the board.
**Senator KETTER:** So what will APRA be doing in terms of its approach to supervising board composition and appointment post the royal commission? Are you conducting a review of how you deal with this matter?

**Mr Byres:** I will see if Heidi wants to add anything to what I have to say, but we have a range of recommendations coming from the royal commission that suggest some changes to the prudential framework in our prudential standards, as well as obviously changes that are coming through the member outcomes bill that will give us more powers to make sure trustees are performing in the interests of their members. So we are looking at the lessons that come from the royal commission, the recommendations that have been made, and some of our own supervisory experience, and thinking about how we can improve the performance of trustees. We obviously, though, recognise that we have to do that within the legislative framework that exists, and that allows for different trustee models and we have to work within that.

**Senator KETTER:** Is there some sort of review you are preparing? If it is a review, when will you be completing the work in relation to this new approach?

**Ms H Richards:** We did a review around board capabilities and composition in 2017-18, and we published some of the results of that last year. It outlined a range of areas where we thought the industry could do better, and we are following up with individual institutions on the results of that review. We are also undertaking a program now to review elements of our prudential framework and—

**Senator KETTER:** I am particularly focused on the recommendations from the royal commission in relation to trustees. I presume you've factored that into what you are doing, what Mr Byres was talking about earlier?

**Ms H Richards:** That's right. And we will be factoring that into our review of the prudential framework around board capabilities and those issues.

**Senator KETTER:** Right. Senator Seselja, given the comments of the royal commissioner that I've referred to where he indicated that legislative change is not the best approach when determining board composition, do you now want to take this opportunity to tell us what's happening with the government's position here in respect of the Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017, which goes to the issue of one third—

**Senator Seselja:** Sorry, I just missed some of the lead-up commentary. You will have to bring me back up to date with exactly where you were going.

**Senator KETTER:** As I indicated, Mr Hayne's view is that legislative change is not the best approach to determine board composition when it comes to superannuation. But the bill the government has sought to introduce during this course of parliament, the Superannuation Laws Amendment (Strengthening Trustee Arrangements) Bill 2017, goes to exactly that point. Do you want to express regret that that has happened, because it's inconsistent with the views of the royal commissioner?

**Senator Seselja:** I don't accept the premise.

**Senator KETTER:** All right. Let's move to the enforcement of the SI(S) Act. Given the royal commissioner's final report, Mr Byres, I want to continue my line of questioning from the last round of estimates, where there was already some criticism out there about APRA's
actions, or lack of actions, particularly when it comes to superannuation supervision. On top of the royal commission report, we've now had the Productivity Commission report. I must confess I was a bit surprised that you didn't make reference to that in your opening statement—or I couldn't see any reference to it.

Mr Byres: No, it's not there, and it's not for lack of interest in that report or any lack of respect for that report; it was only that I was already fearing that my opening statement was way too long! I'm happy to talk about it.

Senator KETTER: Well, it was pretty scathing, not only about APRA. Some of the commentary was around regulators 'missing in action', lack of data—'yawning gaps in data'. Once again, I want to give you the opportunity, Mr Byres, to say: do you regret the actions that APRA has failed to take in the past? Do you want to apologise for the way in which APRA has been conducting its responsibilities under the SI(S) Act?

Mr Byres: I think we can show a very good track record of making significant improvements to the superannuation industry. I don't think there's any sense that there's been a lack of action. There are always things that you can do more of or do better, and, happily, we are very ready to take those on board and do so. But the proposition that there's been nothing done in the superannuation sector I don't think holds up to scrutiny. If you look in the opening statement, the considerable consolidation of the industry is in fact a reflection of the fact that we, with the support of the governments, have raised the bar considerably in super. There are a whole raft of funds that have exited the industry as a result.

In our member outcomes work that I referred to in the opening statement, we identified this group of funds, on a number of metrics, which looked like they were underperforming. Many of those have accepted that the writing was on the wall and either have exited or are exiting the industry. Others have made changes to pricing or other fees et cetera to recognise that they need to be more competitive and make a more compelling offer to their members. There is, I think, a lot of action we can point to that shows that we have been exercising our functions and really looking after the members within the super industry.

Senator KETTER: The Productivity Commission said:
The regulators—
and ASIC is included here as well—
appear focused on funds and their interests, and not on whether members' needs are being met and their interests unharmed.
That sounds like a pretty scathing criticism.

Mr Byres: All I can do is point to what we've been doing, which is all about member outcomes and improving member outcomes.

Senator KETTER: Is it also clear from the royal commission report that, while conduct regulation will become the remit of ASIC in super, none of your powers under the SI(S) Act would be diminished?

Mr Byres: Yes, that's an explicit recommendation. I can't remember the number offhand; I have it here. Essentially, what we had in superannuation was the 'twin peaks' regulatory architecture, but the SI(S) Act didn't really align with it. We submitted to the royal commission and ASIC submitted to the royal commission, as I think also did Treasury, that there was an opportunity here to realign responsibilities under the act to make them better fit
the twin peaks—APRA, prudential; ASIC, conduct—regulation model. The royal commission agreed with that. That's the recommendation. But, importantly, the recommendation makes clear that it's really important that APRA can still do its prudential job, and therefore any changes are to be made without reducing APRA's powers to do its job.

Senator KETTER: So it's open to you to take stronger action against trustees who don't act in their members' best interests, using the existing provisions of the SI(S) Act?

Mr Byres: I think where we will really be able to up the ante is with the member outcomes bill, because we now have penalties that we didn't have before, and we have a directions power that we didn't have before. They're the two key pieces of armoury that have been missing in superannuation. For us, they are a game changer.

Senator KETTER: Ms Richards was talking about the review. What will change in APRA that will see us moving away from the sorry history—that's my description—so that we can guarantee that the best interests of members are looked after in superannuation?

Mr Byres: I might ask Mr Lonsdale to talk about this because he's doing our enforcement review at present, and it's part of a broader review of enforcement in APRA, not just in superannuation but also reflecting the responsibilities we have under the BEAR.

Senator KETTER: I'm interested in that, but, Mr Byres, I am interested in what can happen right now to lift the approach to ensure that there is stronger action taken to protect members.

Mr Lonsdale: If I can answer: there are two elements. If you want to come back to the enforcement review, I am happy to do that. The first element, though, goes directly to the royal commission. The royal commission have made 12 direct referrals to APRA, all related to super. In terms of what we're doing, we have now written to all those organisations, informing them that we are doing an investigation. We will be asking for information and indeed are asking for information. We will be seeking independent legal advice to APRA on whether or not, with this information, a case exists to prosecute and go to court, particularly in the light of the penalties that currently exist or the new ones that could well emerge that Mr Byres talked about. And we have established a new committee focused on resolution and enforcement. I am the member who will chair that committee. This evidence will come to the committee and it will be member led in terms of the action that will happen in these 12 cases.

I am happy to come back to the enforcement review, but it's relevant here because I think what you will find coming out of that review is an increased appetite to take on coercive tools and an APRA that is quite explicit about that. The two go together.

Senator KETTER: Chair, I do have further questions, so—

CHAIR: Can I just jump in. Yes, it did run out, and I won't be long. I want you to expand a little bit more on the enforcement review that you're doing, Mr Lonsdale. Specifically, I want to know who is doing it, when it will be finished, and who from outside APRA is assisting you with that review.

Mr Lonsdale: Shall I handle that now?

CHAIR: Yes.

Mr Lonsdale: We announced in November that APRA will be undertaking an enforcement review. I am leading that work. I'm the member doing that work. We've
published the terms of reference on the website. We have a small secretariat that is assisting me in the work. We have appointed an independent committee of experts. It really is a sounding board to help us. It is not their report, but they will be helping us on the journey. We have Bob Austin, a former judge, a very senior judge; we have Dimity Kingsford Smith, an academic from UNSW with considerable experience on law and enforcement; and we have Sarah Court, who is currently on the ACCC, who is used to dealing with enforcement activity on a day-to-day basis. We have had two meetings. There's a third one tomorrow. They have been invaluable in our thinking about how to take this forward.

We commenced in November. The broad time frame is that the other members will see a draft of the report at the end of this month, and we will finish the report at the end of March. We are on track to do that. We've committed that we will publish the report after that, together with an APRA enforcement strategy, so you'll see that after March.

In terms of how we've been doing our work, it's premature to talk about the recommendations because obviously we haven't finished. We are more than halfway through. But I can give you the thrust. In terms of how we've been doing our work, we've done a very large survey throughout the organisation to really get to the bottom of how supervisors are doing their work in using coercive tools or not. We have benchmarked ourselves against international regulators like the PRA, OSFI and DNB; regulators not doing prudential work but working in the financial space—for example, ASIC and ACCC a little bit as well; and even other safety regulators outside the financial sector, really just to test our thinking. We've been doing that. We've looked at hundreds of supervisory decisions and 25 case studies within APRA. We have the royal commission report as well to benefit from, as well as the independent panel.

I think where we're getting to is that there are some gaps in how we think about enforcement. I think I mentioned that the last time we met. When you think about what other international prudential regulators are doing, we're a bit out of line there, and I think we can close that gap. Really the centrepiece of it is moving from the enforcement appetite that is last resort to one that is more constructively tough. That means that, where an entity is being uncooperative, we will move much earlier. We will pay particular attention to providing a public deterrent, and we will be operating on a broader range of issues, not just solvency issues but also some of the cultural issues that have been identified by the royal commission.

CHAIR: It's interesting that you say that. That's my next line of questioning, I think. Obviously, the royal commission—I'm just backing up what Senator Ketter said—made some quite strong comments about how APRA needs to change, and clearly APRA is responding to this. I get a sense from both your opening statement, Mr Byres, which I've just gone through, and the evidence we've heard today that there is a sense of urgency about those changes in the regulator, which is terrific. But I'm wondering whether you can speculate for me, Mr Byres, a little bit about what APRA might look like in three years time.

Mr Byres: That's a good question. I think the important thing to say, as John said, is that there is an opportunity, particularly because we have some new powers. We've asked for these powers for some time. The parliament is now, hopefully, giving them to us. And it is our intent to use them. We've wanted them for a reason, so it is our intent to use them. We will still be, though, at our heart a prudential regulator, so we will not be, all of a sudden, a police...
force. But I think we can do more, particularly if we're well equipped to do so, to use those powers and tackle issues more quickly than perhaps we've been able to do in the past.

CHAIR: The commission spoke specifically about the Banking Executive Accountability Regime, the BEAR, and how it should potentially be expanded, rolled out to broader industry. Commissioner Hayne also made a recommendation—I thought this was quite interesting—that the principles of the BEAR should apply to APRA. Do you have any issue with that?

Mr Byres: No, I don't have an issue with that. I think the experience in the UK, where they've had the BEAR-equivalent regime longer than we have, has been that the concept of having clear accountability statements and an accountability map is good governance, really. I don't have an issue with an obligation on us to produce our own statements of accountability and to have those published.

CHAIR: Let me ask about some of the little nuts and bolts to do with the BEAR. Obviously, it's been in place now for, I think, six months or so in the big four banks. What is APRA's role in oversight or implementation of the BEAR in those organisations?

Mr Byres: You are right: it's been in place since 1 July for the four major banks. For all other banks and deposit takers, it comes into effect from 1 July this year, 2019. As I said in my statement, when it's done, for all ADIs there'll be about 1½ thousand executives and directors who are subject to statutory accountability obligations.

CHAIR: If those statutory accountability obligations are breached, is it you or is it ASIC that have—

Mr Byres: Under the current arrangements—recognising that the government has accepted the royal commission's recommendation that they should be extended—yes, there are powers available to us that ultimately could lead to an individual being disqualified from the industry.

CHAIR: Can I ask then in that context—and this might be getting a little bit impertinent of me—did APRA have anything to do with the ousting of Dr Henry and Mr Thorburn from the National Australia Bank?

Mr Byres: I don't want to get into commenting on individual organisations.

Senator KETTER: I want to move to the Productivity Commission report, which I referred to earlier. It was pretty scathing, as I said, of APRA's lack of curiosity in using the data it collects to understand what's going on in the system. In particular, I would instance the comparison between retail funds and industry super funds. Over the last couple of years, I had the opportunity to ask questions of APRA and Mrs Rowell during the course of the bill I was referring to earlier. I asked Mrs Rowell:

Do you accept that the choice sector has underperformed the Mysuper sector by approximately 1.5 per cent since its inception?

She answered:

No, I don't. I disagree with that analysis as providing a meaningful comparison.

To me, it is indicative of something else going on, a lack of willingness to look at the data.

I note there has been a recommendation for a capability review. Given these recommendations about APRA, what will you be doing in the next 12 months to improve data capabilities in particular?
Mr Byres: I might start and, if Heidi wants to add anything, she can. The first thing I will say about data in super is that there are lots of generalisations made from high-level data and, inevitably when you dig into things—and I think this is the point: APRA does dig into things—it is much more complex and much more nuanced than the headline numbers. I think as Mrs Rowell has said on many occasions, there are some general statements but, when you drill down, there are some very good-performing industry funds and there are some less well-performing industry funds. There are good-performing retail funds and there are less-well-performing retail funds. The important thing is to not work with the generalities but to drill into the individual funds.

The member outcomes work that I mentioned earlier was an example of APRA using the data it has—and I accept that there are limitations on the data we collect at present—to produce a quite comprehensive set of metrics across a range of different measures, because there's no single measure of performance, based on net return, gross returns, fees, charges etc, and then identify the cohort of funds who seem to be underperforming across a number of different measures. We've used that to put pressure on those funds to lift their game in some shape or form. As I said, in about half of those cases, putting that data in that compelling way in front of trustees has meant that the trustees have decided that the best thing they can do for their members is hand them over to someone else and exit the industry. So I don't think there is any lack of curiosity about what's in the data. We can definitely improve the data. We've got a very big program of work underway to completely overhaul our data infrastructure. That includes the infrastructure through which we collect data from institutions and, ultimately, the ability to give much more meaningful data to the community and other stakeholders who are interested in analysing it.

The final point to make is that one of the other important features of the recent legislative amendments is a very important provision on look-through and the ability to collect data on fees and expenses on a look-through basis. That has been one of the big impediments we have had to being able to really identify performance. The new power will obviously help us close that gap. Heidi, is there anything else that you'd like to offer?

Ms H Richards: In the super area, we do have a program of work underway and we have been looking at the areas that the Productivity Commission called out and in particular, getting better data on investment options at the choice product level, which is very tricky. There are thousands of them. That's something that we've been working on with the industry for a little while.

The other one is expense data that actually looks at filling some of the gaps relating to definitional inconsistencies across the industry. So it's an important piece of work, and we're taking it pretty seriously and getting on with it.

Senator KETTER: Mr Byres, from what you just said about the analysis of industry versus retail or choice versus MySuper, it sounds to me as if you're not resiling from the comments that Ms Rowell made two years ago that it's not a meaningful comparison.

Mr Byres: I'm just making the point that I don't think it gets you very far. The average number is not particularly helpful.

Senator KETTER: Are you aware that the Productivity Commission, I think, conclusively demonstrated that industry funds outperform retail funds?
Mr Byres: That's an average outcome, and that's what the data shows. I'm not disputing the fact that that's what their analysis shows. The point is that, to deal with that, you have to do it fund by fund. There are some retail funds that outperform some industry funds and vice versa. You have to drill down into the data and look at it fund by fund. You have to also make sure that you're comparing like with like—that they have similar investment strategies and there are not other factors at play that are influencing the net returns. I'm not disagreeing with the proposition; I'm simply saying there is an issue that needs to be dealt with in terms of underperformance in the superannuation sector, but the high-level averages are not going to help us deal with that.

Senator KETTER: Okay, but I think what the Productivity Commission also found was that asset allocation differences didn't explain the outperformance issue, so there was something else going on.

Mr Byres: I think they found that there were a number of drivers at play, and asset allocation was one, but there was also a big unexplained component. That's really my point. There are a number of drivers of relative performance, and just comparing two averages across two large populations doesn't get us very far. We really want to weed out the underperformers, which is what we're trying to do. You have to go fund by fund.

Senator KETTER: Do you want to add anything to what you're going to be doing with your existing and new capabilities over the next 12 months or so in this area?

Mr Byres: I think we're very pleased with the success of the first go at the member outcomes project. It has proved that we can use the data more effectively, and the ability to utilise that data in a way that makes a compelling case to trustees is very useful. So the short answer to your question is that I think we want to intensify that work.

Senator KETTER: Will it include an assessment of industry, public sector, corporate and retail funds at the fund level?

Mr Byres: That's essentially what we're doing at present. In the work we did on member outcomes, we picked a bottom cohort, but we're essentially using all APRA funds, running them through on a range of metrics, ranking them and finding the ones that ranked performing across a number of dimensions. They were, if you like, our first hit list. Having worked through those, now we've got to come back and look at the next lot.

Senator KETTER: At the product level?

Mr Byres: If we've got the data, we can get to product level.

Senator KETTER: Thank you very much.

CHAIR: Thank you very much to the officers of APRA. We'll let you go. Thank you, Minister Seselja.
INDUSTRY, INNOVATION AND SCIENCE PORTFOLIO

In Attendance

Senator Canavan, Minister for Resources and Northern Australia
Senator Birmingham, Minister for Trade, Tourism and Investment

Executive
Dr Heather Smith, Secretary
Ms Mary Ann O'Loughlin, Deputy Secretary
Ms Elizabeth Kelly, Deputy Secretary
Mr Mike Lawson, Deputy Secretary
Ms Sue Weston, Deputy Secretary

Anti Dumping Commission
Mr Dale Seymour, Commissioner
Mr Paul Sexton, General Manager, Investigations
Mr Nathan Zhivov, General Manager, Economic and Strategic Services

AusIndustry, Industry Capability and Research
Mr Duncan McIntyre, Head of Division
Ms Joanne Mulder, General Manager, Research and Development Tax Incentive
Ms Sue Cattermole, General Manager, Centre for Defence Industry Capability
Ms Veronica Heard, Acting General Manager, Centre for Defence Industry Capability
Ms Jennifer Kay, General Manager, Industry Research and Investment

AusIndustry, Support for Business
Ms Teena Blewitt PSM, Head of Division
Ms Lisa Hind, General Manager, Service Strategy and Governance
Ms Annie Ryan, General Manager, Department of Industry, Innovation and Science Grants Administration
Mr Steve Stirling, General Manager, Entrepreneurs' Programme, Programme Management and Delivery

Australian Building Codes Board
Mr Neil Savery, Chief Executive Officer

Australian Space Agency
Dr Megan Clark AC, Head of Agency
Mr Anthony Murfett, Deputy Head of Agency

Corporate
Ms Janean Richards, Chief Operating Officer
Mr Brad Medland, Chief Financial Officer
Ms Janice Wykes, General Manager, Ministerial and Shared Services
Ms Virginia Cook, General Manager, Communications
Mr Maris Stipnieks, General Manager, Legal, Audit and Assurance
Ms Rachael Jackson, General Manager, People and Planning

**Digital Strategy and Operations**
Rebecca Lee, Chief Information Officer, Digital Strategy and Operations
Clive Rossiter, General Manager, ICT Operations and Security

**Economic and Analytical Services**
Ms Melissa Bray, General Manager, Economic Advice Service Branch
Mr David Turvey, General Manager, Insights and Evaluation Branch

**Industry Growth**
Mr Trevor Power, Head of Division
Dr Gary Richards, General Manager, Advanced Technologies Branch
Mr David Lawrence, General Manager, Sectoral and Place Based Policy Branch
Ms Jessica Carew, General Manager, Industry Transition Branch
Ms Rebecca Manen, General Manager, Business Facilitation and Food Policy Branch

**National Measurement Institute**
Ms Ann Bray, General Manager, Engagement and Business Development

**Northern Australia and Major Projects**
Ms Sam Reinhardt, Head of Division
Mr Nick Purtell, General Manager, Major Projects
Ms Sam Chard, General Manager, National Radioactive Waste Management Facility
Mr Mark Coffey, General Manager, Office of Northern Australia

**Office of Innovation and Science Australia**
Dr Charles Day, Chief Executive Officer

**Office of the Chief Scientist**
Dr Alan Finkel, Chief Scientist

**Questacon**
Professor Graham Durant, Director
Dr Bobby Cerini, Acting Deputy Director and General Manager, Science and Learning

**Resources**
Mr Paul Trotman, Head of Division
Mr Bruce Wilson, Principal Advisor
Mr Michael Sheldrick, General Manager, Onshore Energy Branch
Mr Jason Russo, General Manager, Onshore Minerals Branch
Ms Lisa Schofield, General Manager, Timor Sea
Mr Geoff Whelan, Acting General Manager, Offshore Resources Branch
Dr Gino Grassia, General Manager, Resources 2030 Taskforce
Mr Graeme Waters, General Manager, National Offshore Petroleum Titles Administrator
Rachel Fry, Manager, Legislative Compliance Team, National Petroleum Titles Administrator

Strategic Policy
Dr Chris Locke, Head of Division
Mr Martin Squire, General Manager, Trade and International
Mr Wayne Calder, General Manager, Business Environment
Ms Narelle Luchetti, General Manager, Digital Economy and Business Simplification
Ms Anthea Long, General Manager, Strategic Policy

Science and Commercialisation Policy
Mrs Jane Urquhart, Head of Division
Mr David Luchetti, General Manager, Australian SKA Office
Mr David Wilson, General Manager, Commercialisation Policy Branch
Ms Claire Forsyth, Acting General Manager, Science Agencies Governance Branch
Dr Sarojini (Ro) Mitchell, Acting General Manager, Science Policy Branch

Australian Institute of Marine Science
Dr Paul Hardisty, Chief Executive Officer
Mr David Mead, Executive Director Strategic Development

Australian Nuclear Science and Technology Organisation
Dr Adi Paterson, Chief Executive Officer

Commonwealth Scientific and Industrial Research Organisation
Dr Larry Marshall, Chief Executive
Dr Peter Mayfield, Executive Director, Environment, Energy and Resources
Dr Dave Williams, Executive Director, Digital, National Facilities and Collections
Ms Ilona Charles, Executive Director People
Mr Nigel Warren, Acting Executive Director Growth
Mr Tom Munyard, Chief Finance Officer
Dr Jack Steele, Director Science Impact and Policy
Dr Anita Hill, Executive Director, Future Industries
Ms Judi Zielke, Chief Operating Officer

National Offshore Petroleum Safety and Environmental Management Authority
Mr Stuart Smith, Chief Executive Officer
Mr Derrick O'Keeffe, Head of Division, Safety and Integrity
Mr Cameron Grebe, Head of Division, Environment

Northern Australia Infrastructure Facility
Ms Laurie Walker, Chief Executive Officer
Mr Adam Thatcher, General Counsel
Ms Carol Bellettini, Chief of Staff

Department of Industry, Innovation and Science

[12:01]

CHAIR: I was going to say 'good morning', but I think we've just tipped over into afternoon. The committee will now examine the Industry, Innovation and Science Portfolio with questions for the department. The hearing will then follow the order as set out in the circulated program. I welcome the Minister for Resources and Northern Australia, Senator the Hon. Matthew Canavan, and also officers of the department. Minister or Dr Smith, do you have an opening statement for the committee?

Dr Smith: I do not.

Senator Canavan: I do not.

CHAIR: I might defer the government's questions to Senator Sinodinos.

Senator SINODINOS: I want to begin by asking about this, and I think it's appropriate to ask this of the department: there's been a lot of action on the women in STEM front, and I just want to get an update on where those initiatives were at, including things like SAGE. Is it appropriate to ask the department about that?

Dr Smith: Yes, it is, Senator. As you are aware, we have a number of actions on women in STEM, beginning with the National Innovation and Science Agenda in 2015, followed by measures that came through in the recent budget as well as work that is currently ongoing. I'm happy to ask one of my colleagues, Dr Mitchell, to take you through that.

Dr Mitchell: Yes, the government is indeed committed to increasing participation of girls and women in STEM studies and careers, and it's crucial that we nurture and tap into the entire pool of STEM talent in our population to support a more innovative, inclusive and prosperous economy. This is reflected in the 2018-19 budget, where the government committed over $4.5 million over four years to support long-term strategic approaches to encourage more women and girls to pursue STEM education and careers. This work has included developing the inaugural Women in STEM strategy; support to the sector to develop the decadal plan; and support to develop a Girls in STEM Toolkit to really open up the eyes of school-age girls to the exciting careers that can be there for them in STEM.

It has also included support for the inaugural Women in STEM ambassador. Professor Lisa Harvey-Smith was appointed as the inaugural Women in STEM Ambassador, and she has already been doing a great deal of work in her role even though she has just recently taken it up. Professor Harvey-Smith has completed a number of media engagements in her role. These have included an exclusive write-up in The Australian; co-hosting the Prime Minister's Prizes for Science late last year; and an interview with ABC News Breakfast and ABC radio. She also attended the meeting of the women's advisory roundtable in November last year and has met with a large number of key government stakeholders. Professor Harvey-Smith has recorded a number of promotional videos, including for the 2019 Prime Minister's Prizes for Science and one for the International Day of Women and Girls in Science. This video was shared on our science.gov.au Twitter account and it is the strongest-performing post ever.

On the International Day of Women and Girls in Science, on 11 February, Professor Harvey-Smith attended the University of Tasmania outreach program with over 200 girls
from years 3 to 9. She spoke on ABC Radio and Channel 7 News on the importance of young girls meeting real women in STEM and posted on social media throughout the day. Professor Harvey-Smith and her fellow astrophysicist, Associate Professor Alan Duffy, posted a number of video exchanges on social media about the importance of the day which had nearly 2½ thousand views. On International Women's Day, Professor Harvey-Smith will be a panellist at an International Women's Day breakfast in Melbourne hosted by the Australian British Chamber of Commerce. She will also discuss her new ambassador role, how she has overcome challenges and achieved her goals, and the many, many positive aspects of having a career in STEM.

The support in the 2018-19 budget builds on the $13 million that came through the National Innovation and Science Agenda from 2016 to 2019-20. That's $13 million, as I said, for the following measures: the Male Champions of Change; the Women in STEM and Entrepreneurship grants program, which includes the Superstars of STEM, which is a fantastic initiative; and the Science in Australia Gender Equity project, which you mentioned, Senator. You asked particularly about SAGE. There was a valuation done last year and it found that it was already having a range of positive impacts. These positive impacts include: gender equity within the participating institutions, increased career satisfaction and opportunities, improved working practices to support career progression, increased visibility of women in science, and an increased proportion of women in STEM departments. Further to this work, the department is also doing a great deal of work to increase the number of female scientists, innovators and teachers recognised through the Prime Minister's Prizes for Science in all categories and has taken a range of steps to address unconscious bias and gendered language in the guidelines—all around further demonstration of the government's commitment to increasing girls and women in STEM. Together, these initiatives are encouraging—via the government—more girls and women to pursue STEM studies and careers and is ensuring that they are supported to pursue the rewarding career paths and build workplaces that appreciate connection between diversity of talent, skills and background to increase productivity.

Senator SINODINOS: When is the decadal plan for women in science due to be delivered?

Mrs Urquhart: I was speaking with the academy today. We're working very closely with them on their draft decadal plan, as are many other passionate people in the sector. They have an expert working group that is very actively involved. There is a draft being finalised in coming weeks. The academy is intending to launch that decadal plan on 22 March.

Senator SINODINOS: Has anything in particular held it up? Are they subject to conflicting work requirements?

Mrs Urquhart: Not that I'm aware of, Senator. In fact, as I said, they have had pretty enthusiastic engagement from the sector. Their expert working group includes the Women in STEM Ambassador, Lisa Harvey-Smith and other eminent women across science, technology, engineering and mathematics. The Academy of Technological Sciences and Engineering, although its name has changed—it's actually the Academy of Technology and Engineering—has been very involved obviously because it, in particular, brings an engineering and business industry perspective. Also, I'm aware of engagement by the Academy of Science with what you might call 'critical friends' across the sector. Those are
significant women, deans of science and engineering in various institutions, and significant academics in mathematics who are very involved in reviewing the draft and working with the academy.

Senator SINODINOS: Going back to SAGE, is there any plan to expand the take-up within higher research institutions?

Mrs Urquhart: You are obviously asking about research organisations participating in the Science in Australia Gender Equity program?

Senator SINODINOS: Yes.

Mrs Urquhart: Since the start of the pilot in 2016, there have been 44 research organisations participating and actively working to implement policies and practices to address barriers that adversely affect women's career progress as scientists in academia. Examples of that include improvements in parental leave policies and entitlements, new support programs, funding schemes for staff with carer responsibilities, expanded on-campus childcare places and women-only recruitment processes for positions and disciplines where they're underrepresented. Of those 44 participating organisations, 15 of those were awarded inaugural SAGE bronze awards in December. They were the first cohort recognised with a bronze award. There are two further cohorts in the system. I should note that ANSTO and CSIRO were among the 15 in the first cohort. The second cohort are expected to submit applications for bronze in March, and the third cohort in July. It's worth noting for the portfolio that the Institute of Marine Science and Geoscience Australia are members of cohort 3, and they're expecting to submit applications in July.

Senator SINODINOS: Okay, very good.

Senator KIM CARR: Can I turn to another topic: the issue of complementary medicines. Senator Canavan, you might be needed for this. This is a matter I have raised in previous estimates. The department has responded to questions on notice S1-1 and S1-2. I sought advice from you as to when you were first made aware of the problems that we're having with the complementary medicines issue and the use of the Australian Made logo. It transpires that this is a matter that has been before the department for nearly two years. The point that I raised with you, Mr Lawson, was about why the department couldn't seek to resolve the difficulties which had obviously come about from unintended consequences of the changes to the use of the Australian Made logo and a result of the ACCC's interpretation of legislation that had been carried by this parliament. The ACCC chair had emphatically stated on numerous occasions that it was not a matter for the ACCC to interpret the guidelines but to actually act within them as they were written. You will recall I asked why this matter couldn't be resolved by regulation. Perhaps you could confirm my reading of your answer to my question. I asked why this matter couldn't be dealt with through regulation rather than a complicated legislative response to correct an administrative error in the legislation. I asked why regulations couldn't be deployed to sort this out. You confirmed my proposition that subsection 255(3) provides a mechanism by which regulations could be used. Is that correct?

Mr Squire: Yes, that's correct.

Senator KIM CARR: That is, particular classes of goods could qualify for 'safe harbour' defences. My question to you now, Mr Lawson—because you were the one who answered
last time and I think you're the most senior officer on this—is: has there been advice to government to actually do that?

Mr Lawson: I'll ask my colleague to take you through the details of what's been happening. As we have indicated, the government has commissioned a task force to look at that.

Senator KIM CARR: I'll come to the task force. That's not my question. My question is: has the department recommended a course of action to the government?

Senator Canavan: Chair, and through you to Senator Carr, I think that's starting to get into a question of policy, particularly around the recommended path, but you're free to ask about advice that may have been provided.

Senator KIM CARR: My point you has been, all along, that this matter could be sorted out quite smartly by way of regulation. The department has now confirmed that that is a correct position—again today. My point to you now is: why hasn't that happened?

Senator Canavan: That's again a policy matter, sorry, Chair.

Senator KIM CARR: Then, Minister, if it's a policy matter perhaps you can enlighten me. Why has that not happened?

Senator Canavan: As Mr Lawson was pointing out, the government has announced and established a task force to investigate this issue. We are consulting in a constructive way with the industry affected here. You've jumped from asking a technical question over whether something could happen to a normative statement that it should. As I think I discussed in brief last time, we want to ensure, of course, that any use of the Australian Made logo is done in a way that's robust and defends the integrity of ensuring that such products are indeed Australian made.

Senator KIM CARR: Minister, why does the task force that you've placed some emphasis upon not actually have, as part of its terms of reference, consideration of regulatory change?

Senator Canavan: My understanding is that the task force has a broad terms of reference, and I'm not aware of—

Senator KIM CARR: I've got the terms of reference here. I can't see any reference to regulation.

Senator Canavan: What I was going to come to is that I'm not aware of the terms of reference limiting the task force in that way. As you know, Senator Carr, I'm not the responsible minister, but my understanding is that the minister's view on this matter is very open-minded and engaged in a constructive way on how we might tackle this situation.

Mr Squire: The task force is open in terms of examining the particular claims that have been made by the complementary medicines industry.

Senator KIM CARR: The industry may have another set of options to put you. I'm putting to you the question of regulations being a method to resolve this matter. You have confirmed that that is a viable solution. I want to know why that has not been put as part of the task force terms of reference.

Mr Squire: I draw your attention to point No. 5 in the scope, which says, 'Identify appropriate next steps for responding to the sector's concerns.' My reading of that is that it
means that it doesn't exclude or preclude regulation or legislation changes if that is appropriate.

Senator KIM CARR: How long does it take before we actually see a factory close? Is that what drives this issue? Do we have to see the detrimental effects of this matter before the government actually does anything?

Mr Squire: The work of the task force, including meeting with industry and representations of industry, has demonstrated that this issue is more complicated and more difficult than the claims that may have been made. For example, two of the majority exporters, Blackmores and Swisse, have informed the task force that they don't use the logo on their export products and have enjoyed considerable success overseas. Also, the committee heard evidence this morning from the ACCC that it's not black and white that all complementary products are unable to use the logo. Indeed, evidence from the ACCC confirmed the view of the relevant industry association that simple encapsulation is not considered by the industry association as qualifying for a 'made in Australia' claim. So our research and exploration with the industry to date is starting to unpack this issue in a lot more detail. We've also engaged Colmar Brunton to undertake consumer research, which has indicated that consumers place a very high value on the Australian Made, Australian Grown logo and expect that products carrying that logo are 100 per cent Australian made and have 100 per cent Australian content.

Senator KIM CARR: You know that's not right, don't you?

Mr Squire: That's a greater expectation than what the current use of the logo—

Senator KIM CARR: What the law requires—

Mr Squire: Correct.

Senator KIM CARR: and has ever demanded or has ever operated on. So why would you possibly say that, Mr Squire? Mr Squire: Because it's a fact. That's what the consumer research is showing.

Senator KIM CARR: You can state it's a fact, but it's completely irrelevant to this particular situation.

Mr Squire: I think it demonstrates that this is an issue that the department has taken very seriously, as has the government, in establishing the task force. We've met with industry. We've commissioned consumer research. We've commissioned an industry survey, undertaken by our department, and that research is showing that this issue is not as clear-cut as some may have—

Senator KIM CARR: Mr Squire, you were first contacted about this matter in August 2017. In that time, you've got the mirror out and you've had a look into it. That's what you've just said to us: you've had a look into it. You've done absolutely nothing about it. Is that not the case?

Mr Squire: I don't accept that.

Senator KIM CARR: What have you actually done again? You've had a survey. You've done some research. What have you actually done?

Senator Canavan: I'm happy for the officials to contribute as well, but, Senator Carr, you're again straying into areas of policy, given that you're asking the officials to make
decisions. The government has heard these issues. It's responded with the establishment of the task force. As the official has indicated, this matter is perhaps not as clear-cut as you're putting forward, but we remain constructively engaged with the industry to ensure we get the appropriate outcomes and balance needed to maintain the integrity of the Australian Made framework and system, as well as to assist Australian manufacturing and opportunities in this country.

Senator KIM CARR: Is it the case that the department is actually looking at this as if it were another food product?

Mr Squire: No, that's not correct.

CHAIR: Senator Carr, I'm conscious that we're going to break for lunch in just a few minutes and Senator Sinodinos has a funeral to go to, so he won't be coming back immediately after the break. He has a couple of questions he would like to ask the department before the lunch break.

Senator KIM CARR: All right. Then we'll have to come back to this issue after the break.

Senator SINODINOS: I want to follow up on one of the initiatives from a couple of years ago: our becoming involved in the European Southern Observatory, with a happy signing ceremony and all sorts of other bells and whistles that I've been following on Twitter. There seems to be a bit of progress going on, but I thought I'd just get an official view about the progress on that initiative.

Ms Forsyth: Thanks for your question. Things are going really well. The department and the optical astronomy community have been working really closely together to implement the budget measure Maintaining Australia's Optical Astronomy Capability, and this work has really paid off. A consortium, led by Macquarie University, has established the new Australian Astronomical Optics, or AAO. It's a national industry focused optical instrumentation capability which is helping position Australia for the era of global astronomy. The AAO is this week hosting the 2019 Elizabeth and Frederick White Research Conference. It's a prestigious joint event organised by Australia and the European Southern Observatory. It's attracting over 200 national and international astronomers to Australia. It will share insights and stimulate research collaboration.

The new AAO has successfully bid for a European Southern Observatory research project to design an adaptive optic system called MAVIS for the European Southern Observatory Very Large Telescope. When completed in 2025, MAVIS will enable the telescope to produce images three times sharper than any other telescope, with a wider and more sensitive view of the universe than ever before, creating huge scientific benefits for Australia and our astronomers.

The ANU is managing the day-to-day operations of the Anglo-Australian Telescope, which contributes to Australian astronomers making new discoveries in collaboration with the European Southern Observatory's Very Large Telescope. Statistics from the European Southern Observatory show strong demand from Australian astronomers for access to the European Southern Observatory's telescopes at La Silla and Paranal observatories, with 87 proposals for 3,000 observing hours in 2018-19. Australian-led proposals secured 633 hours in total, with 439 of these on European Southern Observatory's Very Large Telescope, the
world's most advanced eight-metre telescope, during 2018-19, which is an excellent result so early in Australia's partnership with the European Southern Observatory.

**Senator SINODINOS:** To some this might sound a bit abstruse, that we are putting this money into a branch of astronomy, but from a national point of view what do we see as the benefits of doing that?

**Mrs Urquhart:** One development that you may be very interested to know about is that the department has appointed in an industry liaison officer, based in my division, to maximise the benefits across research industry collaboration that we hope will flow from the partnership with European Southern Observatory. Each ESO member state can appoint an industry liaison officer. The role is to encourage industry engagement and also promote procurement opportunities. We are already well represented across a range of committees attached to the European Southern Observatory Council that relate to discussions on issues such as procurement.

The industry liaison officer is a gentleman called Anthony Holzwart. Anthony is a supply chain expert. He comes from our business adviser cohort associated with the Entrepreneurs Program. His job will be to identify Australian businesses and supply chains that are well positioned to bid for procurements at the European Southern Observatory and subcontract opportunities through other member states of the European Southern Observatory. It's not just with the organisation itself, but other members who may be obtaining procurement opportunities. Procurement opportunities might range in scope from building or upgrading of core scientific technology through to regular maintenance, logistics and service contracts at the facilities. I mentioned about the experience of Mr Holzwart. His appointment really links astronomy to that priority program, the Entrepreneurs Program, and has the potential to expand Australia's commercial supply chains into similar technology applications. We often talk about the connections between astronomy and significant breakthroughs like wifi. It's hard to predict where the opportunities may come, but they're there, and there are applications across satellite and aerospace, defence, remote sensing, industrial process control, mine monitoring and higher complexity imaging. He's already visited Garching in Germany, which is the location of the European Southern Observatory headquarters. He has met all the procurement teams, including the head of procurement and the director of operations at the Paranal Observatory. In the first week of February he attended his first meeting of the European Southern Observatory's industrial liaison officers. So he has hit the ground running.

**Senator SINODINOS:** Are there synergies between what we are doing with ESO and, for example, setting up the Space Agency?

**Mrs Urquhart:** I certainly think there are; and equally with the Square Kilometre Array. I've moved recently to combine the work in my division on optical astronomy with the Square Kilometre Array team to ensure we maximise the opportunities for cross-fertilisation of that expertise. Equally, we maintain close connections and work closely with the Space Agency and associated departmental staff.

**Senator SINODINOS:** You raise the SKA. Is that now all finalised in terms of agreements on the costings at international level and how this will all go forward?

**Mrs Urquhart:** There are some very positive developments. I might ask my colleague, David Luchetti, to take you through them.
Mr Luchetti: The SKA has made a lot of very positive progress over the last 12 months. Both France and Spain have joined the current SKA organisation, and the project is now moving towards a signing ceremony for the SKA Observatory Convention that we’ve been negotiating. That signing ceremony will take place in Rome on the 12 March. It will involve all the member countries. We currently have 12, as I said, with the addition of Spain and France. Importantly, Portugal have announced they will sign the SKA Observatory Convention on 12 March too. We're now starting to build quite an important grouping of member countries for the SKA. Importantly, from a project point of view, we're starting to see developments with the closing of the preconstruction period for the SKA. That's the design of the various elements of the SKA. We're probably three quarters through that process. That should be completed later this year or early next year. That will conclude with the system design review, which allows us to complete the design, test the design and then moved to a situation where we can actually put together a construction plan for the SKA. We expect that to go to the SKA Observatory Council probably around the middle of next year.

Senator SINODINOS: This construction is in WA, is that right?

Mr Luchetti: Part of the construction will be in WA at the Murchison Radio-astronomy Observatory, but there's also a host country, South Africa. They'll also build what is called SKA1 MID in an area called the Karoo.

Senator KIM CARR: Is New Zealand a part of it?

Mr Luchetti: New Zealand is a member country. They're currently considering their options and whether they actually sign the convention. They have indicated that they will probably take on an associate membership.

Senator KIM CARR: That means they're dropping back.

Mr Luchetti: They're taking on an associate membership. The nature of that will be determined when the observatory council is established.

Senator KIM CARR: Is their intention still to build the facility in New Zealand?

Mr Luchetti: No. The decision was taken about a year or two after the site decision in 2013-14 that we wouldn't be able to build the full SKA, which originally had a baseline from Western Australia to New Zealand. At the moment SKA1, which we will be building, will only be confined to WA.

Senator KIM CARR: And that's why New Zealand is dropping back?

Mr Luchetti: It's not really a reflection of that decision. It's actually a reflection of their astronomy community. I can't speak for New Zealand, but I understand that they may have some concerns about how many people within their community can actually utilise the SKA.

Senator KIM CARR: So they're not getting what they thought they were going to get out of it?

Mr Luchetti: I don't think it's a matter of what they thought they would get out of it. It's really the science return that they're expecting.

Senator KIM CARR: That is what I mean: what they thought they'd get out of it. That was the arrangement. They put some money in, to begin with, and they're not getting what they anticipated they would out of it.
Mr Luchetti: No. I think it's more about what their community will be able to utilise. It's the membership of their community. They don't think it's as big as they originally thought it would be.

CHAIR: Thank you.

Proceedings suspended from 12:32 to 13:31

CHAIR: The committee will now resume consideration of the Department of Industry, Innovation, and Science estimates. Senator Carr.

Senator KIM CARR: Could I have the officers for complementary medicines back, please. I'm just wondering if the department could clarify, Mr Squire, your evidence before in regard to Complementary Medicines Australia's advice to you about a solution.

Mr Squire: Sorry, I don't understand—

Senator KIM CARR: You don't understand what I mean?

Mr Squire: I don't understand the question, sorry.

Senator KIM CARR: I understood you to be saying that the CMA had not advised you as to a solution based on changes to the regulations. Is that correct?

Mr Squire: No.

Senator KIM CARR: So what did you say?

Senator Canavan: I can recall—I'm trying to be helpful here, Senator—a discussion around the views of some of the major manufacturers, I think, in this space. But maybe there was a separate discussion.

Senator KIM CARR: No, it was just here this morning.

Mr Squire: Obviously, the transcript will show this, but, if I recall correctly, my evidence earlier this afternoon was referring to evidence provided by the ACCC as part of their hearings this morning.

Senator KIM CARR: Yes. And what's your view of the CMA's position?

Mr Squire: Which particular position of the CMA?

Senator KIM CARR: In regard to a solution to this problem, what's the advice that the CMA have given to you?

Senator Canavan: Chair, I'm happy for the official to answer, although I would just note that the senator is asking the official about the views of somebody else—a third party's.

Senator KIM CARR: No, no—

Senator Canavan: I'm happy for the official to answer as he may be able to, but obviously he's not a spokesperson for the CMA.

Senator KIM CARR: Senator Canavan, I'm responding specifically to the advice Mr Squire has put to this committee in regard to the industry association's views on this matter, which I understood him to be saying to us a little over an hour ago.

Senator Canavan: I couldn't recall.

Mr Squire: As I indicated before, in evidence to this committee earlier in the day, the ACCC indicated that the advice from the CMA to them as part of the development of their
guidelines was that encapsulation wouldn't result in a claim for 'Made in Australia' to be able to be sustained.

Senator KIM CARR: Right. What's the advice to the task force from the CMA?

Mr Squire: From the CMA?

Senator KIM CARR: Yes.

Mr Squire: The CMA has proposed a solution drawing upon the ability to make regulations under the Australian Consumer Law.

Senator KIM CARR: That's exactly right. I have here a copy of their submission to the complementary medicine task force. For the purposes of section 255(3)(b) of the Consumer Law, the CMA specifically recommended to the task force regulatory changes, which is consistent with the advice that the department of industry has just provided to this committee as well. Is that the case?

Mr Squire: Yes, Senator, that is correct.

Senator KIM CARR: I'm glad that we've cleared that up. Tell me this, Minister: why are there no industry reps on the task force?

Senator Canavan: I don't have responsibility for the portfolio and was not involved in the formation of the task force directly, so I'd have to take that on notice, sorry.

Senator KIM CARR: Is there any indication from the department as to what the thinking was?

Mr Lawson: It's a government task force, and we are consulting deeply with industry through that task force process. I might add, on the issue we were talking about with regulation, the fact that a regulation could be created doesn't mean to say that the right regulation has been found or proposed by anybody. One of the ways of going to a solution could be regulation, rather than legislation. But establishing what that regulation would be—

Senator KIM CARR: Yes, but that's your job, isn't it?

Mr Lawson: Absolutely. That's what we're going through with the task force.

Senator KIM CARR: The question is that you've had this problem before you since August 2017. The government sets up a task force in December 2018, and it's my understanding now that Australian Made Campaign Ltd is cancelling licences for the use of the logo because of what the ACCC is doing—based on the fact that this department, this minister, has done nothing to address this problem.

Mr Lawson: I don't think that's an appropriate articulation of what's been happening, Senator. I think some of the things that are going on with the right to use the logo reflect that one company challenged the ACCC interpretation in the courts and they lost that case. The court determined the interpretation by the ACCC was correct, and that's had implications for the licence holder to manage the process.

Senator KIM CARR: That's right—and you're quick to point out that there was bipartisan support for the law at the time, which was clearly the case—the unintended consequence of that law has been for the ACCC to interpret it in this way.

Senator Canavan: I'm not sure if there's a question there, Senator, with respect. You've obviously put your particular view on matters. I think to ask the witnesses to respond to that
would be going into asking them for an opinion on policy matters. You're free to put those views. The government, as I said earlier, is working constructively with the industry. We've heard their concerns. We want to ensure a robust 'made in Australia' framework with integrity.

Senator KIM CARR: The minister has written to the Prime Minister and said that this task force will report by the end of this month. Will that happen?

Mr Squire: Senator, the task force is on track to complete its report and provide the advice to the minister by the end of this month.

Senator KIM CARR: Will there be a draft report shown to industry prior to its release?

Mr Squire: As the minister has indicated, it's a report of government to government, so there's no intention to provide the industry with a copy of the draft report.

Senator KIM CARR: Is the department aware that Australian Made Campaign Ltd is currently cancelling licences?

Mr Squire: Yes, Senator.

Senator KIM CARR: How many have they cancelled?

Mr Squire: I'd have to take that question on notice. It's a decision for AMCL.

Senator KIM CARR: Have you been able to calculate the likely impact of this imbroglio?

Mr Squire: As I indicated in my evidence earlier, part of the challenge with dealing with this particular issue is obtaining the evidence from companies about the impact that this is having on their operations. And, as I indicated, we've undertaken a survey of industry to ascertain the justification for some of those claims, and we're currently analysing the responses to that survey.

Senator KIM CARR: CMA's submission to the task force actually said, 'The ACCC interpretation of the revised legislation has conflated food and medicine.' Is that the case? Do you agree with that assessment?

Mr Squire: That is the CMA's claim. I don't see the connection that they've made between food and complementary medicines. The food information standards sit separately from the Australian Consumer Law, whereas the safe harbour defences—which are the subject of this discussion—sit across all products, both food and non-food, and, again, there is evidence before this committee that it's entirely optional for complementary medicine manufacturers to make use of these claims, if they are entitled to, whereas it's not the case for food.

Senator KIM CARR: No. So you don't accept the unanticipated consequences that have been outlined in the submission?

Mr Squire: I wouldn't say that was a correct interpretation of my statement. What the minister has done, and the government—indeed, what they have tasked the department to do, in terms of leading this particular task force—is to examine these claims that industry and the complementary medicine industry have made, to see what potential solutions may exist and then to provide advice to the government. So I'm certainly not saying that the claims by the industry or the complementary medicine industry are without basis. What we're attempting to do is to unpack, if you like, or determine if there is sufficient evidence to support, the claims they've made.

ECONOMICS LEGISLATION COMMITTEE
Senator KIM CARR: Minister, is the government prepared to make an undertaking that they'll fix this as quickly as possible?

Senator Canavan: Not being the minister myself, I'm not in a position, obviously, to foreshadow actions that may or may not be taken. As I mentioned, we are engaged constructively with the concerns that have been raised. We wouldn't have established the task force if we weren't committed to getting to the bottom of this issue and seeing what can be done, but, given that the task force is still ongoing and that I'm not the responsible minister, I can't provide much further information than that.

Senator KIM CARR: There is a serious issue here. This is a sector that involves an industry that has $4.9 billion—according to the letter, their terms of reference in fact state this—with 82 Australian based manufacturers and the employment of hundreds of thousands of Australians. You would have thought there would be a greater sense of urgency about this.

Senator Canavan: As I said earlier, we are engaged constructively with the sector. The overarching objective of the made-in-Australia laws and regulations is to seek to ensure that there's a significant head start given to those that have operations in Australia. So we want to make sure that the system is set up so it encourages people to create jobs and start manufacturing facilities in Australia. That's got to be a consideration.

Senator KIM CARR: I accept your view on that. I don't dispute your interest in this matter. But what troubles me is the actual minister's lack of attention to this. We're about to enter the caretaker period very soon, and I'm anxious that some action be taken prior to that happening or that an undertaking at least be given that, if there is urgent action identified in the task force report, there is consultation to see that it happens. We don't want to wait until after an election before remediation is undertaken, because it's quite clear what's required here, and it has been quite clear for some time what's required here.

Senator Canavan: I suppose all I can add is that, from my discussions with the minister and her office, they're very open-minded about the potential options going forward. They're obviously taking advice from the department through the task force and others engaged with the industry. I believe there has been significant consultation with the industry, both through the task force and before. The timing of the task force is, as has been outlined, due well ahead of the election, but I'll have to leave it to the minister, obviously, to decide the next steps upon the conclusion of the task force.

CHAIR: Thank you very much. Can I turn to another matter—the question of the Building Ministers' Forum? Have you got the relevant officers there for that?

CHAIR: Can I just confirm that we're now on program 2?

Senator KIM CARR: I thought this was all program 3—3.1. This is still the Building Ministers' Forum; I thought that was still program 3.

CHAIR: 3.1—the Building Ministers' Forum. I'm sorry, I always get these programs confused. I had the Building Ministers' Forum under program 2.

Senator KIM CARR: We had actually jumped way ahead with those science questions, without making too fine a point of this.

CHAIR: I know, but he used to be the minister, so—
Senator KIM CARR: Yes, I understand that; I understand some latitude is required here. But I wouldn't get too cute just now.

CHAIR: No, I'm literally just trying to keep up with you, Senator Carr.

Senator KIM CARR: So we're on the Building Ministers' Forum. I understand that the BMF communique has indicated that the ministers have 'agreed in principle to a national ban on unsafe use of combustible ACPs in new construction', subject to the cost-benefit analysis and other conditions. I'm just wondering, Minister, if you can tell me: is there a ban on the importation of flammable cladding or not?

Mr Power: I'm happy to take that, if you like. Your question is: is there currently a ban on the import—

Senator KIM CARR: No. As a result of the BMF on the 19 February, a communique was issued, and I've quoted the communique. As a consequence of that, is there a ban or not?

Mr Power: Is there a ban? The communique sets out that the BMF ministers have sought some work investigating a ban on aluminium cladding materials in construction. It doesn't go on to say, which I think you're getting at, that there should be a ban on the import or manufacture of aluminium cladding.

Senator KIM CARR: I see. So it's another one where you get the mirror out, isn't it? You're having to 'look into' this.

Mr Power: I don't know, Senator. It is what it says. It says that the building ministers have asked for work to be done on a ban in construction in Australia, not on import and manufacture.

Senator KIM CARR: When will the work be concluded?

Mr Power: The work is to look, as you said, at cost-benefit analysis of a ban, because the ban, as it is written up there—

Senator KIM CARR: Proposed—the proposed ban.

Mr Power: It's proposed. Of course, as you're aware, and we've talked about it here previously, there are currently bans that various state governments have put in place. The question here is, and the building ministers have asked if, whether that ban should extend further than that which the states have put in place now, which is for high-rise buildings, in the most part, and whether it should extend to other types of buildings of lower storeys—for example, residential et cetera.

Senator KIM CARR: The current code theoretically already bans this stuff, doesn't it?

Mr Power: Correct. In principle, the code, obviously, puts in place rules which mean that any cladding that is combustible and high risk, in fact, wouldn't meet the code. And Mr Savery's here and, of course, could add in detail to that.

Senator KIM CARR: Yes, of course he could, but all I want to know is: if we've got this prohibition already in the code, how is it that we've got tens of thousands of buildings across the country with this stuff all over them?

Mr Power: The reason for that is set out in great detail in the Shergold Weir report, which goes to issues of compliance across the system and the integrity of different players in the...
system. As you're aware, the Shergold Weir report sets out a prescription and a roadmap, effectively, for how to go about fixing these things.

Senator KIM CARR: We'll get to that. The point is that no-one takes much notice of the code, do they?

Mr Power: I wouldn't say that. But, certainly, as was set out in the report, there are weaknesses in the system, which I've said that Shergold and Weir identified, that go to the compliance and enforcement of the code, and that is, in fact, what the reforms proposed are to go and fix.

Senator KIM CARR: Of course, the Senate report, through this committee, identified all of those, and the government rejected its findings, didn't they?

Mr Power: I would say that a lot of the issues that were picked up in the Senate inquiry's process, which was quite comprehensive, were similarly picked up in the Shergold and Weir report—

Senator KIM CARR: Yes.

Mr Power: and so some of the work that's going on really is to address all the issues that have been presented in total.

Senator KIM CARR: Yes, I understand that. In fact, the Shergold report actually says that it's in response to the Senate report. It specifically states that, doesn't it?

Mr Power: I'm not sure whether it states that specifically.

Senator KIM CARR: Well, I can advise you that it does. But there are other reports too—reports from New South Wales and a number of others—so this is not a new problem, is it?

Mr Power: Again, I think that the Shergold investigation pointed out that there are some systemic issues in the sector which meant that now the reforms which have been put forward there, and that the BMF has agreed to progress, are really important to ensure that they don't continue.

Senator KIM CARR: The Shergold report was received when?

Ms Carew: It was received early in 2018 and made public in—

Senator KIM CARR: Not when it was made public; when was it received by the department?

Ms Carew: It was commissioned by the Building Ministers' Forum. I would have to take on notice the exact date—

Senator KIM CARR: I'll help you out here: It was in about September 2017, wasn't it?

Ms Carew: I would have to confirm that was the date. I understand it was only commissioned in August 2017.

Senator KIM CARR: That's right, but it was received some three or four months before it was actually made public. That would be right, wouldn't it?

Mr Power: I'm not sure—

Ms Carew: I would have to take that on notice and confirm. Building ministers, though, first considered it at their April 2018 meeting.
Senator KIM CARR: Yes, but it was made public—
Ms Carew: After that.
Senator KIM CARR: After that. And there was a three-year time line on that?
Ms Carew: For implementing the recommendations, that's right.
Senator KIM CARR: What's happened in the first year of the implementation period?
Ms Carew: Following the April meeting, all jurisdictions agreed to consider the recommendations further, and they were discussed again at the Building Ministers' Forum in August, where BMF ministers unanimously gave their in principle support to all the recommendations. Many of the states were moving during that period to implement reforms that were in line with the direction of the recommendations, and officials have been working on an implementation plan.
Senator KIM CARR: Sure. So, you've had it for a year, and you're now working on an implementation plan.
Ms Carew: The implementation plan will cover work that is already underway.
Senator KIM CARR: Yes. And when will we see this implementation plan? When will that be made public?
Ms Carew: We expect it to be public by the end of the month.
Senator KIM CARR: Do you expect that to be honoured?
Ms Carew: We are relying on all the states and territories. We've been working with them collaboratively. The end of February is only a short time away—
Senator KIM CARR: Yes, that's certainly true!
Ms Carew: and so we're hopeful that it will be complete and available.
Senator KIM CARR: In terms of the BMF meeting on 19th: were you ready for a resolution, even in principle, to propose a national ban on unsafe combustible ACPs? Was that your recommendation?
Ms Carew: That was the decision of the—
Senator KIM CARR: I know it was a decision, but was it the Commonwealth department of industry's recommendation to accept that?
Senator Canavan: That seems to be asking for policy advice, but I'll let the officials answer.
Senator KIM CARR: Well, my information is that the Commonwealth argued against that position at the meeting. Is that true?
Mr Power: Senator, first of all, the department doesn't take a position in terms of the Building Ministers' Forum.
Senator KIM CARR: No, I understand that.
Mr Power: In relation to the Commonwealth's position, I don't think it would be appropriate for us as officials to disclose what different ministers said particularly, or put into that discussion. But certainly, as Ms Carew said, the outcome of that discussion was an agreement with all ministers to pursue the ban, which is in the communique.
Senator KIM CARR: How many dwellings do we think are now the subject of combustible ACPs?

Mr Power: You are probably aware that there are audits that are going across all jurisdictions.

Senator KIM CARR: Yes, I understand that. What, do you think, is the number?

Mr Power: We take reports from each of the jurisdictions. We are constantly updating that. We've provided that to this committee and we can provide that again.

Senator KIM CARR: You must be able to provide us with the current number.

Mr Power: I'm not sure we have the current total number across all the states, at present, unless Ms Carew does?

Ms Carew: No, we don't, but we'd be happy to collate that and provide it to you.

Senator KIM CARR: Thank you. Today there have been further reports that nine more materials have been classed as noncompliant. Are you aware of those reports that the Victorian Building Authority has developed?

Mr Savery: I am aware of that. The reporting that you're referring to is inaccurate. There is not a ban on those products. What has occurred is that through an audit process of certificates—

Senator KIM CARR: I don't think I used the word 'ban'. Did I say ban? They were 'noncompliant'. Didn't I say that?

Mr Savery: Senator, you asked if I was aware of the media.

Senator KIM CARR: I'm saying to you that a further nine materials have been classed as noncompliant, I think are the words I used.

Mr Savery: Sorry, I mistook that you were asking if I was aware of the media.

Senator KIM CARR: Let's get to the point. You are aware of the report and you say that the way it has been presented is inaccurate.

Mr Savery: Correct.

Senator KIM CARR: So tell me this: does that change the number of buildings that are now affected with noncompliant flammable ACPs on their exteriors?

Mr Savery: Not necessarily, because those products have not been deemed noncompliant just because they may contain a level of polyethylene that would be of concern to the authorities. The reasons those certificates have been withdrawn by the conformity body vary quite widely, and it could be, simply, a case of there being inadequate documentation to support the certificate having been issued.

Senator KIM CARR: Has there been any conversation yet with the Border Force, in terms of the capacity for the Commonwealth to ban this product at the border?

Ms Carew: We have had some discussions with them. It would obviously be quite difficult to implement that type of approach.

Senator KIM CARR: Why?

Ms Carew: Just because, I think, of the sheer volumes. There are also a number of legitimate uses for the product.
Senator KIM CARR: Yes, but that's not the question I asked you. It was: have you had a conversation about how you would go about banning the product?

Ms Carew: There have been conversations, yes.

Senator KIM CARR: And they're saying it's difficult to implement a ban at the border.

Ms Carew: That's correct.

Senator KIM CARR: It's because they don't have resources to do it; is that their issue?

Ms Carew: I would have to check the notes of those discussions.

Senator KIM CARR: I see.

Ms Carew: I think that would probably be a question for the Federal Safety Commissioner.

Senator KIM CARR: But you are familiar with the same pattern, aren't you?

Mr Power: Sorry, can you repeat that?

Mr Lawson: Asbestos is a product that is intrinsically dangerous—

Senator KIM CARR: Yes, so is this stuff.

Mr Lawson: and it's been banned. We've heard previously that there are legitimate uses of this product. The issue has been that compliance mechanisms for the code, through the various states, haven't worked in making sure this product is not put in the wrong place. It can be used, in some places, quite safely.

Senator KIM CARR: You can outline those for me, can you, Mr Lawson?

Mr Lawson: The ABCB will give you a much more detailed explanation, but my understanding is it's unsafe when it's over three storeys. That's the use when that product is considered unsafe. It has, as uses—

Senator KIM CARR: That's the problem. That's the claim that's used, isn't it? There's no way of regulating that, is there—whether it's used on one storey, two storeys or three storeys?

Mr Lawson: The building compliance processes of the states are supposed to regulate that. The question is: have they been doing that? Clearly that has been ineffective, and that's the issue. So we're trying to take a national approach to making sure that an appropriate solution is provided.

Senator KIM CARR: What are you doing on labelling issues? The permanent labelling of ACPs is critical. What are you doing on that?

Ms Carew: The BMF has also agreed to develop a technical specification that would allow the labelling of those products. The ABCB will now work with Standards Australia to develop that with a view to converting that into an Australian standard that would be referenced in the code. Mr Savery may be able to talk more to that as well.

Senator KIM CARR: How long will that take?

Ms Carew: I understand that a technical specification takes about four months.

Senator KIM CARR: Given the evidence that's been presented to numerous inquiries, including the Senate inquiry, about product substitution, document fraud and various other criminal activities in regard to labelling and these certification processes, how confident are you that we'll be able to deal with that matter?
Mr Power: The purpose, I think, of the technical specification and then labelling is to prevent or, certainly, make much more difficult, the substitution of products. Coupled with other reforms in the sector—for example, in relation to certifiers et cetera—the BMF's work and view is that those reforms will make that much less likely. You can never fully stamp out all poor practices in the sector, but certainly that's one of the steps which we'll support.

Senator KIM CARR: The communique talked about fast-tracking this work. Did I read that correctly?

Ms Carew: That really refers to the fact that, rather than developing an Australian standard for labelling in the first instance, the technical specification, which, as I said, takes about four months, can be done more quickly. That's the reference to fast-tracking.

Senator KIM CARR: When will it commence?

Ms Carew: The work to actually develop the technical specification is about to commence.

Senator KIM CARR: It hasn't started already?

Ms Carew: Mr Savery may be able to—

Mr Savery: There has been some background work involving discussions between the Senior Officers' Group, who report to the Building Ministers' Forum, and Standards Australia. The Senior Officers' Group need to complete the scope—

Senator KIM CARR: Mr Savery, you've provided evidence to the Senate before on these matters.

Mr Savery: Correct.

Senator KIM CARR: The word 'urgency' doesn't really ring large in your province, does it?

Mr Savery: I don't think that's correct. What I'm explaining to you is a process that's outside my control.

Senator KIM CARR: Can you remind me: when was the decision of the BMF on this matter?

Mr Savery: On the labelling?

Senator KIM CARR: Yes, on labelling.

Mr Savery: The first time that they discussed it, I think, was in October 2018 or it may have been—

Senator KIM CARR: No, no. Check your records. That's not quite right.

Mr Savery: I haven't got the record in front of me, but it would be a 2018 date.

Senator KIM CARR: It's my understanding that the decision to fast-track this was August 2018, and you're telling me that in February 2019 you haven't started.

Mr Savery: What I'm telling you is that we're talking about a process that's not under the jurisdictional control of the Australian Building Codes Board. It was assigned to the—

Senator KIM CARR: Sorry, so I've accused you of—

Mr Savery: It was assigned to the Senior Officers' Group. That's not—
Senator KIM CARR: There we go! There is a study in inactivity if ever you wanted one—the Senior Officers' Group. We can probably wait some time for that to actually address this issue. This was urgent in August last year, and it hasn't started yet. The Senior Officers' Group have got this in hand, have they?

Mr Savery: They have been requested to undertake this work by the Building Ministers' Forum.

Senator KIM CARR: And they haven't started.

Mr Savery: They have started. They've commenced discussions with Standards Australia. They're developing a scope that will be put forward as a proposal for change. Standards Australia have identified it as a priority piece of work.

Senator KIM CARR: That's good. Who's going to pay for it?

Mr Savery: Standards Australia have accepted that they will undertake the work through their own funding processes.

Senator KIM CARR: It was critical in August. When do you think we'll see a result?

Mr Savery: On the basis that Standards Australia receives the scope, they've indicated that they'll complete it within four months.

Senator KIM CARR: When did you say they were going to receive the scope?

Mr Savery: They have to receive a proposal for change.

Senator KIM CARR: When will they do that?

Mr Savery: We have to have the scope delivered by the Senior Officers' Group. There may have been a meeting recently that I'm not aware of.

Senator KIM CARR: I'm sorry to be so obtuse. I'm trying to get clear in my mind when this urgent action is actually going to be undertaken.

Ms Carew: There have been discussions among senior officials to finalise the scope. The decision of the building ministers in August was to develop an Australian standard.

Senator KIM CARR: A critical decision—it was a critical, they said, wasn't it?

Ms Carew: In the work that the senior officials undertook, it was recognised that the development of a technical standard would allow something to market quicker, so effort has gone into preparing that scoping document. We had the decision earlier this month that ministers were comfortable to proceed with a technical specification in the first instance. We can now finalise that scope and provide it to Standards Australia.

CHAIR: Can I just clarify something. The Senior Officers' Group: are they Commonwealth department based or are they state based senior officers?

Ms Carew: There are representatives from all jurisdictions on the Senior Officers' Group. It is chaired by Queensland.

CHAIR: The Senior Officers' Group—just to be clear—are a subdivision of the Building Ministers' Forum, or are they department—

Ms Carew: They support the policy work that the Building Ministers' Forum directs.

CHAIR: And they're based all over the place?

Ms Carew: That's correct.
CHAIR: In state departments?
Ms Carew: That's correct.
CHAIR: Thank you.
Senator KIM CARR: The August meeting also talked about ministers directing the Building Regulators' Forum to work with responsible fire authorities on the best methods of making information available to assist them to respond to buildings on ACPs. There's been a fire in Melbourne with this stuff just recently, and I'm just wondering: how are we going in regard to that particular clause of the communique?
Ms Carew: Building regulation is not a responsibility of the Commonwealth, so, while we have an observer on the Building Regulators' Forum, we are not really an active participant.
Senator KIM CARR: That's certainly true.
Ms Carew: I would have to take notice what the building regulators have done, but I do understand they have taken action and they're all working very closely with their respective fire departments.
Senator KIM CARR: Thank you. Who is the officer that's on the forum?
Ms Carew: The officer from the Commonwealth?
Senator KIM CARR: Yes.
Ms Carew: An officer from my branch.
Senator KIM CARR: Are you not able to tell me who that is?
Ms Carew: His name is Rod Harris.
Senator KIM CARR: So he'll be reporting to you, won't he—would that be the case?
Ms Carew: He does report to me; that’s correct.
Senator KIM CARR: When did it meet last?
Ms Carew: I cannot recall.
Senator KIM CARR: Another urgent bit of work, is it?
CHAIR: Ms Carew, can you clarify for me when that—how often does the Building Ministers' Forum meet?
Ms Carew: I'm sorry; I didn’t hear the question.
CHAIR: The Building Ministers' Forum—how often does that meet?
Ms Carew: They meet, generally, two to three times a year.
CHAIR: And they're set in advance, those meeting dates?
Ms Carew: Usually. The charter for the Building Ministers' Forum requires that they meet at least twice a year, but there have often been three or four as well.
CHAIR: How long has that forum been in existence?
Ms Carew: I believe it's been in existence since about 2005.
CHAIR: And it meets twice a year? Okay.
Senator KIM CARR: The minister indicated on 8 February that the Victorian government should conduct an audit of public information on the high-risk buildings that contain the cladding. Were there any concerns expressed about that matter—publicly
identifying the buildings that were actually the subject of the previous audits that had been undertaken?

**Mr Power:** I think there's been discussion around it, and I observed even discussion in Victoria by the regulator and also by the fire authorities about a disclosure of particular buildings. My interpretation—what the minister was talking about was disclosure to people who are occupying buildings so that they know the situation of the building. I think a separate matter is publication or disclosure of buildings to the greater public, and people have talked about whether that would incite—

**Senator KIM CARR:** Arson.

**Mr Power:** arson. But, as I said, I think the minister was referring to a different point, which was the fact that people who live in buildings might themselves want to know, privately, the state of the outside cladding of those buildings.

**Senator KIM CARR:** There is this question about arson, isn't there—a public safety issue?

**Mr Power:** That's the issue that's been raised by people, but I do recall also, for example, the members of the Victorian fire authority saying that they didn't believe that risk was present. If that information wasn't publicly available, it was made available to the members, the people who occupy the building.

**Senator KIM CARR:** In regard to the Commonwealth's role here, Minister, is it your view that the Commonwealth actually does have responsibilities in regard to building standards in this country?

**Senator Canavan:** Again, not being the responsible minister, it's been explained to me—and most of the explanation involves this matter that we're talking about, because it's been topical—that our role is to coordinate and seek the cooperation of the states to form an appropriate building code and to ensure that it is appropriately enforced. But my understanding is that primarily the enforcement and monitoring of that code is at a state or territory level.

**Senator KIM CARR:** What happens in circumstances where the Commonwealth actually finances a building?

**Senator Canavan:** I'd have to take that on notice, but other witnesses might have information.

**Mr Power:** Sorry, Senator: is the question what happens where the Commonwealth purchases—

**Senator Canavan:** Where effectively the—

**Senator KIM CARR:** The financing.

**Senator Canavan:** You mean, we're going to own it?

**Senator KIM CARR:** That's right.

**Senator Canavan:** It is a hypothetical case. It potentially—

**Senator KIM CARR:** It's not a hypothetical, but I'll give you a very specific case.

**Senator Canavan:** I'm happy to try.
Senator KIM CARR: For instance, at a university, where the Commonwealth's provided money under the EIF program or various others and the building's then been put up in breach of the building code, with cladding —

Mr Lawson: Perhaps I can help. Those universities and so on are located in states. The states have the responsibility to maintain and regulate the safety of the construction of those buildings. Agencies such as universities or indeed Commonwealth agencies have occupational health and safety obligations to their employees, and they need to take those things into account, but that's separate issue from the approval of the building in the first place.

Senator KIM CARR: When it comes to the building code, the Commonwealth's only too happy to put conditions — industrial relations, for instance. It makes all sorts of conditions, for tendering and various other things. But it seems that when it comes to the actual public safety issue the Commonwealth seeks to wash its hands of it.

Mr Lawson: The building code that we're concerned with is the National Construction Code; it's not that other building code that's industrial relations —

Senator KIM CARR: No, I accept all that. But knocking over a union is an entirely separate matter from public safety. You can see how that would be relevant. I can see how that works. But the point remains: there are public safety issues here, and what is the Commonwealth's responsibility, Minister, in regard to public safety and, as the Shergold report points out, public confidence in the national building code?

Senator Canavan: In fairness to the officials here and I suppose also myself as minister, I think the questions you're raising go closer to overall government procurement policy matters. The examples you've given are not necessarily ones that will be administered by this department if that were to happen—for example, the financing of a building at a university. But obviously at different times the Commonwealth does finance the construction of infrastructure, including buildings. Usually it's in an arms-length way, of course. We may be providing funds to it but not managing the contract or engaging directly with building construction firms. So I might have to take it on notice —

Senator KIM CARR: Sure.

Senator Canavan: because I think it does go to more overarching government priorities.

CHAIR: It is an interesting issue, though, and I think Senator Carr does have a point. There were four government buildings in Adelaide, some of which were commissioned by the former Labor state government in South Australia, which had issues with cladding. I imagine the Commonwealth might have contributed some funding towards those buildings, though the Commonwealth had no control over the materials that were being used—that was a state government responsibility. It would be interesting to know where the Commonwealth's responsibility stops and starts if it contributes to infrastructure projects that are the responsibility of the state and the state uses flammable material.

Senator Canavan: It is probably one for the Department of Finance, but I will take it on notice and see what we can do.

Senator KIM CARR: Thank you. Are any additional resources being provided to allow for the implementation of the Shergold report?
Mr Power: Each state is providing resources to that in their own jurisdiction. There are a number of actions being taken. For example, New South Wales has announced a number of actions very recently. So there are definitely additional resources being put into that. The Commonwealth, in our team here, is also applying more resources to that. Mr Savery might want to comment in relation to the ABCB.

Mr Savery: The Australian Building Codes Board has also undertaken word in regard to five of the Shergold-Weir recommendations. They are matters that have been identified by the building ministers as things that the ABCB can contribute to—education and training, awareness raising and those kinds of things.

Senator KIM CARR: That's two. What about the other three?

Mr Savery: The other three relate to the review of international fire engineering guidelines and their governance arrangements; the development of a national best practice model for performance solutions, to teach practitioners how to use performance; and the development of a national dictionary of terms, which essentially collates and consolidates all of the terms and definitions used by the states and territories and the ABCB. I'll give you an example—and it is the one I usually give. There are eight definitions of 'building' in this country. So the aim of this would be to come up with one definition of building.

Senator KIM CARR: The Shergold report also recommends national construction licensing. It talks about nationally consistent licensing—and there are variations on it. What work has been done on that?

Mr Power: It is one of the priority recommendations that have been identified. The work that we referred to earlier about implementation will set out the timing around those, but there is already discussion and work going on behind the building ministers, at the senior officials group, on that; it is in progress. We are at the early stages of bringing harmonisation to this. Not all states currently license all types of practitioners. There has been work, as I understand it, to identify what practitioners are licensed in which states and the way that those practitioners overlap in certain states. There has been an investigation along those lines. The work, which is underway, is about how those things can be brought together over time in conjunction with the licensing of each practitioner in the various supply chains or the approval chains.

Senator KIM CARR: Do you have a list of those particular areas at the moment?

Mr Power: There is a list of the different practitioners that Shergold and Weir did recommend.

Senator KIM CARR: I understand that. I have read the report—and he has priority areas that need to do it in a sequential way. I am interested in the list of areas that are currently unlicensed.

Mr Power: As I was saying, in different jurisdictions that list is different. As I understand it, each jurisdiction licenses different practitioners—

Senator KIM CARR: Plasterers, for instance—where are they licensed?

Mr Power: I don't have in front of me where plasterers are licensed and where they are not.
Senator KIM CARR: And builders, of course, are defined differently in every state, aren't they?

Mr Power: To some extent, my understanding is yes—and that is part of the challenge of bringing harmonisation.

Senator KIM CARR: That's why we need national licensing, isn't it?

Mr Power: Certainly, as set out in the report, harmonisation across Australia is the objective of that. Of course, the practicality is the way that those are distributed amongst the states at the moment. That's the starting point. So bringing that together is a challenge.

Senator KIM CARR: Sure. In terms of fire safety, the requirements of the code limiting the ability of fires to move between floors in multistorey buildings: are you able to provide advice on that? Is there a particular provision in the code which deals with that matter?

Mr Power: Almost 75 per cent of the code deals with fire safety—

Senator KIM CARR: You would think so, yes.

Mr Power: and structural reliability. There are numerous provisions that would be relevant to the question that you've asked, including things like compartmentalisation and the external spread of fire.

Senator KIM CARR: You've say that's the intent of the code. We've also heard that it's not being implemented, that there's a problem with enforcement. Would you agree?

Mr Power: The clear indications from the work of not only the Shergold Weir report, as you indicated, but other reports which have developed over the years often by individual jurisdictions point to the fact that there are areas of noncompliance.

Senator KIM CARR: Is there a position adopted by the Commonwealth to rectify that situation?

Prof. Saunders: If I understand your question correctly, the Commonwealth definitely supports greater enforcement and compliance through the chain of the code. As you said at the outset, the code currently, if complied with, prevents the application of flammable cladding or other materials in unsafe situations, so we definitely support greater enforcement of compliance with the code.

CHAIR: By the states?

Prof. Saunders: That's correct, Chair. As you know, the responsibility and, as we've been through, the regulators for that reside in each of the states

Senator KIM CARR: My next questions are on R&D.

CHAIR: I'm quite happy to move to R&D. I think I've got my Building Ministers' Forum and cladding questions on the record. Actually, Mr Power, you said that 24 recommendations came out of the Shergold Weir report. Can you just clarify for me how many of the recommendations are the responsibility of the Commonwealth versus the responsibility of the states?

Mr Power: I don't think we could allocate responsibility that specifically. As we've said, building is really the responsibility of the states and territories, but we are working to facilitate harmonisation in a range of areas in relation to building policy. We're also seeking national consistency in the implementation of all those recommendations.
CHAIR: Just explain to me: in those building ministers forums, have the states agreed to adopt all 24 recommendations of the report?

Ms Carew: In principle.

CHAIR: Does the Commonwealth or do the states themselves monitor the application or the implementation of those recommendations?

Ms Carew: The Building Ministers’ Forum is overseeing progress. The implementation plan that we have spoken about will set out progress so far as well as the planned reforms and time lines for those going forward.

CHAIR: I’m assuming that maybe by the next estimates you can come back to us with something a little bit clearer about that implementation plan so we don't have to go over and over the same questions.

Ms Carew: I would hope so.

CHAIR: That would be terrific, thank you.

Senator KIM CARR: When was the last time the Building Ministers' Forum actually reported to the COAG ministers?

Mr Lawson: The Building Ministers' Forum isn't a COAG subcommittee.

Senator KIM CARR: One of the complaints about the Building Ministers' Forum is that it's off to one side and not much happens. I know, in my case, it took eight years on disability changes—eight years! And we did something about that. The WaterMark was another one that went on forever. We did something about that. The question remains that, if it's off to one side, it never gets the attention it deserves. Does it ever report to COAG at a central level?

Mr Lawson: I think there are two parts to that. My understanding is that, because it is not a formal COAG process, it doesn't have a formal reporting rule through that. We'd have to take it on notice. I think first ministers have discussed some of these issues, because, as you're aware, these issues are important, but we would have to take it on notice as to whether there has been that discussion. That's really PM&C—

Senator KIM CARR: What's the date for the return of answers?

CHAIR: That is a good question. It's 26th March.

Mr Power: I think the short answer is that we don't have that date or answer in front of us. We can take that—

Senator KIM CARR: I can understand that. I can't recall an occasion when that happened, but you might be able to correct that.

Mr Power: I think we'll have to take that on notice.

Senator KIM CARR: This committee is due to meet again in the week of the budget, isn't it? It's a Thursday. We'll have answers back by then, won't we?

Mr Power: I don't think that answer is terribly difficult to get.

Senator KIM CARR: I know. I suspect the answer is never.

Dr Smith: We'll check it and take it on notice.

Senator KIM CARR: I think Mr Lawson might have something to help us with that.

Dr Smith: We're just checking.
CHAIR: Could I ask you to also take on notice, Ms Carew, how many times and the dates the Building Ministers' Forum has met since it was initiated. I think you said it began in 2005.

Ms Carew: I'd be happy to do that.

Senator KIM CARR: Did you want to add something, Mr Lawson?

Mr Lawson: The communique of the COAG Industry and Skills Council on 3 October 2018 did point out that they had received an update from the Building Ministers' Forum, but it only says that. I don't believe that has driven up a thing into first ministers.

Senator KIM CARR: Can we talk about R&D?

CHAIR: We seem to have jumped around somewhat.

Senator KIM CARR: I'm on 1.2. I've got it on business R&D.

CHAIR: I'm happy to move back to program 1.

Senator KIM CARR: Right. We will do R&D first. Has the National Reference Group, the consultative group between this department and the ATO, met?

Ms Mulder: The National Reference Group does have a history with the program. It has met several times since it commenced at the start of the incentive, but we have been looking at how we engage nationally, so officially it hasn't met for some time.

Senator KIM CARR: That's what I thought.

Ms Mulder: Having said that, they did come together for consultations for the proposed legislation in July last year.

Senator KIM CARR: So they met last in July last year?

Ms Mulder: Not formally as an NRG. Organisations were invited as part of the consultation process.

Senator KIM CARR: Let me get it clear: has the group met or not?

Ms Mulder: In terms of its professional capacity, not for some time. That's correct.

Senator KIM CARR: What does 'not for some time' mean? When does that mean? When did it last meet?

Mr Mullaly: Its last official meeting, I think, was March 2017.

CHAIR: When do you expect it will meet again?

Mr Mullaly: We've gone through a process to look at the purpose of the National Reference Group. Existing members were part of that process of looking at what it should achieve. We will now have our first meeting of the RDTI roundtable, on 7 March, and that meeting will constitute previous NRG members as well as new membership. We invited them to broaden the reach of the membership.

Senator KIM CARR: A sort of two-year hiatus between the two?

Ms Mulder: In the interim we did do considerable stakeholder engagement at the individual level, but we have certainly come to the conclusion that a national forum, along with our individual consultation, is a good way to go.

Senator KIM CARR: I have a vague memory that there was actually a requirement under the old legislation. Is that right?

Ms Mulder: Not to my knowledge, but I can clarify that.
Senator KIM CARR: Were you unhappy with the old group? Is that why you didn't call it together? Is there a problem?

Ms Mulder: My understanding—and please note that I wasn't in the program at that time—is that the purpose of the group had started to sway, and that's why they decided—

Senator KIM CARR: What does 'sway' mean?

Ms Mulder: Sorry. As you mentioned, the group is co-administered by the ATO and us. The purpose of the NRG, and primarily the purpose of their new RDTI roundtable, is to have stakeholders engage with the administration of the program around administrative and operational issues. It's not a policy forum. I understand that the original intent of the NRG had started to move away from its purpose and we wanted to go through a process and reinvigorate the RDGI roundtable, which we're doing now, to go back to the original purpose.

Senator KIM CARR: I had a notion that it was part of the regional legislative package—

Ms Mulder: I'd have to confirm that.

Senator KIM CARR: But you would have picked that up, surely. I must be wrong. You would have picked it up if there had been a breach of the act, surely.

Ms Mulder: Again, I'd have to clarify that for you, but we haven't stopped engagement; it's just been at a more individual and state based level. The state reference groups have continued during that time.

Senator KIM CARR: What's this new body all about?

Ms Mulder: It's called the RDTI roundtable. It's membership includes existing members of the NRG and new membership to have a broader edge.

Senator KIM CARR: Who are they?

Ms Mulder: Apologies, Senator—I'll have to take that question on notice. I just don't have the list in front of me. We are going to the process of finalising membership at the moment. We are inviting some businesses to attend and I'd like to seek their permission first before we put their names out publicly. But we are inviting members—

Senator KIM CARR: That's a normal criterion for a consultation group—that people know who you are consulting. That's the whole point.

Ms Mulder: Yes, and it will be public, and we will certainly be publishing the content of our meetings, once they've happened.

Senator KIM CARR: Have you got terms of reference for this group?

Ms Mulder: We have a draft terms of reference which we would obviously take to the first meeting before they become final.

CHAIR: I just don't have a sense of how many people are participating.

Ms Mulder: The difference as well from the NRG to the new RDTI roundtable is that it will be a rolling membership, which means there are a considerable number of members. We are talking about a number of around 30.

CHAIR: Are they participating as individuals or as representatives of businesses?

Ms Mulder: As representatives of their organisation. Not all members will be invited to the same meeting. They'll be invited to one or two of those meetings.

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ECONOMICS LEGISLATION COMMITTEE
Senator KIM CARR: How do you get continuity of advice if not the same people are—

Ms Mulder: The intention is, depending on the agenda item and the focus of the agenda item, to have the right people in the room to give advice around those issues. I guess that was a proposal coming from the previous NRG.

Senator KIM CARR: You don't think you're asking the people to get the answers you want to hear?

Ms Mulder: I don't think so, Senator.

Senator KIM CARR: It could be interpreted that way, surely.

Ms Mulder: I would hope not.

Senator KIM CARR: That would be unfair, would it?

Ms Mulder: I think so—yes. We are genuinely trying to seek views.

Senator KIM CARR: You haven't talked to anyone, it would seem—no group—for two years. I suppose they should feel lucky that they're being talked to at all.

Ms Mulder: Certainly you are correct—the NRG hasn't met for some time—but we engage with stakeholders all the time.

Senator KIM CARR: It's gone pretty well, hasn't it—the consultations? You've just done another report. I thought that went swimmingly—didn't it? There was widespread advice. It was a very good recommendation. You know we both agreed on that. There was quite clearly very widespread concern about the legislation. Surely you would have picked that up in your consultation.

Ms Mulder: Again, the RDTI and the NRG is not a policy forum; it's an administration forum.

Senator KIM CARR: Have you asked anyone about this proposal to outsource the integrity support measure?

Ms Mulder: Apologies; what you mean by 'asked anyone'?

Senator KIM CARR: Outsource or privatise.

Ms Mulder: Do you mean our expression of interest?

Senator KIM CARR: Yes, consulting with people about implementation. Isn't that what you just said to me? You were talking to people about how to run and implement the program?

Ms Mulder: Given this is an expression of interest process and a tender process, there are some restrictions.

Senator KIM CARR: I'm sorry; so you haven't actually consulted with them at all. You've only got an expression of interest.

Ms Mulder: We certainly consulted within the department and with the Australian Taxation Office.

Senator KIM CARR: So you consulted the department about the department's actions? Is that what you are saying?

Ms Mulder: We've certainly been doing robust work to look at the—
Senator KIM CARR: It doesn't sound very robust to me. You consulted the department about the department's implementation?

Ms Mulder: About the process going forward—that's correct.

Senator KIM CARR: So who else have you spoken to about it?

Ms Mulder: In terms of the expressions of interest? Again, it's a tender process. We haven't engaged in that regard.

Senator KIM CARR: Let me go to specific measures then. The expression of interest for the program integrity support, I understand, closes next Wednesday. Is that right?

Ms Mulder: It closes on Wednesday the 27th; that's correct.

Senator KIM CARR: Are you able to tell me how many people have responded?

Ms Mulder: No, I'm not, unfortunately. That is due to probity reasons.

Senator KIM CARR: Yes, yes. That's why I asked if you were able to tell me. The purpose of expression of interest was to identify potential suppliers to assist the program's integrity function. Is that correct?

Ms Mulder: That's correct.

Senator KIM CARR: Are there program integrity functions that the department is required to do?

Ms Mulder: Yes, the department is required to undertake integrity functions.

Senator KIM CARR: Is there a lack of expertise in the department in terms of interpreting the applicability of the act in regard to R&D?

Ms Mulder: No.

Senator KIM CARR: So why do you need to outside of the department in terms of a core public service function in the administration of the law?

Ms Mulder: As I'm sure you're aware, the May 2018 budget announced increased resources for the integrity and improvement of program administration. This is one of the strategies that we are undertaking in order to achieve that. We are not outsourcing core functions or delegations of the department; we are at this stage seeking expressions of interest from external providers in terms of how they may be able to support us with those integrity and compliance functions.

Senator KIM CARR: So this is enforcement action by external providers?

Ms Mulder: They will be working with us in a complementary capacity, but the core functions of decision-making and delegations remain with the department.

Senator KIM CARR: Why do you need private providers to do this?

Ms Mulder: This is a way of implementing the 2018 budget measure. It's complimentary to what we have at the moment. In many ways, it's a private-sector-public-sector arrangement which will allow us to leverage the best outcomes.

Senator KIM CARR: Would the AFP go to outside providers to help them enforce the law?

Ms Kelly: I'm responsible for the Administration of the program. As you would expect, we're implementing the budget measure from the May budget last year. That budget measure
was about increasing our capacity for compliance work in this program. Part of that capacity increase is additional staff, and we have taken on additional staff to do that and are investing in the capability of those staff. But we're also looking at a range of other ways to increase the capacity to where we think it needs to be. So this expression of interest process is part of exploring whether there are other ways to boost the capacity we have to do compliance within the program.

Senator KIM CARR: By going to private providers?

Ms Kelly: For certain aspects that would support our actions in conducting compliance work.

Senator KIM CARR: How are you possibly justifying going to private providers for running these programs?

Ms Mulder: At this stage we're running an expression of interest process to see whether or not there is something that the market can provide to us to support us in doing this. So we're still at the expression of interest process, and no final decisions have been made.

Senator KIM CARR: On whose advice did you seek this course of action?

Ms Mulder: As you would expect, when a budget measure is announced, it's the department's responsibility to implement that budget measure.

Senator KIM CARR: Privatising?

Ms Kelly: Government has indicated that it wishes to increase the compliance work on the program and it allocated certain resources for doing that, and now it's up to the department to explore the options and the most effective options for us in increasing that capacity.

Senator KIM CARR: I see. So how many extra staff did you put on?

Ms Mulder: I will ask Ms Mulder to provide the detail there, but we have had additional staff join the program.

Ms Mulder: That's right. We had additional staff in terms of implementing some of the reforms as well as the integrity and compliance functions—around nine ASL.

Senator KIM CARR: How much money were you provided to do the extra compliance work?

Ms Mulder: As it's an open tender process and we haven't put those financials into that process, we certainly received, as you will see in the PBS, $15 million to undertake reform work, but I wouldn't like to break that down.

Senator KIM CARR: There's no way nine people would take up $15 million.

Ms Mulder: No, but that $15 million was for a range of reform work, not just this work, so it's not connected to the EOI. We haven't put that information in the EOI.

Senator KIM CARR: When are you intending to go to a tender for this?

Ms Kelly: That would depend upon the response to the expression of interest process.

Senator KIM CARR: I hope it's not before the election—I really do.

CHAIR: Senator Carr, that sounds very threatening.
Senator KIM CARR: It is just really outrageous to privatise a core function like audit and compliance when you've been provided $15 million to do the job? I'm just wondering: how do you manage the conflict-of-interest situations here?

Ms Mulder: We have asked those who are applying through the expression of interest process to address that question, and we will consider that.

Senator KIM CARR: Who have you asked?

Ms Mulder: Potential providers.

Senator KIM CARR: Really? You asked them to address conflict of interest — people who are subject to the conflict of interest?

Ms Mulder: It's the part of the process that we will work through once we receive submissions.

Senator KIM CARR: Can you tell me anywhere in the taxation system where this would work?

Ms Mulder: I understand that there are other government agencies which outsource various natures of work.

Senator KIM CARR: In the taxation system?

CHAIR: Senator Carr, I think that's inappropriate. This agency is not the ATO, so they are not familiar with all the operations of the tax system. I think that's an entirely unreasonable question.

Senator KIM CARR: Madam Chair, the department surely got advice on this.

CHAIR: But that wasn't the question that you asked. You asked what other areas of the taxation system were privatised?

Senator KIM CARR: They must know whether or not this works anywhere else.

Ms Mulder: We have certainly been discussing and working with the ATO. They are across that we are looking at this strategy.

Senator KIM CARR: Okay. Let's go through then. What is the scale of your current auditing and compliance activity? What are you doing at the moment in terms of compliance and audit activity?

Ms Mulder: I recall that we had this discussion at the last estimates. Having said that, I'm also aware that the Australian tax office has provided figures around their compliance activities as part of the Senate hearing. As co-administrators, we do like to stay in alignment with each other. In 2017-18 we initiated, as the department, 885 compliance activities, which make up preregistration reviews, registration reviews and statutory assessments, which includes the advanced and overseas findings. But I would note that all registrations that come into the program are looked through a risk filter process. So, in terms of reach, we do look at all applications.

Senator KIM CARR: Have you had many disputes about your compliance activity?

Ms Mulder: We have a right of reply and people don't agree with our assessment, and that is an internal review which I think is also part of those statistics. Then, if they disagree with the outcome of the internal review, matters go to the AAT in the first instance.
Senator KIM CARR: Are you able to tell me how many audits have actually been disputed?

Ms Mulder: I can certainly say that, in terms of internal reviews, we had 83 internal reviews initiated in the 2017-18 financial year.

Senator KIM CARR: I want to be clear about the changed arrangements. Would it be true to say that, in regard to the registered claims, the initial contact for taxpayers will be a notice that the finding process has commenced and an attached statement or issues of concern about the eligibility of claimed activities? Is that where it starts?

Ms Mulder: In terms of when we initiate a compliance activity, that's correct. I notify the company and we provide them with a notice of examination, which outlines the issues or the concerns that we see as part of their registration, and can seek to clarify and receive some further information from them.

Senator KIM CARR: How is that different from the previous method of assessment?

Ms Mulder: The previous method was more of an escalating process. It had longer time frames and it may have started off with something like a desk review or an original risk assessment and then escalated through a process, which may have meant multiple contacts with the company and an extended period of time. As of 1 July we have instigated a more streamlined compliance process.

Senator KIM CARR: It has been put to me that what's now happening is that the taxpayer is asked to send in supporting contemporaneous documents in an arms-length process, and that AusIndustry will then make a determination as to whether or not it will recommend disallowing the claim to Innovation and Science Australia. Is that correct?

Ms Mulder: To a degree, yes, that's correct. We certainly do notify companies when we identify them for compliance activities. We allow them an opportunity to respond. That may be in written form or, in some cases, it may be a meeting or it may be a combination. We certainly have time frames around that response and do our best to work with companies to get the information that we need in order to make a finding, noting that the information we are requesting is information that should be part of the R&D activities that they've undertaken and part of the evidence that they use to self-assess.

Senator KIM CARR: Has AusIndustry had representations to the effect that this streamlining is in fact counter to case law, and that the regulator must look at the supporting documentation before it forms a view on the eligibility?

Ms Kelly: I don't think Ms Mulder said that the regulator formed a view prior to considering the documentation. It was merely the order and the number of times that we went back to the applicants and the nature of the documentation that was provided.

Senator KIM CARR: Let me rephrase the question: has it been put to you that your processes are in fact in breach of case law precedent?

Ms Mulder: No, it has not.

Senator KIM CARR: You've not had that advice?

Ms Mulder: No.

Ms Kelly: I think quite the contrary. The process that you described is the proper administration of the act. It's giving the applicant an opportunity to put material that is then
considered, and then advice is provided to the decision-maker, which in this case is Innovation and Science Australia.

Senator KIM CARR: Is it the case that an Innovation and Science Australia finding was sent to a taxpayer without the customary reasons for decision document and that the taxpayer was informed that these could now only be obtained by making a freedom of information request?

Ms Mulder: I'm not sure I completely understand your question.

Senator KIM CARR: Do you want to take that on notice, because this is a specific—

Ms Mulder: No, if you could rephrase it for me, that would be helpful.

Senator KIM CARR: I'll read it directly: is it the case that an Innovation and Science Australia finding was sent to a particular claimant, or a taxpayer, without the customary reasons for decision document and that the taxpayer was informed that this could only be obtained by making a freedom of information request?

Ms Mulder: I probably couldn't answer that definitively, so I'm happy to take it on notice.

Senator KIM CARR: Will you take that on notice and check your records.

Ms Kelly: We certainly will, and, of course, we would never discuss the particulars of an individual case.

Senator KIM CARR: No, and I didn't ask you about a specific case. I'm asking: has it occurred, and you'll be able to tell me yes or no. You don't have to identify the particular case, but your records will show whether or not this has actually happened.

Ms Kelly: We will certainly seek to confirm or establish that.

Senator KIM CARR: That's what has been put to me. I have not identified a claimant. I'm identifying a process.

Ms Kelly: Of course.

Senator KIM CARR: In regard to the announcement that I see in the Financial Review today that the government's introducing new guidelines for software, what's the situation there?

Ms Mulder: That's correct. The department has today released the guidance for software development.

Senator KIM CARR: Have they been tabled, the guidelines?

Ms Mulder: They went up on our website this morning.

Senator KIM CARR: Is it expected that they will deal with the concerns that have been expressed about the position on software?

Ms Mulder: Our expectation is that the guidelines released today, which are in a more user-friendly and easy-to-read format, will better clarify what's eligible and what's not eligible in the program and provide more certainty to those businesses that are undertaking a self-assessment as they apply for the RDTI.

Senator KIM CARR: It's too early to get a response yet, I suppose?

Ms Mulder: A response in what regard?
Senator KIM CARR: From industry on this matter. Have you had any response from them?

Ms Mulder: I think it perhaps may be a little early.

Senator KIM CARR: When did the Financial Review get the guidelines? It was clearly before they were published on the departmental website. I read the article at five o'clock this morning, so presumably they were given yesterday. Is that the case? Is it normal practice for the department to release its guidelines—

Senator Canavan: We'll take it on notice.

Senator KIM CARR: I think we can probably work out the timelines here. But is it normal practice to release the guidelines in that way?

Ms Mulder: I think we've taken that on notice, Senator.

Senator KIM CARR: Is it normal practice though?

Senator Canavan: I'm not aware of these specific circumstances, but it often is normal practice for the government to seek to get some exposure for what it's doing, partly so that people can know that there are, in this case, updated guidelines and can find them. I don't think there's anything unusual in that regard.

Senator KIM CARR: Under the administrative orders, Minister, this is the department that's responsible for science policy, isn't it?

Senator Canavan: That's my understanding. I'm not sure exactly what the administrative orders say, but—

Senator KIM CARR: You are responsible for science policy under the administrative orders, aren't you?

Mrs Urquhart: Yes, Senator.

Senator KIM CARR: In terms of the review that Minister Tehan has announced on science priorities, were you consulted?

Mrs Urquhart: Yes, we were. I assume you're referring to the media release from a day or two ago?

Senator KIM CARR: Yes.

Mrs Urquhart: The headline of that media release is a little bit misleading. It's actually a review of how the science and research priorities apply to the ARC grants. You'd also be aware that we're doing work reviewing the science and research priorities more broadly, and we're looking forward to the work that's being undertaken in the ARC contributing to our own examination of the science and research priorities.

Senator KIM CARR: When were you consulted about the ARC review?

Mrs Urquhart: I would have to take that on notice, unless my colleague Dr Mitchell recalls the timing. But there was an announcement last year by the Minister for Education, and we had discussed it with the Australian Research Council around that time.

Senator KIM CARR: That was the one about the grants, from October last year. I'm talking about the one made two days ago.

Mrs Urquhart: That's right, but it refers to the same activity.
Senator KIM CARR: So it is the same activity? It's just a re-announcement?

Mrs Urquhart: You'd have to ask the department of education.

Senator KIM CARR: That's where the confusion is; it's just the same announcement. So this is the one announced on 19 February, where they announced a whole series of people on it. Is that the same one?

Mrs Urquhart: My recollection is that the media release from 19 February did talk about the experts that were being assembled to have a look at that work, yes.

Senator KIM CARR: That's where the confusion is; it's just the same announcement. So this is the one announced on 19 February, where they announced a whole series of people on it. Is that the same one?

Mrs Urquhart: The details of that, you would have to ask the Australian Research Council, I'm afraid.

Senator KIM CARR: That's not your area; I agree. Although, there is no departmental representative from this department on that, is there?

Mrs Urquhart: I don't think there is mention in that media release of that. We haven't got to discussing whether there would be observership with the Australian Research Council.

Dr Mitchell: The panel will consist of the following members of the current ARC advisory council.

Senator KIM CARR: Yes, I can see that; I have got the press release in front of me. I am just wondering if this department is responsible for science policy, whether or not you would be involved?

Mrs Urquhart: We have been in discussion with the Australian Research Council about their work and, as we said to the Australian Research Council, we look forward to that work informing our own so we will continue liaising closely with the ARC about that work as it unfolds.

Dr Mitchell: And I can confirm Mrs Urquhart's evidence that we have been in discussions with the ARC.

Senator KIM CARR: When is your review due to be concluded?

Mrs Urquhart: That work is under way at the moment. I will just consult my notes about exactly the timing for that.

Dr Mitchell: The review was originally due in 2017 but was deferred to ensure it takes into account the most current policy context, including the National Science Statement that came out in 2017, the government's response to Innovation Science Australia plan in 2013 that came out in May 2018. It would have been considered as part of the National Science and Technology Council.

Senator KIM CARR: Can you tell me when it is due?

Mrs Urquhart: We don't have a specific due date for that work.

Senator KIM CARR: So it is on the never-never, is it? Is it one of those sorts of reviews?

Mrs Urquhart: I would like to think not. We are keen to examine and we have done quite a bit of work already about the model.

Senator KIM CARR: Of course you are. How long have you been doing that? You have been reviewing this quite a while, haven't you?
Mrs Urquhart: We have been undertaking work in the department looking at the priorities and how they are applied.

Senator KIM CARR: When did you say it started?

Mrs Urquhart: The priorities were established—

Senator KIM CARR: I know when the priorities were established; this is the Chubb list, isn’t it? I know when that was done. I am wondering when the review started.

Mrs Urquhart: It is not a formal review; it is work that is undertaken within the policy area. There was an expectation of us that we would review, examine the priorities and their implementation at the two-year mark.

Senator KIM CARR: When did it start?

Mrs Urquhart: I’m sure that we have been doing background work since 2017, but in terms of—

Senator KIM CARR: That’s what you said; that’s right. When in 2017?

Mrs Urquhart: I couldn’t tell you precisely; I would need to go and examine—

Senator KIM CARR: Will it be early?

Mrs Urquhart: I would need to look at my notes.

Senator KIM CARR: So it has been going on for two years now, has it?

Mrs Urquhart: Obviously we take an active interest in the implementation of the priorities across the sector. As Dr Mitchell said, we are looking forward to the opportunity to have the National Science and Technology Council look at our work in that space.

Senator KIM CARR: It has been delayed but we are not certain for how long.

Mrs Urquhart: We will be discussing with the National Science and Technology Council and ministers the plan for that work.

Dr Mitchell: Work has been under way. The work is considering, for example, the intent and the potential effects of prioritisation of science and research, including: an assessment of priority systems in Australia, the challenges posed by the current form of the priorities, the benefits and challenges of alternative models of prioritisation including international examples, the role of the priorities in the broader science policy framework, and considering the release of the National Science Statement in the 2030 strategic plan.

Senator KIM CARR: Who is doing this informal review that has been going on for two years?

Mrs Urquhart: We are undertaking that in my division.

Senator KIM CARR: It’s your division? So there is a whole division doing it?

Mrs Urquhart: No, it's the science policy team.

Senator KIM CARR: How many are in the science team?

Dr Mitchell: It is a small subset of that team.

Senator KIM CARR: I bet it is! So who is doing the review?

Dr Mitchell: I will take that on notice.
Senator KIM CARR: Surely you must know; it has been going to two years. It must be on someone's desk—this is the review; this is the person—so who is it?

Mrs Urquhart: Senator, as you would expect, officers are undertaking that work in my division. They report to me, the head of division.

Senator KIM CARR: You told me that. I just want to know who it is.

Mrs Urquhart: We'll also be taking that to the National Science and Technology Council.

Senator KIM CARR: I've got that. You've told me all of that. I want to know who is doing the review. It's not so difficult a question. Who's doing it?

Mrs Urquhart: I've said the review work is being undertaken by officers in that team.

Senator Canavan: I've let this go for a while but Senator Carr is asking the same question, repeatedly.

Senator KIM CARR: I haven't got an answer!

Senator Canavan: I heard that the official had taken that question on notice.

CHAIR: I think that's fair and reasonable.

Senator Canavan: My conclusion, here, is that the answer to Senator Carr's question is around identifying staff that would be below the SES level of the department. The normal convention is that we don't name such staff. But it's been taken on notice so we'll seek to provide you with information on that.

Senator KIM CARR: The officer just had to say that!

CHAIR: Thank you, Senator Carr.

Senator KIM CARR: They just had to say, 'Sorry, it's a junior officer doing the review.'

CHAIR: I think the senator said that.

Mrs Urquhart: I indicated—

Senator KIM CARR: If it's a junior officer who's been working on this for two years, maybe that accounts for the delay.

Mrs Urquhart: I thought I indicated that it was officers in the section and they reported to me as the head of the division.

Senator KIM CARR: And they've reported what?

Mrs Urquhart: They report to me, on an ongoing basis, about that.

Senator KIM CARR: If they've been working on it for two years they must have quite a body to report.

Mrs Urquhart: There's no doubt that we have ongoing discussions about the science and research priorities and their implementation.

Senator KIM CARR: How much did they spend on this review?

Mrs Urquhart: If you would like me to calculate the costs of salaries in that team and make an attribution—

Senator KIM CARR: It's a simple matter. It's a simple question. I get the impression that not much has gone on. I get the impression that you don't have any sense of when this is going
to come to an end. I get the impression that you're making this up as you go along. Would that be a reasonable—

**CHAIR:** That's unreasonable, Senator Carr.

**Mrs Urquhart:** I'm sorry if you have that impression, Senator Carr. The department has been undertaking work. We've previously found that data issues mean that research activities against each priority cannot be measured and reported to an acceptable level of accuracy. We're currently carrying out preliminary internal work to examine the policy rationale for the priorities and their role in supporting the science system, consistent with the national science statement and ahead of considering any changes to the priorities themselves.

As Dr Mitchell outlined, there are a set of things that we have considered and decided to pursue, in that review work, that she has outlined. We've produced a draft discussion paper, which has been circulated within relevant agencies for feedback. A summary of that preliminary work is intended to be presented at the National Science and Technology Council. We then anticipate getting feedback from that process to inform the next step. Any review of the priorities involves further widespread consultation, prior to any conclusions being drawn.

**Senator KIM CARR:** Minister Tehan says that there are 'other reviews'—it's used in the plural—'of the priorities'. Can you enlighten me? What other reviews are there?

**Mrs Urquhart:** The only review I'm aware of is the work that we're undertaking and the review that the education minister has announced.

**Senator KIM CARR:** It says, 'other reviews'.

**CHAIR:** Maybe that's a more appropriate question for the education and employment committee.

**Senator KIM CARR:** I'm just wondering. Perhaps it's because he hasn't talked to you, about this press release, that he could make an error like that.

**Mrs Urquhart:** No, but the Australian Research Council has spoken to—

**Senator KIM CARR:** Okay, I'll take it up with the ARC. Fair enough. If I could ask a few simple questions about the SKA—

**Mrs Urquhart:** Certainly.

**Senator KIM CARR:** there was a reference there—we spoke of this earlier—about the industry procurement officers. Do you regard that as a downgrading of the industry engagement?

**Mr Luchetti:** I'm struggling to think of a context for the question. Previously, we were talking about the industry liaison officers who work with the European Southern Observatory.

**Senator KIM CARR:** There was an industry group that operated on ESO. How many are there?

**Mr Luchetti:** Sorry, Senator. In Australia we have a body called the Australian SKA industry consortium. They meet a couple of times a year. We use the opportunity to provide an update on where the project's at and talk about potential opportunities. We continue to do that. But given the nature of where the SKA is up to, in that we haven't started procurement for the construction of the telescope, activity with that group has been very much on an information-sharing basis.
Senator KIM CARR: But there used to be a group operating here. I thought there were about 60 companies involved.

Mr Luchetti: That's ASKAIC—the Australian SKA industry consortium.

Senator KIM CARR: How many are involved now?

Mr Luchetti: It varies. Because of what I just explained, companies come and go from the group. I think most maintain a watching brief. But, because their focus is on current industry opportunities, we find that some will participate for a few meetings and then drop off. Just to answer your question, in our database at the moment we have over 100 companies registered.

Senator KIM CARR: But you only have six, according to your annual report, participating in the preconstruction work program.

Mr Luchetti: That's right. That relates to the grants for working on the design of the project. Currently at the moment, it's mainly research institutions such as CSIRO and the University of Western Australia—

Senator KIM CARR: I mentioned companies.

Mr Luchetti: Yes. Those institutions are the lead bodies that we have and they work with a variety of companies. In the case of the University of Western Australia, they are working with a company called ThoughtWorks and also a company called Amazon Web Services. CSIRO worked with Aurecon. In the past we've had Cisco Systems.

Senator KIM CARR: I see. So you've got 100 on your mailing list but only six that actually engage directly.

Mr Luchetti: That's because of where we are in the project at the moment. The focus is on design, not construction.

Senator KIM CARR: That is what I am saying, though. There used to a much larger group of people actively engaged.

Mr Luchetti: We weren't at the number of 60. It may have been slightly more than six, but it would have been around a figure of 10 at most.

CHAIR: Senator Carr, I am conscious that we are revisiting issues we have already covered in a different part of the program and also that it is time to break.

Proceedings suspended from 15:07 to 15:26

CHAIR: The committee will resume its consideration of estimates in the Industry, Innovation and Science portfolio. Senator Carr.

Senator KIM CARR: Because we're trying to finish this by 4 pm, I'll come back to the SKA if I get a chance, Mr Luchetti—not now; I'll come back to you if I've got time. Can I just deal with the National Science and Technology Council. Has that met?

Mrs Urquhart: A meeting is scheduled.

Senator KIM CARR: When is it scheduled for?

Mrs Urquhart: I think it's 25 February.

Senator KIM CARR: The 25th, is it?

Mrs Urquhart: Yes, 25 February.

Senator KIM CARR: When did it last meet?
Mrs Urquhart: This will be the inaugural meeting of the council in its evolved form—that's the National Science and Technology Council. Obviously, we have dates for the meetings of the Commonwealth Science Council. I think we provided those in our answers to questions on notice from you.

Senator KIM CARR: Yes, you did. The old council hadn't met for a while, had it?

Unidentified speaker: August 2017.

Senator KIM CARR: Why did the old council not meet in 2018?

Mrs Urquhart: Meeting dates, obviously, depend on the availability of members. The Commonwealth Science Council was considerably larger than the new model of the National Science and Technology Council. It had a great deal more ministerial representation but also considerably more sectoral representatives. So one challenge was travel and other commitments of members, meaning scheduling a meeting would be challenging on occasion. But I should point out that the Office of the Chief Scientist has performed the secretariat role for the Commonwealth Science Council as well as for the new National Science and Technology Council.

Senator KIM CARR: Yes. We're not blaming the Chief Scientist for not meeting, though.

Mrs Urquhart: No, I'm not blaming him at all. I'm just explaining that it's my understanding that those challenges existed.

Senator KIM CARR: Sure. The previous meeting, I understand, was on 17 August 2017. That's a fair length of time, isn't it?

Mrs Urquhart: 17 August is correct.

Senator KIM CARR: It's a fair length of time, though, isn't it, to not have a meeting?

Mrs Urquhart: The Commonwealth Science Council met in that period less frequently than intended; that is true. It's intended, with the new model, that meetings can be scheduled more easily.

Senator KIM CARR: I see. You've said that it's smaller, with fewer ministers. Why is that?

Mrs Urquhart: The intention is that the Prime Minister will continue to chair, the Minister for Industry, Science and Technology remains the deputy chair; and other ministers can be invited according to agenda items and their relevance to a minister's portfolio.

Senator KIM CARR: You've managed to eliminate most of the non-scientific members of the council.

Mrs Urquhart: I wouldn't cast it like that.

Senator KIM CARR: How would you classify it? You've reduced the size. On what basis have you deselected people?

Mrs Urquhart: I wouldn't characterise it as deselecting people. It's rather that the membership has been assembled to, I guess, focus on the issues that we expect to unfold in the agenda ahead, so there has been attention to that.

Senator KIM CARR: Sorry, I didn't quite catch the answer to the question. On what basis did you actually remove people? What was the rationale?
Mrs Urquhart: It wasn't a matter of removing people. As I explained, the intention with the new model, the National Science and Technology Council, is that it is focused on the forward agenda. The refreshed council has the opportunity to develop advice for the immediate and long term through a restructured work program. The horizon-scanning work that was a feature of the Commonwealth Science Council's work program continues. It's also intended the refreshed council will have research challenges agreed to address current or emerging issues, and will obviously also consider other issues pertaining to the science and research system, such as support for research on gender equity in STEM.

Senator KIM CARR: Right. How do people get selected, then? They get appointed by the minister, clearly, but on what basis? What are the criteria?

Mrs Urquhart: There's no doubt that these are significant appointments, and there was considerable consultation in government. And, as I've said, the members were chosen on the basis of—

Senator KIM CARR: Sorry, 'significant consultation'?

Mrs Urquhart: As you would expect with significant appointments within the usual processes.

Senator KIM CARR: All right. What was the nature of this significant consultation?

Mrs Urquhart: I suppose my emphasis is on them being significant appointments. As I'm sure you appreciate, that involves a process of consultation with prime ministers and other ministers.

Senator KIM CARR: So the significant consultation is talking to the Prime Minister?

Mrs Urquhart: I would apply the 'significant' to the appointment.

Senator KIM CARR: You did say 'significant consultation'.

Mrs Urquhart: I did.

Senator KIM CARR: Right. So I just—

Mrs Urquhart: I'm correcting myself.

Senator KIM CARR: want to know what that involved, apart from talking to the Prime Minister. The minister wrote a letter to the Prime Minister, did they? Is that what happened?

Mrs Urquhart: I think it was considered in cabinet.

Senator KIM CARR: In cabinet? What date was the cabinet meeting?

Mrs Urquhart: I'll have to take that on notice. I don't have that date in front of me. It was in the second half of last year.

Senator KIM CARR: How long would it take you to get that date? Would it be easy? You'd have an officer here somewhere that could probably pull that out of the records pretty smartly, wouldn't you?

Mrs Urquhart: We obviously work with the Office of the Chief Scientist and with ministers to consider improvements that could be made to the Science Council model, as well as looking at the appointments to that model, and its future work program and how it might be focused. So there was all of that work undertaken last year.

Senator KIM CARR: Sure.
Mrs Urquhart: In terms of the specific timelines, I would have to take those on notice.

Senator KIM CARR: No, I'm interested in the date on which it went to cabinet.

Mrs Urquhart: Yes, and I said I would have to take that on notice.

Senator KIM CARR: Yes, and I'm asking you: do you have an officer here that can check that? It wouldn't be too difficult.

Mrs Urquhart: I've just spoken to Dr Mitchell on the side, and she's indicated we would need to take it on notice.

Senator KIM CARR: I've heard that. I'm asking you again: do you have an officer here that can tell me the date it went to cabinet?

Mrs Urquhart: No, I don't.

Dr Smith: We don't normally provide dates for cabinet meetings.

Senator KIM CARR: Yes, you do. I'm not asking you about the nature of the advice you provided. Under the normal regulations and the normal protocols, the date on which a decision is made by cabinet is absolutely consistent with advice provided to a Senate estimates committee.

Mrs Urquhart: What I can say is that the refreshed council was announced by the minister on 28 November.

Senator KIM CARR: Yes, I know—the date on which the Leader of the Opposition made a very significant speech at the Academy of Science. I want to know the date on which the cabinet considered this.

Ms Kelly: We might have to discuss that with the Department of the Prime Minister and Cabinet. My understanding is that the usual practice is that to reveal a matter that is considered does reveal the deliberations of cabinet.

Senator KIM CARR: No, that's not right. It's just not right. The date on which a decision of cabinet is made is a perfectly legitimate and long-established practice of Senate estimates. It is not the case that you have to consult with anyone about that.

Ms Kelly: Senator Carr, that's not my experience of other committees that I have appeared at—but if we could clarify that with the Department of the Prime Minister and Cabinet.

Senator Canavan: I think we should take this question on notice, given the discussion between the senator and officials. I'm not aware of the previous practice. To me, it does certainly go to matters under the Department of Prime Minister and Cabinet, so I'd like to take that on notice and get back to the committee.

Senator KIM CARR: You'd be able to tell me the date on which non-government members were approached to sit on the council?

Mrs Urquhart: From the notes in front of me, Senator, no, I can't tell you that.

Senator KIM CARR: There is a National Science, Technology and Research Committee, is there?

Mrs Urquhart: That's correct, there was a national science, technology and research committee that sat underneath the Commonwealth Science Council.

Senator KIM CARR: Does it exist, or not?
Mrs Urquhart: There still will be senior officials meeting that will sit under the new National Science and Technology Council. It's intended that it meet annually.

Senator KIM CARR: What is the membership of that body?

Mrs Urquhart: Can we come back to you to give you the precise list of the members of that committee, Senator? But it's the usual representation of portfolios that you would expect.

Senator KIM CARR: Given that you've got a meeting on 25 February, have you got an agenda?

Mrs Urquhart: Obviously, there is an agenda, but it's with ministers' officers at present so I'm not at liberty to speak about it.

Senator KIM CARR: It's been agreed though, has it?

Mrs Urquhart: It's under consideration by ministers as we speak, Senator.

Senator KIM CARR: When will the Chief Scientist report to cabinet on the activities of the council?

Mrs Urquhart: There's not a date specified for that, but, as you know, in the terms of reference I think there is reference to the Chief Scientist reporting to cabinet annually.

Senator KIM CARR: When you were establishing this new body, was there any consideration given to international practice, in terms of other government structures?

Mrs Urquhart: We like to consider international practice generally—sorry; that's not what you're asking, Senator. You're asking whether we looked at best practice in terms of science councils: yes, we did.

Senator KIM CARR: Which countries?

Mrs Urquhart: My recollection is that we looked at models in the United Kingdom and also in the US, just as we did with the establishment of the Commonwealth Science Council at its outset.'

Senator KIM CARR: Will there be any public engagement on the activities of the council?

Mrs Urquhart: Certainly. It has been the practice with the Commonwealth Science Council to issue a communiqué at the conclusion of the meeting. It's intended that that will continue.

Senator KIM CARR: Will there be reports published?

Mrs Urquhart: I would expect so. The Horizon Scanning work that the Commonwealth Science Council was undertaking will continue in the National Science and Technology Council's agenda.

Senator KIM CARR: Will there be any restriction on members' capacity to discuss the proceedings?

Mrs Urquhart: Senator, there's not been any instructions issued to members about a restriction on their capacity to discuss proceedings. As I said, there will be a communiqué issued. The nature of this meeting is that it is a meeting with sector representatives. There will be summaries published about the discussions at the meetings.
Senator KIM CARR: And so will the portfolio minister be required to respond to the reports of this new body?

Mrs Urquhart: Are you referring specifically to the Horizon Scanning reports?

Senator KIM CARR: No, in terms of any of the reports that it commissions—that, as you've indicated, it will be required to do—will the portfolio minister be required to respond to the reports of the NSTC?

Mrs Urquhart: What I referred to in my comments were the Horizon Scanning reports, and there has been considerable interaction in government around the Horizon Scanning reports emerging from the Commonwealth Science Council, and I would expect that to continue with the National Science and Technology Council.

Senator KIM CARR: Would you anticipate they are the only reports which the portfolio minister would be required to respond to?

Mrs Urquhart: If you're suggesting that the National Science and Technology Council may well oversee other reports and if you're asking if the minister would then be interacting with those reports, we're sort of talking in the hypothetical but, in principle, that opportunity exists.

Senator KIM CARR: Given that the committee that preceded this one hadn't actually met for the better part of two years, what does it say about the government's attitude to scientific advice of this type?

Senator Canavan: My understanding from previous estimates is that it hasn't been uncommon for this committee to not regularly meet. The government has taken significant steps to invest in science and research, including in the last budget with a significant, I think, $1.5 billion package of investment in both government and non-government capabilities. As the officials are outlying, arrangements have been put in place to ensure future meetings. I am more interested in action than meetings anyway.

Senator KIM CARR: We will see what happens on the 25th won't we.

Senator Canavan: I won't be there.

Senator KIM CARR: I can tell. I might go to Mr Luchetti again in terms of the SKA. Mr Luchetti, you've indicated before to Senator Arthur Sinodinos that you are due to sign a treaty in March, that was correct wasn't it?

Mr Luchetti: That's right March 12.

Senator KIM CARR: In Rome. I take it Australia has agreed to sign this treaty?

Mr Luchetti: That's correct.

Senator KIM CARR: That's good. When will the treaty or the text of the treaty be made available?

Mr Luchetti: I will have to take that on notice. There is a process that I understand that it goes through. We then need to ratify the treaty and then it moves into JSCOT and through that process. I'm not sure if it's just through that process or whether it generally becomes publicly available or all the member countries release it.

Senator KIM CARR: You would've signed it presumably. It's not a matter for ratification is it?
Mr Luchetti: It still needs to be ratified through the Australian system and it's the same for a number of the other partner countries—

Senator KIM CARR: It should be treated as a formal treaty process?

Mr Luchetti: That's right. Just to add, there are a number of member countries that may sign the treaty at a later day, so that's why it may not be publicly released until those countries have the opportunity to sign.

Senator KIM CARR: Does the ratification process have any impact on any financial allocations?

Mr Luchetti: No, it doesn't.

Senator KIM CARR: What are the outstanding financial allocations required from the Australian government?

Mr Luchetti: At this point in time there's a range. We have an obligation to continue to fund the SKA organisation, so that's the UK company where the headquarters are located. We are also still supporting some companies or institutions that are participating. As I mentioned earlier, we're getting close to the end of the pre-construction phase, so there's still some funding for that. But then we still move into a bridging period, which is between the end of pre-construction to construction. The Australian government is providing some funding to support those activities also.

Senator KIM CARR: How much is it providing?

Mr Luchetti: That figure is, if I get that maths correct, $25 million over 2018-19 and 2019-20.

Senator KIM CARR: Are there any outstanding appropriations required?

Mr Luchetti: There are. There's an obligation for Australia to provide support with regard to an engineering centre, which is to be determined where it will be located. We're thinking it will probably be in Geraldton. There is a science operations centre and we are in talks around that. There is also the need for regional centres. That's to help process the data. That's something else that we need to identify funding for.

Senator KIM CARR: I will come back to the specifics. Isn't there also an issue about power supply?

Mr Luchetti: That will be met within the budget of the SKA organisation. There is a power supply that does need to be provided to SKA 1 but that's not a cost that Australia needs to meet.

Senator KIM CARR: In terms of forwards what is the total that's required?

Mr Luchetti: None of those things have been designed as yet. The other thing I should add to that list is a permanent accommodation facility out at the site. We are finalising the design, so that influences what we need with regard to the capability of those facilities, so we don't have costings for those at the moment.

Senator KIM CARR: When do the decisions have to be made on those funding commitments?

Mr Luchetti: We expect—once again, keeping in mind that we don't have a final design—that will probably happen around the time that the construction proposal is signed.
off. So sometime towards the end of 2020, we'll have an idea of, roughly, what those costs are. We also have a requirement to come back to government in 2020, to provide not only some details around what the cost of SKA will be but also what will actually be built here in Australia.

Senator KIM CARR: You don't have any estimates at all about what's required?

Mr Luchetti: No, we don't.

Senator KIM CARR: So there's no need for any funding commitments to be put into this budget?

Mr Luchetti: No.

Senator KIM CARR: No budget bids are currently under review?

Mr Luchetti: None that I'm aware of, no. Sorry—I should say: none that I'm aware of, in the sense that I wasn't sure whether I should be actually commenting on proposals that might be going into the budget. But we don't have any.

Senator KIM CARR: But this is a long-term project. I mean, the Commonwealth has had to commit moneys in advance. What's the total commitment so far?

Mr Luchetti: We've spent almost $400 million over the last decade.

Senator KIM CARR: You must have an indication of, roughly, what's required to get to the construction stage?

Mr Luchetti: As I mentioned, to get to construction it will be $25 million in further activity. At this stage, we're working on the basis that construction will cost Australia roughly $145 million.

Senator KIM CARR: That was the figure I was looking for. So another $145 million is needed, roughly, in 2020?

Mr Luchetti: Construction is over a period of five years.

Senator KIM CARR: But the commitments will have to be made in 2020?

Mr Luchetti: That's right, and it is appropriated, because we have it in the NISA funding. So that money is already appropriated for construction.

Senator KIM CARR: I see. So there's an allocation made?

Mr Luchetti: That's right.

Mrs Urquhart: The uncertainty that Mr Luchetti is referring to relates to the accommodation block, the engineering centre and the SKA regional data centre. The reason for that is that, first, a construction design has to be finalised, and the new SKA Observatory, once members—is it five members?—have ratified the convention, will come into being. It will agree construction. So it's the SKA Observatory, the new international legal organisation, that will be responsible for the construction decision. Then also, in the interim, work has got to be progressed on the operating plan, and obviously those items that we mentioned—the accommodation block and the size of it, the engineering centre and what it requires, and, indeed, the SKA regional data centre—all depend on how the operations plan lands.

Senator KIM CARR: But that costing issue has yet to be resolved? That's the point.

Mrs Urquhart: That's correct.
Senator KIM CARR: You've got an envelope; presumably you have to meet that envelope?

Mr Luchetti: We have an envelope for the construction and operations and current activity—that's right.

Senator KIM CARR: My understanding is that the procurement guidelines may not necessarily be consistent with the Australian government's procurement process. Is that the case?

Mr Luchetti: That's not the case, because the procurement policy and the associated guidelines have not been settled. That's something that will happen over the course of the next year.

Senator KIM CARR: So how do you know that they will be consistent?

Mr Luchetti: I just can't comment on the guidelines at the moment because I just don't know.

Senator KIM CARR: Is that the answer—you don't know?

Mr Luchetti: Yes, that's right.

Senator KIM CARR: In terms of your policy remit, you must have instructions on how to operate this; what initiatives are you authorised to take to maximise Australian industry participation in the construction of the SKA?

Mr Luchetti: We're looking at a number of areas that Australia has a strong interest in, and that reflects the infrastructure out at the site—which, naturally, we would be very competitive in providing. But we don't want to be known for just providing the infrastructure for the SKA. We want to be involved in the smarts also. And, because of our involvement in the various pre-construction consortia, we effectively have a number of fingers in different pies. So that's relating to elements of the project such as the central signal processor, the signal and data transport system, the science data processor—all those kinds of things that we would like to have industry engagement in.

Senator KIM CARR: Do you have any sense of the number of people that will be employed on the SKA in Australia?

Mr Luchetti: We don't. It is something that's in active discussion at the moment within the project. We have various figures. At times we talk about people we might have working in our Science Operations Centre, and we're looking at a number of about 50. But, once again, that's a very rough figure. But then also, during the construction period, we expect that we may have upwards of 200 people out at the site, but that would obviously tail off at the end of construction.

Senator KIM CARR: I'm sure there'd be more than 50 in terms of ongoing operations.

Mr Luchetti: That's the Science Operations Centre, but then there's the Engineering Operations Centre and various other elements. So, we would expect—I'd be making a number up—a reasonable profile.

Mrs Urquhart: And it's probably important to emphasise that there's active discussion about host country arrangements underway at the moment, so they're not settled. And, as I mentioned before, you need to settle an operations plan and understand what you're building
and how you're going to operate it before you know exactly what that will mean for numbers of jobs. I think another important point is that we're obviously involved in an international collaboration. There are a considerable number of countries involved, and all of those countries also have an interest in the employment opportunity. So it is what you would call a live discussion.

**Senator KIM CARR:** You mentioned earlier that you've brought together your capabilities in terms of optical astronomy. What financial obligations are we required to meet in regard to commitments to the Giant Magellan?

**Ms Forsyth:** I don't have much detail with me in regard to the Giant Magellan Telescope, or the GMT. My understanding—and I'll take it on notice to confirm—is that we don't have any outstanding obligations, and the funding is managed by Education.

**Senator KIM CARR:** You don't run that?

**Ms Forsyth:** We contributed money a number of years ago, over a period time.

**Senator KIM CARR:** It used to be run out of this department.

**Ms Forsyth:** I might have to take some of these questions on notice.

**Mr Urquhart:** The Department of Education and Training was managing the funding that went to the Giant Magellan Telescope, not the Department of Industry, Innovation and Science.

**Senator KIM CARR:** I see. The original contribution came out of this department, though, if I recall rightly.

**Ms Weston:** I think that was part of the Super Science—

**Senator KIM CARR:** Super Science Initiative—that's right.

**Ms Weston:** Or 2008-09—around that time.

**Senator KIM CARR:** I would have thought there was actually a requirement now that they're in the build stage for additional support.

**Ms Weston:** We can take this on notice, but my recollection is that we were an early contributor and there are other contributors who now need to step up. But we will take that on notice for you.

**Senator KIM CARR:** Thank you very much.

**Mr Luchetti:** Perhaps I could just add to the answer to one of the questions Senator Carr asked. You were asking about how much money is allocated currently for SKA. It's $293 million over the forward estimates and beyond.
Senator KIM CARR: And that's already in the budget?
Mr Luchetti: That's already in the budget.
Senator KIM CARR: And you said these current forward estimates?
Mr Luchetti: That's right—this forward estimates and beyond, because it's not just a four-year measure; the funding goes I think until 2025-26.
Senator KIM CARR: But that's the full $293 million?
Mr Luchetti: Yes.
Senator KIM CARR: Thank you.

Senator PATRICK: I want to ask some questions about where we are up to in relation to the announcements made by the government in relation to advanced manufacturing. There was a $100 billion allocation of funding. I just want an update from the last estimates on the Advanced Manufacturing Growth Fund, Dr Richards. We have done two rounds now, is that the case?
Ms Ryan: Yes, we have had two rounds of the Advanced Manufacturing Growth Fund program.

Senator PATRICK: And that basically completes that funding activity, doesn't it? Is there any money left over in that?
Ms Ryan: No. We have achieved all of the Advanced Manufacturing Growth Fund priorities.

Senator PATRICK: Do you have an idea of the spend across South Australia and Victoria?
Ms Ryan: I think I'll have to take that one on notice.

Senator PATRICK: Okay, thank you. What about the stimulating advanced manufacturing research projects? That was $24 million. Can I have an update on that, please?
Dr Richards: The $24 million was a composite of programs. I think, if I can get those right, there was $20 million for the cooperative research centres. Those projects were announced on 6 December, and that fully expended that fund. I think one project rolled over with some into the next round, but wasn't quite squared away in that first one. Then there's the $4 million Advanced Manufacturing Early Stage Research Fund. That's delivered by the Advanced Manufacturing Growth Centre. There are four projects valued at $809,000 in that. That stimulated a total investment of $6,486,000.

Senator PATRICK: That's not a bad ratio. So what happens to the remaining $3 million?
Dr Richards: There's a pipeline of projects behind that being considered with the growth centre.

Ms Ryan: I have that split between Victoria and South Australia, if you'd like that? We have $33.4 million in Victoria and $10.8 million in South Australia. That's for the grant funding.

Senator PATRICK: Thank you very much. Can anyone provided an update on the scholarships program, please.
Ms Ryan: We've received the applications for the Automotive Engineering Graduate Program. The panel will be meeting shortly, in about two to three weeks, and then we'll go to the minister for decisions shortly thereafter.

Sorry, that will go to the program delegate—not the minister.

Senator PATRICK: Does that start in time for this year's academic commencement?

Ms Ryan: Yes. As I mentioned, the committee will be meeting shortly, and then the decision will be made shortly thereafter, so that will be in time for the new academic year.

Senator PATRICK: And the SEMA Garage concept, the—

Dr Richards: The innovation lab?

Senator PATRICK: Yes, the innovation lab, sorry—SEMA is the US name.

Ms Ryan: Similarly, we've constituted the assessment panel and they'll be meeting shortly, and, again, the decision is going to the delegate shortly.

Senator PATRICK: I understand that there are still going to be two sites, one in Victoria and one in South Australia?

Ms Ryan: That's right, yes.

Senator PATRICK: Do we have any idea when they are going to start operating?

Ms Ryan: The Victorian lab will be operational by mid-2019, the shopfront in South Australia will access the Victorian lab by September this year, and it's mid-2020 for the South Australian lab.

Senator PATRICK: Who is that service being provided through?

Ms Ryan: That's being provided by the Australian Automotive Aftermarket Association. That's an industry association.

Senator PATRICK: All right, thank you. That's all I wanted for that. I was wondering if I could speak to the Space Agency if they're here.

Australian Space Agency

[15:59]

Senator Canavan: This is Dr Clark's first appearance as the head of the Australian Space Agency—although she has appeared here before, I believe.

Senator KIM CARR: Not her first appearance at estimates?

Senator Canavan: No, but her first in the space agency role.

Senator PATRICK: We've had a fantastic announcement that the headquarters will be located in South Australia. Can you tell me what that means, what the time frame is for getting things up and running, and about any other activities that you are conducting now that things are moving forward?

Dr Clark: The Prime Minister announced in December that the location of the Australian Space Agency would be in Adelaide. We are pretty excited about this really important step for us. It means a couple of things. We will be located inside Lot 14, which is the refurbishment of the Royal Adelaide Hospital. That is going to be set out to be an innovation precinct, and we are looking forward to being part of that. In terms of the time line for that, we are anticipating that construction is being planned for the middle of the year and will be ongoing.
It also means, for us, the capacity to work with what is a very vibrant SME community and space community in South Australia, as well as the connections with Defence and the defence work that is involved in space.

We've also progressed in our agreements with industry. The agency, in its first eight months, has already done statements of strategic intent with three industry partners: Airbus, Sitael and Nova Systems. Inside those agreements, relevant to South Australia, Airbus has agreed to relocate one of its satellites in the Skynet network and the control centre of that to South Australia. Sitael is an Italian satellite manufacturer, and has committed to manufacturing satellites up to 300 kilograms in South Australia. And Nova Systems, which is based in South Australia, is looking at areas to expand in space situational awareness—that is, the debris in space—and the analytics around that, next generation ground systems and, also, capability assurance services. So there's quite a lot going on.

**Senator PATRICK:** The building will take some time to complete. Will you set up an office in the interim?

**Dr Clark:** We've wasted no time; we're not waiting for the building to be complete. I relocated to Adelaide on the day of the announcement—I live in Melbourne but I'll be working out of Adelaide. We already have staff in Adelaide and we have established our presence inside the AusIndustry office in Adelaide. So we're not waiting for the finalisation of the construction.

**Senator PATRICK:** How many full-time employees do you have at this point?

**Dr Clark:** We have three people. I'm not full-time, but we have three people in Adelaide at the moment. We have a transitional plan that we are working on, once we have progressed the construction of the facility.

**Senator PATRICK:** Have you done any work with the entity that is looking to do launches from Whalers Way, in Port Lincoln?

**Dr Clark:** There are a number of activities on launches. Did you want to cover that, Mr Murfett?

**Mr Murfett:** Thanks. I think you're referring to Southern Launch?

**Senator PATRICK:** Yes.

**Mr Murfett:** Southern Launch has been speaking to the South Australian government, and the Australian Space Agency has also been speaking to that entity. The minister is responsible for the Space Activities Act, and we provide advice on the regulatory requirements around the ability to do both launch permits and launch sites, as well as provide launch activities overseas. We're engaging with those and reinforcing the need to ensure that we meet our regulatory obligations as they look at their activities.

**Senator PATRICK:** Do you do anything in terms of helping and promoting the business activity itself, in the way of assisting with grant applications and the things that a lot of these small start-ups need? Are any of those activities conducted by the space agency?

**Mr Murfett:** Is this specific to launch or are we talking about growing the industry more generally?

**Senator PATRICK:** I presume what you're going to do with Southern Launch will be standard practice. As an example—the devil's always in the detail—just looking at what
you're doing with Southern Launch might inform us generally about some of the activities you're doing to help the Australian industry.

**Mr Murfett**: I might answer this in two parts. Broadly, with the industry, our purpose is to grow and transform a globally respected industry, specifically around launch. The view is that this is a commercial activity and those companies need to determine if there's commercial viability in the market, is there a market, what does the launch profile look like and what type of launches they would need to undertake. Our role in the context of launch at this particular point in time is in the regulatory environment, ensuring that there is low risk and safe operations.

The other thing we have been doing specifically around launch—the parliament has recently amended the Space Activities Act. What it aimed to do was better balance the entrepreneurship side of our space activities but also recognise that we need to balance the safety obligations and our international obligations. At the moment, particularly around launch, we're focused on that part of the equation. If we talk about the industry, that's a broader conversation about some of the things the agency is considering, about how to grow and transform, and that goes back to our purpose.

**Senator PATRICK**: If you're launching something into space, does that qualify for an Efic threshold for export?

**Mr Murfett**: I won't comment on whether that relates to Efic or not, but there are requirements around what constitutes launch; they're specified in the legislation. That's why we proactively work with the companies we're aware of, so that they're aware of their obligations.

**Senator PATRICK**: I'm aware that there are a number of government programs. With something like Southern Launch, they are relying on foreign customers, basically, but they don't export anything to those foreign customers they are effectively providing a service to. It sounds like a funny question, but is that an option for people; to go to Efic to get funding in support of these sorts of activities?

**Mr Murfett**: I think a good example, rather than Efic, is the work that the agency undertakes with Austrade. As we look at expanding activities, we work pretty closely with Austrade on how we can grow the space industry. As part of that, launch providers will fit within that particular mandate.

**Senator PATRICK**: That's about accessing markets as opposed to accessing funds, which is what Efic allows for.

**Mr Murfett**: At this point of time, we as an agency don't have funds available to support launch activities.

**Senator PATRICK**: I appreciate that, but being able to feed people on to other—a lot of the time, my office spends time helping people identify possible avenues for government assistance. I would have thought that that might have been something that your office could do as well.

**Mr Murfett**: Some of the things we are looking at, as the agency gets up and running, include the entrepreneurs program that the department has. Within that it has elements relating to advanced manufacturing and other services. There are avenues there, and what the agency will look to do is connect as appropriate to help grow the industry. The leverage in
connecting across other government programs that are relevant to growing the space industry is something that's very much on our minds. If we want to accelerate the growth of the industry, we need to be mindful across it. One of the things we have done in the agency is second people from other parts of the government to help us coordinate our activities so we can drive and grow the industry.

**Dr Clark:** If you look at the funding that we do have for programs, we have been given $15 million of seed funding to support the commencement of international agreements and reaching out—being one door, one voice, internationally. That's the current program funding we have. We're doing the policy framework for that, and next year we will move into the commencement of that program.

**Senator PATRICK:** Thank you very much. That's very helpful.

**Senator KIM CARR:** Have you managed to deal with the asbestos in the hospital site yet?

**Dr Clark:** I have no knowledge of the asbestos issue in the hospital. The construction and refurbishment of that site is a matter for the South Australian government. We are not responsible for that—

**Senator KIM CARR:** You can give us an assurance that there will be no asbestos—

**Dr Clark:** As someone who takes safety very seriously, both on earth and in space, I understand the significance and importance of that question. Certainly as we liaise with the construction team, which, as I said, is the responsibility of the South Australian government, we will assure ourselves that those issues have been dealt with.

**Senator KIM CARR:** The government said it would have an MOU by August—that's all they would have.

**Dr Clark:** We're currently in the process of working with the project developers for the site to make sure that our needs and requirements are clear to them. They are currently in the process of incorporating those needs and requirements into their designs. We're at the very early stage of interaction with the team at the moment.

**Senator KIM CARR:** Given that you have to do so much international work and so much of the agency's work will be with other agencies, I take it that you'll have facilities here in Canberra as well?

**Dr Clark:** As per the announcement, we'll have 20 people in Adelaide and we're currently working on the transition plans for that. We're also mindful of maintaining all of the work that we're doing internationally.

**Senator KIM CARR:** But you'll need facilities here, won't you?

**Dr Clark:** I see no impediment to being able to do that from Adelaide. We've already I think established very good international relationships. We've been going for only eight months, but we already have agreements with the French space agency, CNES, who have agreements with the Canadian Space Agency; with the UK Space Agency; and just this month with the United Arab Emirates, so we are progressing quite quickly on opening that door for both industry and our researchers.

**Senator KIM CARR:** I notice that other states and territories had a view about the government's announcement in December. Have they been mollified by the agency's work
now? They weren't too happy about the announcement. That would be a fair description, wouldn't it?

**Dr Clark**: There was some criticism, but I think it's important to note that we're a national agency and our purpose is to transform and grow a respected space industry, and that is a national undertaking. All states and territories are very keen to grow this sector. We have also been tasked by the minister to engage in discussions on investment opportunities with the states and territories, and we will be undertaking that work this month and in March. This is a national engagement, but a very important and quite exciting first step in Adelaide.

**Senator PATRICK**: The good news is that Mr Shorten has written to my office saying that he will honour the federal government's—

**Senator KIM CARR**: He will, but there have been three offices. I want to be clear that we're not going to put people in a building that has an asbestos problem. I want to know what the MOU actually says.

**Dr Clark**: We have not completed the MOU because, as I mentioned, we are at the stage of really just sharing, 'Here's what we need. Here are our requirements'—and the project team are considering those. So it's very early stages in the discussion. At the appropriate time we will formalise that in the appropriate way. I'm just characterising where we're at at the moment.

**Senator KIM CARR**: Sure. Dr Clark, this is, as you say a national agency.

**Dr Clark**: It is.

**Senator KIM CARR**: It is not a local government agency, is it?

**Dr Clark**: No, but our purpose of growing and transforming a respected space industry means we need to be connected in the states and territories because that's really where the industry is going to grow.

**Senator KIM CARR**: That's right.

**Dr Clark**: We have responsibilities that are broader than that, but there's no question that to deliver on our purpose to the nation we must commence that engagement—

**Senator KIM CARR**: And you'll have nodes in other states, will you?

**Dr Clark**: an important first step. Certainly our vision for the long term is we would have representation in all states and territories, but that's quite a way away. What's in front of us right now is executing and operationalising the decision that was made in December. We're moving forward a little bit ahead of plan on that.

**Dr Smith**: We also use our AusIndustry offices in particular state capitals as a mechanism for engaging on the Space Agency. Given that a quarter of the department's footprint is outside of Canberra, I think this is a good initiative and one that extends that.

**Senator KIM CARR**: Dr Smith, you'll be maintaining a regional structure, won't you? There will be AusIndustry offices in all the states?

**Dr Smith**: It's really important that we are outside of capital cities as well.

**Senator KIM CARR**: I agree.

**Senator SINODINOS**: I want to follow up on what Senator Carr and Senator Patrick were talking about on the Space Agency. We have been talking about having an industry
development framework because we want to maximise domestic opportunities out of this, but we've also got a very big defence spend, so clearly there will be synergies there. Are you looking at linkages with the various defence innovation programs and how that might fit into your vision about how you develop the space industry?

**Dr Clark:** Yes, the defence plans for some $10 billion over the next 20 years in the space sector will form a very important platform for our engagement as a country in building this industry. We are not only connected with the two Defence programs, in terms of the innovation hub and next-gen technologies; we also have within the Space Agency an officer from the Royal Australian Air Force who has been seconded to the agency to facilitate that engagement with Defence. So, it's a very important one for us.

**Senator SINODINOS:** When we look at how much is actually going into the sector, in terms of potential government support, the pool is much broader than what's going in through the department and the agency. Clearly you can also draw on other parts of government when looking at potential sources of funding and potential partners for doing work in this area. Is that right?

**Dr Clark:** Absolutely. We saw that in the 2018 budget, when some $300 million was announced with the announcement of the agency. Importantly, there are two priorities: the national civil space priorities, in terms of position, navigation and timing, which Geoscience Australia will look at, with 10-centimetre accuracy across our land, maritime and air space but also the possibility of three-centimetre accuracy where we have the additional capacity of being able to use the mobile phone networks—most of those programs are very substantial; and additional funding for the Digital Earth Australia platform. So, not only was the agency announced but also this funding.

The nation was very clear to us in its view that it didn't want the agency to do everything. It wanted the right parts of the system to be able to be the home of these programs. The agency has a role in setting and advising on national space civil strategy and policy. We certainly want to facilitate that investment, not necessarily bring it all into the agency.

**Senator SINODINOS:** So for other states like mine, like New South Wales, essentially it's a case of the state government or companies located bowling up proposals to you about developments relevant to your charter?

**Dr Clark:** We've been engaging with all states and territories to get an understanding of their strengths and capabilities, and we are continuing those discussions with each state and territory on how we support them in building those strengths and capabilities. We have also set ourselves the goal of attracting some $1 billion of inbound capital into the sector to grow an additional 20,000 jobs. We're already starting to attract that. For the next three years the project pipeline is just under $1 billion, with around half a billion dollars of that being inbound capital. We're already starting to see momentum in the states and territories in engaging in growing this sector quite quickly.

**Senator SINODINOS:** So, in future estimates, Senator Carr and I will be able to track your progress against these milestones?

**Dr Clark:** We will absolutely provide you with updates and—

**Senator KIM CARR:** Hopefully I won't be doing it from this side!
Mr Murfett: I was going to add that, with the way the agency is delivering on its purpose, it's not about companies putting their money forward—one of the main premises of setting up the agency was to open those international doors, identify opportunities, because for the sector to be successful in the long term it's the business investment that will need to drive that. What we're looking at, through our investment plans, is: what are the best mechanisms to open those doors? One of the ways we're doing that is through international MOUs, which identify our competitive strengths. The other thing we're doing, as we look forward, is looking at what NASA and the European Space Agency are doing in their 10 year missions and identifying the gaps and matching them to our capabilities, because, if we can open up those particular insights, they will be opportunities for our Australian space companies to export internationally. So, our spectrum of activities is quite broad, and we've got a number of avenues that we can pursue to grow the industry.

Senator KIM CARR: Following on from what Senator Sinodinos said, the critical problem here is: how do you maintain effort for all the states? While we've made a commitment to have the office in Adelaide, if we're to build the industry, how do we maintain effort, given that South Australia has only about eight per cent of the nation's capacity? How do you maintain the effort of all the other states in that circumstance, particularly when so much of the activity is in other parts of the country?

Dr Clark: We absolutely see that our mandate is a national one and we will be looking to grow the space industry in all states and territories. We also have many overarching responsibilities both nationally and internationally that we'll undertake, as Mr Murfett outlined. We will provide national policy and strategic advice. We will also coordinate Australian domestic civil space activities. As Mr Murfett outlined, we have a role to establish the appropriate legislative framework to enable this industry, and we are progressing on that as well. We updated the Space Activities Act 1998 through the Space Activities Amendment (Launches and Returns) Act, and modernised it. We have a number of activities as an agency that cover the sector nationally, not just the industry part. But there's no question that to connect effectively with the industry we need to have a foot on the ground in the states and territories.

Senator KIM CARR: Thank you.

Department of Industry, Innovation and Science

[16:22]

Senator PATRICK: Ms Manen, as you would recall, last estimates I asked questions about the Seafood Origin Information Working Group, which was established in November 2016. You advised that the group had met in 2017, and, from memory, there was a report and the government was going to respond to that report.

Ms Manen: Yes, the government made a commitment to provide a report in relation to the work of the seafood working group.

Senator PATRICK: Last time we met you said that there would be a meeting taking place in November.

Ms Manen: Yes, that's right. Last time we met I mentioned that there were two subsequent processes underway—one that was run by Minister Littleproud in relation to fast food. He hosted fast-food forums. One occurred in May and one occurred in November last
year. The meeting in November in particular was very positive. Representatives from the fast-food sector that attended that meeting indicated their support for making origin information available to their consumers, and they agreed that they would continue to explore ways that they could make that information available for products on their menus. I also mentioned when we last met, Senator Patrick, that the food ministers had asked for advice from the Consumer Affairs Forum. The Consumer Affairs Forum met in October of last year, but we are still waiting advice from CAF on the outcomes of its consideration.

Senator PATRICK: Okay. In November, Minister Andrews wrote to a constituent of mine advising that a paper on the working group had been uploaded on the department's website. My understanding is that there's no final report at this stage.

Ms Manen: That's right.

Senator PATRICK: The minister basically stated that the papers that were uploaded onto the website were the views of the working group.

Ms Manen: That's right.

Senator PATRICK: But it's been put to me that they're not the views of the working group but the views of the department and that the views of the working group are not expressed on the website.

Ms Manen: My understanding is that those papers, whilst written by the department, expressed the views of the general working group.

Senator PATRICK: Have those papers been presented to the working group, and has the working group signed off on them?

Ms Manen: I would need to take that on notice.

Senator PATRICK: That's inherent in what you have just told me—that they are representative.

Ms Manen: Certainly my understanding is that it's representative of the views of the working group that were obtained during the consultation process that was undertaken in 2017. I would need to take on notice the process by which they were put up.

Senator PATRICK: A normal process would be that a working group would meet. The department may well form some notes or some papers that would purport to reflect the views of the group. One would imagine those papers would be sent back to the group and would be endorsed by the group before they would be put up on a website proclaiming they are the views of the group.

Ms Manen: I understand your point. I will need to take on notice the process that occurred. I wasn't involved in that process, so I'd need to take it on notice.

Senator PATRICK: Is there anyone else around here that might have been involved in that process?

Mr Power: I don't think so, so we might have to take that on notice.

Senator PATRICK: All right. Thank you.

CHAIR: Thank you very much to the department. We're going to move on immediately to the Anti-Dumping Commission now.
Dr Smith: Chair, can I check that the officers for programs 1, 2 and 3, apart from those attached to the science agencies, can be dismissed.

CHAIR: Yes.

Anti-Dumping Commission

[16:28]

CHAIR: Welcome, Mr Seymour and team. I'm sorry we kept you waiting a little while.

Mr Seymour: That's all right.

CHAIR: I'm going to kick off with some questions that I'm asking on behalf of Senator Stoker, who has had to duck out and go to another meeting. She has asked me to ask you specifically how the commission is operating now in a way that continues to support Australian industry to ensure that there's a level playing field in supporting our domestic businesses and growth and employment.

Mr Seymour: Thank you, Chair. In the time that the Anti-Dumping Commission has been in operation, which is now some 5½ years, we have established what I would consider to be a competent trade remedy investigating authority for Australia. I say that in the context of there being many trade remedy authorities globally, so we are one of many. In the many interactions I have with my counterparts around the world in relation to the standards that we all apply for antidumping and subsidy investigations under the WTO rules, I am often reminded of how far we've come and that we are, in my view, one of the most efficient and effective trade remedy authorities among the developed economies.

The best example of that is: there are two tests. The first is the quality of the work that we do in the Australian system. As senators might know, there are both merits review and judicial review for the decisions that I take or that I recommend to the minister, and our ability to withstand that type of external review and have either my decision or the minister's decision upheld through those review processes is very high. So, I am extremely pleased with that record.

The other test is the timeliness of the cases that we conduct. I'd say from the outset—and I've said this before—in their wisdom, those who decided to amend the legislation back in the nineties gave us the shortest time possible under the WTO to complete an investigation, which is 155 calendar days. As the commissioner, I'd make the observation as an independent officer: that is a very challenging task. It's a challenging task for two reasons. The first is that, increasingly, international trade has become much more complex. It's probably always been complex; however, it appears to me, in the time I've been in the role, which is 5½ years, that it's become even more complex now than it was in 2013. It means that we have to be up to the task of being able to gather the data properly, effectively, both domestically and internationally, and also analyse that data properly based on the facts to the law. This is proving to be a challenge, given the trade and economic development policies of many governments around the world.

In recent times, we've seen a significant level of disruption internationally in the trading environment and that has posed some challenges to us in terms of our ability to manage both the expectation of our stakeholders in Australia—which are, as I like to say, companies that
actually make things in Australia and employ Australians in doing so—and also satisfy our obligations internationally to the WTO and manage what are often very nuanced relationships with other governments. That's become an extremely important part of our business.

So, I think the average time to complete a complex case has come down some 30 or 35 per cent since the time I started and is now around—

CHAIR: So, 30 to 35 per cent in five years?

Mr Seymour: Yes. I would say around the 250-day mark, give or take a week or two—these are calendar days that I'm referring not; they're not working days. I got my people in Canberra this morning to do a bit of a back-of-the-envelope calculation as to: if you strip out public holidays and weekends, how many effective working days do you have to complete a case in 155 days? It's down around 140 days. That's not a long time. The equivalent jurisdiction in the US, the European Union or Canada is always in excess of 365 days. So, when you look at the performance overall in relation to our counterparts, I think we're doing quite well. I think it's a tribute to the quality, commitment and professionalism of the staff in the Anti-Dumping Commission in Canberra and Melbourne, and they do a wonderful job.

CHAIR: Can I just clarify: the time frames you work within, are they imposed upon you or are you always striving to make them shorter or better? Tell me how they're set—the WTO sets them?

Mr Seymour: That's a good question. Some of the time frames are stipulated in the WTO. In terms of the expectation that cases be done as quickly as possible, the Customs Act 15(b) stipulates the time frames for the management of cases in the Australian context. That's where the 155-day calendar day time line comes from, and there are components within that 155 days when I have to publish reports and get reports out to industry or to affected parties for comment.

I often say that, of all the things I may have done in the public sector over my career, this is one of the most transparent and consultative processes I've ever been involved in. You would literally have to be not wanting to pay attention if you were an affected party not to know which way we were going, because we provide more than a couple of opportunities to affected parties to comment on whether or not they believe we've got it right.

CHAIR: What support, in terms of policy, additional funding or operational reforms, have you had put in place to strengthen the system within which your agency works?

Mr Seymour: In the last five years, there has been a continuous process of reform in terms of commitments by government to maintain an effective anti-dumping regime, and I have been pleased that ministers that I have reported to have all shared that view and made that view quite obvious—in particular, the commitment to ensuring that there is a level playing field in Australia and that unfair international trade does not injure domestic Australian manufacturers of goods. That is at policy level.

At the practice level, which is my domain, we have gone through a major reform of our business model. We've essentially tipped it on its head and come out the other end with what we refer to as a new investigations regime. This regime adopts a much more collaborative approach internally to ensure that complex matters are properly ventilated very early on in the case, to ensure that, if we require more specialist legal accounting or policy advice, we are able to do that early on in the process and not lose valuable time, given that we are run under
the statutory time line regime. That process is the reason that we have been able to bring
down these time line by that 30 per cent to 35 per cent over that period.

The policy and operational support provided by the Department of Industry, Innovation and
Science has been excellent. There is a very clear understanding between the policy lead and
the practice lead—so the department and the commission—to ensure that we are properly
pursuing the policy objectives as determined by the legislation. It has taken us a little bit of
time. It was difficult in the first 18 months to affect those reforms. It required some pretty
significant decisions on my part to change the way we operated. But 5½ years down the track,
I think we are now a genuinely competent trade remedy investigating authority.

Senator PATRICK: I was hearing a lot of self-promotion there, Commissioner. It is
always hard to work out how you compare things. I presume your US counterparts have an
equivalent number of staff per application and all those sorts of things. How do you compare
in terms of your staff numbers and the applications that are made that you have to process?

Mr Seymour: I may have to come back to you with some data. There is
some data available on that. The US system is somewhat different to the Australian system. The
Australian system is wholly integrated. So both the assessment of injury dumping on the
Australian manufacturer and the effect of the subsidy on the Australian manufacturer is all
done with the Anti-Dumping Commission. In the US model, it is bifurcated. The International
Trade Administration of the Department of Commerce does the dumping and subsidy
analysis, but the injury and causation test is done separately by the International Trade
Commission. Each of those organisations has substantial resources.

Senator PATRICK: It is just that you them up as a comparison to you. I certainly support
the work you do; I just wanted—

Mr Seymour: That's a fair comment. I was specifically referring to the time lines.

Senator PATRICK: But they will of course be dependent on the resources you have and
the applications.

Mr Seymour: Yes.

Senator PATRICK: They might have eight times the number of applications and only
four times the staff.

Mr Seymour: And they most definitely have many more applications. They and India are
the top of the league ladder in terms of initiations of cases for dumping and countervailing.

Senator PATRICK: Thank you.

Senator KIM CARR: Can I go through a few propositions with you, Commissioner? You
made some points in the last round with regard to the question of trade diversion. You said
that you are looking at the issue of trade data and that your interpretations of it—perhaps I
should quote you directly so I get it right. You said:

What I'm prepared to say is that there are some discussions going on with certain industry sector players
in relation to their interpretation of trade data that they have access to that may cause them concern. I'm
talking with them about my understanding of trade flows for those particular products to see whether I
believe, as the commissioner, that there might be a concern that the Commonwealth may wish to
respond to.
I don't want you to necessarily get into particular company areas, but when I look at section 232 for steel and aluminium tariffs, you said that no discernible impact on the Australian market was expected. Do you still maintain that view?

Mr Seymour: Thank you for the question, Senator. I agree with you that it would be inappropriate to make specific reference to companies, but I can confirm that I have, as recently as in the last couple of weeks, met with a number of commercial concerns in Australia who remain concerned about the potential for diversion of steel products into Australia as a result of the 232 action. What I have done is create a capability in the commission to properly monitor trade players for products entering Australia that are subject to measures. This capability now allows me and members of the commission to take a more strategic view about what the data is telling us, and—not that it has happened to date—if I were so concerned, I would raise that with counterparts in the Commonwealth relation to what responses the Commonwealth might wish to make to those concerns.

Senator KIM CARR: I want to go to it because, obviously, people are talking to me about these things, and I can tell you it's a bit more than just concern. We know, for instance, Turkey, which is a big producer, is now subject to tariffs both from the US under the 232 order and under the European Union safeguard measures. Have we seen any increase in their activity here?

Mr Seymour: The data we have collected in relation to the sale of rebar from Turkey and its importation into Australia suggests there has been an uptick in volumes. It's not my role to offer an opinion in relation to aspects of the trade remedy system that I don't have responsibility for, so I will refrain from doing so. I would wish to reassure the senator, however, that I have encouraged a number of commercial concerns in Australia that if they feel that that data supports a particular response by the Commonwealth that is outside of my control, I would refer them to the appropriate agencies further action. I am not aware of what they have done in that regard.

Senator KIM CARR: You're saying you are keeping a close eye on it. Turkey is clearly an example where we have seen some increase. What about Russia or India? Would you say that those two countries would follow a similar pattern?

Mr Seymour: At this stage I would say we are keeping a very close eye on all of those producers of rebar who may be affected by the 232 action from the US to ensure that, as I say, if we feel that that data is supporting a potential action, that is taken up by the appropriate Commonwealth agency. What I can talk to is that I have initiated a case—a review—on rebar from Turkey under dumping provisions of the Customs Act. That case is currently underway. I am pleased with the progression of that case. My investigating teams have just returned from Turkey in the past week. That case is proceeding, and there is a preliminary decision in place requiring security to be taken against rebar from Turkey while I finalise that particular case.

Senator KIM CARR: You've got information, and I presume other agencies have information. It is a question of whether or not there is any coordination across government. Is there any capacity for you to recommend trade remedy action yourself?

Mr Seymour: Outside of the provisions of section 15B of the Customs Act, the answer would be no.

Senator KIM CARR: Who in government is responsible for that particular function?
Mr Seymour: Currently, as I think you would know, Senator, there are three agreements of the World Trade Organization that are broadly described as trade remedies. There is the anti-dumping agreement, and the subsidies and countervailing measures agreement. Both of those are administered by the Anti-Dumping Commission under the provisions of the Customs Act. The third is the safeguards agreement, administered by the Department of Foreign Affairs and Trade, and the investigating functions under that agreement undertaken by the prescribed authority, which is the Productivity Commission.

Senator KIM CARR: Yes, and my position is to have that function transferred. I think there might well be a different approach in terms of rigour on that matter in a different location; I trust that's the case. Certainly that is the policy intent. On the question of public access to information, the trade remedies index, you have told me in written answers to questions that you're working with other agencies, including Home Affairs and ABS, to determine if a version of the index can be made publicly available. Does that still remain the case?

Mr Seymour: Yes. We've made some progress in that area, and I am pleased to report that I am quite confident that a number of those agencies will come to an agreement with us in relation to what information might be released publicly. This is actually a very sensitive area, because in the Australian manufacturing sector there are relatively few operations producing most of the output, and it's important that we're not releasing information that is commercially sensitive and allows competitors—

Senator KIM CARR: Yes, it could undermine our capability.

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Senator KIM CARR: Yes, it could undermine our capability.

Mr Seymour: Yes, it could undermine our capability. But I'm confident that a version of my trade index, which is essentially the aggregation of my trade-flow monitoring that I referred to earlier across all products under measures, will ultimately be able to be released. The International Trade Remedies Forum is the forum I've been using to have those discussions, and I am very pleased with the progress that has been made with the ABS and with Home Affairs.

Senator KIM CARR: Commissioner, when would you expect some conclusion to your deliberations on that matter?

Mr Seymour: I'd say it would be in the coming months. I'm feeling quite confident that I will be able to progress that matter.

Senator KIM CARR: Can I ask you specifically about some matters that go to revenue. I have been led to believe the Australian Border Force Good compliance update suggests that last year, when they examined $27 million worth of goods subject to antidumping duties, they detected duty underpayments or avoidance in approximately 46 per cent of lines analysed, culminating in a duty underpayment of approximately $4.8 million. Would you agree with that analysis?

Mr Seymour: I'm aware of that analysis. The totality of the customs system is significantly larger than just the trade remedies aspects, obviously. We have extremely good working relationships with Customs, or ABF, given that we came out of that business, if you like. We work very close with them on anticircumvention inquiries. We regularly communicate with them in relation to compliance and enforcement. We have a subcommittee established under the International Trade Remedies Forum. The work they do in detecting
underpayments and fraud, which is duty evasion, which could be considered to be fraud, I think is progressing very well. I think the key for the Anti-Dumping Commission is to continue to work cooperatively with them around how we can drive to a higher standard on compliance and enforcement more broadly. Certainly stakeholders are of the view that they would expect us to be doing that, and I would agree with that.

Senator KIM CARR: In another one of your answers you say you are concerned about the duty avoidance, and remain committed to ensure to ensuring the trade remedies system is strong and robust and that the legislative framework achieves its objectives. While the ABF is the lead agency for ensuring compliance, do you think there is anything more that we can do to ensure that we collect the duties that are owed?

Mr Seymour: There are obviously some clear responsibilities that sit currently with the ABF in that regard, and they take the lead. They are fit for purpose in that respect. The Anti-Dumping Commission now have, and have had for four years, the ability to conduct our own anticircumvention inquiries. We have done quite a few of those now. Where we find that businesses are circumventing in relation to duties, be they dumping or subsidy duties, we have the ability to alter the notice and provide further remedy to ensure that they cease that activity. And in some of those cases we work closely with reference to ABF to ensure that the case may be followed up as a fraud matter. It's difficult for me to say much more than that. I provide, through the International Trade Remedies Forum, a facility to ensure that industry in Australia has the ability to come to government and raise those concerns. Once those concerns are raised, we always ensure that those matters go to the appropriate authority for follow-up.

Senator KIM CARR: Clearly it's a very important function.

Mr Seymour: The Anti-Dumping Commission is not resourced to undertake a large compliance suite of activities. It's not really something that we have done.

Senator KIM CARR: I see what you're saying, but what seems to be the implication of the proposition you're putting is that we have a total duty collected in 2017-18 of $70.3 million: $60.6 million on dumping and $10.6 million on countervailing duties. That is a customs value on goods of $1.03 billion. That's on the operating systems data provided by the Border Force. That implies that the post-transaction verification activity which was analysed—a just $27 million of that—picked up 2.7 per cent, which is of course only seven per cent of the revenue. Is that level of abuse, avoidance, of concern to you?

Mr Seymour: As the commissioner I would like to see 100 per cent compliance with all duty obligations for those who are transacting business into Australia. There is a great deal of detail that we go into in this area. I am quite happy to ask one of my general managers, Nathan Zhivov, to go into that detail. I'm not sure whether you would wish to do that.

Senator KIM CARR: As the commissioner I would like to see 100 per cent compliance with all duty obligations for those who are transacting business into Australia. There is a great deal of detail that we go into in this area. I am quite happy to ask one of my general managers, Nathan Zhivov, to go into that detail. I'm not sure whether you would wish to do that.

Senator KIM CARR: I don't know how much time we've got, but I want a sense of how big the avoidance question is, because there are clearly quite significant revenue implications. If we are short of money in a whole range of areas, this is a legitimate issue in terms of people avoiding their financial obligations.

Mr Lawson: I think it is the responsibility of Border Force to do the compliance.

Senator KIM CARR: It might be, but we have an agency here that has identified quite a serious problem.
Mr Lawson: I accept that they can tell us about setting the criteria that we need to do, but in terms of working out what compliance should or shouldn't be done, it is the responsibility of Border Force.

Senator KIM CARR: I accept that. I want to establish whether or not my rationale is right when it comes to this, and you are expert in that field.

Mr Zhivov: We've checked with Border Force on the comparability of the two figures. That includes the 46 per cent of lines analysed on $27.3 million of goods. We've also checked on the 6.84 figure across the entirety of their compliance activities. What Border Force communicated to us was that one should be very cautious in comparing those two numbers, as they come from different programs. The 46 per cent of lines analysed, we're advised, comes from a program based on risk based intelligence where, in effect, Border Force is looking for something specific and they're expecting to find some form of noncompliance. Whereas the 6.84 per cent figure comes from what is effectively rolling visits to warehouses and depots as part of their general compliance program. So their information to us was that we should be quite careful about comparing those two numbers.

Senator KIM CARR: So do you have any sense of the non-compliance rate?

Mr Zhivov: I would have to take that on notice and we might have to refer it to Border Force.

Senator KIM CARR: Thank you. If you would, please. You may want to think through—in terms of the customs value on that $1 billion, how much of the goods were subject to the lesser duty rate? I presume that will be a matter you will take on notice as well. Is that right?

Mr Zhivov: Yes.

Senator KIM CARR: The paper dumping—what's the situation in regard to—we had an investigation in regard to paper coming in from Austria, Finland, Republic of Korea, the Russian Federation and the Slovak Republic. That was an investigation which, I understand, commenced on 19 March 2018. The recommendations are now anticipated in the report due on 28 March 2019. That is significantly above the 155-day rule that you have mentioned, Commissioner?

Mr Seymour: Yes. I agree.

Senator KIM CARR: What's happening?

Mr Seymour: We have almost completed that investigation. The final report is due with the minister by 15 March.

Senator KIM CARR: Yes. We've got that.

Mr Seymour: So I am very satisfied that it is in its final stages. It has been a—

Senator KIM CARR: I am pleased to hear that.

Mr Seymour: There has been a preliminary affirmative determination in place for some time, which has meant that securities have been taken and the Australian industry APM have been able to enjoy a level of support in relation to the taking of those securities at the rates that have been published. So it is a significant case to undertake—many countries, complex issues across all of those countries concerned—but we are almost complete.
Senator KIM CARR: So you have interim duties in place, which presumably are designed to prevent injury to Australian industry, but how are the final margins calculated?

Mr Seymour: Essentially, the interim duty is done on the basis of the information available to me. I have to satisfy myself that there is a case, and the case standard is really a prima facie standard. Those interim duties are clearly subject to change, because they are set prior to verification of the data, which in detail involves me sending investigating teams to the countries concerned to essentially interrogate that data and satisfy ourselves as to the accuracy of that data in order to create and establish a level of confidence around the normal value calculation and the export price. This always means—in almost every case—that the rates will alter from the preliminary view, and they can go up or they can go down, depending on the data that is provided and verified by my verification teams.

Senator KIM CARR: When do we expect the final margins to be calculated?

Mr Seymour: The final margins are pretty much calculated now. In addition to calculating the dumping margins, we also have to undertake the assessment of injury and causation in the domestic market, and that's the other side of a typical dumping investigation. That process runs essentially in parallel. And, as I said earlier, that is almost at completion stage now.

Senator KIM CARR: So we've got to wait for the final report?

Mr Seymour: Yes. I published a statement of essential facts that gave a very clear indication as to what direction we were heading in; that's on the public record. I don't typically share my final views until I allow the minister the chance, as the decision maker, to have a look at it.

Senator KIM CARR: There's a WTO challenge through the Indonesian government. I understand that you have been off to Europe on these matters in December?

Mr Seymour: Yes. We had our first hearing of the panel on DS529, as it's known. It's a very interesting case. The information presented to the case is not on the public record. There needs to be consent for that to occur, and that consent wasn't provided so I'm limited in what I can say. But I can say that Australia believes that we've acted in accordance with the antidumping agreement, particularly clauses 2.2, 2.2.1.1, 17.6.1 and 17.6.2. That forms the basis of the debate, if you like, as to whether we are inside the WTO rules or not.

Senator KIM CARR: So you think you've done the right thing. I'm not surprised to hear that. In fact, I'm very pleased to hear you say that. Are you getting full support from other Commonwealth agencies?

Mr Seymour: At the risk of being accused by Senator Patrick of more self-promotion, I can say that it has been an absolute pleasure working with the Department of Foreign Affairs and Trade on this particular matter.

Senator KIM CARR: Why is that self-promotion?

Mr Seymour: I'm just being a bit facetious. It's late in the day. Quite seriously though, I really am extremely grateful for the professional work that DFAT have provided in this regard. We've also been able to engage external legal experts to assist us. We have taken the task extremely seriously, and I'm confident that we've put forward a strong case.

Senator KIM CARR: When do you expect a decision?
Mr Seymour: The second hearing has been delayed until May. So we'll go back in at that stage and put our final submissions in, based on our views having seen answers to a range of questions that the panel of three have put to us and to the Indonesian government. The panel will conduct that hearing in May in Geneva and then they will consider their views and produce a final report sometime after that, I think. DFAT suggests that it's probably the end of calendar year 2019 before we'll see a view from the panel.

Senator KIM CARR: Okay. Thank you for that. In regard to aluminium extrusions, there clearly has been a change in trade flows from China and South-East Asia since the last investigation case—case number 442—which looked at two Chinese exporters and Thai exporters. I'm told the magnitude of that change is very significant. Would you agree?

Mr Seymour: I think it's fair to say that Australian manufacturers of aluminium extrusions are facing significant competition. We are currently doing a review of the rates for what we refer to as al-ex imports from China. We've almost completed that case. I'm not able to talk specifically to the outcomes of that case as yet—because it's not finalised, so the minister has yet to receive my final report—but I would say, having sat down with one of the leading manufacturers in Sydney in the last fortnight, it's clear that there are challenging market conditions at the moment.

Senator KIM CARR: Right. So what can you tell us? There's a recent anticircumvention case. Is that the one you're referring to that's with the minister?

Mr Seymour: No, that's a separate one.

Senator KIM CARR: This is 447.

Mr Seymour: That's the trans-shipment decision. That decision was made by the minister.

Senator KIM CARR: What's the story there?

Mr Seymour: That was an extremely challenging case. I wasn't satisfied with the initial response by many exporters. I'll tell you a quick story. The problem with anti-circumvention is that once the tax has been imposed it's almost guaranteed that businesses will try and limit their exposure to those obligations. You'd like to think they'd do that legally and, obviously, many of them might think they're doing it legally but they're actually in breach of Australian customs law. What's really interesting is the emergence of what I call 'intermediaries' who are neither technically the importer nor the exporter but seek to be a mid-point trader who speculates—takes a certain level of risk in buying and selling in the international market, clips the ticket, if you like, and takes the cut on the way through—and who openly advertise circumvention services on the internet and specifically say that they will ensure that the Australian duties on this product will not need to be paid through their actions to circumvent and transship those products.

Senator KIM CARR: And that's legal, is it?

Mr Seymour: That's happening a lot.

Senator KIM CARR: Is it legal?

Mr Seymour: No, I don't believe it's legal. It's contrary to an obligation that an importer would have to pay a duty on a product that is subject to a measure. So, in that sense, it's in contravention of the Customs Act. We have the ability now—the legislation was amended a couple of years ago—to run our own investigations on those transshipped products. We did so
with aluminium, and the minister agreed with my recommendation, and we altered the notice and we named a number of foreign actors in the space who were clearly circumventing. The ones that we weren't able to capture, however, were these intermediaries who, under the current law, I'm unable to name on the notice. I think, going forward, I would be talking to my colleagues on the policy side about how we might be able to provide some disincentives to stop that practice occurring, but it is extremely challenging and difficult.

**Senator KIM CARR:** Are you saying that there may well be need for punitive action to be taken by the Commonwealth?

**Mr Seymour:** It's possible. I'm just unsure today as to what that would look like, because these intermediaries are neither the exporter nor the importer yet they're the ones who are providing the mechanism to allow it to happen and they're the ones who are openly out there behaving that way.

**Senator KIM CARR:** So are they in the reach of Australian law or not?

**Mr Seymour:** Technically, they're outside of the reach of Australian law. The interesting part of that is, when you write to them and tell them that they are operating contrary to the Australian legal framework, if you like, and customs law, they tend to disappear immediately and then form another company structure in a Phoenix like operation elsewhere. So they're extremely difficult to capture and to control.

**Senator KIM CARR:** Do you feel that it may be necessary for further legislative change?

**Mr Seymour:** I would like to think so. But I'm not sure, sitting here today, what form that would take. I need to take advice in relation to the way the current scheme operates and that would be a matter that we'd have to consider down the track.

**Senator KIM CARR:** Mr Lawson, is there being consideration of this matter within the department at policy level?

**Mr Lawson:** I might get Mr Squire. We're certainly aware of the issue.

**Mr Squire:** We certainly are aware of the concerns of transhipment and the potential issues that might be caused. The difficulty, as the commissioner has outlined, is finding a legislative solution to target these sorts of Phoenix-like companies that are essentially based offshore.

**Senator KIM CARR:** But operating in Australia?

**Mr Seymour:** No, they're operating offshore.

**Mr Squire:** Finding a legislative solution to apply extraterritorially—

**Senator KIM CARR:** What's the scale of this, do you think? Thank you, Mr Squire.

**Mr Seymour:** I think it's probably more significant than we appreciate. What I have done is—and I know it's the angry letter syndrome—I have written angry letters to them saying I know who they are and that I'm watching them. I'm sure they probably just throw the letter in the bin, but the reality is—

**Senator KIM CARR:** Would you say it forces them to re-establish in another form?

**Mr Seymour:** Also, the other mechanism might be to appeal to the good nature of other governments who are operating within the WTO to promote a more compliant system. But it's
common knowledge that they're out there actively promoting their services to circumvent Australian trade law or customs law.

Senator KIM CARR: It's clearly a matter for future activity, though?

Mr Seymour: Yes, I would think so.

Senator KIM CARR: When you've worked out what to do?

Mr Seymour: Yes. Having said that, I'm extremely pleased with the powers that we have in the anti-circumvention space that have been delivered in the last few years. I think they have made a significant difference to our ability to actually provide and drive that enforcement that we spoke of earlier.

Senator KIM CARR: In regard to that legislated 155-day rule, how many new or reviewed cases have been delivered within that time period?

Mr Seymour: I can clearly say that none of the complex matters have been delivered in 155 days. As I said earlier, my expectation is they never would be because they're too complex. In order for me to deliver procedural and substantive fairness to all parties in a highly contested environment, I literally can't do justice to those obligations in 155 calendar days.

Senator KIM CARR: Presumably you've had ministerial extensions to allow you that time?

Mr Seymour: The minister, some 18 months ago, delegated the power to extend matters to me, as the commissioner, and I have been undertaking that process myself since then.

Senator KIM CARR: So it's automatic?

Mr Seymour: No, it's not automatic. We go through a very rigorous internal process to satisfy myself that the extension is justified.

Senator KIM CARR: How do you get an extension? What is this rigorous process?

Mr Seymour: One of my general managers here needs to do an analysis of the complexity of the case and the barriers—

Senator KIM CARR: Mr Sexton asks you to extend the time limit?

Mr Seymour: He puts a formal submission to me.

Senator KIM CARR: I can see how rigorous this is!

Mr Seymour: I think it's pretty rigorous. I have an legislative obligation to meet in terms of how I exercise it.

Senator KIM CARR: I know that, but you're saying every single case—I presume they're all complex—has required you to go over the 155 days?

Mr Seymour: All complex cases, not every single case.

Senator KIM CARR: How many cases have been done within the 155 days?

Mr Seymour: There are a number of review categories and I can give you the detail if I could take that on notice.

Senator KIM CARR: You can take on notice how many have required an extension and how many have been within the 155 days.

Mr Seymour: Certainly, we can take that on notice.
Senator KIM CARR: The inference I took from you was that the 155-day rule really was more honorific?

Mr Seymour: No. In complex dumping and subsidy cases, what I'm saying is that I can't complete them in 155 calendar days and meet my substantive and procedural fairness obligations to all the parties.

Mr Squire: I might point out, if it's helpful, that the reason the minister delegated this power to the commissioner was to improve efficiency in the system. Previously, the commissioner would need to go to the minister to seek an extension. That process took away resources from the commissioner. This was about improving the timeliness of decision-making. The reasons for the extension were made public as well.

Senator KIM CARR: I want to go back to this issue of noncompliance. Is there any monitoring work being undertaken to make sure that recovery and compliance, in terms of the anti-dumping and countervailing duties, are actually being fully met?

Mr Zhivov: As the Australian Border Force are the compliance agency, we do a lot of the work to ensure compliance by working together with them. There are about eight things that we do together. They go beyond compliance as well. We work together with them and their systems in order to collect duties and conduct investigations. So we have joint access to systems that we both analyse that assist in identifying compliance and progressing it where necessary. We've provided training across all states in Australia except Tasmania with two ABF officers on anti-dumping measures and how to undertake compliance in that space. We have provided direct advice and assistance to them on some compliance matters. For example, a recent matter involved a compliance issue relating to an allegation that a product called line pipe was being imported but characterised as HSS. When anti-circumvention matters have come up, we have worked together and been able to piggyback off their powers to undertake inspections of products, to check whether or not there was a slight modification of the goods. We've had joint compliance visits, where there has been compliance, so that we've been able to provide information to them about whether the product they're looking at is actually the product that is alleged. At the front end of investigations to maximise the chances that we actually have an outcome that is enforceable, we work with ABF to ensure that the goods' description both covers the goods effectively and also can be enforced by a court if necessary. They attend both the ITRF and ITRF subcommittees, and particularly the subcommittee on compliance, to ensure that they're getting the benefit of the information that's been provided by industry. Very recently, they have authorised a number of the staff of the Anti-Dumping Commission as customs officers, so that they can access more advanced analytics software that assists in monitoring trade flows and ultimately might have an impact on compliance, as well.

Senator KIM CARR: I have one more question and the rest I will put on notice for the Anti-Dumping Commission. In terms of your third party countries on the aluminium exclusion, did you actually get full cooperation from Border Force in terms of your work?

Mr Seymour: This is in the anti-circumvention case I was referring to?

Senator KIM CARR: Yes.
Mr Seymour: My case manager worked closely with Border Force in relation to that particular case and was required to because most of the noncompliance data is obviously held by the Australian Border Force, in their customs database.

Senator KIM CARR: Did you notice any recovery of duties as a result of this?

Mr Seymour: I would have it take that specific question on notice—

Senator KIM CARR: Could you—

Mr Seymour: because he may well have made some calculations in that regard.

Senator KIM CARR: Could you also take on notice whether or not there have been any prosecutions or infringement notices issued, and if not, why not?

Mr Seymour: That may not be a matter that the Anti-Dumping Commission would have responsibility for, and if that is not the case, I'll refer that to ABF.

Senator KIM CARR: I'll put the rest of my questions on notice.

CHAIR: Thank you to the Anti-Dumping Commission for appearing before us today. We'll let you go. I now call on the Australian Institute of Marine Science.

Australian Institute of Marine Science

CHAIR: Welcome to the agency and to Minister Scullion. Thank you for filling in for Minister Canavan this evening. Is there an opening statement?

Dr Hardisty: Thanks very much for letting us make an opening statement. First, I would like to acknowledge the traditional owners of the sea country and all the places that AIMS works. AIMS was set up by an act of parliament in 1972, with the Great Barrier Reef as our initial focus. Our headquarters was in Townsville in North Queensland. In the wake of the recent floods in and around Townsville, I would like to acknowledge the great work of the emergency services, including the Army, during a very difficult time. I would also like to thank all the AIMS staff, who kept working, even as floodwaters threatened their homes. They volunteered to keep our facilities at Cape Cleveland running, even as our road was cut, and then banded together to help our colleagues whose homes were flooded to clean up and dig out. It was a pretty bad time for a lot of people. I just wanted to acknowledge that. Thank you.

But even as all that was going on, AIMS and its partners were working hard to wrap up the $6 million Reef Restoration and Adaptation Program, the RRAP, feasibility study, which began last year with funding from the Commonwealth government. The study, involving a consortium of over 100 experts from more than 20 organisations—including core partners CSIRO, Great Barrier Reef Marine Park Authority, James Cook University, University of Queensland, Queensland University of Technology and the Great Barrier Reef Foundation—has investigated the long term at-scale potential of a wide variety of ways to help reefs recover from damage and adapt better to warming waters. The long-term objective is to provide governments with options for at-scale restoration and adaptation. Currently, such options do not exist.

The report will be delivered next month, but I can share some high-level conclusions from our work, very briefly, if I may. No. 1: the potential economic, social and environmental benefits to Australia of at-scale restoration and adaptation on the GBR are significant, in the
tens of billions of dollars, if it can be done right. No. 2: at-scale restoration and adaptation of the GBR is technically possible but, at present, there are no deployment-ready techniques. The feasibility study has identified techniques that, with future research and development, could be deployed over the coming three to 10 years. No. 3: a significant collaborative and coordinated R&D effort is needed before at-scale intervention can be made technically feasible, affordable, safe and acceptable to the public. No. 4: achieving the mission will depend on deploying an integrated package of intervention measures designed to work together and reinforce each other over time. There's no silver bullet. Lastly, there is a significant risk of not acting. There is now a window of opportunity. The longer we wait to develop feasible options, the more expensive and difficult it will be to intervene successfully and the greater the risk that the window of opportunity will close.

AIMS will shortly release the latest edition of its biennial *The AIMS Index of Marine Industry*, which measures the economic value of Australia's marine industries. In 2001 and 2002 total income, based on the marine environment, was about $27 billion. In 2015-16 it was $68.1 billion, an increase of over 250 per cent during that period. And for the first time in the history of the index, in this latest version, which will be issued next month, tourism and recreational activities have eclipsed offshore oil and gas production as the main contributor to the Australian economy amongst marine industries.

As Australia's north continues to grow and develop, the marine estate will increasingly deliver more value and be subject to mounting stresses. Vast areas of our northern marine estate remain virtually unexplored. Meanwhile, key marine ecosystems, such as coral reefs, are in decline and will require significant investment if we are to safeguard them and the economic and social benefits they represent for the future. There is much work to be done.

**CHAIR:** Thank you, Dr Hardisty. Senator Stoker?

**Senator STOKER:** Thank you, Chair, and Dr Hardisty. You touched on it a little in your opening statement, but I'm hoping you can elaborate for me, please: what's been the impact of recent flooding in Townsville on the operations of AIMS?

**Dr Hardisty:** We've been able to continue our work during the floods and during the aftermath. It hasn't really affected our ability to deliver the things we need to deliver. Boats were out doing their normal work on the reef during the floods. The only thing that happened is that our site was cut off. There's only one road in. It was flooded. And we had some personnel who had to remain on site to keep essential facilities, like our national sea simulator and the very valuable experiments that are contained therein, running. Those people had to stay out there quite a long time. But, overall, we kept going; we kept working. So we're pretty proud of that.

**Senator STOKER:** Understandably. What efforts were made to support staff who were affected by flooding?

**Dr Hardisty:** That's a great question. We have an emergency business continuity program in AIMS. In fact, my chief operating officer and I were discussing, just before Christmas, that we needed to run an exercise in September to test how well we would respond. We were busy thinking up scenarios that might test our organisation. Well, one arrived a bit sooner that we thought. The first thing we did was make sure that the site was secure, that people who
needed to stay on were on and anybody else who needed to get out got out before the road was completely inundated—including me. I live on site, so my family and I had to leave.

We then activated the committee and the first thing we did was find out where every single person was. We had a roster: where are you; are you okay; do you need help? We catalogued every single one of our people and made sure we knew where everyone was and what their status was. The next thing we did was start to offer support for people who were in real distress—I think 20 people whose homes were badly flooded, full of debris et cetera, some of them really badly, with cars flooded et cetera. We immediately reached out and provided them with interim support, because they in some cases had nowhere to go. So they stayed with friends or we put them up in hotels for a period of time until they could dig out.

When the recovery started, we organised AIMS volunteer crews. So we got a roster of everybody who wanted to volunteer to help and we identified what they could do, when they could attend, what their physical restrictions might be and what equipment and expertise they had that might be relevant, and we organised teams to go in and help each of our colleagues to clean up. David did a couple of them. Teams went in and everyone just pitched in. It was a pretty amazing experience. I think the morale of the organisation has been actually lifted by coming together. But it doesn't really help some of the people who were really badly affected. But thanks for asking.

Senator STOKER: Congratulations on taking a difficult situation and turning it into something that sounds like it was a good opportunity for community engagement and for staff bonding.

Dr Hardisty: Absolutely, and a lot of our people were volunteering in the broader community.

Senator STOKER: The consequence, I suppose, is something I'd like to turn to now. There have been some reports that the flooding will result in large sediment run-offs impacting marine areas around Townsville, including on the reef. Can you tell me, firstly: is that so? Would you outline what research AIMS is undertaking to deal with this issue.

Dr Hardisty: We have crews and boats out right now monitoring those affected areas. We're looking at salinity. For instance, we know that, in the waters near Townsville and in some of the other outlets like the Burdekin, salinity has dropped almost by half. Instead of salty water, you've got brackish water, and that can have a real effect on a whole variety of marine organisms. There are also significant sediment plumes that are reaching right out into the reef. Some of them have gone tens of kilometres out to the reef. Sediment can block light and have detrimental effects on coral growth and survival. We're out there right now trying to figure out what's going on. But we've got a program planned for April. In April, we're going out there specifically to do the monitoring—because you need a little bit of time to determine what the effect was. Going out there right now helps us determine immediate acute effects, but really it's the chronic effects that are probably more significant.

Senator STOKER: We hear a lot about AIMS's work on the Great Barrier Reef, but can you provide us with an update of some of the other research and other projects that are being undertaken?

Dr Hardisty: Yes. I was in Perth on Tuesday doing the mid-term seminar on our North West Shoals to Shore program, which is a program that's funded by industry in WA out of the
Good Standing Agreements, with a number of organisations partnering, including the pearl industry—the Pearl Producers Association in WA. It's a big industry out there. We're looking at the effects of marine seismic surveys that the oil industry undertakes on a regular basis up and down that coast on demersal fish—commercial fish species like red emperor—and on pearl production itself. It's halfway through a three-year program of about $20 million. It is really exciting, actually. That's a great example of the kind of external work we do where we really engage with industry to deal with problems that affect their stakeholders and affect them. If we can learn more about what is actually occurring rather than relying on anecdotal evidence or strong opinions on either side, we can hopefully land in a place where everyone benefits by being able to put proper policies in place that help industry operate safely but protect the vital interests of stakeholders, who are also out there producing wealth and creating jobs and so on from the marine environment. So, that's perhaps the one that's at the top of my mind right now, but that's pretty exemplar. We work with the port of Darwin, for instance, to help them manage the port and the bay, because there are a lot of sediment problems and so on that are really affecting them. We have an ongoing relationship with various port authorities as well so that they can continue to operate but do so in a way that, again, is protective of the environment but allows them to get the most out of their business.

Senator STOKER: Thank you very much. Thanks for the work that you do.

Dr Hardisty: Thank you.

Senator KIM CARR: I understand the minister has offered a briefing on Friday afternoon. You may well be aware there's a funeral on in Melbourne for former senator Barney Cooney. The normal practice when you have ministerial briefings is to actually seek a time from the other party, rather than offering unilateral arrangements. I do apologise; I won't be able to meet that schedule. Perhaps we can sort out some other time that's mutually agreeable. I'd be keen to get a briefing off you on matters in terms of the operations of the agency.

Dr Hardisty: Yes, sir.

Senator KIM CARR: While you're here, how many vessels do you have in your current research fleet?

Dr Hardisty: We have two major vessels of 20-plus metres. These are ocean-going, coastal, state-of-the-art research vessels. The one on the west coast is RV Solander. It's the newest and most capable of our fleet. For the first time ever, it made the journey all the way across the Top End over Christmas and New Year, and worked up in the far north of the Great Barrier Reef. Now she has gone back to her home port in Darwin. On the east coast on the Great Barrier Reef, we have RV Cape Ferguson, which is much older. It's 20 years old and nearing the end of operational life. We also have a number of smaller open vessels.

Senator KIM CARR: Tinnies?

Dr Hardisty: Yes. Glorified tinnies with big motors on the back.

Senator KIM CARR: You mentioned you have one vessel due for replacement, the 20-year-old vessel?

Dr Hardisty: Yes, sir.
Senator KIM CARR: Are you engaged with the departments of Treasury and Finance about the long-term replacement strategy?

Dr Hardisty: We haven't begun that process yet.

Senator KIM CARR: I see. What does it cost to replace a vessel?

Dr Hardisty: A replacement vessel for RV Cape Ferguson—our current estimates are in the order of $50 million.

Senator KIM CARR: What's the operational life of the Cape Ferguson?

Dr Hardisty: I'm going to ask David to help me here.

Mr Mead: They don't technically have a particular cut-off. Once they get, sort of, past the 20-year period, operating costs start to go up. It's another hurdle at the 25- to 30-year period associated with survey requirements, which we seek to avoid. We would be seeking to replace this vessel prior to that time. If not, it would need to go into a fairly extensive refurbishment program.

Dr Hardisty: I think the key is—and we've already started to see this now—that faults start to appear, more maintenance is required and dependability and reliability start to go down. The curve can be pretty steep.

Senator KIM CARR: A refit is not going to fix it?

Dr Hardisty: It could do. There could be a life-extension program.

Senator KIM CARR: How much would that be?

Dr Hardisty: That would be in the $1 million to $3 million range.

Senator KIM CARR: Solander is doing the Gulf of Carpentaria and Joseph Bonaparte Gulf—is that what you were saying?

Dr Hardisty: Those are some of the areas, but she plies all the way from Exmouth all the way up—

Senator KIM CARR: So you do the north-west cape? You do the reef systems of the north-west still?

Dr Hardisty: For the first time ever in January, but normally she has never crossed the gulf all the way to the other side. That was the first time. It's a long journey.

Senator KIM CARR: How long did that take?

Mr Mead: About four days.

Dr Hardisty: Four or five days of steaming to come around the top.

Senator KIM CARR: Why did you feel it was necessary to do that?

Dr Hardisty: We felt that we had an opportunity to survey the Far North, through some new funding that we obtained through the Great Barrier Reef Foundation, to understand—

Senator KIM CARR: That was the $6 million?

Dr Hardisty: No.

Senator KIM CARR: What's this money, then?

Dr Hardisty: I think this was the first contract that the Great Barrier Reef Foundation provided through that $443 million grant. It allowed us to survey the far north of the reef.
Usually it's very difficult for us to get up there more than every two years. Because of everything that has transpired in the last little while, with the back-to-back bleaching, it was a unique opportunity to go there and study those reefs now, a couple of years after the bleaching, and determine what survived and why, and take samples and try to understand if recovery was occurring. It really filled in a big gap in our understanding of the reef as a whole. Cape Ferguson is 100 per cent booked, so we needed to bring Solander around.

Senator KIM CARR: That makes sense. You've been CEO now for a little while. How long exactly?

Dr Hardisty: 18 months, sir.

Senator KIM CARR: So you've had a bit of time to assess the organisation?

Dr Hardisty: Yes.

Senator KIM CARR: You've released a new strategy document. What are the main ambitions you are trying to achieve through that process?

Dr Hardisty: Our strategy document outlines three major impacts that we want to deliver for the nation out to 2025—so, over the next seven to 10 years, essentially. The first is to continue our traditional mission in helping to understand and provide the research that helps underpin protecting Australia's marine ecosystems. The second is that we want to demonstrate that we're providing at least $100 million in environmental, social and economic net benefit to Australia every year—so, roughly double the investment that the nation makes in us. The third is that we want to act to help protect coral reefs from the effects of climate change. Those are our three stated impact goals.

Senator KIM CARR: My reading of it is that you're suggesting you actually need to step up. AIMS itself needs to step up to meet these challenges, to meet this new environment? Does that mean you're able to actually do that within your capabilities with the financial resources you've actually got at the moment?

Dr Hardisty: I think the way I look at it is that the challenges in the marine environment right now are such that there is a lot to do. At the moment, we're doing everything we can, but there's a lot more that needs to be done.

Senator KIM CARR: I'm just wondering how you do that within your existing resources.

Dr Hardisty: One of the ways of doing it is to take the existing funding that's provided by the Commonwealth as our appropriation funding, which is about $45 million a year, and leveraging that up through working with external organisations, industry and other departments to increase our ability and capability. We add another $25 million a year, so we basically are a $70 million a year effort. Without that $25 million of leverage, we would be not nearly as capable and we would be doing far less in terms of assisting Australia to deliver what's required.

Senator KIM CARR: But given how important the marine environment is for this country—in terms of your international competitors, you're saying AIMS are No. 2 in the world, is that right?

Dr Hardisty: Actually, I'm really proud to say that just before Christmas we reached No. 1.

Senator KIM CARR: How did you do that?
Dr Hardisty: By providing excellent science, by being very mission directed and focused, by collaborating extensively and by working with great partners.

Senator KIM CARR: Who says you're No. 1?

Dr Hardisty: The ranking is based on the publication of peer reviewed journals—in particular, articles. So, it's one measure. It's one we like to use because we do very well at it.

Senator KIM CARR: I'm not complaining. I use it myself on occasion.

Dr Hardisty: But there are other measures.

Senator KIM CARR: Who has agreed with you that you're No. 1?

CHAIR: I do!

Dr Hardisty: Thank you! Basically, it's an objective system.

Senator KIM CARR: I've got that, but where do I look for verification of this assertion? Have the Americans agreed that you're No. 1?

Dr Hardisty: We haven't phoned them up and asked them.

Senator KIM CARR: You haven't told them?

Dr Hardisty: They actually use the same indices that we do.

Senator KIM CARR: Of course they do, and they agree you're No. 1.

Dr Hardisty: Our objective in our strategy states really clearly that we want to try to be in the top three.

Senator KIM CARR: I got that.

Dr Hardisty: It balances up and down. There's no doubt that—

Senator KIM CARR: I was happy to cop No. 2, but you were the one that put No. 1 on the table!

Dr Hardisty: Yes, sir. Well, we are proud of it. But the way it balances up and down, the next time we speak maybe we'll be No. 3. But we want to stay in the top tier.

Senator KIM CARR: How do you maintain your standing internationally?

Dr Hardisty: I would say that there are a couple of key things that have let us—let's face it—punch way above our weight for a relatively small nation. The other big ones, by the way, are in the UK and the US. They receive a lot more funding than we do. They're larger. They've been around longer. There are a couple of key things that have allowed us to do really, really well. We have unrivalled infrastructure. Those vessels that I mentioned are really unique around the world in terms of capability. You've got to be able to get out there on the water and do things in the water. You can't just be in the office and modelling.

Senator KIM CARR: But they've got to be maintained. That is the question.

Dr Hardisty: They have to be maintained and, if we lose those assets, we fall behind pretty quickly. The other one is the National Sea Simulator. This is one of the jewels in our crown, which you know of very well—better than me.

Senator KIM CARR: I'm very keen on this.

Dr Hardisty: There's nothing like it in the world. It's the world's most sophisticated research aquarium complex. People come from around the world to collaborate with us and to learn from us.
Senator KIM CARR: When is that due for updating?

Dr Hardisty: The current facility is operational and has ongoing maintenance. We have applied for an extension, an expansion, of it. I'll pass over to David, who is one of the architects of SeaSim, to comment on that more.

Senator KIM CARR: Ms Weston wants to add something here, I see.

Ms Weston: The collaborative research infrastructure funding we expect to assist with this sometime after the forward estimates. I might say, too, that the government also provided some funding through modernisation funding for a solar capability, solar panels which have been put on the roofs—I know it's been raining—at AIMS to help them with their power.

Dr Hardisty: I would be really remiss if I didn't also add, to answer your question about why we're doing well: it's our people. There is the stuff, but you've got to have the people to use it, and we have just some of the best people in the world.

Senator KIM CARR: Thank you very much. Given the hour, I'll leave it there and put the other questions on notice.

Senator KETTER: Mr Hardisty, once you get through the feasibility study, you're going to need $100 million for reef resilience and adaptation going forward. Is that what's going to happen under RRAP?

Dr Hardisty: That's the longstanding plan—that $100 million of Commonwealth funds currently earmarked for RRAP would be matched by an equivalent sum from philanthropists, raised in the international markets, and $100 million from the research providers as in kind and other contributions, to create a $300 million research package over five years. That's the scale of effort—probably, frankly, the minimum scale of effort—that's going to be required if we want to create another set of levers that we can pull to help the reef other than the conventional ones which we've been using for a long time.

Senator KETTER: What role will the foundation play in providing that funding?

Dr Hardisty: Currently, with the funding agreement in place and the Great Barrier Reef Foundation's recently published investment strategy, that money would come through them into—we are recommending, anyway—a consortium of research providers and operators that would be independently governed and that would deliver the necessary research and development outcomes.

Senator KETTER: What's your optimal method of receiving that funding?

Dr Hardisty: We're agnostic on how the money comes, as long as it comes.

Senator KETTER: Is it important that funding comes in minimum amounts? I guess this depends on the outcome of the feasibility study, but are you looking for a large amount up-front? Or are you looking for smaller amounts as you progress through the remaining period of time for the program?

Dr Hardisty: We're working right now on developing the detailed cost estimates around those five years. David, do you want to comment on that?

Mr Mead: At the moment the profile looks reasonably flat across the five years, and the reason for that is that we're likely to be seeking to explore a wider range of options initially and then progressively narrowing in and focusing on the most prospective. So, as you're going
you're effectively shifting investment from those that are less prospective into those that are more so, and the net of that combination is a fairly flat investment requirement.

Senator KETTER: Have you had discussions with the foundation about how the funding will be applied—the frequency, the amounts?

Dr Hardisty: We've had initial discussions with the foundation. They're part of the feasibility study program, as I mentioned in my opening statement. They sit on the executive committee, which I chair, and all this is open and transparent. So, as we've moved along the process, they're aware of what's going on, and we brief them regularly. We're in close contact.

CHAIR: Thank you for appearing at estimates today.

Australian Nuclear Science and Technology Organisation

CHAIR: Dr Paterson, do you have an opening statement for the committee?

Dr Paterson: No.

Senator KIM CARR: Is it fair to say that ANSTO is facing some financial pressures at the moment?

Dr Paterson: I think consistent with good planning we've got a long-range plan for ANSTO, and within that plan we have sensitised stakeholders to some headwinds, and I'm very comfortable that there is a clear understanding of the situation we're in.

Senator KIM CARR: Sure, but you've got a bit of a cash shortfall at the moment, haven't you?

Dr Paterson: I think if we look at our cash position as it stands at the moment it is sustainable. At the moment we are operating well within the parameters of solvency.

Senator KIM CARR: Yes, of course you are. It's a Commonwealth agency. I would hardly expect otherwise. But there is a bit of a demand in terms of cost cutting within the agency, is there?

Dr Paterson: Consistent with many agencies, we do from time to time review our cost base and think through the opportunities we have to operate more efficiently. We have been doing that in a structured way over the past month and will continue to do that into the future. Those plans in many cases show opportunities for some savings as well as opportunities to partner with others.

Senator KIM CARR: Sure. Are you looking at redundancies?

Dr Paterson: At present we have no planned redundancies, other than incremental ones that happen from time to time.

Senator KIM CARR: Which ones do you have from time to time?

Dr Paterson: There might be a function associated with a particular piece of equipment, for example. When that equipment comes to the end of its life, we evaluate the work of the team and the decision is sometimes taken to not reinvest in that type of technology. In those circumstances, two or three people—

Senator KIM CARR: Sure. So have you had a chance to show the new minister the conditions of building 23 yet?
Dr Paterson: I have, indeed. The minister has visited building 23. We didn't do a full internal inspection, but we showed key elements of the challenges that we face in that building. She's keenly aware of them, I believe.

Senator KIM CARR: So there is an understanding that there is an urgent need for some action in terms of the replacement?

Dr Paterson: I think there is a consensus forming that the replacement plans for building 23 in terms of long-term supply of nuclear medicines in a reliable way in Australia is a matter that many different actors are looking at in a structured way.

Senator KIM CARR: Like this budget?

Dr Paterson: I think the budget process is beyond my ability to discuss.

Senator KIM CARR: Yes. But it is in this budget that action is required, is it not?

Dr Paterson: I think building 23, as I indicated at a previous estimates, is at least a five-year program to move from the early phases of engineering to a fully-fledged building. The time scales that I would prefer would be in that five-year period. There is an eight-year scenario as well. Both of those scenarios are plausible. In the meantime, proper sustainment of the existing facility is an absolute priority for ANSTO.

Senator KIM CARR: But the minister—I think it was late last year—said she'd sought assurances from ANSTO that you are supplying the market at normal levels. Have assurances been sought from the government that you are able to supply the market for radiopharmaceuticals at normal levels?

Dr Paterson: We have been very fortunate in expanding the activities in building 54, our existing facility, over the last few years. About five years ago that was three to four per cent of world supply. We now undertake 16 per cent of world supply. That was helpful when we had the generator failure in the plant where the conveyor disengaged. It allowed us to ship molybdenum-99 from Australia to Boston and fully import all of the requirements for Australia for the supply of generators to the Australian market. That was sustained right through the period of recovery. A couple of weeks ago, we returned to full domestic supply undertaken in the generator plant at Lucas Heights.

Senator KIM CARR: That is good to hear. So full domestic supply is now being met?

Dr Paterson: Correct.

Senator KIM CARR: The new plant at building 54 has been commissioned; is that right?

Dr Paterson: The building 54 plant is the one that was built in the middle of the 2000s. The ANM plant is currently undergoing its final commissioning. I had a meeting with the regulator in relation to that last week. It is also undergoing the approvals from nuclear medicine authorities both in Australia—that is, the TGA—and in the United States—the FDA. When those nuclear medicine authorities are received and the regulator is satisfied with the safe operation, we will be able to begin supply from the ANM facility to the market.

Senator KIM CARR: Is there any problem about domestic supply of molybdenum-99 preceding that approval?

Dr Paterson: I believe our molybdenum-99 is robust. The generator production which is taking the molybdenum-99 and putting it on to the generators to produce the diagnostic isotope technetium-99m is still going to be a challenge. We are putting a lot of effort into
ensuring that we have a robust mechanism to mitigate the risks in the building 23A plant. That, I believe, will be a continuing focus for us over the period until we have constructed a new facility for the production of generators.

Senator KIM CARR: Does that mean you've had to change your business model?

Dr Paterson: I believe our business model is still substantially the same, but we do have to take into account the possibility of shutdowns during the operating period of the year, so we are in discussions with the nuclear medicine community about the potential for three-week shutdowns on an annual basis. The reason for that is that the building 23A plant to produce generators has been operating on a 360-day-a-year basis for many years, and the analysis is that that may well have contributed to the lack of some of the longer planned maintenance outages that are normally required in these plants. We have reasonable assurance from the supply arrangements that we had in place from the failure of the plant, that we will be able to import effectively over periods when we do those shutdowns. And we are working very closely with the nuclear medicine community to find an appropriate model to do that. I wouldn't call that a fully formed plan at the moment but it is a plan which we are discussing with stakeholders.

Senator KIM CARR: ARPANSA made some comments recently, which we discussed at the previous hearing, concerning the operations of the facility. Have you been able to sort things out with the workforce?

Dr Paterson: We work very closely with the workforce, and I'm encouraged by the developments that have been undertaken in relation to the workforce. We have brought on new staff for the different manufacturing arrangements. The challenge of moving the manufacture of the generators to a point where the worker's hands are less close to the radioactive areas has been put in place with the current production and I think is supported by all of the teams. We continue to work intensively with the staff in that area so that they can be assured that we are continuing to look at all the opportunities for improving the maintenance environment, and they're very much involved in putting forward suggestions and proposals in that regard. I think the important thing from the perspective of sustainment of supply is that we are able to ensure that the sustainment funding that underpins the continued operation of that generator plant and the ability to meet all of the requirements of the medical regulator, the TGA as well, is an important consideration as we go forward.

Senator KIM CARR: At previous hearings, you made it clear that, in terms of the cultural changes that were required within ANSTO, which ARPANSA had drawn our attention to, that responsibility essentially rests with you as the CEO. What progress has been made in changing the culture of the organisation to actually improve safety?

Dr Paterson: It does rest with me, and I think it is important that the CEO owns all of the safety related matters in the organisation. I've undertaken a series of conversations with different stakeholders in relation to where the real challenges are in safety. We've conducted a series of workshops that have identified areas where there may have been bullying. In one particular instance, I detected that there had been a meeting that took place in the nuclear medicine production facility, where there was concern among a number of staff members. I invited staff members to come to me on a confidential basis and they did that. I was able to work with the managers involved and the staff members involved. Everybody has agreed that there was a genuine misunderstanding and they've agreed to move forward on a much more
positive basis. So that was an encouragement to me that, by having an open culture, by inviting people to come forward in a meaningful way to get a meaningful outcome was a very positive development for us.

**Senator KIM CARR:** So, in your view, you think you have taken deliberative steps to actually get a permanent change in Lucas Heights?

**Dr Paterson:** I do believe that certainly, across Lucas Heights as a whole, we have a very clear picture of where the challenges have been and, in all places where we have been concerned, we have taken appropriate actions. We'll continue to use the diagnostic approaches and the workshops that we have been using to identify these areas. I'm really encouraged by the openness of staff to come forward in relation to these matters. Provided we can provide a safe and confidential environment, I think, we are making progress. I don't want to claim too much but I do believe we are making progress.

**Senator KIM CARR:** I know. It's early days. But you think there has been progress?

**Dr Paterson:** I think we can see it in our pulse surveys which we undertake annually right across the organisation at slightly different times. As has been the case for decades, there's a very, very strong commitment by staff to safe working environments. We see an improvement in trust and we can see an improvement in the overall effectiveness of teams.

**Senator SINODINOS:** You're doing a great job there with ANSTO, Dr Paterson. The innovation precinct idea—just very quickly—how is that going?

**Dr Paterson:** It's progressed wonderfully over the last 12 months. We now have some really good scoping of the planning. We've continued to engage stakeholders and we have a very strong committee helping with us. We are in the promotional phase under the greater Sydney development plan and we have had a number of very positive interactions in relation to that.

You'll recall that we were setting up an incubator as part of the process. We did a soft launch of that just over 12 months ago. The incubator filled up before we had finished the soft launch so we expanded the facility. It now has eight members, and I believe there are another three coming forward. There was recently a very positive workshop. There is a very strong robotics capability in and around the circle of 15 kilometres around the Lucas Heights facility, where a number of firms are involved in next generation automation and robotics, and ANSTO is now working directly with those firms to look for automation solutions for aspects of ANSTO's business, so it is a mutually synergistic environment. I have been really encouraged by the number of entrepreneurial firms that want to be associated with the Lucas Heights site and I'm hoping in the not-too-distant future we will be able create a platform for enhancing different aspects of our nuclear medicine capabilities. I'm always looking for faster progress. It is true to say that but I'm very encouraged by the progress the team has made. And the people who are doing the work on the ground just have an awesome sense of the possibilities that exist and they are making practical use of every day to make them real.

**Senator SINODINOS:** That's very good.

**Senator STOKER:** Of the 85 recommendations in the independent safety report, what's the response looking like at this point in time? And have there been any steps taken to deal with them?
Dr Paterson: Thank you very much for the question. The 85 items that were identified in the report are in the process of being worked on. I had agreed with the regulator that we would take those 85 items and put them into subject matter areas. We've got substantive agreement there's another workshop going to take place soon on what those areas are. And we're just finalising a process which I regard as very positive for the subject matter areas to be consolidated into ANSTO's safety strategic plan, which is an already-published document which we can amend to incorporate all of that. That is what I call mainstreaming of the 85 projects in to what we do every day in safety at ANSTO.

Since we last spoke, ANSTO has been also been certified against ISO 45001, which is the new standard for work health and safety, which has really launched in Australia in the last 12 months. In December, we received our certification and with it became the first Australian organisation with our auditing agency to be certified under that standard. So I'm comfortable that the top-down safety has met the highest international standard. It is joining it up with the bottom-up processes we agreed with the regulator. That process will be finalised by the end of March as the agreed date.

CHAIR: I just have one more. I want to ask you, Dr Paterson, if I can, about the considerations ANSTO may have given to the safety and security of a national radioactive waste facility?

Dr Paterson: We're doing a lot at the moment around our radioactive waste. It is critically important that, as we take our waste and process it in order to get to the final facility, that we're able to hold the waste in a safe and secure fashion on the site and that we have appropriate facilities to do that. At present, with the indicative 2026 time line for the national waste management facility to be established, we feel that we have got the right facilities in place in order to have the secure and proper management of our waste. But we do want to continue to emphasise that ANSTO is not a waste repository in disguise and it is important that we advance that work.

Senator KIM CARR: But ARPANSA has made perfectly clear that your licence is actually under some question if the matter is not resolved? That is the case, is it not?

Dr Paterson: We are of the same mind as ARPANSA.

CHAIR: Thank you, Dr Paterson.

Proceedings suspended from 18:05 to 19:01

Commonwealth Scientific and Industrial Research Organisation

CHAIR: The committee will now resume and I welcome officers of the CSIRO. Dr Marshall, welcome back. Have you got an opening statement for us?

Dr Marshall: Just a very brief one, if that's okay, Chair.

CHAIR: They're my favourite kind.

Dr Marshall: As we're approaching the end of summer, we at CSIRO have been moved by the impact of drought, flood and bushfires, because CSIRO's purpose, of course, is to solve Australia's greatest challenges through innovative science and technology. To battle drought, for example, we've pioneered tillage, crop rotation, soil improvement and sowing techniques to reduce soil and water losses and establish crops in very dry conditions. Drought-resistant strains of crops and advanced management systems created by CSIRO are drought-proofing
grazing properties. We've leveraged CSIRO's unique access to space so that, for the first time, all Australians can see water flows and drought impacts firsthand through the National Drought Map, transparently and openly, as with all our science. A unique rural intelligence platform created for a start-up, Digital Agriculture Services, is the first software to comprehensively assess and monitor rural land anywhere in this country. It draws together rich data sets that we've collected over the decades on soils, yields, weather, water access, and leverages machine learning and AI to enable the farmer to better plan for their own future.

But the heart of these scientific wonders are the people at CSIRO, often drawing on discovery science from 39 great Australian universities but solely focused on turning amazing science into real-world solutions for Australia's greatest challenges. Our mission goes to the heart of what's most important to all Australians: a more sustainable and safer environment; new industries and new jobs for our children; and the health and wealth of the lucky country.

As the mission-directed national science agency, CSIRO is targeting the big six national challenges, to turn them from challenge into opportunity. Developing a resilient and valuable environment is one of them. The other five are food security and quality; health and wellbeing; sustainable energy and resources; future industries; and a secure Australia and region—literally, the air we breathe, the land we grow, the water we drink, the food we eat and the life we all live. When we all focus on the big things that really matter, Australian science and technology can solve seemingly impossible problems and create new value for all Australians. That's why CSIRO is here.

**CHAIR:** Thank you, Dr Marshall. I feel like 'Advance Australia Fair' should have been playing in the background. I always love hearing your opening statements.

**Senator PATRICK:** Chair, I might point out the use of the phrase 'lucky country'. You might be aware of the full quote:

Australia is a lucky country run … by second rate people who share its luck.

That's the original.

**Senator Canavan:** I'd just like to put on the record that that's not the government's view.

**Dr Marshall:** I feel very lucky to be here, Senator.

**CHAIR:** Please don't ask Senator Patrick to prove it. He has so many documents in front of him, I'm sure he's got that poem written down somewhere.

**Senator PATRICK:** Not all for CSIRO, I might add.

**CHAIR:** Senator Sinodinos, we might start with you.

**Senator SINODINOS:** It's good to see you again, Dr Marshall. How are you going with the CSIRO Innovation Fund?

**Dr Marshall:** Very well. In fact, we've met or exceeded all of the NISA goals. The Innovation Fund leveraged about $70 million of government money to raise a total of over $230 million total fund size. So we leveraged significantly more than one to one of the government money. We also, for the first time, brought in Temasek, the sovereign wealth fund from Singapore, and a major US fund as well, and probably most importantly, a very large Australian super fund, Hostplus, which, for the first time, is supporting deep science and deep technology investment, which is a big change for the system.
**Senator SINODINOS:** In terms of those sorts of investments, what sorts of returns are you ultimately looking to get? Have you set yourself, implicitly or explicitly, some sort of target?

**Dr Marshall:** That was interesting. One of the challenges in raising a fund like this is that our motivation is primarily to drive economic growth in this country, which is not the same as maximising the return from the fund, and we had up-front that conversation with all of the institutional investors who came in. And it was great to see that change, because, I can tell you, Senator, 10 years ago there's no way those big funds would have taken that level of national interest first. I think it's a sign in general that big corporates are starting to pay a lot more attention to the corporate social responsibility index. And we're seeing an increase—it's small and slow, but it's definitely an increase—in the interest of large corporates to support science for the national benefit.

**Senator SINODINOS:** Can you tell us a bit about ON?

**Dr Marshall:** ON has been a bit of a transformational program for us. It teaches scientists from any publicly funded research institution—so, all 39 universities and government agencies—how to turn their science into a solution. It helps them figure out how to make it solve a real-world problem. Some of the things that I mentioned that we're doing around drought, in particular, came from teams—from pure, public good science—going through ON and simply learning more about the process of translation from idea to impact.

**Senator SINODINOS:** With this model that you're evolving, do you see that as potentially having lessons for how the higher education sector and the research sector interact with industry, promoting this great goal of collaboration that we're trying to entrench in Australian industry?

**Dr Marshall:** I do, Senator. In fact, every year, I meet in Kyoto with the heads of all our sister agencies around the world. Two years ago, after a couple of years of debate, we agreed that one of the most important roles for national science agencies is effectively to be a bridge that connects the universities in their countries to the industries in their countries. It's something that national science agencies are uniquely positioned to do.

**Senator SINODINOS:** Good. How are you going with the CSIRO 2020 plan? Are you meeting your milestones?

**Dr Marshall:** Very much so, Senator. In fact, we've possibly got a little ahead of ourselves. The core of 2020 was figuring out how to increase our investment in blue-sky science—horizon 3 science. That meant we had to become more efficient at creating sources of revenue—predominantly intellectual property, royalties, equity in spin-outs and industry revenue. That's enabled us to do a very significant increase in our investment in blue sky. It's, I believe, close to $50 million a year now, which is seven or eight times more than it was when we started. So that core element of the strategy has really delivered strongly.

**Senator SINODINOS:** In relation to one specific case which is to do with land and water, how engaged is the CSIRO in the problems in the Menindee Lakes where we saw the recent fish kill?

**Dr Marshall:** CSIRO has been deeply involved in water for many, many decades. In fact, our environmental science, of which land and water is at the heart, is in the top 0.1 per cent of all the world's water science. So we're generally regarded as one of the best, if not the best, in
the world in that area. And you'd expect that, given that we're the driest continent on the planet. It's a very great strength of Australian science—particularly, CSIRO science.

Senator SINODINOS: What contribution do you anticipate making in North Queensland after the floods?

Dr Marshall: After the floods?

Senator SINODINOS: After the floods, yes.

Dr Marshall: We've just completed the northern Australia regional water assessments to determine where the water is and where the water flows, or at least to start to determine that. For the flooding, probably—

Senator Canavan: It's probably a question better put to Geoscience Australia, who I don't think have been called to this session. They are responsible for maintaining satellite imagery of the continent. They have records going back, I think, over 40 years, which are probably the highest quality record keeping of satellite images in the world. I've already seen some early analysis of the flooding events in North Queensland, and there would be more work looking at how that would compare to previous events, like 1974, that they can draw on, given the high-quality data set they have. Sorry about that. I think you have been involved at different times, CSIRO, in the development of that, but Geoscience Australia manage it at the moment.

Senator SINODINOS: That's good. Jumping quickly to Data61, I've been exposed to some of their work over the years. They seem to go from strength to strength. What role are they playing in areas like artificial intelligence, for example?

Dr Marshall: Data61 is the digital part of CSIRO. But, over the last few years, many of the other areas of CSIRO, like agriculture, have become increasingly digital, so that digital capability is diffused throughout the organisation. A lot of the creations inside Data61 find their way into the different industries through the other CSIRO business units. In fact, that tends to be the largest source of growth for Data61. We use artificial intelligence, for example, in our climate modelling now. We call it machine learning. It's an early form of AI, but it is AI. We're using it to improve our seasonal and decadal climate prediction, we're using it in our drought modelling and we're using it in our health group, where we're trying to use AI to analyse and do early detection of cancers. So we're finding it in many, many places. But, for CSIRO, AI is all about energy, water, health and, of course, jobs. Probably one of the things you're aware of is that Data61, together with our Futures team, mapped out essentially the future of work and the impact of digital technologies like AI on employment to try and understand what science Australia would need and what education components our students would need to be able to benefit from the shift to AI.

Senator SINODINOS: Is that work being fed into broader whole-of-government consideration of these issues?

Dr Marshall: I believe so, Senator, yes.

Senator SINODINOS: In that context, I might just ask the secretary about this whole area of the future of work. I know there was work going on between your portfolio and Senator Cash when she was IR and then when she moved to jobs and innovation. What's the progress of those efforts?
Dr Smith: That's correct, Senator. Just stepping back from the budget measures around AI, where there was $25 million dedicated to CRC for AI—the round closed on that in September—there was money allocated for Data61 to produce an ethics framework for how we should think about that, as well as a road map on where the prospective industries and sectors are that Australia should focus on, and that is being worked on and is getting close to finalisation. Also an AI standards road map is being developed by Standards Australia. At this point in time, the department chairs an interdepartmental committee on artificial intelligence, where we're at the stage of really understanding, first, internally, what departments are doing themselves in terms of applying machine learning and AI to service delivery. But I think the broader piece of work is really understanding where Australia's comparative advantages should be and where we should put our effort and also working through and consulting with the community about what we should think about the ethical principles going forward. That's coming together over, let's say, probably the next couple of weeks or months, and eventually, obviously, we would go to government with a strategy for how we should be approaching those. But it's a long-term consultation process as well.

Senator SINODINOS: And, in that context, are you also looking at the implications for the Public Service?

Dr Smith: Indeed. We apply it within our own organisation. DHS, the Department of Human Services, is using it as well. Clearly, Home Affairs is using a lot of machine learning. So there are a lot of applications, but we need to understand what we're all doing and map that. In relation to the future of work, it's really understanding how AI impacts on the future of work. There are various studies, both those that are quite dramatic and those that are more assuring, in terms of what that means for the changing nature of work. We are still trying to do mapping work between the two departments—the Department of Jobs and Small Business and my department—in understanding the sectoral implications. But, really, it's trying to get that balance between where the opportunities are and where the jobs are that are going to be impacted. There's also work going on in the Public Service to think about what jobs within the public sector will be impacted. There will be opportunities, but there will also be different types of jobs.

That's a longhand way of saying that there's quite a bit of work in train. It hasn't all come together yet, but we're not unique, as a country, in trying to understand the various dimensions of it and really think about what the positives are, what we need to plan for in terms of the transformation of jobs going forward and how we engage the population, in a digital sense, on where the jobs of the future are.

Senator SINODINOS: I have just a final couple of questions. Ribi is in your organisation, I gather. It's in Data61; is that right?

Dr Marshall: Yes.

Senator SINODINOS: Is that a pilot, or is it a full service now?

Dr Marshall: It's a fairly advanced pilot. As you know, it connects students to opportunities. Our services group, in which our education work is done, is also part of that, so it's shared between Data61 and CSIRO services.

Senator SINODINOS: Is it at a stage where you can invest further in it and expand it?
Dr Marshall: We actually think there's an opportunity to spin it out and make it independent through collaboration with a number of the universities, so we're exploring that at this point.

Senator SINODINOS: Alright. While I think of it, I have just one final thing with Data61. They were doing some work with the Institute of Company Directors, I think, around sensitising boards to the implications of cybersecurity, or the lack thereof. We've had a recent case here at Parliament House and, of course, with the major political parties. Are you across that work? How is that going?

Dr Marshall: I've actually done that course. Like all of the AICD courses, it's extremely good on governance, and it does a great job, I think, of helping directors understand what questions to ask, because a lot of us don't think to ask: where's our data? Often data centres are not in this country, but it may not be obvious until you ask the question and really dig to find out where your data is actually being stored.

Senator SINODINOS: It's something that has gone over people's heads, in a way.

Dr Marshall: I think that's right. Also, our IM&T group, which handles all of CSIRO's IT systems and security, had a very large input into that.

Senator SINODINOS: Good.

Senator KIM CARR: I might just begin. Dr Marshall, I'm going to assume that you would agree that science integrity is at the heart of everything CSIRO does.

Dr Marshall: I would.

Senator KIM CARR: I didn't think you'd disagree with that proposition. You responded to the South Australian royal commission into the Murray-Darling Basin and its final report, which was released at the end of January.

Dr Marshall: I must admit that I took a couple of breaths and went for a little walk around the building before I sat down at my computer to compose a response. I was pleased that in the report the commission applauded CSIRO's deep legacy and the amazing contributions, and also the fact that our predictions on flow reduction were almost exactly spot on, which is amazing considering that the work started almost 10 years ago.

Senator KIM CARR: You did respond. You made a media statement on 15 February. You sent a letter to the South Australian Premier—is that correct?

Dr Marshall: I believe the letter came from Dr Mayfield, but CSIRO did send a response, yes. I believe we did a media response as well.

Senator KIM CARR: You did a media comment. Is it possible to get a copy of that correspondence?

Dr Marshall: I'm sure we can find it. To completely answer your question, I was disappointed in some of the other statements that were made in the report, because they didn't appear to be supported by any of the evidence in the report.

Senator KIM CARR: I'm interested to know what the process was by which CSIRO chose to engage with the commission? It is a royal commission. What was the process by which you made the decision?
Dr Mayfield: Maybe I could answer that. In terms of how we responded to the commission—

Senator KIM CARR: Not responded. I'm interested in the process by which you engaged with the commission first of all?

Dr Mayfield: In terms of the sequence of events there, in early June we received a request for current and former CSIRO employees or staff to appear. Shortly after that, the Commonwealth instituted a High Court action, an injunction, to prevent past and current Commonwealth employees from appearing. We advised the commissioner on 29 June that we would be respecting the High Court process and let it run its course, and then we would advise after that how CSIRO would respond to the commission. That High Court action was discontinued towards the end of August, and there was advice from the Australian government solicitor that there would be voluntary submissions made. CSIRO also advised the royal commissioner on 12 October that we would be making a voluntary submission on the relevant scientific matters. We submitted that on 5 November.

Senator KIM CARR: The first part of your response was tied up with the government's directive to public servants, was it?

Dr Mayfield: Initial considerations were the processes that were running and respecting those, yes.

Senator KIM CARR: As a Commonwealth agency, you felt you were prohibited from contributing while our High Court case was running?

Dr Mayfield: We felt it was best to respect the process at the time.

Senator PATRICK: Can you confirm that they sought to block former employees from attending?

Dr Mayfield: My understanding was that it was about past and current Commonwealth employees.

Senator PATRICK: How do you stop a past employee from turning up to a royal commission?

Dr Marshall: That's probably beyond the scope of the officer's ability to answer.

Senator PATRICK: We will ask the minister in a minute, if I could.

Senator KIM CARR: I want to understand how CSIRO reached its position. I'm clear that you made a decision within CSIRO, without direction, not to contribute while that court proceeding was underway?

Dr Mayfield: That was a decision I made in my capacity.

Senator KIM CARR: You made it on behalf of the organisation?

Dr Mayfield: As the executive in charge of that particular area, yes.

Senator KIM CARR: On behalf of the whole organisation you made that decision?

Dr Mayfield: Yes. We were coordinating a response.

Senator KIM CARR: You weren't asked to take any advice from the government about that matter?

Dr Mayfield: No, it was a decision based on the balance of information.
Senator KIM CARR: Internally?
Dr Mayfield: Yes.
Senator PATRICK: Respectfully, Doctor, if you've got someone who is making a decision about past and former—
Senator KIM CARR: I think we have got two questions here. What Dr Mayfield is referring to is the current organisation.
Dr Mayfield: That's correct.
Senator KIM CARR: You have no authority or jurisdiction over anyone who was a former employee.
Dr Mayfield: My decision relates very much to current CSIRO staff.
Senator KIM CARR: Only to officers of the CSIRO at the moment. That's the thrust of what you're telling me.
Dr Mayfield: Yes.
Senator KIM CARR: And you did that on your own undertaking, and you had the authorisation to do that?
Dr Mayfield: That's right.
Senator KIM CARR: That's the submission you make.
Dr Mayfield: Yes.
Senator KIM CARR: And then the Commonwealth government discontinued the High Court action and issued a statement to say that voluntary submissions could be made by Commonwealth agencies?
Dr Mayfield: That's correct.
Senator KIM CARR: And you undertook to make a voluntary submission—is that right?
Dr Mayfield: That's right.
Senator KIM CARR: On 12 October.
Dr Mayfield: We reviewed that situation and conveyed our decision to the royal commissioner.
Senator KIM CARR: Did you make a decision—were you asked to appear?
Dr Mayfield: I believe there was some request to appear.
Senator KIM CARR: By the royal commissioner?
Dr Mayfield: Back in June there was a request.
Senator KIM CARR: But after you made a decision to make a submission, that becomes operative, doesn't it, to appear?
Dr Mayfield: Yes.
Senator KIM CARR: Did you then make a decision not to appear in the sense of officers actually front the commission directly?
Dr Mayfield: We made the decision that we wished to make a voluntary submission.
Senator KIM CARR: You made a voluntary submission in writing, but did you also make a decision not to appear before the commissioner.
Dr Mayfield: Yes, that's correct.

Senator KIM CARR: Why?

Dr Mayfield: We felt that the submission was the best pathway to take. We would be able to state our position. The process was running to its conclusion at that stage.

Senator KIM CARR: Nonetheless, given your long history of engagement with inquiries, wouldn't it have been better for you to actually answer questions directly?

Dr Mayfield: At that point in time, I think the commission was very close to its completion and may have completed.

Senator KIM CARR: So what?

Dr Mayfield: We felt the written submission, which stated our facts, was the appropriate way.

Senator KIM CARR: The charge was that the CSIRO had acted in a secretive manner, effectively, wasn't it?

Dr Marshall: That was one comment in the report. Let's be clear, CSIRO has never operated under any sort of veil of secrecy. We publish more than 3,000 article as year.

Senator KIM CARR: I'm not asking you to comment on the validity of the claim. I'm just trying to understand the nature of the claim against you. I am trying to establish whether or not it would have been better to actually appear before the commissioner in the flesh?

Senator Canavan: I think the evidence that Mr Marshall has provided is relevant in that regard. There was a degree of concern that this process was not done in good faith. I certainly think some of the intemperate comments from the royal commissioner around the CSIRO indicate that, to be honest. The CSIRO is one of our pre-eminent scientific organisations. I've read through Mr Walker's report, and some of his conclusions about the CSIRO are lacking evidence and ill informed.

Senator KIM CARR: Minister, the government took that view. Dr Marshall, was it CSIRO's view that the commissioner was not acting in good faith?

Dr Marshall: I can't comment on how the commissioner was acting. But based on comments like 'CSIRO was once a highly regarded institution', I just want to put on the record—

Senator KIM CARR: When was the statement made?

Dr Marshall: It's in the report.

Senator KIM CARR: But that was after the event.

Dr Marshall: Just to put on the record, CSIRO right now, today, backed by the data, today is in the top one per cent of the world's science in 14 fields. Our four core fields were in the top 0.1 per cent.

Senator KIM CARR: I'm not concurring with statements—

Dr Marshall: We are as trusted as the Red Cross—right now, today.

Senator KIM CARR: I'm puzzled why you wouldn't appear before a commissioner, given your strong track record in this area of research?
Dr Marshall: I think our strong track record stands for itself. The Murray-Darling science is the most comprehensive assessment of any river basin done anywhere in the world.

Senator PATRICK: That doesn't go to the senator's question, which is, if that is the case, why didn't you turn up to the commission? That is not an excuse for not turning up.

Dr Marshall: I'm not trying to make an excuse for not turning up.

Senator PATRICK: You didn't turn up What is the reason?

Dr Marshall: Our science is published. It is clear. It stands on its own merits.

CHAIR: I think Dr Mayfield has responded to the question.

Senator KIM CARR: You felt that you stood on your record.

Senator Canavan: I think this is a disgraceful attack on independence and quality of the CSIRO's work. This is clearly a political campaign from you both. You are seeking to use the integrity of the CSIRO in the pursuit of your political aims. I think that is contemptible. The CSIRO do fantastic work. I think the conclusions of the commissioner are out of line. Neither of you have put on the record whether you support or accept those. You are using this particular issue to further your political aim and, in doing so, tarnishing the reputation of one of our great institutions. I don't think that's right.

Senator PATRICK: I challenged the doctor for not answering a question.

Senator KIM CARR: I haven't said a damned thing about—

Senator Canavan: You were questioning the integrity of the CSIRO by not appearing at the commission. That's exactly what you were doing.

Senator KIM CARR: I am more than capable of criticising CSIRO. I'm asking about the decision not to appear before the commission. This is not about the quality of the science—

CHAIR: I feel that you have asked it and Dr Marshall has answered that question.

Senator KIM CARR: Minister, why does the government seek to prevent former employees from appearing before the Commission?

Senator Canavan: I wasn't the responsible minister, although I represent Mr Littleproud in the Senate, but my understanding in regard to the High Court injunction was that the government's view was that it was not appropriate for a state government formed commission to subpoena or seek to subpoena Commonwealth officials. It's a long-standing principle. That is why the court action was progressed, I believe. Ultimately, the commission dropped its demand for officials to be subpoenaed and therefore we did not proceed with the court action.

Senator KIM CARR: Minister, I understand the principles of comity. The question about former public servants is a different matter entirely.

Senator Canavan: I've taken that on notice. I'm not aware of that.
Senator KIM CARR: I don't know what the legal principle would be that anyone could rely upon. You've obviously refuted the allegations that have been made. But the fundamental charge essentially at CSIRO is that the funder of that, the Murray-Darling Basin Authority, had pressured CSIRO to alter a report. What do you say to that charge?

Dr Marshall: I find that very hard to believe. I wasn't here at the time this supposedly happened, but in my knowledge and understanding of CSIRO I find that basically impossible to believe that would happen.

Senator Canavan: Can I also put on the record this particular claim that Senator Carr is putting is on page 54 of the royal commission's report. It says:

In 2011, management of the MDBA improperly pressured the CSIRO to alter parts of the CSIRO's 'Multiple Benefits' report.

It's important for context here to say that this was an allegation made in 2011 under the former government, in particular in response to the fallout from the guide to the Murray-Darling Basin Plan that occurred in late 2010. The current government obviously had no administrative authority over the MDBA at that time. Be that as it may, I will repeat what I said: I'm not accepting the conclusions. To me that seems like a very long bow.

Senator KIM CARR: Is there anyone here who has direct experience of that matter?

Dr Mayfield: I can talk to the government's processes in place at the time. This comes from the review of the work that was done that we put in place to respond to the royal commission in our submission. We applied a range of different governance processes there. We have our standard CSIRO peer review process, which is documented through ePublish. We have a solid record through the meetings, reviews and adjustments that get made during a publication process. We are very comfortable with that.

We had in place an independent scientific review panel, comprising members from Griffith and Edith Cowan universities, EcoInsights, Barma Consulting and the Centre for International Economics. They helped guide the process, along with a steering group. Then there was an independent panel which looked at the final outputs that were produced. So there were a range of governance processes that allowed for the scientific debate to take place and for the final product to be produced with good governance.

Senator KIM CARR: On this event which was alleged to have occurred in 2011; I must say that I've not heard of it. Has this matter being raised that you've cooked a report for the benefit of the Murray-Darling Basin Authority?

Dr Mayfield: Not to my knowledge, no.

Senator KIM CARR: It's the first time this allegation has been raised that you're aware of?

Dr Marshall: It's the first time I've heard of it.

Senator KIM CARR: You must have to look at your records—

Dr Marshall: This is my first awareness of it.

Senator PATRICK: Can I just add something? The minister has directed us to one part of the report. I don't want to verbal you, Senator, but I think that the general secrecy allegation was made on page 16. I'll just read it—and this is current, not something that took place in 2011: 'Almost as dangerously, the habitual behaviour of the Murray-Darling Basin Authority,
and to a lesser, but alarming, extent the CSIRO, is marked by an unfathomable predilection for secrecy. That is not a 2011 thing—

**Senator Canavan:** I have read this, Senator Patrick, and I find the language over the top, lacking evidence and an unfair—

**Senator PATRICK:** That's okay, but I think there's an opportunity for people to say what they want to say—

**Senator Canavan:** conclusion. It's hard for an agency to respond to such an allegation—

**Senator PATRICK:** I'm just saying that this is not necessarily a 2011 thing—

**Senator Canavan:** I accept that, but I'm saying—because I think it's important that you put it on the record and that the government puts it on the record—that we have full confidence in the CSIRO. We reject, wholeheartedly, the conclusions of the royal commissioner which don't seem to be based on evidence and which seem to use particularly intemperate language that is seemingly put there to make an impact rather than get to the bottom of a very serious problem.

**Senator PATRICK:** But this forum gives an opportunity for CSIRO to state its case.

**Senator Canavan:** Sure, and I'm happy for Dr Marshall—

**Dr Mayfield:** Senator just a response to that: when we made our submission on 5 November we also sent a letter at that time to the royal commissioner, where we strongly refuted those statements that were made at that point in time. Then, when we made our submission to the South Australian Premier we again refuted those positions.

**Senator PATRICK:** Can you table that correspondence, please?

**Dr Mayfield:** I believe that the correspondence to the royal commissioner is available; it's tabled as part of their own documentation processes, along with our submission. So I'm happy to table those, yes.

**Senator PATRICK:** And to the South Australian government?

**Dr Mayfield:** I believe we can. We do probably have to check with the South Australian Premier's office.

**Ms Zielke:** It's being provided.

**Dr Marshall:** Just to put this on the record again: CSIRO does not operate under a veil of secrecy. We publish over 3,000 articles and papers a year. My challenge here is that I don't know what to—there is nothing to defend against. There is no real allegation here.

**CHAIR:** I will just interrupt. Senator Carr, you've had the call now for just over 20 minutes. I will come back to you, if that's all right?

**Senator KIM CARR:** Sure. I just want to clear this up, because, given what the minister has said, I have a particular interest in the allegation. I'm wasn't aware of the claim—

**Senator PATRICK:** I'll explore some of that, Senator Carr. On page 11 of the report it says:

Whilst the modelling the MDBA employed for the Guide was partially disclosed to the CSIRO and the Goyder Institute for the purposes of review (for South Australia), none of the modelling used to form the basis of the Basin Plan as enacted has been made available to the scientific community, or the wider public.
Basically, you've received this and no-one seems to be able to produce it. Can you advise me as to whether CSIRO has that modelling information? What follows from that is: can you please provide it to the committee? That's in the spirit of openness you talked about.

**Senator Canavan:** I'm happy for officials to add to this, but I'm reading the same section of the report as you are, Senator Patrick. Your question will probably be a matter for the MDBA, given that it reads as if it's their modelling and, obviously, not CSIRO's. Obviously, you could ask the—

**Senator PATRICK:** I understand that, but no-one knows. There's been an order of production in the Senate for it; no-one seems to be able to find it. If CSIRO has it, it's quite a reasonable question for me to ask for them to locate it and provide it.

**Senator Canavan:** I'm happy for them to answer that aspect; I'm just flagging that, given it doesn't appear to be their modelling, I doubt they'd have the authority to release it. But I'm happy for the officials to make further remarks.

**Dr Mayfield:** Senator, there was some work done to provide advice to the MDBA. In terms of the level of detail of the modelling work that was reviewed, I couldn't tell you. I would have to take that on notice and, given that it happened so many years ago—

**Senator PATRICK:** That's not a criticism.

**Dr Mayfield:** A review of the work was undertaken and advice provided back to the MDBA at the time.

**Senator PATRICK:** Just to be clear: that's not a criticism; I'm simply seeking to find documents that appear to be unfindable, and we know that CSIRO had possession of them. That's all I'm trying to do there. There was the claim made, and the minister read from it:

In 2011, management of the MDBA improperly pressured the CSIRO to alter parts of the CSIRO's 'Multiple Benefits' report. This rendered parts of that report misleading, as they no longer reflected the views of, at the very least, Dr Matthew Colloff, who was one of the authors.

I'm putting that to you so that you can respond to that. Is anyone aware of, because it was a while ago, the circumstances; and is there any correspondence between CSIRO and the MDBA in relation to a disagreement as to the science?

**Dr Mayfield:** So, Senator, again, I take you back to the review and governance processes that are in place. They were, I guess, the arrangements that we've used for the multiple benefits project, so there will be documentation of that process through our ePublish system.

**Senator PATRICK:** I'd be very grateful if you could provide that to the committee, because this will start to untangle some of this.

**Dr Mayfield:** We can do that.

**Senator PATRICK:** Thank you. Now, there's another area where—and CSIRO gets a good rap in this report about its climate change science—the MDBA are accused of not using proper climate change science in the development of the plan and in determining the 3200-gigalitre return to the river. Do you have any views about whether or not the plan has correct climate change science in it?

**Dr Mayfield:** In the period back in 2009-10, when the plan was being put together, there was a range of climate science scenarios included in that based on the modelling work from CSIRO and others, so I believe there's a very strong basis around climate change, including
the original work. We recognise that during the course of the subsequent years, a range of factors changed—both the rate of climate change as well as other aspects in the science and its level—and, given that the Murray Darling Basin Plan is an adaptive plan, it makes sense that you upgrade that over time, so currently discussions are taking place about how that might happen again over the next period.

**Senator PATRICK:** So, your view is, being adaptive, that that would be quite normal as better science becomes available for the 3200 gigalitres to be adjusted up or down, according to our greater understanding of climate change or indeed if we recognise that the trajectory is worse than we originally thought.

**Dr Mayfield:** From our position, upgrading the scientific advice is probably where we sit, and then it's up to the authority to determine how they utilise that advice.

**Senator PATRICK:** My understanding is that the term over which they consider the data for climate change was quite lengthy, going back basically a century, and was—and excuse my non-scientific description of this—in some sense linear, as opposed to: we have a changing non-linear trajectory for climate change. Are you satisfied at this point in time, with your knowledge of the plan and your knowledge of climate change, that the plan would be reliable, noting that the science that was used in the construction of the plan and what you know now?

**Dr Marshall:** Senator, I believe it says in the plan, or in the statement by the royal commission, which applauded CSIRO's work in this area—

**Senator PATRICK:** and was accurate about the predictions of the flow reduction due to climate change, which we estimate to be 15 per cent.

**Senator PATRICK:** CSIRO understands climate change better than anyone else in Australia. That's accepted. I am in no way being critical of you. The plan had a particular approach to including climate change in it, and I'm asking you, as the experts, noting this has been very topical, are you satisfied that the plan as it currently sits is using the correct climate change science?

**Dr Mayfield:** There's always opportunity to keep on improving the science input to get information.

**Senator PATRICK:** I understand that.

**Dr Mayfield:** You can appreciate that climate science has a very strong stochastic nature to it, so there is a lot of variability. The climate science that we applied in 2009-2010, we are very comfortable about that. We update our views regularly around climate science, through the *State of the climate* report that comes out every two years, and the BOM also bring out climate information annually in some of their reports. They're all inputs that can be used.

**Senator PATRICK:** So you're updating. I'm asking for the latest update. If you looked at the latest update, would that sit comfortably with the construction and the way in which climate change has been included in the current plan?

**Dr Mayfield:** I think the broader trends are there. We're seeing a drier south-eastern Australia and a wetter northern Australia. They're the broad trends.

**Senator PATRICK:** So are you saying there needs to be change?
**Dr Mayfield:** In terms of the science around how much they're changing and the rate of change, I think that's an area for a lot of speculation.

**Senator PATRICK:** I'm getting a scientific answer. I really want a best scientific answer as to whether or not you are of the professional scientific opinion that what is currently used in the plan is appropriate or not appropriate?

**Dr Marshall:** It's probably not appropriate for the officer to comment on the plan. That's probably more properly put to the authority.

**Senator PATRICK:** I'm happy for you to take that on notice.

**Dr Marshall:** I think that's a question for the Murray-Darling Basin Authority. If you're asking us about the science—

**Senator PATRICK:** I'd like an answer to that question, and I'm happy for you to take it on notice. If you feel there is a public interest immunity in not answering that, you can advance it.

**Dr Marshall:** If you are asking about our science, I've already said it's amongst the best in the world.

**Senator PATRICK:** What is the use of the science if you can't use it to advise and guide people in this place?

**Senator Canavan:** Can I just say here that the setting of the SDLs is a matter governed under the Water Act and has to of course, be developed according—

**Senator PATRICK:** With the best available science.

**Senator Canavan:** It has to be governed under the provisions of the law as passed. The CSIRO do not administer the Water Act 2007. They should not be expected to have to answer questions around how any of their research should be used in detail to comply with the provisions of the Water Act, as you would know, I'm sure.

**Senator PATRICK:** Are you seriously suggesting that CSIRO, funded by the public purse, is not in a position to advise the Senate as to a professional opinion on climate change and whether or not the current Murray-Darling Basin plan is based on proper science or whether it needs to be changed?

**Senator Canavan:** You have a number of times now changed the question you're asking. In terms of whether or not CSIRO thinks the plan is based on best available science, maybe they can comment on that; but if you are going to the question around exactly the setting of the SDLs, which you also asked about, I don't think that CSIRO has the responsibility or the expertise—they're not lawyers—to work through the details of the laws passed by this parliament. As you would be aware, I'm sure, under the Water Act there are a number of considerations that have to be taken into account, including economic, social and environmental. Obviously CSIRO is asked for their expertise in regards to some of them, but not all.

**Senator PATRICK:** Can I ask you to take on notice to provide the Senate with some advice so that we, as people who have oversight of government, can be fully informed as we conduct our oversight role? Is that beyond CSIRO?

**Dr Marshall:** If you're asking us about the science, we can absolutely answer your questions. But I don't think we can comment on a different authority.
Senator PATRICK: You can't take the Murray-Darling Basin Plan and the climate change science that was used to develop that plan and compare it against your current knowledge and say it's the same or it's different.

Dr Marshall: The climate science was amongst the world's best, which is why it was so accurate in predicting the reduction in water flow, and that was cited in the commission's report.

Senator PATRICK: I'd ask you to take it on notice.

Dr Marshall: I don't know that we can.

Senator Canavan: Maybe you could clarify exactly what the question is, Senator. The last bit you left there was just 'provide advice'. It was very general. Maybe you could make it a little more specific.

Senator PATRICK: I'm trying to establish what CSIRO's view is on the science that was used to form up the environmentally sustainable levels of take in the current Murray-Darling Basin Plan. Was that science consistent with what we know now?

Dr Marshall: We can certainly take that on notice. Thank you for clarifying.

Senator PATRICK: I have just a couple more quick questions. Senator Sinodinos asked the question: what involvement have you had in the Menindee analysis of the Menindee fish kills? Have you been taking any water samples in and around the Darling or the lower Darling?

Dr Mayfield: I'm not aware of any particular water sampling work. We have undertaken some internal work just to have our position on the fish kills, which we've put on our CSIRO blog site. We have had discussions with the Littleproud panel as well.

Senator PATRICK: What activities have you been doing in the field, as opposed to back in the offices, in relation to the Menindee fish kills?

Dr Mayfield: I'm not aware of which particular activities in the field, but I am aware that we have looked at our understanding of the issues and put forward our position.

Senator PATRICK: Could you take it on notice to find out, just in case there are some activities you're not aware of? Or are you completely satisfied there are none?

Dr Mayfield: We'd be happy to take it on notice to check.

Senator PATRICK: Thanks, Chair.

CHAIR: Thank you. Senator Carr, do you have more questions?

Senator KIM CARR: What is the status of the Public Research Agency Charter?

Dr Marshall: When you mentioned it last time, I went home and found it and read it. I'd say, in general, most of what's in it is now embodied in other documents. Part of the reason for the change was that it's got a number of references—for example, to the CAC Act—which were superseded by the PGPA Act. But you'll find it in our code of conduct. You'll also find it, of course, in the CSIR Act.

Senator KIM CARR: I see. So it's been transformed into other bodies, has it?

Dr Marshall: Yes. You'd probably find large tracts of text that you recognised in those other documents, as I did when I reviewed it.
**Senator KIM CARR:** The charter was there to provide those levels of research independence. Do you think they're maintained in those other documents?

**Dr Marshall:** I believe our science and our scientists are very independent, yes.

**Senator KIM CARR:** I see. What's the measure of your adherence to the charter—even if it's in these other forms?

**Dr Marshall:** They form part of the overall governance of CSIRO, so I think we adhere quite well to it.

**Senator KIM CARR:** Are you able to indicate whether there have been any incidents where CSIRO has not fulfilled its obligations under that charter?

**Ms Zielke:** The CSIRO board, of course, presents its performance statements as part of the financial statements and the annual report each year. There are a number of activities that relate to the statement that are actually covered in those details. I don't believe we have a comprehensive reporting mechanism in relation to that.

**Senator KIM CARR:** There was a review following some of the controversies in CSIRO a couple of years ago. I thought that review was hardly complimentary to CSIRO.

**Ms Zielke:** I know I'm new. I expect that you are talking about one that was undertaken in 2015, though, to assist the board in reviewing those processes. A number of practices have been put in place to change those arrangements, restructure some of our reporting arrangements, in relation to that.

**Senator KIM CARR:** So we could say there have been instances when the CSIRO management and board have not actually fulfilled their obligations?

**Ms Zielke:** I'd need to take that on notice. I'm not aware of anything at this stage.

**Senator KIM CARR:** Have a look at that review and see whether or not my assertions are correct.

**Ms Zielke:** I know the board's audit committee has paid a lot of attention in relation to those actions as well.

**Senator KIM CARR:** One of the review's findings was that there should be more senior officers based in Canberra. I take it you're based in Canberra now, are you?

**Ms Zielke:** I am, yes.

**Senator KIM CARR:** How many others are based in Canberra?

**Dr Marshall:** The rest of the executive team, if that's your question, spend a lot of time in Canberra, but we are based in other states.

**Senator KIM CARR:** That's not what I said. How many are based in Canberra?

**Dr Marshall:** As I said, the other members of the executive team spend a lot of time in Canberra, but they live in other states.

**Senator KIM CARR:** That's not what the review asked you to do. It said 'based in Canberra'. How many are based in Canberra?

**Dr Marshall:** I've answered your question three times now.

**Senator KIM CARR:** You have. You've said you spent time in Canberra, which is not what the review recommended.
Dr Marshall: I understand.
Senator KIM CARR: It's didn't say 'attend' meetings in Canberra but 'based' in Canberra.
Dr Marshall: I understand.
Senator KIM CARR: So you haven't fulfilled that review finding, have you?
Dr Marshall: We have the chief operating officer here in Canberra.
Senator KIM CARR: Yes. As her predecessor was.
Dr Marshall: We have numerous members of CLT here in Canberra.
Senator KIM CARR: That was the point of the review.
Dr Marshall: And we created the chief operating officer position partly in response to that review.

Senator KIM CARR: Maybe I should pull out that review and we'll go through it in detail? I'll put you on notice for next time. We'll see how we go. Senator Patrick, asked about your involvement in the studies for the Murray Darling on the fish question. There was a study undertaken by the academy. CSIRO had a person on that review, is that right?
Dr Mayfield: There was no CSIRO officers on that review.
Senator KIM CARR: What was Dr Penny Whetton's capacity.
Dr Mayfield: I'm not aware of her involvement in that review.
Senator KIM CARR: You are not aware?
Dr Mayfield: No.
Senator KIM CARR: Have I got it wrong? Are you saying she wasn't involved?
Dr Mayfield: No. What I'm saying is that I'm not aware that she was involved.

Senator KIM CARR: Perhaps you should have a look at the Australian Academy of Science's website and see whether or not I've got it wrong. That's not my issue though. My issue goes to the question as to whether or not anyone from CSIRO was reprimanded for providing information to the Academy of Science's review.
Dr Mayfield: No, I'm not aware of anyone being reprimanded.
Senator KIM CARR: You're not aware?
Dr Mayfield: I don't believe anyone has been.
Senator KIM CARR: Dr Marshall, will you take that on notice?
Dr Marshall: Certainly. Are you suggesting that, in fact, someone from CSIRO did?
Senator KIM CARR: Someone was obviously on the review. I can draw your attention to the Academy of Science's statement now. You're saying to me, 'In what capacity?' Presumably, you're not acknowledging their official engagement. I would like to know though—you'll take it on notice—has there been any reprimand issued to any CSIRO personnel for participating or providing information to the Academy of Science's review into the Murray Darling, which recently reported to the Leader of the Opposition?

Dr Marshall: A couple of days ago, in fact.
Senator KIM CARR: That's right. You know the one.
Dr Marshall: Very recent.
Senator KIM CARR: Very recent, so you should have no trouble with your records.

Dr Marshall: We have no trouble with the records anyway. It might take us more than two days to review the document. It's 700 pages, I believe.

Senator KIM CARR: No. It's the Academy of Science's review, which was commissioned by Mr Shorten and supplied to Mr Shorten. It was published last week.

Dr Marshall: Yes.

Senator KIM CARR: I'm asking you, on notice, were any officers of the CSIRO reprimanded for participating in that review?

Dr Mayfield: We can take that on notice. Can I also say that our work around the Murray Darling Basin is all publicly available on our website.

Senator KIM CARR: Yes. That's why it would be such a silly thing to do, wouldn't it?

Dr Mayfield: Yes. We're quite comfortable that that information being used is on the public record.

Senator KIM CARR: Yes.

Senator PATRICK: You're quite extensively quoted on the record as well.

Senator KIM CARR: Yes. And so he should be. Dr Whetton is a world expert—a world-acknowledged expert—in this field. I would have thought she was one of the stars of CSIRO. I'm surprised you're not aware that—

Senator PATRICK: What was her name?

Dr Marshall: We have a constellation of stars in science.

Senator KIM CARR: Of course, that's true. It's a galaxy!

Senator PATRICK: What was the name?

Senator KIM CARR: Dr Penny Whetton. I'll talk to you in a minute—

Senator PATRICK: She's definitely listed as one of the people who was involved in the report.

Senator KIM CARR: That's right. She's listed. It's not a secret.

CHAIR: Senators, we're here to question the agency.

Senator KIM CARR: How many staff are currently working under CSIRO's Climate Science Centre?

Dr Mayfield: As of 22 January of this year, the Climate Science Centre had 146 staff working there.

Senator KIM CARR: And they're all in Hobart?

Dr Mayfield: No, they're across three different sites. We have some here in Canberra at our Black Mountain site, in Hobart and also at Aspendale in Victoria.

Senator KIM CARR: What does the breakdown look like?

Dr Marshall: I don't believe I have that information with me today.

Senator KIM CARR: All right. Perhaps you could provide that for me at a later date, on notice.
Dr Marshall: Yes.

Senator KIM CARR: What are the key responsibilities of the centre?

Dr Marshall: The centre is, I guess, our focal point for undertaking climate science and undertaking climate observations—in particular the Argo work, analysing ice cores and interacting with other parts of the CSIRO. And there is the innovation system around how we do adaptation, as well.

Senator KIM CARR: How would you describe the coordination across government? How is that organised?

Dr Marshall: Could you clarify that for me? It's a fairly open-ended—

Senator KIM CARR: Do you have a coordinating role within other agencies? Do you—

Dr Marshall: We participate in a range of different bodies: the NESP body, through risk and resilience committees. We have engagement with a whole range of other aspects.

Senator KIM CARR: At the moment, who is responsible for coordinating climate science within the Commonwealth?

Senator Canavan: I'm not sure coordinating would be the word I'd use, but the Minister for the Environment is responsible for the Commonwealth government's climate policy.

Senator KIM CARR: So the environment department, is it?

Senator Canavan: Well, the Minister for the Environment is. I'm not familiar myself with all the divisions of responsibilities. I would expect it would be the environment department, but certainly the Minister for the Environment is the responsible minister.

Senator KIM CARR: Minister, that's a fairly vague answer. Would it be possible to take that on notice? Who is the lead agency for climate science in the Commonwealth of Australia at the moment?

Senator Canavan: I'm happy to take it on notice. I don't think it's a question, though, that's best directed to this committee. Given you're asking about environmental policy, it would probably best to ask that in the Senate environment committee.

Senator KIM CARR: It's a question that CSIRO might want to answer.

Dr Marshall: From our perspective, we have a very strong engagement through the Department of the Environment and Energy.

Senator KIM CARR: Yes, you do. But I want to know who the lead agency is. Would the Commonwealth government regard you as the lead agency for this?

Dr Marshall: Who the government regards as the lead agency would be a question for the government—

Senator KIM CARR: That's why I asked the minister.

Dr Marshall: but we are the national science agency.

Senator KIM CARR: Perhaps I could add as a question on notice: could you give me a breakdown for CSIRO, by calendar year, of the number of staff who have worked at the Climate Science Centre since its formation? Are you able to do that?

Dr Marshall: We could provide information on notice, yes.

Senator KIM CARR: Have you got that now, or do you want to take it on notice?
Dr Marshall: I probably can't do it year by year now, so I think to make it consistent it's probably best to take it on notice.

Senator KIM CARR: Fair enough. What's the level of funding, from the appropriation and from external revenue, for the Climate Science Centre? Can you provide that?

Dr Marshall: For this particular financial year, the Climate Science Centre has a budget of $25.5 million.

Senator KIM CARR: Is that appropriation monies?

Dr Marshall: No, that's a combination of appropriation and external.

Senator KIM CARR: Can you give me a breakdown please of appropriation and external revenue.

Dr Marshall: Of that $25.5 million, $16 million would be coming from external sources and the balance would come from appropriation.

Senator KIM CARR: How does that compare with the situation in 2013?

Dr Mayfield: I'm not sure I have a comparison number for you at this point in time.

Senator KIM CARR: What are the external sources for the $16 million?

Dr Mayfield: There are a range of sources, including various programs being run through the Department of the Environment and Energy and the work we do with the Qingdao National Laboratory for Marine Science and Technology and other state bodies.

Senator KIM CARR: Can you give me an itemised breakdown?

Dr Marshall: Yes.

Dr Marshall: To be fair, it's also a collaboration between the University of Tasmania and the University of New South Wales.

Senator KIM CARR: That'll show up in the breakdown, won't it?

Dr Marshall: I just wanted to acknowledge the support of our partners.

Senator KIM CARR: It's all public money. The $16 million is all public money for all of the government agencies, isn't it?

Dr Mayfield: No, as I said before, some of that comes from Qingdao national marine laboratory.

Senator KIM CARR: How much?

Dr Mayfield: I believe $5 million per annum comes that way.

Senator KIM CARR: If you could give me a table on that, that would be great. And the same for 2013, if you could, please. Is that the only funding that you'd say could be identified as climate science funding in CSIRO at the moment?

Dr Mayfield: If you look at the broader adaptation and mitigation context, there is a lot more work being done.

Senator KIM CARR: And what is that?

Dr Mayfield: I probably couldn't give you the number of—

Senator KIM CARR: Could you give it to me on notice and how that compares with the situation in 2013? Is that all right?
Dr Mayfield: Yes.

Senator KIM CARR: Could you also provide a breakdown of the staff working in CSIRO in terms of the same levels—that is, cite the climate change scientists now and in 2013 across the organisation? Thank you. I've got a report here from the Australian Academy of Science entitled Australian climate science capability review, which was produced in 2017. It claims a climate science capability gap in a number of areas, including CSIRO. Are you familiar with that review?

Dr Mayfield: Yes, we are familiar with that review.

Senator KIM CARR: How do you respond to that suggestion?

Dr Mayfield: I think we may have discussed this at the time.

Senator KIM CARR: Just remind me.

Dr Mayfield: We believe that, with the investment we're making in the Climate Science Centre, we're doing appropriate levels of work around climate science. If you add our adaptation work, we think there's a strong body of science.

Senator KIM CARR: Okay. It said you were short 27 full-time equivalent people. How many people have you put on since 2017?

Dr Mayfield: I'll grab some numbers for 2017. They don't go back to 2013.

Senator KIM CARR: In 2017 they identified a shortage of 27, didn't they?

Dr Marshall: In that report, are you sure it was 27 people in CSIRO or was it 27 people in climate science?

Senator KIM CARR: It was 27 people across climate observation, climate understanding, climate modelling and climate service, with CSIRO identified as the main one. I just want to know how many people you have put on since 2017.

Dr Mayfield: I have some information here. We had about 120 scientists in September 2016 working in the Climate Science Centre, and, as I said earlier, we currently have 146, so it's come up 26.

Senator KIM CARR: Overall, it said there was a gap of 77 full-time equivalent over four years, and clearly CSIRO is part of that. Can you tell me what you've done to make up that gap.

Dr Mayfield: Obviously, we've grown the Climate Science Centre to its current levels. We've added 26 in that time. In terms of the broader gap, I can't comment to that. But we are comfortable with the level of scientific investment that we're doing in the space at this point in time.

Senator KIM CARR: Of course you are, yes. Do you have plans to hire new staff in climate science across the forward estimates?

Dr Mayfield: We're probably reaching the point where we'll level off in terms of the size of the Climate Science Centre, unless of course there are changes—

Senator KIM CARR: So the answer is no.

Dr Marshall: It's getting harder and harder with the changes in technology and science—AI is a big part of climate science now; digital is a big part of climate science; censors are a big part of climate science. Overall, CSIRO has grown in the last four years. Many of our
breakthroughs are happening through collaboration between what were previously separate areas of science, so we're seeing a convergence.

**Senator KIM CARR:** Fair enough. So you're suggesting we can bake this up with machines?

**Dr Marshall:** Not at all, Senator. I'm suggesting that artificial intelligence, when partnered with humans, can give us an amazing lever to crack what were previously insoluble problems.

**Senator KIM CARR:** The review suggests that our problem is in modelling—the resources associated with modelling climate change.

**Dr Marshall:** Digital and artificial intelligence would fit right into modelling.

**Senator KIM CARR:** That's exactly your point, and I'm saying: that's your assertion, is it—that you can fix this through a digital response?

**Dr Marshall:** I'm not sure what we're trying to fix here. I think you're referring to a report that looked at the whole of Australia's climate science and trying to apply it to CSIRO. The officers answered that—

**Senator KIM CARR:** I want to know how we're going in terms of this particular capability. This is an area which, through your time, Dr Marshall, has been a major area of controversy.

**Dr Marshall:** I don't think there's much controversy about the need to shift to mitigation and adaptation. There was even a recent article about the need to shift more to mitigation and adaptation, actually applauding our shift in 2016.

**Senator KIM CARR:** I just want to be clear: is it your view, given the circumstances we've had since the 2015 period and since this review has been published, that we don't need to spend more money on climate science within CSIRO?

**Dr Marshall:** In CSIRO we're focused on solving Australia's greatest challenges. Climate change is one of Australia's greatest challenges. But, for our context, we care so much about that because it affects the productivity of our land and the health and safety of our people. We're focused on figuring out how we can anticipate events like droughts and floods to get better warning on them. Technologies like artificial intelligence are an incredible aid to cracking those incredibly complex problems. So we balance our resources to deliver the greatest impact we believe we can to the nation.

**CHAIR:** I have a couple of questions for you. You did actually anticipate one of my questions, Dr Marshall, in your opening statement. I was going to ask you for an update on the northern Australian water resources, which I asked you about at the last estimates. I'd like to touch on that a little bit more again. You mentioned the national drought map. I suppose this follows on quite neatly from Senator Carr's questions. Could you talk us through the national drought map and what it's doing now to assist with the extraordinary troubles that we're having in northern Australia—not with drought this time around, quite clearly, but with too much water.

**Dr Marshall:** It was launched last month. We've been working on it for quite a while of course. We think of it—as you can think of it, if you like—as Google 3D maps or Google Earth but for drought. It's available online to any member of the public. You're able to zoom
in on pretty much any part of Australia, and it aggregates all of the rich history of data that we've gathered over many years and the space data from satellites to give you a data visualisation of the impact of drought. In fact, you can also see the impact of floods.

CHAIR: What does a data visualisation provide other than something that's interesting?

Dr Marshall: You could see the levels of water; if you wanted to you could see the levels of salinity in the soil. We have very comprehensive datasets. They've never really been unified and pulled together in this way before.

CHAIR: Who would be using this information and what would they be using it for?

Dr Marshall: Certainly government, to understand more about what's going on in real time, but also the public. As came up earlier in the hearing, part of the reason we react so badly to the suggestion that CSIRO keeps things secret is that we publish pretty much everything we do. That transparency to the public, enabling the public to see the impact of drought and floods, is really important to us.

CHAIR: I just have one more question. It's not really personal. I have a friend who apparently snores. It wouldn't be me. If it were me it would be more like the sound of angels sighing! But I did see, on Channel 9 on the Today show or something like, that CSIRO had been involved with the development of a sleep apnoea tool. I wanted to ask you (a) what it is that you've done and (b) what's the nature of the arrangements with the private sector organisations that are manufacturing and marketing this sleep apnoea tool? How do you start them? What is it that you do for them? Who finds who? How does it work?

Dr Marshall: One of the things Senator Sinodinos mentioned, Strategy 2020—the way we do those arrangements has changed a little bit, and it's part of the reason we've been able to increase our investment in pure science. We now take equity in some start-ups. We spin some start-ups out with equity—

CHAIR: This is the CSIRO fund that Senator Sinodinos was talking about?

Dr Marshall: The fund is part of that, but also the different parts of CSIRO's business go into equity arrangements with their customers. In the case of the company you mentioned, Oventus, it's been very successful. In a sense, we benefit when the company is successful, beyond simply the money that they might pay us to do work for them. In the Oventus case, for many years—I was an entrepreneur before coming to CSIRO—many people have come up with mouthguards and ways to deal with this problem, but they've never been able to make it through the medical approval process, because it's very hard to ensure that something is safe when it's in your mouth while you're asleep. The breakthrough that CSIRO made for Oventus was figuring out how to 3D print the device that they came up with and also some of the materials that protect your gums and your lips when it's in your mouth. That was the breakthrough. We did the initial manufacturing for them and taught them how to do it, and now they're employing people in Australia to produce those. They recently broke into the US market. So it's a great example of deep Australian science combining with an SME to make them grow and help them break into a global market.

CHAIR: So CSIRO, after being part of the development process, has equity in Oventus? Is that how that works?
Dr Marshall: I believe we don't anymore, but we do with many companies. We have an ongoing relationship with those companies, and that's part of what has fed the growth in our ability to fund blue-sky science.

CHAIR: So, just for the sake of my friend who might snore a little bit, this product is now commercially available?

Dr Marshall: It is, and if you like we can put you in touch with the company.

CHAIR: I wouldn't need it, but I might put my friend in touch! Thank you very much, Dr Marshall; I appreciate that. As there are no further questions for CSIRO, we might let them go. Thank you very much for appearing at estimates tonight.

Dr Marshall: Thank you, Senator.

Department of Industry, Innovation and Science

[20:21]

CHAIR: We might kick off questions for resources.

Senator STOKER: Good evening. I'm not sure which of you is the right person to answer the question but I'm sure you'll work it out between you. Can you please advise how much coal Australia exported in the last financial year, breaking that down into both thermal and metallurgical.

Senator Canavan: We might need to get officials from the Office of the Chief Economist to answer that—a lot, though, is the answer.

Senator STOKER: That's an answer that will make me happy.

Ms M Bray: Are we talking volume or value?

Senator STOKER: Can you give me both?

Ms M Bray: Yes: 2017-18 metallurgical coal export volumes were 179 million tonnes; thermal coal, 203 million tonnes; and the export value was $38 billion for metallurgical coal and $23 billion for thermal coal.

Senator STOKER: Do you have any sense of where those numbers are likely to go in the year to come?

Ms M Bray: Those numbers come out of our December 2018 resources and energy quarterly. The next one is due out on 1 April. We are working through those figures at the moment.

Senator STOKER: I'll wait with bated breath then. Is this set of results higher or lower than other years? Where does it sit in the scheme of things?

Ms M Bray: Prices have been strong, volumes have been increasing and we're heading for record highs.

Senator Canavan: The figures I have is that last calendar year we exported $66.2 billion of coal. 2017, the year before, was the nearest, $57.1 billion, but before that $46 billion was the highest previously, so $66 billion is a good $20 billion higher than the years before 2017.

Senator STOKER: What can you tell me about global demand for coal?

Ms M Bray: The International Energy Agency is where we look at our information for long-term projections for demand for coal. They're projecting in their 2018 World Energy
Outlook that demand for coal in the Asia-Pacific region will rise by 492 million tonnes of coal equivalent between 2017 and 2040.

**Senator STOKER:** Is demand expected to increase in countries Australia exports to throughout the Asia-Pacific region?

**Ms M Bray:** Yes, that's correct.

**Senator STOKER:** Can you give me some detail on what that's expected to look like?

**Ms M Bray:** Under that IEA World Energy Outlook, Australia is the only coal producer expected to increase coal projection over the period to 2040, by 78 million tonnes of coal equivalent between 2017 and 2040.

**Senator STOKER:** Is that what is contributing to coal being our top export or is it some other factor? Is it global demand, Asia-Pacific demand or something else?

**Ms M Bray:** Asia-Pacific demand primarily.

**Senator Canavan:** Almost all of our export coal goes to the Asia-Pacific region. A small amount ends up in Europe. That is the relevant market for us. On the thermal coal side, I have advice that demand is expected to be particularly strong in India and other South-East Asian countries, although it is expected to stagnate and decline in China, still leading to that overall net increase, as Ms Bray was outlining. In the Asia-Pacific region our major competitors to supply coal are Indonesia and South Africa. Vietnam, previously an exporter, is now an importer of coal, because it is building more coal-fired power stations. Indonesia in the last few years has not increased its exports—again, seemingly because of its growth in domestic coal fired power production. Things are looking up for our coal sector, because alternative sources of supply in the region are limited and demand is very strong.

**Mr Lawson:** It might be worth adding that the quality of Australia's coal is relatively good in terms of both its thermal content, which means it has less carbon dioxide per unit of energy, and the amount of impurities. China in particular is looking to improve its environmental outcomes, increasing demand for high-quality Australian coal.

**Senator STOKER:** You anticipated my question perfectly. I was going to ask whether the quality of Australian coal was a factor in all this. I have been reading in the press in recent days that coal demand for power generation is declining, yet it looks as though our exports have increased. Can you help me understand the incongruence of those two messages, please.

**Mr Lawson:** In part it is that issue I was just talking about. Quality.

**Mr Lawson:** The quality of the Australian coal, so its relative attractiveness, but also the story about demand for coal is different in different markets: in Europe, less growth and demand for coal; in our markets, in the China market and potentially India, there is an increasing demand. There are different growths in energy demand in different parts of the world. How that's delivered is different. The markets we're focusing on for coal, Asia, are growing economies, have increasing demand for energy and tend to be coal orientated. Within that, our coal is, as we said, the high-quality coal, so we're getting an improvement in that demand.

**Mr Sheldrick:** Unfortunately, in the numbers that I have, which I can share with you, there is a bit of mixing. Your question was really about whether coal demand and coal-fired
power generation is decreasing. If we look at the World Energy Outlook projections out to 2040, coal power's share of global energy use will drop down to about 22 per cent, but more coal is likely to be consumed in 2040 as a result of the global primary energy demand increasing. This is where I'm going to mix a few of the numbers. Primary energy demand is going to increase from 13,972 million tonnes of oil equivalent—sorry about the mixing—to 17,715 million tonnes in 2040. So, really, the story is a much larger energy pie, with a smaller component being produced by coal, but still an overall slight increase in the amount of coal being consumed over that period. The World Energy Outlook is talking about a 1.6 per cent growth in coal over that outlook period to 2040.

Senator Canavan: I think some of the misunderstanding stems from the fact that there was a reduction in coal-fired power production a couple of years ago. That was mainly associated with the economic slowdown in China. Some were projecting that that would form a trend, and some still seem to believe that. They haven't caught up with the news that the BP's statistical review of world energy showed that last year a record amount of coal-fired power was generated. So the decline that occurred a couple of years ago has been recovered—indeed, surpassed—with economic growth picking up particularly in the Asia-Pacific region. The United States is a similar story. It has a declining share of coal but increasing energy use. The figures are so enormous in our region that it is very likely that if, as Mr Sheldrick said, coal reduces as a share of energy, the absolute amount of coal use is going to be much, much greater. That's what's really important for our coal exports.

Senator STOKER: That's good news. Thank you.

CHAIR: Senator Store.

Senator STORER: I have questions for the National Offshore Petroleum Titles Administrator.

Senator Canavan: Chair, there are no more questions for Resources?

CHAIR: There are no more questions for Resources.

Senator SINODINOS: The minister is doing an excellent job, so I can't give him any more questions!

Senator Canavan: Okay, so Resources can go home.

CHAIR: Senator Storer.

National Offshore Petroleum Titles Administrator

[20:32]

Senator STORER: In 2011, Bight Petroleum Pty Ltd was granted permits for EPP 41 and 42 in the Great Australian Bight. Offshore exploration permits are typically leases for only a few years at a time and given on condition of minimum work requirements. With regard to the granting of permits, do you agree it is important that minimum work requirements are met?

Mr Waters: Yes, indeed. The granting of an exploration permit of the type you are talking about is based on an agreed work program over a period of time. That is the basis on which the joint authority will have granted the permit, and there are compliance obligations on the company concerned, the operator, to fulfil those obligations.
**Senator STORER:** How many extensions has Bight Petroleum been given since 2011 to meet these minimum work requirements?

**Mr Waters:** The exact number I will have to take notice. I should point out that the National Offshore Petroleum Titles Administrator commenced as an organisation in January 2012, so prior to that makes it a little difficult. But if we take it on notice, I will be able to address the body of your question.

**Senator STORER:** Has Bight Petroleum met any of the minimum work requirements outlined in any of the extensions since 2011?

**Mr Waters:** Again, I will take that on notice. But I am not aware of any issues of noncompliance arising from that particular permit.

**Senator STORER:** So are you aware of any evidence that Bight Petroleum have undertaken any of the agreed work between 2011 and 2019?

**Mr Waters:** As one of the requirements the company is required to submit an annual title assessment report, where it reports on its ongoing activities with regard to its work program. Again, I'm not aware of any issues of noncompliance with the lodgement of the report or with the work program itself.

**Senator STORER:** Are you aware that Bight Petroleum have been awarded five extensions since 2011, despite seemingly never having met the minimum work requirements?

**Mr Waters:** I'll have to take that on notice. I am not surprised that they have been granted suspensions and extensions to their work program; it is a usual activity that companies engage in. As to how many they've been granted, I'm sorry, I would have to take that on notice.

**Senator STORER:** So it's the usual situation that minimum work requirements are not met but there is a granting of an extension?

**Mr Waters:** The company—in order to meet its work commitment—seeks to suspend, extend or both a permit year for a range of reasons. That doesn't mean they're noncompliant with their obligations; it means that, if you like, we have shifted the permit term so that they remain compliant and then have an obligation to undertake their work.

**Senator Canavan:** I wouldn't necessarily characterise this as the normal course of events; each case is analysed itself on its merits. Obviously, it is the right of acreage holders to seek an extension for their commitments, but that's always assessed against the requirements. There are a number of cases before me where extensions haven't been granted and title holders have entered into a period of noncompliance or seeking a good-standing agreement with us.

**Ms Schofield:** As a title holder progresses, they are required to do an annual titles assessment report. That is submitted in accordance with the year that they have over their permit, and that goes into the titles administrator each year and is assessed. As Mr Waters indicated, if there are issues of noncompliance, then they are dealt with in that format. As the minister mentioned, companies can, at particular points in time, over the course of their permit year—and there are some restrictions around when they enter years when they do then have to carry out those commitments—apply for variations, suspensions or extensions. So there is quite a structure around how a title holder can apply for variations, suspensions and extensions. I don't have all of those time frames in front of me. I was just looking to see
whether I had them. I'm happy to provide you with those so that you can get a sense of the rules and requirements about how that process works. As the minister says, the companies all apply if they need for that to happen for business reasons, reasons around weather or other changes; those come in and get assessed, and then decisions are made by the joint authority on those suspensions and extensions.

**Senator STORER:** Thank you. My understanding is, in the latest extension that was granted in September of last year, acquisition of an 850-square-kilometre new 3D seismic survey and an exploration well were listed as minimum work requirements—a cost of $60 million. But, because of the delays, the permit year ends on 6 July this year. Do you have confidence that Bight Petroleum would be able to undertake the work in that time frame? Is that not problematic?

**Ms Schofield:** I don't have a copy of Bight Petroleum's work program commitments in front of me. I am aware that in September of last year the joint authority did approve the 12-month extension of time to progress their work commitments. Then, you would know, they've sought and subsequently received approvals to be able to carry out some of those works.

**Senator STORER:** It seems to me highly likely, given the history, that they will fail to meet these minimum work requirements by July this year. So would it be likely that Bight Petroleum, if that happens, would be granted yet another extension?

**Ms Schofield:** All applications that are received from title holders are assessed against the criteria when they are submitted.

**Senator STORER:** Is it unusual that a company would be granted a permit for exclusive rights over Commonwealth waters for a span of 11 years despite never meeting their minimum work requirements?

**Ms Schofield:** I think it's important to make clear that the company would have met the requirements in order to remain a title holder. As Mr Waters said, he's not aware of any incidents of noncompliance. A title holder can only remain on title if they satisfy the requirements under the work program. But that may include—

**Senator STORER:** The requirements are not the minimum work requirements?

**Ms Schofield:** There are minimum work requirements, but if those minimum work requirements are varied, extended or suspended by a decision of the joint authority, then that title holder is still in compliance.

**Senator STORER:** Do you think it's really an intention of the Offshore Petroleum and Greenhouse Gas Storage Amendment Bill 2016 that extensions are granted for over a decade without the agreed minimum work requirement being met? Do you think this is in line with the act?

**Ms Schofield:** I think I've said that, to the best of our knowledge on the information that we have in front of us, there have been no issues of noncompliance with that permit.

**Senator STORER:** So you wouldn't see it as a flouting of the intentions of the act, obviously? They are not flouting the intentions of the act by resubmitting every year a plan for work requirements but continually not meeting it?

**Ms Schofield:** The act and associated regulations and processes provide for title holders to be able to seek variations, suspensions and extensions to their work program and to their title.
There are criteria that need to be assessed, and the application needs to be judged, obviously, against those before the joint authority would make a decision on that. That's all very clearly set out in the act and the regulations.

**Senator STORER:** The environment plan that NOPSEMA approved for Bight Petroleum is now many years old and would seem, to me, to be out-of-date with current accepted information expected from other proponents in the Great Australian Bight. So would you agree that Bight Petroleum should be required to submit a new environmental plan before NOPTA agrees to any further extension?

**Ms Schofield:** I'm not sure that I understand your question. There is an exploration permit that they have as a title holder, and that permit is managed through the titles administrator, and an exploration permit provides permission for the title holder to then be able to seek authority and permission from the environmental regulator to then carry out particular activities. So Bight Petroleum has an exploration permit that has a minimum work program and has had that obviously, as you have mentioned, over a number of years. Each time a title holder wants to do a particular activity—so in this case Bight Petroleum wants to carry out a seismic survey—before a title holder can do that, they need to seek permission from NOPSEMA, and that's the environmental plan. So it's two EPs, which makes it a bit complicated.

**Senator STORER:** So they would have been submitting—

**Ms Schofield:** So the environmental plan would have been submitted, and I don't have in front of me the date that that environmental plan was submitted, but it was only accepted by NOPSEMA in January of this year. So that would have been submitted at some point over the course of last year. I know that NOPSEMA sought additional information from the title holder over the course of doing their assessment on the environmental plan.

**Senator STORER:** So they would have submitted a new environmental plan in the last year or 18 months?

**Ms Schofield:** That's my understanding, yes, although NOPSEMA may be up later this evening and you can double check dates. I'm sure they'll have dates with them for when the different pieces went in. But the environmental plan, any environmental plan, is specific to an activity; it's not a blanket for all activities under the title. We have two different regulators for titles activity and environmental safety activities.

**Senator STORER:** Is it the usual state of affairs that these suspensions and extensions for Bight Petroleum have occurred five or so times since 2011? Is this usual?

**Mr Waters:** It is not unusual for a company with an exploration permit to seek a suspension, an extension or a variation particular to their own individual needs in that permit. They apply for those things under the terms of the act in accordance with the guidelines. We assess the merits of that application, obtain whatever information we need to make the assessment and, accordingly, make a recommendation to the joint authority to consider the merits of the application. It is not an unusual practice, and it is quite specific to individual firms in the prevailing conditions.

**Senator STERLE:** So there is no special treatment being provided to Bight Petroleum in this process, compared to others.

**Mr Waters:** No, none whatsoever.
CHAIR: We have no further questions, so we might let you go. We're going to ask questions about radioactive waste.

[20:46]

Senator PATRICK: Minister, as a starting point on this, you were quoted in the newspaper some time ago suggesting that it was unlikely that you would conduct a ballot at Kimba or Hawker at the same time as an election. Just to put it on the table—I know there's a court case in progress, and we have to wait for the judgement—is it likely that you would run a ballot between now and the election?

Senator Canavan: I'm probably going to disappoint you, but, given that we do have the uncertainty of a court case at the moment, the government hasn't made any decision around future steps to test support for a radioactive waste facility at Kimba or Hawker. Any future decision will be guided by the court's judgement, which could have a number of factors and not be as simple as a yea or nay. We're awaiting that. The hearing has occurred, but we don't have any information about when.

I'll explain the comments I made last year. It was always the government's intention to ensure that any poll—survey, poll, whatever it would be—that we were conducting would be conducted outside an election process. We were well aware of the fact that this process had been going on for over a year, in the case of Hawker, and a fair while in Kimba, so we wanted to conclude it as soon as possible. Obviously, given events out of our control, and the injunction sought by the Banggarla people, we've been delayed in that pursuit.

Senator PATRICK: So there's nothing firm you can give the people of Kimba and Hawker at this point in time.

Senator Canavan: Unfortunately, given the court case, we have to wait till that decision occurs.

Senator PATRICK: With the indulgence of the chair, I'd like to table a map and provide that to the officials. It's simply a map from a document that you're familiar with, Senator Canavan. You know it's in the public domain. Is that okay?

CHAIR: That's fine.

Senator PATRICK: I did an FOI some time ago that looked at how the department might have considered Commonwealth sites for the radioactive waste management facility. I got a response from the department in relation to Woomera. It had taken advice from Defence, and Defence had said no. On this map there are three numbers: 52A, 45A and 40A. Location 52A is inside the Woomera Prohibited Area. I believe that Defence has indicated that is a place they don't want to have a facility, even though they've already got waste there. Could you give me some idea as to whether locations 45 and 45A were considered by the Commonwealth in the selection process? I note that both of those sites were recommended as a possibility in this very extensive report.

Senator Canavan: I'm happy to refer to officials. I, myself, would probably need to take that on notice though, given that that part of the selection process occurred before I was the minister. I would note that we have established a process which has sought voluntary applications from landowners. I'm not familiar with the land ownership of these two sites there. Are you saying they're on Defence land—40a and 45a?
Senator PATRICK: I'm actually just trying to clear that up. I don't actually know myself, so it's not a loaded question.

Senator Canavan: I'm not aware either, but I might pass to Ms Chard and she might have some information.

Senator PATRICK: I just thought the department would have been aware of this study and would have some information.

Ms Chard: Of the three sites that you're referring to, two of those sites are within the Woomera protected zone and one is just outside of the boundary. I note the map indicates that two of them look like they are outside of the boundary—

Senator PATRICK: Which ones are inside and which one's outside?

Ms Chard: I'll have to take that on notice—the specific one. The one that's outside of the boundary was also assessed by Defence, and all three sites were assessed by Defence as being incompatible with their operational requirements.

Senator PATRICK: Particularly in relation to the one that's outside Woomera Prohibited Area, firstly, is it owned by Defence, and, secondly, noting it's outside the Woomera Prohibited Area, what would be the basis of their saying no?

Ms Chard: I would have to take on notice what the ownership is, but position of Defence has been that it's inconsistent with their operational requirements—that their operational activity that occurs in and around Woomera would be incompatible with the facility being there. More specific details, I'm sorry, I would have to refer to Defence.

Senator PATRICK: I'm interested if you could perhaps go—and I understand; I didn't mean to ambush you. But outside that Woomera Prohibited Area I presume I can go and buy some land; I can do whatever it is I like outside the boundary. The act that covers the Woomera Prohibited Area gives the minister powers to shut areas off and all manner of things, but not outside. Could you pay particular attention to the site that's outside the Woomera Prohibited Area. Once again, it has got me confused as to why Defence are having a say on it. It must be Defence land, I'm guessing, and—

Senator Canavan: I'm happy to do that. The only remark I would make—and this is all conditional on 'if', because I'm not aware of the ownership of these properties—is that if it, in fact, is not land owned by Defence, I'd just reflect back on my comment earlier: that the process we've established is one where we sought voluntary applications. So, of course, we don't have the immediate potential simply to direct someone who owns private land to do something.

Senator PATRICK: Of course, I understand that.

Senator Canavan: So there may be that complication. And, as I've expressed to you before, we have asked Defence multiple times around options at the WPA, and they haven't been supportive of anything.

Senator PATRICK: If it is Defence land and outside the WPA, there has to be another reason, and I'm just asking for what that reason is.

Senator Canavan: We'll take that on notice. I'll have to go to Defence.

Senator PATRICK: Thanks. That'd be very helpful.
Ms Chard: I can confirm—my colleague has just advised me—that it is, in fact, Defence-owned property. But we'll take on notice the specific reason.

Senator PATRICK: Yes. I'd be very interested. I know that's not your fault, although, once again, from an oversight perspective, I'm interested in the process and what due diligence you did. When they present you with information, it's always nice to challenge it a little bit and poke the reasoning a little bit. So that would be helpful.

Mr Lawson: I might add, just for the sake of clarity, that much of the Woomera Prohibited Area is not actually owned by Defence; it's leasehold area.

Senator PATRICK: Thank you. I understand that. They've got this red zone that is owned by Defence and orange zones and green zones and so forth. I did an FOI to both Defence and ARPANSA. Defence came back. I think everyone's aware of the CSIRO waste at Woomera, but there's also another facility called Koolymilka, which is owned by Defence and has some intermediate-level waste, some of it owned by Defence, some of it administered by Defence.

I did ask for a copy of their manual, their emergency response plan. In that plan there were a number of risks that they identified associated with the facility. They included things like fire, flood, storm, civil protest activity at Woomera, missile strike from something that might be on the range, aircraft strike from an aircraft nearby and they mention, 'terrorist activity aimed at accessing the facility for publicity purposes, or for removing drums from the facility for use in a dirty bomb'. That is a Defence assessment. It's in their emergency response plan and they have a contingent for it. some sort of way of reacting to that plan.

I've spoken to residents of Kimba who basically have said that the Department of Industry has been silent on that particular prospect even though it has been raised during community consultation. I'm giving the department an opportunity to lay out has the community been consulted about the possibility of a terrorist attack and what was the nature of that consultation, if there was any?

Senator Canavan: Can I say up-front that I've never been provided with any advice that this is at all a risk. Obviously, in putting forward a proposal for a radioactive waste facility the department and myself have gone through the assessment of the risks of handling, storage and transport of radioactive waste and this has never been raised as an issue. I have no reason to believe there is any risk of this. I want to state again, as I have many times at this committee and other places, that, of course, the waste we're talking about is already stored, or the level of waste we're talking about is already stored at Lucas Heights—30 kilometres from our largest city—and it's been managed safely for decades. I don't know if officials wanted to add anything.

Senator PATRICK: To be fair, Minister, Defence did tell me they had not provided you with a briefing and that they had not provided the community with a briefing of that nature. But, I would ask you to take it on face value. I'm happy to provide your office with the document that I have. It is a Defence document. It is an assessment of the risks that they feel they need to deal with and one would presume that there would be no difference in relation to a terrorist attack at Woomera, Kimba or Hawker. In fact, the likelihood at those two places, noting that it's not in a special zone—

Senator Canavan: Chair, I might just intervene a little here. I'm not familiar with the documentation Senator Patrick is referring to, but we I think just need to be a little bit careful
throwing around speculation around attacks on our domestic soil. I'm happy to take on notice if you provide the documentation to us. But I would prefer to do that by notice rather than in an open discussion here with documentation we haven't seen—

Senator PATRICK: I'm happy to table the document.

Senator Canavan: As I say, this has never been raised with me at all as a risk. Let's table it.

Senator PATRICK: I'll provide that to your office and I'll stop asking questions, but can I ask that you would then go back and maybe have a conversation with Defence, but also make sure that you address this issue with the people in Kimba and Hawker, because I've spoken to residents there who've said they have raised it and never got a response, and that's in some sense consistent with your advice tonight, minister.

Ms Reinhardt: I think it's also worth saying that there have been extensive consultations with the community about managing security around the facility. We do consider it to be a really important issue and there are a number of regulators that will regulate the facility. There is extensive work around the security of the facility. This is not an issue that we would consider to be a major risk. In the same way it's been managed at Lucas Heights for decades, it will be managed in another site once that is developed, so it would be—

Senator PATRICK: Sorry, on what basis do you say that? Have you got some defence background? Have you had some briefings on this?

Senator Canavan: Senator, this has been looked at, sorry, no—

Senator PATRICK: I understand that.

Senator Canavan: I'm going to intervene here, because now you're verballing public servants—

Senator PATRICK: No. I simply asked on what basis did she make the claim that there's no risk—

Senator Canavan: Yes, but you made the claim in an editorial way. I don't want to go further. But I think you're bordering on being highly irresponsible to be throwing around potential risks that I don't think are well formed. The assessments of—

Senator PATRICK: This is a Department of Defence document, Minister.

Senator Canavan: Hang on, Senator Patrick. If you wanted to raise these things, you could have raised them with me before, which might have been more appropriate. We are in a public committee here and this potentially goes to—

Senator PATRICK: I'm sorry, but this is a document released under FOI.

Senator CANAVAN: hang on, Senator—our security. You're running a political campaign on a local community issue, but now you're trying to bring in security issues unannounced, unaired. I don't think that is appropriate behaviour. Can I say, and this is what I'm trying to get to, the assessment of waste at the Defence facilities, at Woomera, Lucas Heights and other facilities around the country, has gone through a great depth of assessment. The classification of waste at Woomera is at a level no higher than that which exists at Lucas Heights or other facilities around Australia. It has been stored safely for decades, and I reiterate that.
CHAIR: Senator Patrick, perhaps I could suggest that the questions that you have are directed to the minister and to the department offline as potentially this isn't the right forum for that. Can the minister commit to that?

Senator Canavan: Absolutely; I'm happy to take them on notice.

CHAIR: I think it would be entirely appropriate.

Senator PATRICK: Sure.

Senator Canavan: I've always been happy to provide Senator Patrick briefings on this matter, and I'm happy to do that on notice.

CHAIR: Rather than taking them on notice, perhaps we can arrange for a meeting.

Senator PATRICK: Sure. Just responding to what the minister said, all I'm suggesting is if this is a real risk, and there is some evidence that it is, it has come from Defence, then it's appropriate for the community to be engaged so that they're fully informed as they go into this.

Senator Canavan: And what I'm saying, Senator, is I'm always happy to provide you with briefings, as I have on this issue, and I think it's appropriate on this issue we do that first, and then we can discuss it further.

Senator PATRICK: I want to go to the matter of a brief that I also obtained under FOI that raised a number of issues in respect of the selection process, one of which I know you're aware of, Minister. The briefing that was provided to you after the AEC vote in 2017 contained advice from your department that claims had been raised about mental health issues associated with the selection process. Can you or someone just advise what the department has done in reaction to that advice you received?

Senator Canavan: Sure; yes. It's not something I just need advice on. As you know, Senator Patrick, I have visited Kimba and Hawker a number of times and seen that directly. As you would be aware, we have had officials in both Kimba and Hawker on a weekly basis now—it must be getting on for almost two years in Hawker, and a fair length of time, probably over a year, in Kimba——so we've always kept up a very constant and face-to-face degree of communication to deal with any issues that are raised.

I believe that it might have been Kimba, but I'll wait to be corrected, but overall we've also provided funding for infrastructure, both economic and social infrastructure, in Kimba and Hawker. Some of those investments I believe have gone directly to fund mental health initiatives. I don't believe they're specifically directed at the radioactive waste issue, but obviously they can help. And I might ask officials to just expand on that. I can't remember if that investment was Kimba or Hawker

Ms Reinhardt: Yes, there is particular funding for a mental health community project. In addition to that, it's also worth noting that in November last year Kimba was named the kindest place in the country and the best area to live with a number of happiness indicators around housing, health, education, employment and community work-life balance.

Senator PATRICK: Respectfully, I'm not talking about the community in general.

Ms Reinhardt: But you are talking about mental health issues within the community.

Senator PATRICK: No, if someone has raised a mental health issue——
Senator Canavan: I accept that. I will put it on the record—as I've said, I have been to Kimba a number of times. I think it's a beautiful town—

Senator PATRICK: I do too.

Senator Canavan: I think overall, as indicated by its success in these awards, it seems a fantastic community. That's not to say there aren't individuals that feel stress from this process, and their concerns must be dealt with, even if they're not—

Senator PATRICK: Just to be clear, my question goes not to a community facility—and all of that's good—but if there are individuals that have expressed concern in relation to mental illness, making sure those individuals have been dealt with. Is the department aware of any particular individual? It could be on either side of the question, but obviously, if you become aware of it, there's a responsibility to act. Or has no-one presented with a name; you're just not aware of anyone that's done that?

Ms Chard: No-one specifically has approached the department. When the submissions from 2017 raised the potential for there to be mental health issues in the community, the department did raise it at the time with the local doctor. As the minister alluded to, we have subsequently supported, through the grants program, a mental health initiative in Kimba in October last year. They had a major health and wellbeing event. They had about 250 community members actually participate in that health and wellbeing event that was facilitated by the healthy mind, healthy community working group that's being supported through the grants program.

Senator PATRICK: Thank you. Just in relation to broad community support, just reading from the department's brief to you, Minister, it says, 'Given the similar results despite ongoing consultation, it is unlikely community views will change significantly in the short to medium term, with a block of around 40 per cent persistently strongly opposed.' Now, in effect, what that says is you won't ever get past 60 per cent. We've had discussions about your answer in the chamber, and I know it wasn't a dead-set marker at 65, but that would indicate, having knowledge of that going forward when you made your decision, you've basically accepted that something less than 60 per cent is an acceptable input factor to broad community support?

Senator Canavan: Look, we're going to repeat old ground, because I think this question has been asked in the chamber and at other estimates. As I've outlined, the government and I have not sought to put a specific threshold or number on the support required. We've always sought broad community support. As I've said previously, a facility like this is always going to have a certain degree of opposition. I don't think any community would have 100 per cent support. I think a level around that 60 per cent support for something is a very high level of support,
particularly in comparison to election results on other major issues, on issues of the day or election of officials.

Senator PATRICK: But it's clear that when you made the decision to proceed you were well aware that you were not going to get more than 60 per cent. That's the advice—

Senator Canavan: I wouldn't put it as definitively as that.

Senator PATRICK: Sure, but you're pretty sure.

Senator Canavan: You've characterised it in terms of the opposition, but I think the corollary there that may have been definitively outlined too is that the basic principle here is the communities in Kimba and Hawker are quite well informed. There has been a significant degree of consultation and, therefore, as you'd expect, most people—the advice to me is that the view is most people have probably made up their mind because of the information that has been provided.

Senator PATRICK: All right.

Ms Chard: Senator, it is worth noting that that assessment was made in 2017. Since then there has been more than a year—18 months or so—of fairly extensive consultation to make sure that the communities are adequately informed. The reference to 'short to medium term' was an assessment that was made back in mid-2017.

Senator PATRICK: Well 'short to medium term'—I know, for example, an intermediate solution to an intermediate level waste management facility could be a 40-year term. I'm just going off, prima facie, what the department advised the minister—that is, you're unlikely to get a change beyond 60-40, and just noting that's the basis upon which the minister proceeded.

Senator Canavan: I should clarify that none of my comments indicate that we are prejudging. We are genuinely going to have another assessment of community support. The process was one established through the local government that is currently the subject of a court case. So that will be up to people. We can't predict the exact result. The department have provided their best assessment, and I didn't take it to be a definitive one.

Senator PATRICK: But you accept, Minister, that you're going to put people through an AEC vote where they don't understand what is going to happen on the other side of the AEC vote. It is really unusual.

Senator Canavan: For an absolute start, after any conclusion of any ballot and subsequent decision by the government, that decision will come back to the parliament. So it will be
scrutinised. There will need to be changes made to the Radioactive Waste Facility Act. So those changes to that act will need to have the support of both houses of the parliament.

Senator PATRICK: What changes would they be?

Senator Canavan: I will ask officials to go through those, but there are a number of changes that would be required on the selection of any site—and I flagged that in Kimba and Hawker when I last visited. So there will be that level of scrutiny and assessment of any government decision. This is obviously a different and somewhat unique way of seeking to establish a radioactive waste facility. There might be one or two but there are not many examples around the world of governments conducting this kind of democratic choice. Most facilities have been established by fiat, not through community choice.

We have always had difficulties in deciding the boundaries and constituencies that we would ask, which brings me back to the point about broad community support and why we have always taken a multifactor approach, where we don't just take the raw result of a ballot and one group are missed out. A group I mentioned earlier are the people who aren't in the area but are close and have an interest. We're taking submissions from them and they'll be assessed by me following any ballot and collation of submissions.

Senator PATRICK: Minister, I don't mind your algorithm; I would just like to know what it is.

Ms Chard: When the legislation was conceived in 2012 it envisaged that a fund would be established to support the community. The legislation is currently drafted that that fund would be managed by the state government. Following community feedback and the relative legislative frameworks, when the government announced the $30 million community development package last year, one component of that was a $20 million community fund. So there would need to be legislative change to enshrine that new fund in the legislation and adjust the terminology so that it's a fund that can be managed by the community rather than by the state.

Senator PATRICK: Having made that commitment to the community, if that legislation didn't pass through the parliament, what would happen then?

Ms Chard: The fund isn't dependent on the legislation change, but the community has asked for the fund to be enshrined in the legislation, so we would seek to make that change.

Senator PATRICK: So there could be a situation where the decision gets made—and the people of Kimba and Hawker should know this—by the minister, because there's nothing that fetters him at this point in time, but the funding arrangement might not be possible if the parliament didn't agree?

Senator Canavan: The government would make a decision at that time, but I'm very confident that, in the event that we have strong support for this facility, we'll also have the support of the parliament, and we'll keep our promises around funding any community with the direct employment and investment of the facility and also the establishment of the related fund.

CHAIR: I think that's probably a very good spot to break for 15 minutes.

Proceedings suspended from 21:15 to 21:30
Northern Australia Infrastructure Facility

CHAIR: I welcome officers from the Northern Australia Infrastructure Facility. Ms Walker, do you have an opening statement for us?

Ms Walker: I'm happy to table it.

CHAIR: All right. Thank you very much.

Senator KETTER: Thank you very much and welcome back, Ms Walker and colleagues. Congratulations on the announcement of the 10th investment decision. Serendipitously, that occurred yesterday, so that's handy. Thank you for your opening statement. I haven't had a chance to read through it all, but I think you may well have answered one of my first questions. I was aware that there were 10 decisions based on yesterday's announcement, but I was wondering what the ninth one was, because there seemed to be a gap there. Was that the commercial-in-confidence project in WA, up to $90 million?

Ms Walker: We have two commercial-in-confidence projects at the moment. It's a matter with the proponent at the moment, and we're hoping to be able to announce at least one in the near term. For the second one I don't have a date as to when we'll be able to announce that, but the matter is with the proponent as to the timing of those announcements.

Senator KETTER: Okay. I note that there was a media release—I think the minister issued it around 7 January—saying that there were eight decisions.

Ms Walker: Was that the Queensland one—the $50 million Queensland one?

Senator Canavan: From recollection, Senator Ketter, the media release that I think you're referring to did refer to a decision in Queensland that had been taken but could not be announced for commercial-in-confidence reasons. I'm not sure of the numbers. I'd have to take on the notice all the different rankings.

Senator KETTER: Okay. I won't spend too much time on it. As at 14 January or thereabouts, there was $1.18 billion in investment decisions and conditional approvals according to the media release. Is that right?

Ms Walker: I'll take your word for that. I haven't got the 8 January numbers with me.

Senator KETTER: I think yesterday's announcement indicated that there's $1.3 billion in total.

Ms Walker: That's right.

Senator Canavan: I think it was $1.263 billion.

Ms Walker: Yes, around $1.3 billion.

Senator Canavan: That is my recollection.

Senator KETTER: Okay. We know that Kalium Lakes is the one that was announced yesterday.

Ms Walker: That's right.

Senator KETTER: That's $74 million.

Ms Walker: That's right.

Senator KETTER: There's another.
Ms Walker: There's one in WA which is $90 million, which is commercial in confidence, and there's one in Queensland which is $50 million.

Senator KETTER: Okay, but that was already included in the $1.18 billion.

Ms Walker: The one in Queensland, the $50 million, would have been included in the January number.

Senator KETTER: Yes, that was an investment decision. But there were two conditional approvals that go back to the media release of 14 January—two commercial-in-confidence projects under conditional approval, one for $28 million and one for $90 million.

Ms Walker: There is a conditional approval, which is the $25 million project, which is commercial-in-confidence.

Senator KETTER: I'm just trying to work out what has happened between 7 January and 20 February.

Ms Walker: There was another board meeting. There were two investment decisions made at that board meeting. One of those was Kalium Lakes, which has now been announced, and the other one is one of the commercial-in-confidence ones. That's the difference. The board has been meeting. I think we've had 32 board meetings, so roughly I suppose, since the establishment, nearly one a month. They meet as regularly as needs be to decision projects. That's the difference. It's just that the clients are not ready for that to be made public at this point.

Senator KETTER: You might recall that in October of last year we asked about the amount that has been drawn down for each of the investment decisions. You made it very clear that a number things have to happen after an investment decision. There has to be state approvals and then financial close has to occur.

Ms Walker: Correct.

Senator KETTER: Last October we had roughly $5 million drawn down so far. Can you give me an update on that for the projects where the facility has been accessed and how much has been drawn down in the case of each of the investments?

Ms Walker: Yes, I can do that. As at today, $13.6 million has been drawn down. At the end of the month I think that will be $15.8 million. As I did say last time, the thing that is in the control of the board is the making of the investment decisions. That has obviously been done for those 10 investment decisions and the three conditional approvals. The timing of drawdowns, as you said, depends on getting your signing and getting your financial close. Then it really depends on the proponent as to when they need the money. Also there are other financiers in a number of these deals. I know that, in one of these deals that has closed, the way it has been structured at the moment the money is being drawn by the other banks before the NAIF funding. That will vary from project to project.

Senator KETTER: Is that $13.6 million as at today only for the Onslow project?

Ms Walker: No, there are two projects that are in drawdown mode at the moment.

Senator KETTER: Can you give me the breakdown please?

Ms Walker: No, I don't actually have the breakdown between the two. It's the Onslow project and it's the Voyages project, which is the airport at Uluru.
Senator KETTER: But the total is $13.6 million?

Ms Walker: As I said, the focus for us is the amount of investment decisions that are made and the number of conditional approvals that are made because that's the thing that the board has most control over. The drawdown really depends on the construction timetable. Depending on the project, that can take months or one or two years.

Senator KETTER: Does anybody else at the table have access to the breakdown for the two projects in that $13.6 million?

Ms Walker: I'm happy to provide it on notice. I don't have it at the moment.

Mr Coffey: I've got the breakdown here. There is another payment going over tonight, so I'll give you the complete total. For Onslow it will be $9 million, including the payment that goes tonight of $622,000. For Voyages the total drawdown with the payment that's also going tonight is $6.762 million.

Senator KETTER: So as of today that's $15.7 million?

Mr Coffey: That's correct.

Senator KETTER: Thank you. Let's go to the issue of what's been in the media a little bit, recently, and that is the board donations to the LNP. There was an article in *The Courier Mail* on 21 January, that you'd probably be aware of, which indicates that half of the coalition appointed board of the Northern Australian Infrastructure Facility is linked to LNP donations. We've seen here that QUT's School of Justice's associate professor has indicated that the appointments raised issues of public perception. What he said was that there were some genuine suspicions about this but made no claim of wrongdoing.

I'll, firstly, address my question to you, Minister. At the last estimates hearing, the department confirmed that Mr Ross Rolfe was identified as a candidate after the $71,000 process you undertook to make an internal appointment. Can you outline the process you undertook when identifying Mr Rolfe as a candidate for a position on the NAIF board?

Senator Canavan: Absolutely. I spoke to a range of people, but we also received the selection advice that you mentioned. From my recollection, Mr Rolfe was one of the candidates identified in that advice. I'll correct the record, if I'm incorrect. That's going back a number of months now, almost a year I think. I met Mr Rolfe myself. I hadn't met him before, so I had an extensive discussion with him. As you'd be aware, Mr Rolfe has had a distinguished career as a public official, including as the coordinator-general for the Queensland government—appointed by a Queensland Labor government, may I say.

One of the reasons I felt that Mr Rolfe was particularly suited to fill in that vacancy was that he had extensive experience with the Queensland government. Given you followed this quite closely, through this committee, Senator Ketter, you're probably aware that we've had difficulties with the Queensland government, at times, and the Northern Australia Infrastructure Facility. So I felt Mr Rolfe could particularly help in those relations with the Queensland Labor government.

It is correct, and I think it's also important, to put the context of your question that Mr Rolfe, I think, chairs or maybe is CEO of Infigen Energy—

Ms Walker: CEO of the company.
Senator Canavan: He's CEO, sorry, of Infigen Energy. That company has made or declared donations to, apparently—I wasn't aware of that until the article—the LNP. My understanding, and on talking to Mr Rolfe and through our office making inquiries, is that Infigen Energy has attended Labor events as well and made contributions to the Labor Party. My firm view is that the political activities of directors of particular independent statutory agencies are for themselves and to direct them in any way, but I don't think you could sustain an argument that Mr Rolfe is not incredibly qualified for this role, particularly given his involvement in Queensland over many years.

Senator KETTER: Can I ask the department to confirm a bit more detail, in terms of the process that was undertaken to identify Mr Rolfe as a candidate for the position?

Ms Reinhardt: I think we'll have to take that on notice, whether he was part of the formal process that was outsourced or whether it was an internal process, because there are a number of different pathways.

Senator KETTER: My recollection from the last estimates was that there was an external agency used. But that ended up being an internal appointment of Mr McCormack, I think.

Senator Canavan: We'll take that on notice. I can recall Mr Rolfe being identified as a potential candidate through a selection process. It might have been for a separate appointment. But I'll take that on notice and we'll make sure the record's correct, to get the information.

Senator KETTER: Coming back to you, Minister, what due diligence did you personally undertake prior to appointing Mr Rolfe to the NAIF board?

Senator Canavan: I've probably gone through that, largely. As I said—

Senator KETTER: Perhaps if I could clarify my question, you indicated that you weren't aware of the donation that Infigen had made.

Senator Canavan: No, absolutely not.

Senator KETTER: Mr Rolfe, as you indicated, is the CEO of that company. Wouldn't that be part of a due diligence process?

Senator Canavan: I've made a number of appointments to boards and other bodies, and it's not a practice of myself or my office to check up on their political donation history. I don't see how that would be relevant. In this case, as you've rightly outlined, it wasn't Mr Rolfe himself at all; it was a company he's CEO of, but that's not a criterion in the appointment of people to boards.

Senator KETTER: You're saying you only become aware of that donation after the appointment?

Senator Canavan: Yes. In fact, may I say, I was a little surprised because, as I indicated, Mr Rolfe has longstanding connections to the Queensland Labor Party, an appointment by Queensland Labor government. I've got nothing against that. It's not a crime to support the Labor Party. But he was qualified for the role, and that's why he was appointed.

Senator KETTER: Who recommended Mr Rolfe to you?

Senator Canavan: I'd have to take that on notice, as I said. This is going back about a year, and my recollection is that he was identified through a process. I did speak to a number of others who had dealt with Mr Rolfe in the past, both in Queensland and elsewhere. He's
obviously got extensive business experience. He was very well recommended and, as I say, his qualifications and record kind of speak for themselves.

Senator KETTER: So you knew Mr Rolfe before his appointment?

Senator Canavan: No. As I said earlier, I first met Mr Rolfe while we were considering him for an appointment to the NAIF board.

Ms Reinhardt: As part of any appointment process, we require that all appointees complete and sign a private-interest declaration and a conflict-of-interest form, and then the NAIF itself has significant processes around managing those conflicts of interest.

Senator KETTER: So you hadn't met Mr Rolfe at any political functions?

Senator Canavan: Not to my knowledge.

Senator KETTER: Not at any LNP fundraisers?

Senator Canavan: No, not to my knowledge.

Senator KETTER: In relation to the vacant board position, was there a short list prepared for that?

Senator Canavan: I'll have to take that on notice. Do you mean the vacant board position that Mr Rolfe filled?

Senator KETTER: Yes.

Senator Canavan: We'll take that on notice. As I said in recalling this, this was around the same time we also appointed a new chair, on the resignation of Ms Warburton, so we'll just go back and check exactly. There was a short list created, but I'll just go back and check exactly the circumstances for which that was created.

Senator KETTER: In terms of applying selection criteria for the decision to appoint Mr Rolfe, what were the criteria that led you to choose Mr Rolfe?

Senator Canavan: That's outlined in the Northern Australia Infrastructure Facility Act, at least in broad terms. There are provisions in the act that board members are required to have, I think, at least one experience in—I'm doing this from memory—things like government, infrastructure, finance and, I think, public policy. Anyway, we can provide a list, but that is outlined in the act, and those were the criteria that were applied in this case. As I said earlier, Mr Rolfe has extensive experience in many of those fields, both in his time as Coordinator-General for Queensland and then subsequently in his business experience, including as CEO for Infigen Energy. Ms Bellettini has just outlined to me that it's section 15(4) of the act. I won't read them all out. I covered most of them there, but I didn't cover law, which is another one.

Senator KETTER: So you're not able to identify what specific criteria led you to—

Senator Canavan: No. They're the statutory criteria, and they're the criteria, of course, I applied. Just looking through the list now, Mr Rolfe, given his experience as Coordinator-General and in business, has experience in banking and finance, experience in private equity and investment, experience in economics and experience in infrastructure planning and finance. I don't think he's an engineer, but he would have been very exposed to that as Coordinator-General. He'd be experienced in government funding programs or bodies. Again,
I don't think he is qualified in financial accounting or law, but he would have been exposed to many of those skills and qualifications as well. He's extremely—

Senator KETTER: So it wasn't that he donates to the LNP?

Senator Canavan: Well, as I outlined before, I wasn't aware that he'd made donations, so it obviously couldn't have been for that reason.

Senator KETTER: As has been identified in The Courier-Mail article, half of the board that we know of are donors to your political party. Can you explain how that's occurred? Is that just a coincidence?

Senator Canavan: As I said, all the board directors have been chosen for their skills and experience according to the act. And I think all the board directors are eminently qualified to fill their positions and are doing a very good job, as I outlined earlier, around a number of investments.

Senator KETTER: So, it's a coincidence?

Senator Canavan: Well, you can draw whatever conclusions you'd like to. All I'll say is that board directors are appointed on the basis of their skills and experience—in this case the skills and experience in meeting the statutory test. And I think that to make the kinds of generic accusations that you're making is to slur the reputations of well-qualified individuals while hiding behind a generic statement rather than dealing with each individual—

Senator KETTER: Well, Minister, I would have thought, given that public perceptions are incredibly important, that you should relish the opportunity—

Senator Canavan: I look forward to a future Labor government committing to never appoint someone from a trade union. Do you want to make that commitment here and now? That's where you're going. I don't think it's right to say that someone should be disqualified from serving on a board because of political involvement that they may or may not have. I think that would be a terrible test to impose—

Senator KETTER: I'm not arguing that.

Senator Canavan: and would deny many well-qualified people the opportunity to serve well on government boards.

Senator KETTER: How many board members did you know were donors to your political party before they were appointed?

Senator Canavan: I'd have to just outline the context of this—that the board was originally chosen while Mr Frydenberg was the minister for northern Australia—so I can't quite answer your question. As I've outlined in previous estimates, Ms McPhail is a supporter of the LNP and a friend of mine but, again, her appointment was announced under a previous minister. Mr Coulter, who's from Darwin, is a very well-regarded former minister of the Country Liberal Party. I wasn't aware of his donations. It wasn't surprising, of course, given his previous involvement in the Country Liberal Party. He's extremely well-respected in Darwin and the Northern Territory and, again, very well-qualified to serve on the NAIF board.

Senator KETTER: You said just then that you were aware that Ms McPhail was a donor to your political party before you recommended her to the board.
Senator Canavan: No. What you've misinterpreted or chosen to misstate there: I did not—the appointment of Ms McPhail was announced by Minister Frydenberg, before my time as the Minister for Resources and Northern Australia.

Senator KETTER: But did you recommend her?

Senator Canavan: Well, the appointment was announced by Minister Frydenberg.

Senator KETTER: But did you recommend her?

Senator Canavan: I was consulted about the board appointments at the time.

Senator KETTER: And did you recommend her?

Senator Canavan: I'm not going to go into discussions I had with the then minister. They were announced publicly, and Ms McPhail is well-qualified.

Senator PATRICK: I think you're being a bit unfair on the minister, because I'm just reading tonight that former Liberal MP Bob Baldwin and Joseph Francis were appointed to the AAT. They do it across all portfolios.

Senator Canavan: And the Labor Party never does!

Senator PATRICK: It's right across all portfolios.

Senator KETTER: So, Minister, after almost four years the NAIF has actually invested only $15.762 million in northern Australia. I want you to respond to the concern that would be out there that people in northern Australia believe that NAIF is just a vehicle for you to give political donors a job.

Senator Canavan: Well, there were a number of incorrect statements made there. The NAIF has been established now for just over 2½ years, not four. It was established on 1 July 2016. I think the legislation was passed only a couple of months prior to that, so obviously it couldn't do anything before it was statutorily established. So, it's not four years as you've said. The figures you've used, as we've gone through, are the drawdowns that have been made so far. But obviously, given that these are investments in infrastructure projects, they're going to be drawn out over a long period of time, as infrastructure projects take time to build and finance and coordinate, as Ms Walker outlined earlier. A key figure here is that the NAIF has now made investment decisions of $1.3 billion. That funding is committed. We are committed to it. Obviously it takes two to tango here, and private proponents need to proceed. We're confident that that will occur, obviously. It's now a quarter of the NAIF's allocation, and it was always going to take time to ramp up. If you compare the NAIF to any other like organisation—there's a transport financier in the US and the CEFC—I think its record stands up against all of those in terms of the acceleration of projects that builds up a strong pipeline.

Senator KETTER: Let's talk about the remaining board position that exists. At the last estimates hearing, you advised us that there was no process underway to fill the remaining board position. Is that still the case?

Senator Canavan: I'll have to check the Hansard, but, no, we're certainly considering a number of applications at the moment—not applications, just to clarify, but a number of potential candidates, sorry.

Senator KETTER: I'm sorry; could you repeat that?

Senator Canavan: We're considering a number of potential candidates at the moment.
Senator KETTER: There is a process underway at the moment?
Senator Canavan: Yes.
Senator KETTER: You advised us at the last estimates hearing that you were planning to appoint a woman to that vacancy.
Senator Canavan: Yes, that remains the case.
Senator KETTER: When do you expect to make a decision?
Senator Canavan: I'd hope it would be relatively soon. We are, hopefully, close.
Senator KETTER: I just want to now turn to the record of investment in Central Queensland, which is not particularly good. After, you say, two years—I would say 3½ years—
Senator Canavan: I said 2½, to be fair.
Senator KETTER: all right, 2½ years—why hasn't NAIF made any investment decisions for Central Queensland?
Senator Canavan: Because of the Queensland Labor government, Senator Ketter; that's why. There was a potential decision, as you well know, to invest in connecting the Galilee Basin. It would have been a huge investment for northern Australia and particularly northern Queensland, and the Queensland government stopped it. It was not done by me or anyone here in the federal government; the Queensland government made that decision, I think for incredibly spurious reasons. You'll have to ask them why they didn't want the federal government to invest in Central Queensland. They weren't asked to put a single cent towards it, but they said no to that investment. As we went through last time, we were obviously very keen to get investments in Central Queensland. On the public record there is an exciting investment for infrastructure supporting a meatworks near Moranbah, in Central Queensland. There are a number of other good projects. I don't know if any of them are on the public record. I'm not going to speculate—unless Ms Walker wants to.
Ms Walker: No.
Senator Canavan: I come back to the fact that, as I outlined earlier, we have had our difficulties in progressing projects in Queensland. We have always remained ready and open to invest in Queensland, but, as you would know from the establishment of the NAIF Act, we require the support of a state or territory jurisdiction to make investments under the NAIF.
Senator KETTER: It's all the Queensland government's fault! It's somebody else's fault?
Senator Canavan: I think Ms Walker has something to add.
Ms Walker: If I could just add something to what the minister has said?
Senator KETTER: Sure.
Ms Walker: We are a proponent-led model, and we are absolutely open to any proponent that comes to us that will meet our criteria. We are actively looking to facilitate and originate projects, but at the end of the day the model is one that requires proponents to come forward, so there need to be people in Central Queensland who are wanting to invest and who meet the criteria for NAIF.

But I also have another number that I can give you. I thought it would be interesting for you to perhaps understand that for Queensland as a state—which of course is one of our three
jurisdictions—in terms of the dollars that NAIF has committed by either investment decision or conditional approval, it's 49 per cent of the decisions that have been made. So, of those 13 decisions, Queensland has the lion's share.

**Senator KETTER:** You're counting Genex, which is a conditional approval?

**Ms Walker:** I am counting the conditional approvals, and that does include Genex. If I were looking at it—

**Senator KETTER:** But, in terms of numbers of proponents coming forward from Central Queensland as a proportion of the three jurisdictions as a whole, is—

**Ms Walker:** We don't actually break it down by Central Queensland and Far North Queensland. We look at Queensland; we look at the Northern Territory; and we look at Western Australia. We don't actually break it down by region.

**Senator KETTER:** Minister, at the time of the launch of NAIF—back in May 2016, I think it was—you said that 'the time for talk is over' and it was 'time for action'. In September 2016, you were 'hopeful that we will have projects funded very shortly'. And then, in June last year, you were asked if you were disappointed in the NAIF, and you said:

… things weren't progressing as well as we would have liked.

That was at Senate estimates in June 2018. Minister, you live in Central Queensland. Do you consider it a personal failure that you can't deliver NAIF investment for your own community?

**Senator Canavan:** No, I wouldn't characterise it in those terms. You've put forward a range of quotes there. As I've said on the public record, we weren't happy with the progress of the NAIF around a year ago. That's why I commissioned a review by Mr Tony Shepherd, and that review came back with a number of recommendations to change the mandate. Those changes were accepted by the government and, of the $1.263 billion we were talking about earlier, almost all of that, I think, bar Onslow, has been paid since the changes to that mandate. Yes, there were some difficulties. We were establishing quite a unique organisation to deliver infrastructure. When we had a few issues, we did what good governments do: we fixed them up, and clearly those fixes have made a difference. The proof is in the pudding.

On Central Queensland: as someone who lives in Central Queensland and is very passionate about it, of course I'd like to see more NAIF investments. Primarily, as I say, that's been a difficulty progressing those with the Queensland government. That hasn't stopped us, though, from investing in Central Queensland. We are here talking about northern Australia, but generally. That's why we put $130 million into the Rookwood Weir, and that's happening right now. That's why we finally made a decision to build the hospital car park, after years of indecision by Queensland Labor governments. That's due to open on 4 March this year. Senator Ketter, I invite you to come along; it will be a great day for Rocky.

It is also why, of course, we're investing in many roads. The Capricorn Highway upgrade is due to start in the next couple of months. It will be four lanes from Gracemere to Rockhampton, a significant investment. The Clermont Alpha Road is incredibly important to supply chains. We will also get type 1 truck access to the meatworks as well. We don't need to break down trucks anymore at Gracemere. It's an enormous benefit to the cattle industry and also to the safety of workers there at the—

**Senator KETTER:** Look, we all want to see more investment in Central Queensland.

ECONOMICS LEGISLATION COMMITTEE
**Senator Canavan:** There's a lot happening in Central Queensland. Would I love to have seen more from the NAIF? Absolutely. But, again, I can't control the takeover of the Labor government by a group of lefties, as Bill Ludwig said this week. I presume he's someone that you're close to, Senator Ketter, so maybe you can give him a call and sort him out.

**Senator KETTER:** What about North Queensland, Ms Walker? Your office is located in Cairns.

**Ms Walker:** Yes, my office is located in Cairns.

**Senator KETTER:** Are your staff disappointed that they haven't created jobs for their neighbours?

**Ms Walker:** We are actively discussing projects, and I would hope that you're not assuming that there won't be projects in Far North Queensland and in Central Queensland.

**Senator KETTER:** I hope there will be.

**Ms Walker:** I am sure that there will be. As I said, the projects require proponents to come forward with projects that are assessment ready. They need to be at a stage where we can assess them and decide whether the criteria fit. I thought it would be useful—the minister quoted something from Mr Shepherd's report about TIFIA, and I think this is very worthwhile to put on the record.

**Senator Canavan:** TIFIA is the US transport—

**Ms Walker:** Yes. If I can just quote—

**Senator KETTER:** So long as it's not lengthy, Ms Walker, I'm happy to hear it. So long as it's not a lengthy quote, that's okay.

**Ms Walker:** No, this is out of Mr Shepherd's report. He says:

The US *Transport Infrastructure Finance and Innovation Act* set up the TIFIA Credit Program in 1998 designed to fill market gaps and leverage substantial private sector investment. So it was substantially the same sort of organisation as NAIF. He continues:

In the first six years it invested in only two projects despite the size of the US market and the relatively poor state of a lot of US transport infrastructure. It took time for the new organization to get established, for the market to factor TIFIA into its planning, and to form and close transactions. So I would say that $1.3 billion—10 investment decisions and three conditional approvals—when you're considering the size of the Australian market compared to the US market that this TIFIA organisation was focused on, is actually incredibly significant progress.

**Senator KETTER:** I put it to you, Ms Walker, that it could be argued that the investment mandate that that US organisation was operating under was even less workable and even more poorly put together than the NAIF investment mandate. That's one possible explanation.

**Ms Walker:** It is a possible explanation, but I don't actually think it is the explanation.

**Senator KETTER:** I just have one more question for NAIF. Minister, I want to give you the opportunity to answer this question because, based on the facts we put on the table tonight, Queenslanders will be wondering if the NAIF is failing to deliver for Queensland because you've stacked it political donors.

**Senator Canavan:** As I said, Senator Ketter, I'm happy to be judged by the results, and the results are 50 per cent of the NAIF's decisions have gone to investments in Queensland.
One of those that is being held up is the Kidston project, but we're continuing to try to talk to the Queensland government. My understanding is that, if the Queensland government and its agencies get on with the job and settle these agreements, that decision could go forward as well. The story of North Queensland at the moment is that its progress is being constantly held up by a Queensland Labor government that is at war with itself, doesn't understand what it stands for is not able to cooperate with the federal government on proper investments. That's clear cut, and your own people are saying it. It's not me. Your own labour union officials are saying that. Former Labor leaders are saying that. The Queensland resources investment commission tonight said the Queensland Labor government is an absolute mess. She's an official in your government.

Senator KETTER: So you don't want to take responsibility.

Senator Canavan: This is not a political comment; this is my day-to-day reality having to deal with them.

Senator KETTER: You don't want to take any responsibility for this.

Senator Canavan: As I said, what I will do is get on with the job of investing in North Queensland. If we can't work through the NAIF with Queensland, as we've struggled to do as a matter of public record, we'll invest in roads and dams and use other means, but we remain ready and open to work with the Queensland government on Kidston energy project. We've been ready to work with them on the Townsville port, on the Mount Isa-Townsville rail line and on the Rookwood Weir, but they've said no to all of those.

Senator KETTER: I have no further questions.

CHAIR: I had questions not necessarily for NAIF but about Northern Australian water projects. I hope I have the right people at the table. I would like the minister to advise of the programs funding for water projects in the north.

Senator Canavan: I was going through some of those earlier. The projects are not primarily managed by this department, but we do obviously have a role in coordinating those. We established the National Water Infrastructure Development Fund with an initial allocation of $500 million. That's administered by the Department of Infrastructure, Regional Development and Cities now. And I believe it has exhausted that allocation. Some of that funding has gone to the Rookwood Weir, which I mentioned earlier. Since the initial funds were exhausted, a couple months ago we replenished the allocation with another $500 million to invest. I believe Minister McCormack has released guidelines in relation to that. We have also made arrangements to invest in Hells Gate stage one, which will involve the construction of the Big Rocks Weir on the Burdekin River. I think that investment is around $70 million. We will also invest in the Hughenden irrigation project. I think that's around $180 million. So there is a lot going on at the moment in Northern Australian water. There's been some other research by the CSIRO. It's very exciting. I might not go through in detail, but, Mr Coffey, did you want to add anything?

CHAIR: Sorry; can I just clarify? We had CSIRO here before, and they were talking about their drought mapping. Is that a related project or completely different?

Senator Canavan: Not explicitly. The work they have done for the government to advance northern development is to assess a number of specific catchments for dams and
water storages. They completed that work mid to late last year in three catchments across Queensland, the Northern Territory and Western Australia.

CHAIR: Thank you. Sorry, Mr Coffey; I don't mean to interrupt you.

Mr Coffey: So $667 million has been invested for water projects in northern Australia—$15 million towards those three water resource assessments that the minister was just talking about: in the Fitzroy in WA, in the Darwin catchment and in the Mitchell catchment in Queensland. CSIRO did those. That demonstrated that there's potential for around 387,000 hectares for irrigated ag crops just in those three catchments alone. As a result, that information is now out in the market and investors, governments, and others can make decisions moving forward.

As well that, there are 16 additional feasibility studies occurring, with $25.4 million invested in those. A number of those are with state governments for consideration. And, as the minister said, we're moving on some of the feasibility studies, Hells Gates Dam et cetera—Rookwood Weir, $176 million; Nogoa Mackenzie, $3 million to improve their water supply project; $11.6 million for Mareeba-Dimbulah water supply efficiency project; $182 million for the Hughenden Irrigation Scheme; and $54 million for Hells Gates Dam, which includes the detailed business case, and $30 million for Big Rocks Weir. On top of that, there's 200 million for the Townsville water security and 500 million for Nullinga Dam.

CHAIR: You said 387,000 hectares—is that irrigable land?

Mr Coffey: That is the total potential out of those three areas for irrigated ag crops.

CHAIR: What sort of time line are we looking at here before they can actually be turned into agricultural land?

Mr Coffey: The work that CSIRO does is the preliminary work, which looks at water availability, on-stream and off-stream storage, soil suitability, crop suitability et cetera. It's almost like pre-competitive data that is then released to the market, and then state governments, who are primarily responsible for water, then need to make decisions around how they would develop that land and that water resource.

CHAIR: So there are a few hoops to go through and hurdles to get over?

Mr Coffey: That's correct.

CHAIR: Are we talking probably a decade?

Mr Coffey: Certainly a number of years.

CHAIR: But the work has been done?

Mr Coffey: That's right. And it provides the data to inform investors where the opportunities are for irrigated agricultural projects.

CHAIR: There being no further questions, thank you all very much for joining us this evening.

National Offshore Petroleum Safety and Environmental Management Authority

[22:12]
CHAIR: I welcome the representatives of NOPSEMA and thank you for being so patient and waiting. You're our last guests for the evening. Do you have an opening statement for the committee?

Mr Smith: Only to say thanks for the opportunity to speak tonight. We've had a few issues in the media of late and this will be a good opportunity to address some of those, I expect. I will also flag that I'm currently suffering from some bronchitis, so my colleagues are probably going to do more talking than I will. But, fortunately, they're very competent, and between the three of us we hope to be able to answer everything you have.

Senator STORER: I'm interested in the approval that NOPSEMA gave to the Norwegian subsidiary PGS in January this year for seismic testing in the Great Australian Bight. I think it's well documented that southern right whales and their calves migrate through the area NOPSEMA approved for seismic blasting through September, October and November 2019. I have been told that there's evidence that there was one mother-and-calf pair that were not strong enough to leave for their long journey south until December, verified by the South Australian Whale Centre sighting log. That's outside the September to November period that was set for seismic testing. Did the recent conditional approval for seismic testing in the Great Australian Bight given to PGS take into account migration routes of southern right whales?

Mr Smith: I'll get Mr Grebe to address that one. He is the head of the environment division.

Mr Grebe: Thank you, Senator, for the question. The short answer is yes, we did answer the impacts on a full range of relevant marine fauna at that time of year and that location, including southern right whales. It was part of the assessment decision-making and also drove part of the conditions that were being established that you mentioned that were attached to the approval.

Senator STORER: The conditions were that seismic blasting is between September and November 2019 or outside of that period?

Mr Grebe: Seismic surveys, or blasting—in ancient history, dynamite was actually a technique used, but thankfully that was well and truly phased out. These days seismic testing uses compressed air released to generate an air bubble to create a popping sound which sends acoustic energy into the sea bed. I wouldn't call it blasting. But yes, during that period, the environmental impact assessment that was conducted for the survey considered the impact of the sound from the acoustic array over the whole survey area using sound modelling and predicting potential impacts on sound using relevant available science. It was shown to not have a significant impact on the ability of the southern right whales that you mentioned, for example, as a species to migrate.

Senator STORER: So the seismic testing is approved for September to November 2019 or outside of that period?

Mr Grebe: Only within that period in 2019 or 2020. It's approved to be conducted across those months in both or either of those years. However, particularly in the latter part of both those periods, there is the potential for the commencement of upwelling, which is nutrients coming from deeper cold waters welling up, and that is what attracts feeding blue whales and pygmy blue whales later on in the year and the aggregations of tuna. So the conditions predominantly relate to ensuring that the survey wouldn't continue in those periods should...
there be critical life activities. It's a biologically important area identified in the blue whale recovery plan, for example. The survey wouldn't continue regardless of the fact that the potential for seismic was included in the environment plan in those later periods with the conditions, and the arrangements in the environment plan would prevent the company from continuing to operate.

**Senator STORER:** Are you aware that the Australian government agreed to the UN Convention on Migratory Species noise EIA guidelines in October 2017?

**Mr Grebe:** Yes.

**Senator STORER:** Are you aware that that makes it clear that independent review of seismic survey environmental impact assessment should be required?

**Mr Grebe:** Yes.

**Senator STORER:** Did NOPSEMA require PGS to conduct an independent review into the veracity of scientific evidence on seismic impacts?

**Mr Grebe:** The Australian government arrangements are that—and this is quite common—the proponent conducts the environmental impact assessment. We achieve the independent review of those impact assessments by NOPSEMA, which the government has established to independently regulate the offshore petroleum industry. We do conduct that independent review. That's our role. We don't prepare the environmental impact assessment report. We do review it with subject matter expertise—

**Senator STORER:** So the independent review is NOPSEMA?

**Mr Grebe:** Yes. There's not an independent review of the independent review.

**Senator STORER:** But the independent review is not another body—it's not someone else.

**Mr Grebe:** We are the body that is the independent review.

**Senator STORER:** It's just interesting. You're the independent review but you are the body that will provide the approval as well.

**Mr Grebe:** We don't have any role in conducting seismic surveys, releasing exploration permits or promoting oil and gas development. We're purely considering whether the environmental impact of the survey, for example, if it's a seismic survey, could be conducted without unacceptable impacts.

**Senator STORER:** So you're independent of government, and that's why you can do it?

**Mr Smith:** If I could just add: that's partly why NOPSEMA has been established as an independent statutory authority, whereas other elements of the offshore petroleum regime, like NOPTA, are part of the department.

**Mr Grebe:** The thing that wasn't clear, probably, in terms of decision-making, which is a bit unusual as to other regulators, is that all of the powers to decide to approve or reject environmental approvals or safety approvals in the legislation have been provided to NOPSEMA, as the authority.
Senator STORER: Yes, that's right.

Mr Grebe: So the minister doesn't have any role, and we don't communicate with the minister or the department on our decision-making.

Senator STORER: That's one way to look at the independence of NOPSEMA.

Mr Grebe: I'm not sure you can make it any more independent!

Senator STORER: What I mean is: it's one way to look at the decision-making process regarding that. You're making the point that it's independent of the minister, so there's validity in that. Other people would put that, if the minister was involved, there would be further assessment undertaken beyond NOPSEMA's viewpoint. But I don't have a question for you on that.

Senator Canavan: That's really a policy matter, I suppose. The parliament has established this arrangement, which Stuart and his team are dutifully exercising.

Senator STORER: Yes. It seems appropriate that, in a region of such ecological significance as the Great Australian Bight, broad and deep consideration of peer-reviewed scientific evidence as to seismic testing should be required. To what extent did NOPSEMA consider the impact of seismic testing on zooplankton and, in particular, krill?

Mr Grebe: The environmental impact assessment—sorry; NOPSEMA's decision-making, starting with that, and our assessment process, consider, certainly, the applicant's environmental impact assessment, which does include and rely on environmental research that has been conducted, and they apply that in the environmental impact assessment process. We also have our own sources of research and knowledge and expertise that we stay abreast of through participating in conferences and engaging with the research community. But, in individual assessment processes, both of those sources of information are used to inform decision-making, and, in this particular example—you brought up zooplankton—primary productivity was a key matter that was of concern to stakeholders, and we reported that, in the key matters report that we published, supporting the publication of the full environment plan that the proponent had submitted, where we explained how the research on zooplankton—I'm assuming you're referring to recent research done by the University of Tasmania by McCauley a couple of years ago in Tasmania, but also subsequent research from the CSIRO—

Senator STORER: Yes.

Mr Grebe: and also other researchers' commentary about that zooplankton—

Senator STORER: Yes. That is my question: did you consider scientific evidence which has shown that widely-used marine seismic survey operations negatively impact zooplankton? Did you consider that?

Mr Grebe: Definitely. If some people have been claiming, as we've seen in the media, that seismic surveys don't harm the marine environment in any way, that's incorrect. Certainly we take into account the fact that zooplankton can be affected by seismic, and that's taken into account in decision-making. Zooplankton is highly reproductive in large amounts and has a relatively high mortality rate.
Senator STORER: You did refer to McCauley, and that's one article I have, from *Nature Ecology & Evolution*, and the abstract notes that it presents 'evidence that suggests seismic surveys cause significant mortality to zooplankton populations'. Would you—

Mr Grebe: The abstract does say that. So we do take that into account, but also other research and information, and—particularly important—applying it to a particular circumstance and understanding how observations from that study, plus other information, can be used to infer the impacts in the particular application. So we don't look at research in isolation. We always ensure that it takes into account the particular location, the environmental setting and the nature of the survey.

Senator STORER: As McCauley stated:

There is a significant and unacknowledged potential for ocean ecosystem function and productivity to be negatively impacted by present seismic technology.

Yet, despite that, you were able, in your assessment, to—

Mr Grebe: That's not an impact assessment, that's a summary of conclusions of what one research activity produced. The Australian government's CSIRO published a study applying the results of that to a typical seismic survey, bearing in mind that the research in Tasmania was not using a full-scale seismic air gun array or water depths where a seismic survey is typically conducted. So they took the information out of that research and applied it to a typical seismic survey—the example they used was in the north-west—and concluded that zooplankton levels would recover to normal in three to four days, even if you applied the assumptions out of the McCauley research. The paper that CSIRO published on that also goes to the question of whether the results are realistic and could be expected through oddities, like the fact that there is no change in the level of zooplankton mortality no matter what the distance from the exposure point.

So it's taking the most significantly extreme data points around the effects of seismic on zooplankton that have been produced worldwide—and it's not the only study. But taking that extreme conclusion applied in an assessment impact model is what we have to decide things on, and that study shows that there aren't significant impacts anywhere near in the longer term.

Senator STORER: I'll now turn to the decisions regarding Equinor. How would you characterise the extent to which NOPSEMA has provided advice, assistance or support to Equinor in its efforts to develop and obtain approval for its proposed Great Australian Bight drilling environment plan—what advice, assistance or support?

Mr Grebe: NOPSEMA was established under the Offshore Petroleum Greenhouse Gas Storage Act. We have a range of functions under that act that generate the regulatory activities that we do. One important part of those functions is to provide advice on the range of regulatory responsibilities we have, including environmental management law. Clearly, we publish policies about how we go about providing that advice—which is publishing guidance and also assisting proponents and the general public or community in understanding how the environmental management requirements work under our legislation, along with better practices and good practice examples.

In your specific case there of Equinor: like all other title holders, we have met, certainly, to provide them with advice on the requirements—
Senator STORER: That's another question I have: how many meetings would you say that NOPSEMA has had with Equinor?

Mr Grebe: I'd have to take the exact number of meetings on notice.

Senator STORER: That's okay.

Mr Grebe: Generally, we have meetings with title holders from three or four, up to—sometimes—20 times in the space of two years. That's not unusual.

Senator STORER: Yes. Have you had any meetings take place overseas—that is, in Norway? Any meetings?

Mr Smith: I can answer that one, Senator. I've had one meeting in Norway. I was over there for another activity related to our work. I was in Stavanger, and sought a meeting with them to convey some of the concerns that had been raised in Australia and to make sure that they were aware of what issues were likely to arise if they wished to proceed with an environment plan.

Senator STORER: Thank you—

Mr Smith: Could I add that one of our functions is, of course, providing advice. We've recorded close to 800 liaison meetings in the last year with various parties across all the activities we have. So it's not unusual; in fact, that's a very active way that we seek to advise the parties so that they can provide and meet the compliance we're requesting.

Senator STORER: Okay.

Senator Canavan: Likewise, Senator, the discussion has reminded me that the government, or myself as minister, have provided a statement of expectations to NOPSEMA where, in part, we outlined that one of their roles is to ensure that they communicate appropriately the obligations from a safety and environmental perspective, not only to the industry but also to title holders and those with big production licenses.

CHAIR: I'm conscious of time. Perhaps we could come back to you, Senator, or are there any you could put on notice?

Senator STORER: I could move through them quickly.

CHAIR: Very quickly.

Senator STORER: Okay. The voluntary public comment period has been established by Equinor, but uses NOPSEMA's online forms. Is it a normal process that you go to Equinor's site and it takes you to NOPSEMA's site for the public comment? Is that correct? Is that a normal process?

Mr Smith: The whole process is new. To date, there isn't a requirement for companies to undertake a public comment period. The government has indicated that that's going to be introduced in the not too distant future and Equinor has volunteered to operate in that manner anyway. So, in effect, they're the first company to undergo this approach, which we are expecting then to become the norm.

Mr Grebe: But the process of the regulator being the body that provides the portal or the submission home, if you like, for public comments is normal, and it will be the way that the new regulations operate when they commence, we understand.
Senator STORER: Will the public comments collected for the Equinor public comment be made public?

Mr Grebe: Yes.

Senator STORER: All public comments?

Mr Grebe: NOPSEMA was requested by Equinor to consider whether we could provide the facility to assist in receiving the public comments. Their feedback was that that was what stakeholders were wanting. They wanted to tell the regulator, not the company, what they thought of their draft environment plan—

Senator STORER: Will they be made public—

Mr Grebe: and we agreed with that on the basis that it would be aligned with the future legislation, which requires the proponent to prepare a report on public comment, but also that we provide a report at the end of the assessment process on how we took public comments into account.

Senator STORER: A report, but it won't be published—

Mr Grebe: If people request information remains confidential, we can't commit to make all comments public. But the intention, as it is with other environmental approval systems, is that the summary of the comments and the nature of the comments received will be published—yes.

Senator STORER: How long does it take typically for NOPSEMA to review environmental plans that, for example, support applications to drill for oil in the Great Australian Bight?

Mr Grebe: We have a statutory time frame to make a decision on a submission within 30 calendar days.

Senator STORER: Review and environmental plan, within 30 days?

Mr Grebe: Yes. We have a 30-day statutory time frame. We have the ability to extend that time frame for particular circumstances, including complex assessments, which we do from time to time. There are recent examples of that with the PGS Duntroon seismic survey in the Great Australian Bight—

Senator STORER: Would you say that 30 days for public comment on an environmental plan is sufficient?

Mr Grebe: It depends on the nature and scale of the environment plan—

Senator STORER: The public comment ones.

Mr Grebe: We set the time based on the complexity assessment. If there is a more complex assessment, we take the time necessary to make a thorough assessment.

Senator STORER: The public comment period—

Senator Canavan: I think it's important just to clarify the process.

Mr Smith: A couple of things there: to put it into context, the public comment period comes after the company has already undertaken all of the consultation requirements that they have to complete for the environment plan process anyway. So, it's in addition to that. And if we are not satisfied when they submit their environment plan that they've actually taken on board all of the relevant issues and addressed them, then we won't grant approval.
Senator STORER: I'm trying to understand whether restricting public comment to a 30-day period is useful really for the public to have enough time to work through this very significant environmental plan. As you know, it's hundreds of pages long. Is giving the public 30 days enough, given that you may well take a lot longer yourself.

Mr Grebe: We decided on 30 days, based on the fact that the exposure draft of the regulations to amend the environment regulations that operate now—and introduce a period of public comment for exploration environment plans—is at the moment drafted to be 30 days. Those regulations haven't passed but that's the benchmark we have used. It's also aligned with the 20 business days that are in place for referrals under the EPBC Act, where there can be similar amounts of information.

Senator PATRICK: I'd like to table something, just to help guide us through this line of questioning that I've got, and it's really just to help the witnesses as well. Once they've got it, the minister might want to have a look at this. I've got two pages of pictures which come from the acoustics book. The third page is an acoustic model that I generated this afternoon on Excel, just using basic acoustic theory, so it's first order but it's designed to illustrate a point. I've read the PGS submission quite extensively. I can see they've got a seismic survey configuration where they've got an acoustic source—that's got a source level of 256 dB, which is quite high—which they operate at seven metres. Obviously, that transmits sound outward. The first pictures are not quite accurate but are designed to show how typically, when sound is transmitted through the ocean, it is transmitted spherically. Basically, every time it doubles its range it loses about 6 dB. If you go to the third page, in the first column is the range in metres and in the second column is what's happening with spherical spreading. Are you with me, Mr Grebe?

Mr Grebe: Yes.

Senator PATRICK: Okay. So we can see that, in a circumstance where you've got spherical spreading and a source level of 256 dB to start with, by the time you've gone 4,000 metres the source level will have dropped to about 184 dB. That's about the level where a dolphin will start to suffer hearing injury. The bottom line is that at anything outside 4,000 yards it becomes less of a problem for a dolphin—so a reasonable distance away.

If I look at the second page, that shows a different situation where the sound velocity profile, which is basically the speed of sound as a function of depth, has trapped the sound in a surface duct and the sound is travelling. Basically, because it's trapped, it doesn't lose as much energy as a function of range. The formula for that normally is 10 log the range, and there's a factor taken in for the height. That's the third column in my little model here. You can see that, if I go out with cylindrical spreading, the sound will actually travel about 256 kilometres before it drops below 185 dB.

The point of that exercise is to show you that the amount of attenuation in the sound varies significantly depending on the sound velocity profile. I know this because I've operated in submarines and we used this extensively to try to either hide or get very long detection ranges. So it's a really key factor in sound propagation that you use an accurate sound velocity profile. I think I've provided the sound velocity profiles that have been used by PGS in the PGS submission, on pages D3 and D4. There's a significant problem here that I'm going to put to you, and I'm giving you the opportunity to respond. These sound velocity profiles have basically been taken from US data, which I have no problem with. There are a number of
different sound velocity profiles, and in fact the black one, for May, is the worst. That's the one that most likely will cause some level of cylindrical spreading, and indeed the study suggests that they've used the May one because of that situation. So it's a worst case based on these four diagrams.

Mr Grebe: Yes.

Senator PATRICK: The problem is that this is a mean over the month. Unfortunately, sound velocity profiles change. The Navy will measure it every eight hours because it changes significantly. Using a mean over a period of a month, even though you have picked the worst mean, actually does not cover off on the day-to-day events that occur in the ocean. So you are going to have a situation where the worst case in May may well be significantly worse than the mean. That means that if the acoustic modelling has been done using the sound velocity profiles as indicated in the study then you have grossly underestimated all of the possibilities that could occur. So if you happen to be a whale, dolphin or sea lion and you are out in the ocean on a day that that's worse than the mean then the propagation models that are presented in your study are not accurate and could cause harm.

Mr Grebe: Thanks for the detailed question. The point to clarify perhaps is that it's not our study. It's the study, as you pointed out, of PGS. We have assessed the study. I'm definitely not going to get time to explain all the answers, but we can commit to providing more detailed answers on notice. There are a couple of points to note. You have to be careful in taking simple models to estimate and calculate propagation of sound. Having the experience you have, you would appreciate that. There are two points which taking a simplified approach overlooks. One is how you model the sound source itself, using a simple single-point sound source. In fact, surveys are designed so that sound doesn't come out all ways—

Senator PATRICK: I've had a look. It's in one of the annexes. It shows the pattern of a transmit array. It's quite omnidirectional. It doesn't just transmit downwards.

Mr Grebe: But it is higher than the vertical plain, so you can't overlook that. The second element is that a simple spherical and cylindrical model is insufficient, particularly for assessing sound from seismic conducted over a larger space in time, and propagation transmission losses—

Senator PATRICK: On the transmission losses, this source basically has a photofrequency range of zero to 210 hertz. Transmission losses at those very low frequencies are so insignificant they are almost not used. When you get up to 200 kilohertz, it makes a really big difference. But down really low, from memory, it's about 0.03 dB per thousand metres. It's insignificant. So I accept these are first order models, but you can see the difference between a standard situation and a spherical spreading and a cylindrical spreading situation of something like 200 kilometres in distance. They are the fundamental physics. I can assure you that models, whilst they are better, won't vary too much either side of that. They are the fundamentals—six dB per doubling of range for spherical spreading and three dB losses per doubling of range in cylindrical spreading.

Mr Grebe: The modelling conducted by JASCO, which is an independent contractor with extensive global experience in modelling—
Senator PATRICK: Don't rely on the presentation. I'm actually after a technical answer to a very technical question. I'm saying this is quite a significant error in the modelling that's been used. You cannot use a mean. Go and talk to them—

Mr Grebe: I haven't addressed the mean point yet. The seismic survey's not been conducted in May—

Senator PATRICK: It doesn't matter. The point is all you have used is a mean. Using the mean is absolutely the wrong technique to use. You need to use the worst case because, when you're conducting the seismic testing over several months, you are sure to have, in those several months, a very strong surface duct. I can almost guarantee you that from my experience operating in the Great Australian Bight—

Mr Grebe: In those months, are you talking about?

Senator PATRICK: Well, in submarines. But I can assure you, it changes from day to day.

Mr Grebe: I appreciate that it changes day to day. But the survey isn't being conducted in May; it's being conducted in September-October and through November. I appreciate there's change, but the potential for that big a change in sound speed profiles in those months, even using—

Senator PATRICK: You're under oath, and I think you're guessing.

Mr Grebe: I can take on notice a commitment to respond in detail—

Senator PATRICK: It might be a better idea to do that, because, quite seriously, I'm very familiar in this space. I used to teach this stuff.

Mr Grebe: I appreciate that.

Senator PATRICK: Following on from that, do you know where the peak for the transmission frequency is? It's clearly a broadband source. What's the peak frequency for transmission?

Mr Grebe: For the source? The peak sound pressure level?

Senator PATRICK: Yes. It will have a frequency range. At each different frequency it will have a different source level, and it will have a peak at a particular source level—at some particular frequency will be where the peak of the energy is.

Mr Grebe: It's complicated in the array, but, in any case, the peak SPL across all frequencies is 255 pascals.

Senator PATRICK: No, it will not work like that. You will not build a transducer, even if it's by broadband, that has a constant source level across a wide frequency range. There's also another rule that says the depth of the sound channel must be 10 times the wavelength before it takes advantage of the surface duct. If you've done the analysis at 100 kilohertz but there's a huge spread—the transducers are likely to go up several thousand kilohertz—the model will show that it doesn't transmit very far at that peak, but there will be other frequencies where it will be coupled into the surface duct and it will transmit a long way.

Mr Grebe: I didn't bring a bioacoustician, so I'm going to defer to my earlier offer of taking a detailed answer on notice.
Mr Smith: As you indicated, these are very technical, detailed questions which we are more than happy to take on notice. Mr Grebe is head of the environment division, but he's not an expert on seismology. He wasn't part of the assessment team for that project either. If we can take it back, we'll provide you with an answer.

Senator PATRICK: I'm happy to have a conversation with you offline provided that the outcome of that conversation becomes public. I'm saying that I think there is a serious mistake that's being made acoustically here that doesn't take into account the worst case scenario. The worst case could occur on any day, and that could cause damage to any number of marine mammals. I've just got a couple more questions—

CHAIR: Senator Patrick, sorry, I think Senator Ketter's got to have a go, so if we can—

Senator PATRICK: I'm not prepared to put them on notice—I'm just letting you know that—so we'll end up with a spillover day if you can't get back to me.

Senator KETTER: I'm entitled to ask some questions as well.

Senator PATRICK: I understand that.

Senator KETTER: Mr Smith, I'd like to give you the opportunity to respond to some of the media issues that you highlighted, but, firstly, in a general sense and very briefly, what's the importance of the safety case to the types of facilities that you regulate?

Mr Smith: The safety case is of key importance because it's the document that spells out how safety is going to be managed on the facility. It sets out all of the relevant risks and how the company proposes to address them.

Senator KETTER: The Prelude FLNG platform has been in the media recently. What are the possible economic, environmental and personal safety risks associated with safety noncompliance on something like the Prelude platform?

Mr Smith: There are a very broad range of risks. I'll ask Mr O'Keeffe, as head of safety, to run through them.

Senator KETTER: Let's start with personal safety. Please be as brief as you can, Mr O'Keeffe. If I can get back to Senator Patrick I will, but I do have some questions to get through.

Mr O'Keeffe: Personal safety, of course, is vital, but the starting point is the prevention of major accident events, which provides the overall envelope for the identification and management of those risks. That goes all the way from the very native hydrocarbons on there and the risks associated with them, all the way through to the slips, trips and falls of the workers on the platform. So it's all-encompassing, and it starts at the outside and works in.

Senator KETTER: But in terms of the risks, for example, with personal safety, is there the potential for fatal injuries to occur?

Mr O'Keeffe: I think with the nature of the industry it is inherent that there are risks and they need to be managed. An individual falling down the stairs can lead to a fatality. So the answer is, yes, all the risks need to be identified and managed.

Senator KETTER: Environmental risks?

Mr O'Keeffe: Yes. Loss of containment is generally linked to safety in a facility like that; if you maintain safety, then you're more likely to contain the loss of containment spills.
Senator KETTER: Then, economically, if production is halted as a result of a safety noncompliance—

Mr O'Keeffe: It's not something we'd look at, but, inevitably, if the facility is shutdown then we can expect there'd be some economic loss, but we don't pay attention to that.

Senator KETTER: So is noncompliance to a safety case likely to increase the risk of these potential eventualities?

Mr O'Keeffe: Eventualities in terms of safety to people or economic loss?

Senator KETTER: Yes, well, across those three categories?

Mr O'Keeffe: Yes, of course.

Senator KETTER: Thank you. When did NOPSEMA review and approve the safety case for Prelude?

Mr O'Keeffe: It was before my time, but I believe we engaged with Shell on the Prelude projects seven or eight years ago in the form of early engagement. That was taken from right at the beginning and then there was a series of progressive safety cases which worked through the drilling of the wells, the construction, the installation through to production. So there'll be a series of them each time there's a revision put in place, which looks at the next level of operation, the next level of risks and the appropriate means to manage them. That comes to us as a revision. We review it. When we believe that the overall case for safety has been made, that the risk will be managed, we will then accept it and then the operator can perform the activities within the safety case.

Senator KETTER: The Prelude arrived on site in July 2017. I take it the safety case would have been finalised prior to that date.

Mr O'Keeffe: There's finalisation in respect of each aspect of it. At that time there would have been the construction installation safety case, and then later on there'll be the ones that would have been revised in reflection of taking hydrocarbons on board. So, yes—appropriate time, appropriate safety case.

Senator KETTER: Are there mandatory courses, qualifications or industry experience required for NOPSEMA inspectors or assessors to review safety cases?

Mr O'Keeffe: We employ people who are highly experienced in certain areas. In one particular case, there may be someone who's got particular experience in electrical work. Others are ship's mates, people with college degrees, university degrees and a mixture of formal education and direct experience. Yes, that's the case.

Senator KETTER: Okay. I'm looking for the particular qualification. Is it the electrical equipment in hazardous areas certificate IV?

Mr O'Keeffe: We have three of our people who are specialists in electrical work which would cover EEHA, electrical equipment for hazardous areas.

Senator KETTER: Do you have any electrical engineers performing these functions?

Mr O'Keeffe: We have three people who are qualified experienced electrical people, yes.

Senator KETTER: What do you mean, 'electrical people'?

Mr O'Keeffe: I need to take on notice the precise qualifications in that respect.
Senator KETTER: If you could, thank you. When NOPSEMA reviewed the safety case for Prelude, did the organisation have suitably qualified inspectors to review the electrical equipment in hazardous areas?

Mr O'Keeffe: We look at a range of risks, of which electrical equipment is one, as well as, generally, process safety, marine safety and structural integrity. We've got a mix of people. My team has about 35 people with ages somewhere between 40 and 65 years of age. They're all highly experienced people, working in a variety of areas. We do it on a team basis. If we need skills we will go and recruit them as appropriate, and we've been through that recently in refreshing our team due to some retirements.

Mr Smith: And if we think there are any gaps in our expertise we can also use consultants, and we have done that on occasions.

Senator KETTER: But my question is: when you reviewed the safety case for Prelude, did you have people that were suitably qualified in those areas?

Mr O'Keeffe: Yes, all our people would have been appropriately qualified to look at the thing in its entirety.

Senator KETTER: With a minimum certificate IV in EEHA work?

Mr O'Keeffe: As I said, I would need to take that specific one on notice.

Senator KETTER: All right. In December 2018, leading up to the wells being opened and gas flowing to Prelude, did NOPSEMA receive any specific information about safety concerns from employees or safety experts working on the project and, if so, what was the nature of their concerns?

Mr O'Keeffe: We receive input from employees or workers on different facilities at different times. Yes, we did receive information from the Prelude facility workers out there, and we looked into those. Sometimes they relate to working conditions. Sometimes they relate to specific things. I don't recall the specifics of that, but we treat each one of those as a complaint and we look into it. We include it as a part of our inspection routine and we go and have a look at each one of those, whether it's on the Prelude or, indeed, any other facility.

Senator KETTER: So, there was more than one complaint?

Mr O'Keeffe: Again, I'd take that on notice. I'm aware of one specifically, and there may have been others.

Mr Smith: Can I also add that, when we conduct inspections, we always start and finish with a meeting with the health and safety representatives, and they are likely to have raised issues, if they have concerns, during those meetings. Those meetings are confidential from management to protect the workers if necessary and provide them with that opportunity to raise issues directly with the regulator.

Senator KETTER: So that was a confidential issue that was raised? Okay. And you're going to take on notice how many complaints were received.

Mr O'Keeffe: Yes.

Mr Smith: Yes.

Senator KETTER: What specific actions, if any, did NOPSEMA take to ensure that the Prelude was compliant with the safety case in August 2018?
Mr O'Keeffe: We have an extensive program of inspection where we review both onshore and offshore. We go through the entire management systems, with specific areas of focus. We look at each one. So, when the vessel first came in, we'd have looked at mooring, structural issues and initial commissioning issues. As they worked through towards bringing hydrocarbons onto the facility, we will have changed our focus into that area as well. So we tailor it according to the risk at that time. Both that facility and the INPEX facility have been going through parallel commissioning, and both of those have had a high level of attention from us in the last 18 months.

Senator KETTER: Did NOPSEMA send a suitably qualified electrical inspector to the Prelude in December to check electrical compliance?

Mr O'Keeffe: Again, I'll need to take that one specifically on notice. But we do have three electrically qualified people in our team who have been involved with this and other facilities.

Senator KETTER: So you'll take that on notice for me. What were the specific actions that INPEX undertook to comply with directions from NOPSEMA?

Mr Smith: To be clear, before you answer, the term 'direction' is a specific enforcement tool. We have a general direction. So I just want to clarify whether you mean that particular direction or are talking broadly about issues we may have had with INPEX.

Senator KETTER: Let's go broad, but I'd also like to know: were there any directions that you issued as well?

Mr O'Keeffe: I will start broad. We don't direct them to do anything. They offer to do things within the safety case they accept. We expect them to do that. If you view that as direction, well, yes, it is. The specifics of it are that on 3 August we issued a direction to INPEX. It was in relation to identified issues in the quality assurance and the installation of certain electrical equipment on the facilities. They had a program in place to address those issues. On 2 August, one of our inspectors identified that there were deficiencies in the labelling of equipment, which in turn led to uncertainties in respect of which equipment had been assessed and which had not, and we issued a direction to them, as a very broad issue, requiring them to ensure that all equipment was tested and suitable before being put into service for hydrocarbons. It was a very specific direction. It required a very specific thing over a very broad level of activity. I believe there's something like 45,000 pieces of electrical equipment out there, so we didn't want to target one. We targeted everything, and they complied with that. I think it was in October that we closed that one. We were satisfied they'd addressed those issues correctly.

Mr Smith: We have issued improvement notices to INPEX as well. I'm not sure whether you want us to run through those as well.

Senator KETTER: Was that a result of them not undertaking to comply with directions?

Mr Smith: No, that was prior to the direction. It was for other issues we had in regard to safety.

Mr O'Keeffe: An improvement notice typically is in relation to a specific issue. There were two electricians who made a mistake and cut the wrong cable. Luckily it wasn't energised at the time. In our view, it was a control of work issue—there were deficiencies in the control of work that needed to improve. So we issued an improvement notice and that
brought INPEX's direct attention to that very specific issue, to address that in relation to the control of work.

CHAIR: Senator Ketter, it is 11 o'clock. Are there any questions at all that you could put on notice to NOPSEMA?

Senator KETTER: I'll put some on notice, but I probably need at least another five minutes or so. Which NOPSEMA directives did INPEX not undertake to comply with?

Mr O'Keefe: INPEX have never not—if that's the right way around.

Senator KETTER: Did NOPSEMA authorise any divergence variation to the originally approved safety case for Prelude in 2018? If so, was this reviewed by a suitably qualified electrical inspector?

Mr O'Keefe: As I mentioned earlier, the safety cases go under a series of revisions, depending upon the frame they're at. At each stage, we have a fully qualified team assess that in respect of the safety case as it stands. I don't have direct knowledge, but, if that included variations to the electrical work, we will have put qualified electrical people on there to assess it.

Senator KETTER: There's a concern that INPEX were not complying with the safety case and there is a concern that there was a variation to the safety case to facilitate that.

Mr O'Keefe: No. There has been no variation to the safety case to allow a party to not comply with their commitments.

Senator KETTER: Does NOPSEMA believe that Prelude was complying with the safety case at all times?

Mr O'Keefe: Compliance is something we expect. Sometimes you do get performance standards which aren't met temporarily. Let's say there are three fire pumps and one of them, for whatever reason, goes down. We'd expect them to adjust their operation to manage that additional risk and then get the fire pump back up again. So, broadly, yes, we believe the risk will be managed within that and we expect them to do that at all times.

Senator KETTER: Did NOPSEMA consider that Prelude was fully complying with the safety case when it commenced gas flow in December 2018?

Mr O'Keefe: We had no reason to think it wasn't.

Senator KETTER: Is it the case that, in the lead-up to gas flowing, NOPSEMA asked INPEX to hold off until everything was fixed before commencing the gas flow?

Mr O'Keefe: On 19 June, we were made aware of certain deficiencies in some of the electrical equipment. We met with INPEX on a number of occasions to understand what that was and we expected them not to introduce gas until they'd satisfied us that the work was done.

Senator KETTER: But is it correct that INPEX didn't fix the issues that you'd raised and NOPSEMA then issued a direction post the gas flow?

Mr O'Keefe: We were satisfied that they had a program in place to manage the risks. On 2 August, when we, through our own inspectors, identified that a lighting circuit had been incorrectly labelled, it raised a flag for us as being a new risk. We had no reason to think that they weren't complying with their obligations at that point and a new risk emerged on 2
August. We acted on 3 August and we required them from that point forward to make sure that that additional risk was being managed.

Senator KETTER: But, if you considered that Prelude was not fully complying with the safety case when it commenced the gas flow in December 2018, why didn't NOPSEMA direct Shell to not allow gas to flow until you'd inspected the platform?

Mr O'Keeffe: Senator, excuse me. I've talked about the INPEX facility in respect of the direction. We had no reason to believe that the Shell Prelude facility was non-compliant and I still have no reason to think that it was not compliant.

Senator KETTER: On 21 October 2018, in incident ID 5651, there was a fire on Prelude in the oxygen storage facility. Most offshore HSRs and employees would consider this a significant incident. NOPSEMA decided no major investigation was required. Given that Prelude had LNG on board and over 200 employees in close proximity, what type of incident would warrant a major investigation by NOPSEMA?

Mr O'Keeffe: If it goes to the incident itself, I was made aware of that. I understand it related to an oxygen bottle. I believe it was a seal on it. It led to a small fire that was quickly extinguished. We were alerted immediately. I think I myself went to Shell that afternoon, with one of our inspectors, to understand immediately what had happened there. We were satisfied that the incident was isolated and had been contained, but we did take that view by visiting them immediately on that occasion, and on one another occasion where there was the potential for a fire, to find out how they were responding to it, and part of that was testing. We were satisfied that they had the situation under control, it was isolated, and we didn't believe that that warranted a major investigation.

Senator KETTER: My question then is: what type of incident would warrant a major investigation, if that didn't?

Mr O'Keeffe: Anything where we felt that the risk gap was not being managed, or an unexpected risk had come out that led to an incident. We have got a set of guidelines, but we've also got judgement that allows us to go and look at things that otherwise would not fit the guidelines.

Senator KETTER: Okay. Thank you very much.

Senator PATRICK: Very quickly, Mr Grebe—if you don't know the answers, just say so and you can take them on notice—will the survey vessel be taking a sound velocity profile on at least a daily basis?

Mr Grebe: I'll take it on notice to confirm it's in the environment plan, but most seismic surveys take sound velocity profiles regularly, because they need to to ensure that the data they receive is properly analysed and calibrated.

Senator PATRICK: Normally, they're transmitting down, and the sound velocity profile doesn't affect sound travelling directly downwards, and that's what I'm most interested in. Thank you for taking that on notice. The streamer that follows behind the vessel clearly is a receiver.

Mr Grebe: Streamers, yes—there's more than one.

Senator PATRICK: Yes, streamers—they're receivers?

Mr Grebe: Yes.
Senator PATRICK: Are they capable of passive processing such that they can detect the presence of noises that are made by whales, dolphins and other marine life?

Mr Grebe: I don't believe the technology proposed for passive acoustic monitoring uses in-streamer microphones in this particular instance. That technology is being developed, although that application of passive acoustic monitoring technology is being implemented in some places. I'd have to take on notice if it's—

Senator PATRICK: I can tell you the technology is there. I spent many decades—

Mr Grebe: The technology is there. Putting it into a streamer is new.

Senator PATRICK: Okay. An alternative is putting a sonar buoy over the side with a sonar buoy processor. I can assure you they can also listen for whales. I know your plan talks about visual spotting, and that's clearly a good thing, but it seems to neglect the fact that it is actually very easy to detect marine mammals at long distances using a passive receiver.

Mr Grebe: Yes. I think passive acoustic monitoring is an important control, particularly for species that surface less often, blue whales particularly, which are relevant.

Senator PATRICK: So you say it's important, but you're not aware of—

Mr Grebe: I'll have to take on notice how it's described—

Senator PATRICK: What worries about me about the decision-making process you've gone through is that you're not aware of some of these things.

Mr Grebe: It's a document of about 1,500 pages with appendices, and I'm not—

Senator PATRICK: No, you made a decision on the basis—

Mr Grebe: Not myself, no. I wasn't the decision-maker.

Senator PATRICK: Okay. Well, someone has made a decision on the basis of the document. I've read most of it, and I can't see any passive receiving, hence my question. That's me done. Thank you very much, Chair.

CHAIR: There being no further questions at this time, the Economics Legislation Committee's consideration of the Industry, Innovation and Science portfolio's additional estimates will conclude. I thank Minister Canavan; officers of the Department of Industry, Innovation and Science; and all witnesses who have given evidence to the committee today. Thank you also very much to Hansard for your patience this evening, to Broadcasting and also to the secretariat. I declare the hearing adjourned.

Committee adjourned at 23:09