

The Senate

Finance and Public Administration
References Committee

Matters relating to the Gallipoli
Peninsula

October 2005

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Plate (i)—ANZAC Commemorative site - information panels, Turkey



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Terms of Reference

On 11 May 2005, the Senate referred the following matters to the Finance and Public Administration References Committee for inquiry and report by 30 June 2005. On 21 June 2005 the Senate extended the time to report to 18 August 2005. On 17 August 2005 the Senate extended the time to report to 15 September 2005. On 8 September 2005 the Senate extended the time to report to 12 October 2005.

- a. the circumstances surrounding the request by the Australian Government to the Turkish Government in August 2004 to undertake work to ease congestion on the Gallipoli Peninsula;
- b. the role of the Minister for Foreign Affairs (Mr Downer), the Department of Foreign Affairs and Trade, the Department of Veterans' Affairs, the Attorney-General's Department, the Office of Australian War Graves, the Department of the Prime Minister and Cabinet and Environment Australia in the road works, and related construction activity, at ANZAC Cove in the lead-up to ANZAC Day on 25 April 2005;
- c. the heritage protection of ANZAC Cove, including the proposed joint historical and archaeological survey of ANZAC Cove and proposals for the establishment of an international peace park, as well as national and world heritage listing for the area; and
- d. any other related matters.

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List of Abbreviations

ANZAC	Australian and New Zealand Army Corps
CWGC	Commonwealth War Graves Commission
DEH	Department of the Environment and Heritage
DFAT	Department of Foreign Affairs and Trade
DVA	Department of Veterans' Affairs
IDC	Inter-Departmental Committee
OAWG	Office of Australian War Graves
PMC	Department of the Prime Minister and Cabinet

Executive Summary

This report concerns recent work to repair roads and carparks on the Gallipoli Peninsula in western Turkey at the site of the historic Allied campaign in 1915. It is alleged that in late February 2005, Turkish authorities' widening of parts of the coastal road at ANZAC Cove and the construction of two car parks uncovered fragments of human bone and damaged the military heritage of the site. This report is concerned specifically with allegations that the then Australian Minister for Veterans' Affairs, the Hon. Danna Vale, had requested these roadworks in August 2004 and was therefore complicit in the damage wrought. The inquiry was established following public allegations regarding the government's complacency in allowing the construction to proceed without a proper heritage evaluation of the site.

Chapter 1 of this report examines the significance of the Gallipoli Peninsula. The 1915 conflict on the Peninsula was part of an Allied plan for Australian and New Zealand troops to distract the Turkish army from British troops landing further down the Peninsula. It was hoped that the British would then face little resistance in their push to capture the Dardanelles, and then Istanbul, assuming naval success. The nine-month conflict on the peninsula cost the lives of 87 000 Turkish, 22 000 British, 10 000 French, 8700 Australian and 2700 New Zealand soldiers, among others. An estimated 450 000 people were killed or wounded.

The Allied campaign at Gallipoli is one of the pillars of Australia's military history and is widely regarded as a defining moment in the formation of the Australian nation. It was reported first-hand by the revered military historian, Charles Bean; popularised in Peter Weir's 1981 film, *Gallipoli*; authoritatively documented in Les Carlyon's 2001 book of the same name; and recently depicted in Dr Peter Stanley's book, *Quinn's Post*. In recent years the Allied campaign at Gallipoli has experienced a resurgence of interest as a symbol of Australian independence, nationhood, national ethos and identity. There has been strong growth in attendances for ANZAC Day ceremonies at ANZAC Cove over the last decade. The level of visitation is expected to increase in the years leading to the centenary commemorations.

The Turkish people also view the Canakkale naval and Gallipoli land battles as founding national events, albeit for different reasons. The conflict was Turkey's sole victory in five First World War campaigns and is seen as the last great victory of the Ottoman Empire. More particularly, it flagged the military capability and ambition of Mustafa Kemal, and the beginning of his role in Turkey's transition to a secular republic.

Chapter 2 reviews the evidence that roadworks were needed on the Peninsula. Clearly, the ANZAC Cove sector of Gallipoli is experiencing significantly increased levels of tourism from Turkish, Australian and New Zealand citizens. The number of visitors attending the 25 April ceremony at ANZAC Cove has increased from roughly 10,000 people in 2002 and 2003, to an estimated 18,000 in 2004 and 17,000 in 2005. Hundreds of coaches used the roads on and around ANZAC Day.

The evidence received by the Committee was unanimous: the roads around Gallipoli Peninsula were in need of repair. Apart from the increased volume of traffic, the roads were also crumbling from erosion, poor construction and lack of past repair work. Some held concerns that a serious accident may occur along the coastal road. Many witnesses noted that access by road for commemorations at the ANZAC site has been difficult with insufficient parking spaces for coaches coming in from the north. There are also inadequate facilities for those attending commemorative activities at the ANZAC Commemorative Site adjacent to ANZAC Cove, including poor water supply and toilet facilities.

The Turkish Government, in recognition of its responsibilities and the need to provide better access on the peninsula for visitors of all nationalities, has embarked on a major program of investment in road upgrades. Under the 1923 *Treaty of Lausanne*, it is the responsibility of the Turkish Government to ensure the upkeep of the roads to the many Allied and Turkish memorials on the Peninsula. The Australian Government, through the agency of the Minister for Veterans' Affairs and the Office of Australian War Graves (OAWG), and the Department of Foreign Affairs and Trade (DFAT), has been active in seeking improvements to all facilities at the Australian commemorative site, including improved road access and parking. In August 2004, a request was made in a letter from the then Australian Minister for Veterans' Affairs, the Hon. Danna Vale, to the Turkish Minister for Environment and Forests, His Excellency Mr Osman Pepe. The letter suggested improved turnaround facilities for coaches at two northern locations on the coastal road. It also recommended an upgrade of the inland road from Lone Pine up to Chunuk Bair, and down along the third ridge to the Kemalyeri Memorial.

The roadworks undertaken by Turkish contractors from late February to mid-April 2005 were restricted to the coastal road. The repairs included: the construction of carparks at North Beach and on the seaward side of the road adjacent to Shrapnel Valley; the extension of the road on the northern headland of Ari Burnu; the removal of a short section of road on the seaward end of ANZAC Gully; raising and deepening the southern headland of Hell's Spit; and a 15 metre excavation on Brighton Beach to the south of ANZAC Cove. Along the southern parts of the coastal road, the cliff has been sheared off to enable new bitumen to be laid. Spoil from the shearing was dumped onto the beach and into the sea below.

Chapter 3 examines the two main concerns with the recent construction work on the coastal road on the Peninsula. The first is that the roadworks have uncovered bone fragments of soldiers killed without burial in the 1915 conflict. The second claim is that the roadworks have caused permanent damage to the military heritage of the landscape. The Committee finds both these claims to be true.

There is no evidence to doubt the claim made on 12 March 2005 in the *Daily Telegraph* and the *Herald Sun* by Australian historian and journalist Mr William Sellars that he had found 'what appear to be leg and hip bones' at the road construction site. The newspaper articles noted that the photographs refuted statements by the Australian and Turkish Governments that no human remains have been dug up at

Gallipoli. Mr Sellars explained to the Committee that on 1 March 2005, Fairfax journalist Russell Skelton, Turkish tourism operator Ilhami Gezici and his wife Bernina, and 'a number of other people' were all present when the bones were found. The Committee heard Mr Sellars confirm that Turkish employees of the company carrying out the roadworks had removed the bone fragment.

On the question of damage to the military heritage of the landscape, the Committee finds that significant sites of the ANZAC campaign between April and December 1915 have been lost forever. The coastal road has been widened beyond the extent necessary to ensure visitors' safety; spoil has been deliberately dumped onto the beach below; there were no environmental measures put in place to minimise erosion from the construction; and no effort was made to preserve the footsteps of the original ANZACs. Australian authorities failed to identify and record sites of military heritage, despite representations to do so prior to the work.

The Committee finds that Australian authorities and the Australian government were complacent in their response to allegations and evidence that this damage was occurring. The Director of the Office of Australian War Graves, Air Vice Marshal Gary Beck, told the Committee he did not think the proposed widening of the coastal road would have any impact on the environment. For this reason, the Department of Veterans' Affairs did not instruct the Australian Embassy in Ankara to raise any objections. Air Vice Marshal Beck told the Committee of his surprise in late February 2005 that parts of the road along Brighton Beach had 'quite literally' been widened about one metre either side. Although AVM Beck briefed Minister Kelly on 8 March 2005 on the full extent of the roadworks, the Prime Minister stated on 11 March that 'I'm satisfied by the advice, that it [the roadworks] is being done properly'. The Secretary of the Department of Veterans' Affairs, Mr Mark Sullivan, stressed that 'there was no engagement with us in respect of the roadworks prior to the press becoming interested'.

Similarly, there was no effort made to investigate allegations that bone fragments had been uncovered. The Department of Veterans' Affairs accepted the advice of the Commonwealth War Graves Commission that: 'our representatives have carried out an extensive examination of the area and have found no evidence that human remains have been disturbed'.

The Committee finds this inaction particularly damning given the letter from Minister Vale. The Australian Government placed too much faith in the assurances of Turkish officials and the Commonwealth War Graves Commission that no damage was occurring. By its failure to safeguard the ANZAC Cove site and its Australian military heritage, it defaulted on its responsibility to the Australian people, particularly the expectations of veterans.

The fourth and final chapter of this report summarises the evidence and previews future initiatives between Turkish and Australian authorities to develop and preserve the ANZAC sector. Further roadwork upgrades are planned for ANZAC Cove. Mr Sullivan told the Committee that there was a 'fairly compelling argument' that the coastal road will require some form of shore protection. The Australian Prime

Minister was briefed on the possibility of a rock wall, and subsequently wrote to his counterpart in Turkey to seek discussions on the subject. In response, the Turkish Prime Minister, Mr Erdogan, has invited Australian officials to suggest their preferred forms of shore protection. There is also the Turkish Government's priority of upgrading the inland road from Chunuk Bair to Lone Pine. Both the Australian and Turkish Governments acknowledge that close by this road are areas of extreme military heritage sensitivity. Mr Sellars commented in his submission that this work would disturb many more human remains than were unearthed by the roadworks at ANZAC Cove.

In a supplementary submission to the Committee, Mr Sellars also expressed strong concern at recent proposals to develop a number of scenic viewing areas for visitors at high points on the battlefields of the Gallipoli Peninsula. These areas would be accompanied by carparks. In particular, Mr Sellars argued that any construction at Chunuk Bair, Hill Q, the Nek or near the Sphinx would be carried out over terrain that was fought over by the Allies. Historians and experts advising the Gallipoli Historical National Park have advised against these proposals. However, there is no obligation for the National Parks Authority to heed this advice. The Australian Government has not yet been officially informed of these proposals.

The Committee is concerned that the Australian Government takes action to avert a repeat of the damage done by the 2005 construction on the coastal road. It welcomes the recent creation of an Inter-Departmental Committee (IDC) and acknowledges and supports the cooperation of the Turkish and Australian Prime Ministers to undertake an archaeological survey of the Gallipoli site. The IDC is chaired by the department of Prime Minister and Cabinet, and has representatives from DVA, the Department of the Environment and Heritage and DFAT. The lead role is taken by DVA, which will provide suggestions to the Turkish Government on the completion of roadworks at ANZAC Cove and lead on the broader historical and archaeological review of the area.

The Committee is surprised at the lack of preliminary research prior to the 2005 roadworks given the risks involved, the significance of the site, and the knowledge of DVA, OAWG and DFAT officials that construction was planned. It recommends a full military-historical audit of the entire battlefield area at Gallipoli, with Australian priority for the ANZAC area. In addition, the Committee recommends that a working group be established by the government to advise it on the coordination of the conservation management planning of the Gallipoli site. This group should include key government departments (including DVA, DEH and OAWG), the Returned Services League, the Australian War Memorial, and historians and archaeologists with specialist knowledge of Gallipoli. The activities of this working group should be documented in annual reports.

The Committee also recommends to the parliament that it establish a joint standing military commemorations committee. This Commemorations Committee will exercise bi-partisan oversight over all commemorative programs, including the management of all sites of Australian military heritage. It is hoped that the establishment of the Committee will remove the risk of political exploitation of commemorative events by

the government of the day. There should also be special arrangements whereby discussions and negotiations with the Government of Turkey with respect to the international recognition of Gallipoli should be reported to the new parliamentary standing committee on a quarterly basis.

Senator Michael Forshaw

Chair

Introduction

Background to the inquiry

In late February 2005, Turkish contractors began work widening parts of the coastal road at ANZAC Cove and constructing two car parks. On 2 March, Turkish authorities halted the work following accounts in the Turkish and Australian media that the site was being damaged. In particular, it was alleged that fragments of human bone had been uncovered by the roadworks. On 4 March, excavation work on the road resumed and was completed on 14 March. The widening of the coastal road and the first layer of asphalt was completed on 22 April 2005, in time for the ANZAC Day commemorations. Further work is planned at the site, including a rock wall along parts of the coastal road to protect against further erosion, and repair of the inland road from Chunuk Bair to Lone Pine.

The inquiry was established following the Senate's approval of an ALP motion inquiring into the role of Australian ministers and officials in the construction work to date, and the heritage protection of ANZAC Cove by way of planning and research. It followed several media releases and questions to government ministers in parliament from Labor Party members and senators. The opposition accused the government of complacency in allowing the construction to proceed without a proper heritage evaluation of the site. It also claimed that the Australian Government was complicit in the damage given the request from the then Veterans' Affairs Minister in August 2004 seeking road upgrades.

Conduct of the inquiry

Submissions and hearing

The Committee advertised the inquiry on 25 May and 8 June 2005 in *The Australian* and on the Senate website. Interested persons were invited to lodge submissions by 10 June 2005, although the Committee agreed to accept some submissions after that date. The Committee received 15 submissions from various individuals, private and non-government organisations and government departments.

On 17 June 2005, the Committee met in Canberra to hear evidence from Mr William Sellars, the Department of Veterans' Affairs and the Office of Australian War Graves, the Department of Foreign Affairs and Trade, the Department of the Environment and Heritage and the Department of the Prime Minister and Cabinet. Mr Sellars gave his evidence to the Committee via teleconference from his home in Eceabat on the Gallipoli Peninsula. It was Mr Sellars' newspaper articles that gave first publicity in Australia to the alleged damage caused by the roadworks.

Procedural issue – non disclosure of government legal advice

The Committee wishes to draw the Senate's attention to a serious procedural issue it encountered during the course of the inquiry. The matter concerns a refusal to provide the inquiry with legal advice held by the government.

At the inquiry hearing on 17 June, the Department of Foreign Affairs and Trade took on notice two requests for departmental advice on (i) the application of the Treaty of Lausanne and (ii) the definition of 'free access' under the terms of the treaty. (The relevance of the requested information to the inquiry is discussed in Chapter 1.)

To the Committee's surprise, these requests for seemingly innocuous information were refused by the department and minister. In the first instance, the department refused claiming that under standing order 73 it was not in a position to table legal advice to the inquiry. As the Clerk of the Senate advised, standing order 73 applies only to questions put at question time in the Senate and is self-evidently not related to the work of committees. The Clerk clarified the matter further, noting that the order refers to legal *opinion*, not to legal *advice* as the department suggested. He observed that standing order 73 'does not prevent a question which asks for the tabling of a copy of legal advice in the possession of the government'.¹

Moreover, the Clerk's advice indicated that government legal advice is often provided to parliamentary committees. He stated:

Questions at committee hearings and requests by committees frequently ask for copies of legal advices available to government, and they are frequently provided, unless the responsible minister thinks that there is some public interest ground for a claim that the advice should not be provided, for example, that disclosure of the advice would prejudice legal proceedings or the Commonwealth's position in legal proceedings.²

The Committee referred the Clerk's advice to the department, asking it to reconsider the request for the legal advice. It also reminded DFAT that if the department believed there was a public interest ground for a claim that the information should not be disclosed, the matter should be referred to the minister for a ministerial response. This reflects Senate procedures and government guidelines which prescribe that public interest claims should be made by ministers.

On 14 July, the department, writing apparently on the minister's behalf, refused again to provide the legal advices. This second refusal was based, however, on a new ground, as follows:

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- 1 Clerk of the Senate, correspondence to the Committee entitled, 'Gallipoli Peninsula Inquiry – Response by DFAT', 20 June 2005. See Appendix 3.
 - 2 Clerk of the Senate, correspondence to the Committee entitled, 'Gallipoli Peninsula Inquiry – Response by DFAT', 20 June 2005. See Appendix 3.

The Minister for Foreign Affairs has decided that this department should decline the committee's request to provide the advice, on the grounds that it has been a longstanding practice accepted by successive Australian governments not to disclose legal advice which has been provided to government, unless there are compelling reasons to do so in a particular case.³

The Committee has a number of concerns about the unusual features of the argument advanced above by the minister and department. First, it is a principle of open government that the government must point to 'compelling reasons' *not* to disclose information, rather than the other way around. Second, in refusing to provide the information the minister did not make a claim on the usual ground of public interest immunity but referred instead to 'longstanding practice'. There are, however, numerous precedents for governments disclosing legal advice in a manner contrary to that claimed above. As advice from the Clerk states:

As for the alleged “longstanding practice”, it is surprising that there has been such a practice but that it has not been heard of hitherto. I know of no previous occasion of any government stating that legal advice would not be disclosed “unless there are compelling reasons to do so in a particular case”. There have been many instances of governments disclosing legal advice without any indication that there were any “compelling reasons to do so”, and when the only reason for doing so appeared to be that the advice supported a case being made out by government at the time. The statement in the letter therefore appears to be a completely new declaration in relation to the disclosure of legal advice.⁴

As a case in point, on 18 March 2003 the government tabled legal advice in the Senate relating to the use of force against Iraq.⁵ Senior legal officers in the Attorney-General's Department and the Department of Foreign Affairs and Trade had prepared the advice. No compelling reasons for tabling it were provided. Indeed, the fact that the government waited for a request before tabling the advice suggests the absence of compelling reasons to do so in this case.

The Committee is particularly troubled by the implications that this refusal has for the transparency and scrutiny of government. If, as the Clerk suggests, this matter heralds a 'new declaration' in relation to the disclosure of legal advice, then it amounts to throwing a veil of secrecy over a major category of information held by the

3 Mr J Newman, DFAT, correspondence to the Committee, 14 July 2005. See Appendix 3.

4 Clerk of the Senate, correspondence to the Committee entitled, 'Gallipoli Peninsula Inquiry – Request for legal advice from DFAT', 21 July 2005. See Appendix 3.

5 'Use of force against Iraq – Memorandum of advice prepared by First Assistant Secretary (Bill Campbell QC), Office of International Law, Attorney-General's Department and Senior Legal Adviser (Chris Moraitis), Department of Foreign Affairs and Trade, dated 12 March 2003', *Journal of the Senate*, No. 68-18 March 2003, 1577.

government. It would constitute a retrograde step for open government. It would also represent a major barrier to the parliament's ability to scrutinise the operation of the executive and importantly the legal advice behind government decisions and policy.

Due to the gravity of this development, the committee wrote to the minister asking whether this declaration represented government policy on the disclosure of advice. After a considerable delay, the minister's response simply reiterated his position.⁶ It completely ignored the many precedents of committees successfully requesting legal advice provided to government in the absence of 'compelling reasons to do so in a particular case'.

The Committee believes this development warrants airing in the chamber to allow debate on the justification to withhold a major category of government information. Such a unilateral measure should be subject to debate by the Senate itself, not signalled indirectly by way of a letter to a committee of that house.

The department's and the minister's responses and the Clerk's advice to the Committee can be found in Appendix 3.

Structure of the report

This report has four chapters. **Chapter 1** reviews the historical significance of the 1915 conflict and the Gallipoli Peninsula for both the Australian and Turkish people. **Chapter 2** looks at the need for an upgrade of the coastal road, and Australian officials' knowledge of the construction work. **Chapter 3** examines the allegations that the roadworks disturbed human remains and permanently damaged the military heritage of the landscape. **Chapter 4** reviews this evidence and looks at some of the current initiatives by Turkish and Australian authorities to preserve the ANZAC site.

Acknowledgements

The Committee wishes to thank all those who assisted with the inquiry. They include those who lodged written submissions and the Australian Government officials who gave evidence at the June hearing. The Committee is particularly grateful to Mr Sellars for his willingness to give evidence at the hearing at such a late hour in Turkey.

6 The Hon. Alexander Downer, Minister for Foreign Affairs, response to the Committee, 9 September 2005, See Appendix 3.

Findings and recommendations

Findings

Chapter 1

The significance of the Gallipoli Peninsula

- The significance of the 1915 Allied campaign at Gallipoli in the history of the Australian nation has experienced a resurgence of interest in recent years as a symbol of independence, nationhood, national ethos and identity.
- The significance of Gallipoli is reflected by strongly growing attendances at ANZAC Day ceremonies at ANZAC Cove over the last decade, and by a resurgence of interest and support for commemorative activities.
- In the lead-up to the centenary of the 1915 landing, public interest in Gallipoli is likely to grow.
- The symbolism and importance of Gallipoli has been reflected in extremely strong public reaction to events at Gallipoli early in 2005 both with respect to damaging roadworks, but also the events associated with the ANZAC Day ceremony on 25 April 2005.

Chapter 2

The need for roadworks on the peninsula

- The entire Gallipoli Peninsula, which was the field of battle from 25 April to December 1915, is experiencing significantly increased levels of tourism from both Turkish and Australian and New Zealand citizens.
- The ANZAC Cove sector of Gallipoli, as defined in the 1923 Treaty of Lausanne, is experiencing a similar level of pressure. The site is remote and environmentally sensitive to urban settlement and agriculture, as well as tourism, and access by tourists is relatively uncontrolled.
- The facilities for those attending commemorative activities at the Australian commemorative site adjacent to ANZAC Cove are inadequate. There is insufficient space for attendees on ANZAC Day, poor water supply, and inadequate toilet facilities.
- Foremost among the shortcomings of the Australian site over the last five years has been difficult access by road, insufficient parking space for buses,

and traffic management arrangements on key ceremonial occasions, including ANZAC Day.

- Roads to the ANZAC site, until recently, have been allowed to fall into serious disrepair, posing risks of public safety and restricted access at times of high demand.
- The Turkish Government, in recognition of its responsibilities and the need to provide better access on the peninsula for visitors of all nationalities, has embarked on a major program of investment in road upgrades.
- The Australian Government, through the agency of the Minister for Veterans' Affairs and the Office of Australian War Graves, and the Department of Foreign Affairs and Trade, has been active in seeking improvements to all facilities at the Australian commemorative site, including improved road access and parking.
- A key request was made in a letter from the then Australian Minister for Veterans' Affairs, the Hon. Danna Vale, to the Turkish Minister for Environment and Forests, His Excellency Mr Osman Pepe. The letter suggested improved turnaround facilities for coaches at two northern locations on the coastal road. It also recommended an upgrade of the inland road from Lone Pine up to Chunuk Bair, and down along the third ridge to the Kemalyeri Memorial.

Chapter 3

The culpability of the Australian Government in damage caused by the roadworks

- The Committee finds that bone fragments were unearthed by the coastal roadworks, and that the military heritage was damaged permanently—with no convincing evidence to the contrary. Significant sites of the ANZAC campaign between April and December 1915 have been lost forever.
- The Committee finds that the Australian Government has wanted to improve the roads around Gallipoli for a long time. Given this desire, the letter from Minister Vale, and frequent attendance by Australian officials, the Committee finds that the Australian Government is culpable through its own inaction for the damage caused by the recent roadworks.
- The Committee finds that Australian officials did have first-hand knowledge while construction was ongoing that the roadworks were causing damage to the landscape. There was no effort made to investigate allegations that bone fragments had been uncovered, nor to negotiate with Turkish authorities on the extent of the roadworks.

- Concern expressed by Australian and Turkish people at the nature of the work and the risk of archaeological damage, resulted in only a short suspension of work late in February 2005. By then, the damage was done. Work proceeded shortly thereafter.
- The Committee finds that there was no scope for a process of planning and consultation between the Turkish and Australian Governments, prior to the construction work proceeding in late February 2005. There was no systematic oversight of military heritage issues by Australian authorities. Turkey's National Parks Directorate had employed three consultants to undertake a survey of the area. It lasted only 15 minutes and was performed after the excavations.
- The Committee finds that the process for treating uncovered human remains at Gallipoli is unclear.
- The Committee finds that the Australian Government was 'asleep at the wheel' in the months prior to the roadworks commencing in late February 2005. It placed too much faith in the assurances of Turkish officials and the Commonwealth War Graves Commission. It responded almost two months after the damage was done, despite the knowledge of Australian officials that construction was affecting the site.
- Advice to the Australian Government on the damage which occurred in late February 2005, was not properly heeded and prompted no serious intervention until the Prime Minister's visit on 26 April 2005. It was not until then that work was fully suspended by the Government of Turkey.
- The Government, by its failure to safeguard the ANZAC Cove site and its Australian military heritage, defaulted on its responsibility to the Australian people, particularly the expectations of veterans.

Chapter 4

The need for research

- Recognising its accepted status as an international cemetery where over 130,000 people died, Gallipoli has not been adequately surveyed, researched, or catalogued for its military heritage value, nor for the sensitivity of its natural environment, so as to inform current and future management policy.
- The failure to undertake such research has resulted in significant public concern in both Turkey and Australia at the destructive nature of the 2005 roadworks.

- An archaeological survey of the roadworks site was conducted after the event by the Commonwealth War Graves Commission (CWGC), at the request of the Department of Veterans' Affairs. The survey was cursory and inadequate, and the advice provided has been directly contradicted by local people.
- Sole reliance on CWGC advice, rather than direct Australian initiation of an archaeological survey by Australian experts, was a serious error of judgement. The Australian Government must be held accountable for this oversight.
- The significant degradation of the beach and coastal waters at ANZAC Cove could have been avoided had the area been properly researched.
- On 26 April 2005, the Prime Minister of Turkey initiated an assessment of the damage to military and cultural heritage at ANZAC Cove, and to rectify this damage. These research projects should have preceded the roadworks, not followed it.

Heritage issues

- The Government of Turkey should be credited with the declaration of the Gallipoli peninsula as an international peace park, in recognition of its significance as an original WWI battlefield of immense importance to the nations who fought there.
- The Committee find that progress on the Heritage listing of the site on the Australian Register of the National Estate is at a sensitive stage. Since discussions on this issue commenced, there has been a shift from heritage listing under Australian legislation to more symbolic means of recognition.
- Notwithstanding the current assessments being undertaken, much more research needs to be undertaken not just of the immediate ANZAC area, but the entire peninsula. This must be the priority of the Australian Government.
- Future roadworks must be subject to detailed scrutiny to ensure that no damage is done to any military heritage.

Recommendations

Recommendation 1

The Committee strongly recommends remedial action before the onset of winter to stabilise and restore the vegetation at ANZAC Cove. This will ameliorate the scarring caused by the earth works and minimise future erosion.

Recommendation 2

The Committee recommends clearer guidelines for the future management, recovery, reburial or storage of human remains at Gallipoli. The current arrangements are clearly not understood, and their effectiveness is doubtful.

Recommendation 3

The Committee recommends a full military-historical audit of the entire battlefield area at Gallipoli, with Australian priority for the ANZAC area. This survey must be public information and must be continually updated.

Recommendation 4

The Committee recommends that a working group be established by the government to advise it on the coordination of the conservation management planning of the Gallipoli site. This group should include key government departments (including DVA, DEH and OAWG), the Returned Services League, the Australian War Memorial, and historians and archaeologists with specialist knowledge of Gallipoli.

Recommendation 5

The Committee recommends that the activities of this working group are documented in annual reports. These reports should be sent to the proposed parliamentary committee (see recommendation 6).

Recommendation 6

The Committee recommends to the parliament that it establish a joint standing military commemorations committee. This Commemorations Committee will exercise bi-partisan oversight over all commemorative programs, including the management of all sites of Australian military heritage. It is hoped that the establishment of the Committee will remove the risk of political exploitation of commemorative events by the government of the day.

Recommendation 7

The Commemorations Committee should receive quarterly reports from the relevant government agencies on all commemorative activity and planning, including all memorial construction, event preparation, meetings, agendas, outcomes, public education and budgets.

The Commemorations Committee should also receive advice from the working group on all military heritage conservation issues, and develop a rapport with comparable groups in Turkey and New Zealand.

Recommendation 8

The Committee recommends that the Australian Government should maintain a dialogue with the Turkish Government on the symbolic recognition of Gallipoli, with the express objective of a management plan for the protection of Australian military heritage at Gallipoli.

Recommendation 9

The Committee recommends that special arrangements be established whereby discussions and negotiations with the Government of Turkey with respect to the international recognition of Gallipoli should be reported to the new parliamentary standing committee on a quarterly basis.

CHAPTER 1

The significance of the Gallipoli Peninsula

1.1 The Senate *Inquiry into matters relating to the Gallipoli Peninsula* was established on 11 May 2005 to investigate the role of the Australian Government in the construction and repair of roads on the Gallipoli Peninsula by Turkish authorities.

1.2 There are two roads in question—the coastal road past North Beach and ANZAC Cove, on which work has been largely completed, and the inland road from Chunuk Bair in the north to Lone Pine, on which there has not been recent work.⁷

1.3 The inquiry was initiated following evidence that the Australian Government had requested construction work on both these roads, and allegations in the media that construction on the coastal road had uncovered human remains, damaged the fragile environment, and destroyed sites of military heritage significance for the first landings and subsequent fighting at ANZAC Cove.

1.4 The Committee's terms of reference inquired into the Australian Government's request for roadworks to be undertaken, the involvement of Government ministers and officials in negotiating the roadworks with Turkish authorities, and the heritage protection of ANZAC Cove by way of planning and research.

1.5 This chapter sketches the historical significance of the Gallipoli Peninsula for both the Australian and Turkish people. It identifies the main changes that have occurred to the site since the end of World War I, and the legislative framework for the coordination of these efforts between the Turkish and Australian Governments.

The 1915 campaign

1.6 On 2 August 1914, two days before Turkey went to war with the Allies, Turkey and Germany signed an alliance that pitted both nations against Russia.⁸ Turkey's alliance with Germany was fairly pragmatic. The Ottomans had no grievance with either France or Britain, but saw the Russians as a traditional enemy. Many within the Turkish bureaucracy, including the Minister of War, Enver Pasha, had sympathies with the Germans. After a flurry of diplomatic activity, it was that linkage which prevailed.

1.7 The 1915 Dardanelles campaign was intended as a means for the Allies to make progress on a second front, linking with Russia to the north, given the prospect of prolonged trench warfare on the Western Front. In September 1914, Winston Churchill's plan was clear: 'a good army of 50 000 men and seapower—that is the end

7 The Committee also heard evidence that officials from the Department of Veterans' Affairs had sought and obtained improvements to an old coastal road in the north, from Embarkation Pier to Lal Baba. Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves, *Committee Hansard*, 17 June 2005, p. 36.

8 L. Carlyon, *Gallipoli*, Pan MacMillian Australia Pty Ltd, 2001, p. 41.

of the Turkish menace'.⁹ The plan was for the Allies to claim the Dardanelles, and then Constantinople (Istanbul).

1.8 By February 1915, however, the British command believed a swift and effective naval attack would be adequate. On 19 February, Allied battleships entered the Dardanelles and attacked the fixed guns on the outer Turkish forts.

1.9 The naval attack came to a head on 18 March, when seventeen Allied battleships attacked Turkish forts at the Narrows. In the ensuing battle, the Allies lost three of these ships—*Ocean*, *Irresistible* and *Bouvet*—and another three—*Gaulois*, *Suffren* and *Inflexible*—ran aground or were shelled. On 18 March, 700 British and French sailors were killed; the Turks lost 40 soldiers. It was in response to the complete failure of the naval campaign that the Allies questioned the merit of a military landing on the Peninsula. In the event, the decision was made to proceed with an army of 75 000 men, including ANZAC troops on training exercises in Egypt. The ANZACs had been preparing for conflict on the Western Front.

1.10 The 1915 conflict on the Gallipoli Peninsula was part of an Allied plan for Australian and New Zealand troops to distract the Turkish army from British troops landing further down the peninsula. It was hoped that the British would then face little resistance in their push to capture the Dardanelles, and then Istanbul, assuming naval success.

1.11 The Australian Imperial Force's 9th and 10th battalions landed at what is now ANZAC Cove, shortly before dawn on 25 April 1915, and made initial progress up steep slopes. By day's end, however, they were ordered to dig trenches, as Turkish forces had secured the cliffs. After six months of trench warfare, the British commanders realised the campaign's failure and ordered a withdrawal.¹⁰

1.12 The nine-month conflict on the Peninsula cost the lives of 87 000 Turkish, 22 000 British, 10 000 French, 8700 Australian and 2700 New Zealand soldiers, among others.¹¹ In total, around 450 000 people were killed or wounded.¹² It is estimated that one-third of Allied soldiers who fell have no known grave; the figure is much higher for the Turkish army.¹³ It is estimated that 4200 Australians were never recovered.

9 L. Carlyon, *Gallipoli*, p. 56.

10 See 'Our Federation Journey, 1901–2001, Topic Six—The ANZAC Legends', <http://www.museum.vic.gov.au/federation/pdfs/ANZACw.pdf> (accessed 22 June 2005).

11 Air Vice Marshal Gary Beck (retired), *Committee Hansard*, 17 June 2005.

12 <http://www.abc.net.au/tv/btn/teachers/gallipoli/REVEALINGGALLIPOLI.pdf> (accessed 22 June 2005).

13 William Sellars, *Committee Hansard*, p. 9.

The national and heritage significance of the Peninsula

1.13 The national significance of the 1915 conflict, and the heritage value of the Gallipoli Peninsula, is undisputed. Australia's greatest military defeat has been transformed, through time and remembrance, into iconic status.¹⁴ The battle is widely regarded as the cornerstone of Australian military history, and by many Australians as the unofficial symbol of nationhood. It was reported first-hand by the revered military historian, Charles Bean; popularised in Peter Weir's 1981 film, *Gallipoli*; authoritatively documented in Les Carlyon's 2001 book of the same name; and recently depicted in Dr Peter Stanley's book, *Quinn's Post*.

1.14 The Turkish people similarly view the Canakkale naval and Gallipoli land battles as founding national events, albeit for different reasons. The conflict was Turkey's sole victory in five First World War campaigns.¹⁵ It is seen as the last great victory of the Ottoman Empire. More particularly, it flagged the military capability and ambition of Mustafa Kemal, and the beginning of his role in Turkey's transition to a secular republic.

1.15 Kemal—who in 1923 became the first president of the newly-created Republic of Turkey—was commander of the 19th Division at Gallipoli. He was on hand to oppose the Allied landing in April 1915, and was feted for his military strategy.¹⁶ In 1934, Kemal was awarded the title 'Ataturk'—father of the Turks. The same year, he wrote of the ANZAC's killed at Gallipoli, 'you are now lying in the soil of a friendly country'.

The Gallipoli Peninsula, the Peace Park & the ANZAC Commemorative site

1.16 A submission to the Committee from the Department of Veterans' Affairs asserted that the physical appearance of ANZAC Cove has changed significantly since 1915.¹⁷ The ANZACs had constructed a coastal road at ANZAC Cove. This was extended by Turkish forces following the Allies' evacuation in 1915, and several repairs have been made since.

1.17 The main period of cemetery and memorial planning on the Peninsula took place in the 1920s under the direction of the Imperial (later Commonwealth) War Graves Commission (CWGC). There are currently 31 cemeteries and five allied memorials.

1.18 In 1973, the Turkish Government announced that 33 000 hectares on the southern tip of the Gallipoli Peninsula would become a designated National Park. The

14 'Remembering Gallipoli', ABC, *Lateline*, 25 April 2002, <http://www.abc.net.au/lateline/stories/s540706.htm> (accessed 22 June 2005).

15 P. Gough, 'From Heroes' Groves to Parks of Peace: landscapes of remembrance, protest and peace', *Landscape Research*, 1 July 2000, vol. 25, no. 2, pp 213–228(16).

16 Australian War Memorial, 'Ataturk', <http://www.awm.gov.au/encyclopedia/ataturk.htm> (accessed 22 June 2005).

17 M. Sullivan, *Submission 6*, p. 1.

site covers the Gallipoli battlefield and the area of the Battle of Cannakale in the Dardanelles. It is included in the United Nations' List of National Parks and Protected Areas.

1.19 In 1997, on the initiative of the President of the Republic of Turkey, an international competition was launched to transform the area into a 'Peace Park'. The objective was to 'design a place devoted to peace and harmony', while respecting the site and the natural environment.¹⁸ The winners, Norwegians Lasse Brogger and Anne-Stine Reine, were announced in 1998.

1.20 In 1999, the Australian and New Zealand Governments proposed an ANZAC Commemorative site. The sharp increase in visitations for the April ANZAC Day Service—from 4500 in 1995 to 8500 in 1999—required a move from the Ari Burnu War Cemetery.¹⁹ In particular, there were concerns that the volume of visitors to the Cemetery was causing permanent damage to graves and plantings. In 1999, there were around 5000 people attending the last of the services at the Ari Burnu War Cemetery.²⁰

1.21 In 2000, the Office of Australian War Graves (OAWG) constructed the ANZAC Commemorative site within the Battlefield Heritage Zone of the Peace Park. It is situated 300 metres north of the Ari Burnu Cemetery on North Beach, and accessed from the coastal road. The Australian Government committed \$1.2 million to the project.²¹ In April 2000, the first ANZAC Day ceremony at the new Commemorative site, between 9000 and 10 000 people attended services on the Peninsula. Of these people, only 2000 attended the ceremony at Ari Burnu.²²

1.22 However, the new site also suffers from inadequate toilet facilities, lack of space for 20 000 visitors, and access roads with low traffic and parking capacity.

1.23 The accompanying map shows the main features of historic significance on the Gallipoli Peninsula, the remit of the Peace Park, and the two roads of interest to the inquiry.

18 See UIA, 'International Competitions', <http://www.uia-architectes.org/texte/news/2a1aad.htm> (accessed 22 June 2005).

19 'Building the ANZAC Commemorative Site', <http://www.ANZACsite.gov.au/3building/concept.html> (accessed 22 June 2005).

20 Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves, *Committee Hansard*, 17 June 2005, p. 36.

21 Department of Veterans' Affairs, *Annual Report*, 1999–2000.

22 Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves, *Committee Hansard*, 17 June 2005, p. 36.

Plate (ii)—The Gallipoli Peninsula, Turkey



Source: Geoscience Australia.

The Treaty of Lausanne 1923

1.24 The Committee and its witnesses acknowledge that construction on the Gallipoli Peninsula, and efforts to heritage list the area, are ultimately matters for the sovereign state of Turkey. The Gallipoli Peninsula is a part of the territory of Turkey.

1.25 However, many submissions also cited the *Treaty of Lausanne 1923*. The submission from the Department of Veterans' Affairs explains that the Treaty 'defines the boundaries of the ANZAC battlefield and grants rights to the (now) CWGC to safeguard the cemeteries and memorials on the Gallipoli Peninsula. Turkey retains overall sovereignty'.²³

1.26 Part V, section 128 of the Treaty states:

The Turkish Government undertakes to grant to the Governments of the British Empire...and in perpetuity the land within the Turkish territory in which are situated the graves, cemeteries, ossuaries or memorials of their soldiers and sailors who fell in action...The Turkish Government undertakes further to give free access to these graves, cemeteries, ossuaries and memorials, and if need be to authorise the construction of the necessary roads and pathways.

1.27 In this context, Article 129 makes specific mention to 'the region known as ANZAC, Ari Burnu'. Article 135 states that the Turkish Government undertakes 'to maintain in perpetuity the roads leading to this land'.²⁴

1.28 The Committee requested that officials from the Department of Foreign Affairs and Trade provide advice on Article 135, and its reference that 'representatives of the British, French or Italian Governments...shall at all times have free access thereto'. As discussed in the introduction, this request has been refused. Apart from the serious procedural implications of the refusal, it is difficult to understand given the level of public interest in the matter and the public right to know.

The Turkish Government's financial commitment to new roads

1.29 The Turkish Government has committed \$A100 million to various activities on the peninsula, including the upgrade of roads and construction of new car parks. In May 2005, Mr Bulent Arinc, the President of the Turkish Grand National Assembly, announced that \$A25 million has already been spent upgrading the coastal road.²⁵ The roadworks cover 6.3 kilometres, from Brighton beach in the south, past ANZAC Cove, Ari Burnu, the ANZAC Commemorative site, and up to Embarkation Pier (see map).

23 M. Sullivan, *Submission 6*, p. 2.

24 *The Lausanne Treaty 1923*. Available at: <http://www.hri.org/docs/lausanne/part5.html> (accessed 22 June 2005).

25 P. Malone, 'Turkey plans to spend \$100m on Dardanelles work: President', *The Canberra Times*, 13 May 2005, p. 9.

1.30 The rest of this report explains the need for this roadwork and the controversy surrounding its construction. It concludes with some recommendations for protecting the military heritage of the area.

Findings

- The significance of the 1915 Allied campaign at Gallipoli in the history of the Australian nation has experienced a resurgence of interest in recent years as a symbol of independence, nationhood, national ethos and identity.
- The significance of Gallipoli is reflected by strongly growing attendances at ANZAC Day ceremonies at ANZAC Cove over the last decade, and by a resurgence of interest and support for commemorative activities.
- In the lead-up to the centenary of the 1915 landing, public interest in Gallipoli is likely to grow.
- The symbolism and importance of Gallipoli has been reflected in extremely strong public reaction to events at Gallipoli early in 2005 both with respect to damaging roadworks, but also the events associated with the ANZAC Day ceremony on 25 April 2005.

CHAPTER 2

The need for roadworks and the involvement of Australian authorities

2.1 This chapter recognises that the partially completed roadworks at Brighton Beach, ANZAC Cove and North Beach were urgently needed. It identifies several factors contributing to the decay of the coastal road, including erosion, lack of adequate repair work in the past, and the increased volume of traffic over the past five years. Even critics of the impact of the recent roadworks acknowledge that without major repair work, both the coastal road and the road from Chunuk Bair to Lone Pine posed some threat to public safety.

2.2 The evidence presented to the Committee was unanimous that the roads around Gallipoli Peninsula were in need of repair. The continuing popularity of ANZAC Day commemorations has increased the volume of traffic on these roads, particularly coach traffic from the north of ANZAC Cove. The number of visitors attending the 25 April ceremony at ANZAC Cove has increased from roughly 10,000 people in 2002 and 2003, to an estimated 18,000 in 2004 and 17,000 in 2005.¹ The Committee heard evidence that hundreds of coaches used the roads on and around ANZAC Day.

2.3 The roads on the peninsula are also crumbling from erosion, poor construction and lack of past repair work. The Secretary of the Department of Veterans' Affairs, Mr Mark Sullivan, asserted that Australian authorities often expressed concerns to the Turkish Government that the coastal road was unsafe. The Committee is unaware of any evidence supporting this assertion, until after the event. Mr Sullivan noted the 'professional view that there has been horizontal erosion at ANZAC Cove of approximately 10 metres'. He added, 'my major concern was that buses...were going past each other on a road that was crumbling into the sea'.²

2.4 Turkish authorities also appear to have held these concerns. The Committee received a submission from a Turkish-born Australian citizen, Mr Vecihi Basarin, who had spoken to the Turkish authorities responsible for the roadworks. Mr Basarin wrote that the authorities had told him their concerns that one of the buses full of school children or tourists would be involved in a road collapse into the sea.³

1 These figures are drawn from media reports. 'Thousands pay tribute at historic site', *The Age*, 26 April 2002; N. Bitá, '10,000 brave Gallipoli cold', *The Weekend Australian*, 26 April 2003; I. Warden, '18,000 gather in cold to remember ANZACs', *The Canberra Times*, 26 April 2004, p. 1; J. Button, 'In their thousands they came to proclaim, we do remember them', *The Age*, 26 April 2005, p. 1.

2 Mr Mark Sullivan, Secretary, Department of Veterans' Affairs, *Committee Hansard*, 17 June 2005, p. 73.

3 Mr Vecihi Basarin, *Submission 2*, p. 2.

2.5 The Committee heard evidence that the road from Chunuk Bair down to Lone Pine was also in urgent need of repair. Mr Sullivan noted that the road is highly arched, and 'the prospect of something disastrous occurring is very real'.⁴ The Director of the Australian Office of War Graves, Air Vice Marshal Gary Beck (retired),⁵ also noted the 'very high crown' on the Chunuk Bair to Lone Pine road, which made two-way coach access difficult.

2.6 Mr Beck further claimed that the connecting road from the Kemalyeri Memorial to Chunuk Bair is 'very old narrow bitumen'. In the past, the difficulty of passing parked coaches on this road meant that 'hundreds of coaches were not even getting to Lone Pine or Chunuk Bair for the Service'.⁶

2.7 Mr William Sellars, an Australian writer who has resided on the Gallipoli Peninsula in the town of Eceabat for the past three years, gave evidence to the Committee by teleconference in Turkey. While a prominent critic of the roadworks, he has recognised that both the coastal road and the Chunuk Bair to Lone Pine road were breaking up, and posed safety and environmental concerns. Mr Sellars did note that at one point above ANZAC Cove, there had been 'some collapsing of the road'. However, he claimed this condition was attributed to the collapse of a culvert built by the Turkish state 'many years ago'.⁷

2.8 In terms of the use of the coastal road, Mr Sellars argued that it is not heavily used except the week around ANZAC Day. However, there have been conflicting media reports. On 6 March 2005, *The Age* reported that 'more than 2 million Turks are expected to visit the area this year'.⁸ The article quoted Australian tour operator, Bernina Gezici, as saying:

the road wasn't built because of the people coming for ANZAC Day—it was built because more and more Turks are coming to celebrate what was for them a historic victory.⁹

2.9 In his written submission, however, Mr Sellars states that most Turkish tour groups do not visit the coastal strip as 'there is only one Turkish monument in this

4 M. Sullivan, *Committee Hansard*, p. 70.

5 On 3 August 2005, Air Vice Marshall Gary Beck was effectively dismissed from his position following a decision by the Minister for Veterans' Affairs, the Hon. De-Anne Kelly, to advertise for a new head of the office.

6 Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves, Department of Veterans' Affairs, *Committee Hansard*, 17 June 2005, p. 69.

7 Mr William Sellars, *Committee Hansard*, p. 8.

8 N. Khadem and F. Walker, 'Graves, beach lost for wider road to Gallipoli', *Sunday Age*, 6 March 2005, p. 7.

9 *ibid.*

region'.¹⁰ He added, 'the argument that the road had to be upgraded due to the weight of visitor numbers is not sound'.¹¹

2.10 Mr Sellars agreed that construction on the Chunuk Bair to Lone Pine road was 'definitely necessary', but added that 'any widening of the road from its original width would be unnecessary'. In evidence to the Committee, Mr Sellars claimed that widening this road on the scale that was conducted at ANZAC Cove would risk exhuming bones, and the tunnels and trenches still intact from the 1915 campaign.¹²

The Australian Government's request for roadworks on the Peninsula

2.11 Access to the ANZAC site has long been a matter of concern to the Australian Government. Each year, when officials prepare for the ANZAC Day ceremony, discussions on traffic arrangements are held, centring on the adequacy of the existing network, and options for improving access for visitors. Road improvement has long been central to Australian concerns.

2.12 In this context, the letter dated 2 August 2004 from the (then) Australian Minister for Veterans' Affairs, the Hon. Danna Vale MP, to the Turkish Minister for Environment and Forests, His Excellency Mr Osman Pepe, is of particular significance. Minister Vale's letter proposed several 'improvements' to the ANZAC Commemorative Park, given an expected increase in visitor numbers for the 90th anniversary of the Battle of Canakkale.

2.13 The letter argued that further improvements to access roads were necessary 'to ensure safety of coach passengers':

if Ridge Road past Lone Pine and Chunuk Bair to the Kemalyeri Memorial could be widened, it would enable two-way or passing traffic to flow again and would ease the considerable delays in coach departures after the services.

2.14 The Minister's letter also recommended construction work to be undertaken on the coastal road:

A suitable turnaround facility for coaches, north of the Commonwealth War Graves Commission maintenance area, would be a most useful addition. Such a facility may solve the problem of having visitors walk many kilometres to attend the dawn service. A turnaround facility constructed

10 *Submission 15*, pp 6–7.

11 *ibid.*

12 *Committee Hansard*, p. 9.

adjacent to the Ari Burnu Cemetery would similarly prove most useful in resolving traffic congestion with official vehicles.¹³

2.15 The Committee received a submission from environmental consultants Mr Ian Tait and Mr Geoffrey Ostling, which appears to support the proposal of a turn-around facility. Both Mr Tait and Mr Ostling had attended the 25 April 2005 ceremony at ANZAC Cove. The first part of their submission noted:

It appears that the audience was only allowed access from the northern access [road]...We were required to walk past several hundred buses parked single file on the side of the narrow road into the cemetery site, a distance of about 5 kms. The access from the south appears to have only been for the dignitaries and service vehicles...Why was no centralised parking area or even a bus set-down and turn around area on the northern access round to facilitate the movement of the general public (sic).¹⁴

2.16 The Committee did hear evidence from the Department of Veterans' Affairs that roadworks on a northern coastal road near 'Embarkation Pier' had made a 'marginal improvement' in walking distance to the April 2005 service.¹⁵ There was also a system whereby those who were over 75 years of age could pre-register to be taken off the coach at the visitors' centre and transported by a shuttle service to within 300 metres of the site.

The roadworks timeline

- Work commenced on the coastal road in late February 2005.
- On 2 March, Turkish authorities halted the work following accounts in the Turkish and Australian media that the site was being damaged (see chapter 3).
- Work resumed shortly thereafter.
- The major excavation work commenced on the ANZAC Cove section of the coastal road on 4 March and was completed on 14 March.
- On 18 March, Turkish Prime Minister Recep Erdogan announced that the next major construction work would be on the road from Chunuk Bair to Lone Pine.
- The widening of the coastal road and the first layer of asphalt was completed on 22 April 2005.

13 The Hon. D. Vale, *Letter to the Turkish Minister for Environment and Forests*, 2 August 2004 in section titled 'Proposed improvements to ANZAC Commemorative site at Gallipoli Peninsula Peace Park'. There appears to be some confusion as to whether these sites constitute 'work on ANZAC Cove road'. See the question of Senator Mark Bishop to Senator the Hon. Robert Hill, *Senate Hansard*, 10 May 2005, p.18. The map in Chapter 1 shows that these sites are on the coastal road, but not strictly on the ANZAC Cove Road.

14 Mr Ian Tait and Mr Geoffrey Ostling, *Submission 9*, pp 3–4.

15 Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves, *Committee Hearings*, p. 36.

The extent of the recent roadworks

2.17 As mentioned in Chapter 1, the most recent roadworks have been confined to the coastal road. Along this road—from Embarkation Pier in the north to Brighton Beach in the south—there have been six areas of construction work:

- at North Beach, on the seaward side of the road at the foot of Reserve Gully, where a car park has been constructed
- the northern headland of Ari Burnu, where the road has been extended into the hillside
- the seaward end of ANZAC Gully, where a short section has been removed
- on the seaward side of the road adjacent to Shrapnel Valley, where a car park has been built
- the southern headland of Hell's Spit, which has been deepened and raised, and
- on Brighton Beach to the south of ANZAC Cove, there has been a 15 metre excavation.¹⁶

2.18 At the time of the Committee hearing in June 2005, the construction work on the coastal road was only partially finished. The first level of asphalt had been laid and the engineering aspect of the work was complete. There are two further coatings of asphalt planned, as well as furnishings such as guttering and safety railings.¹⁷

2.19 The Committee heard evidence that the coastal road along ANZAC Cove has been widened from 5.5 metres to 7.0 metres of bitumen. Either side of the new road is one-and-a-half metres of platform, making the new road's platform roughly 10 metres wide. These measurements vary, however. The DVA Secretary, Mark Sullivan, explained to the Committee that in some places, the old road has cut 'significantly inland'.¹⁸ This gives the impression that the road has been significantly widened in places. Some media reports claimed the new road was up to 20 metres wide.¹⁹

2.20 Along the southern parts of the coastal road, the cliff has been sheared off to enable new bitumen to be laid. Spoil from the shearing was dumped onto the beach and into the sea below. The alleged effect of this work is discussed in Chapter 3.

16 Department of Veterans' Affairs, *Submission 6*, p.2; R. Skelton, 'Revealed: ANZAC Cove trail of destruction', *Sunday Age*, 10 April 2005, p. 1.

17 M. Sullivan, *Committee Hansard*, p. 62.

18 *ibid.* p. 48.

19 T. Stephens, 'Progress takes its toll on sacred ANZAC beach', *Sydney Morning Herald*, 3 March 2005, p. 1.

Findings

- The entire Gallipoli Peninsula, which was the field of battle from 25 April to December 1915, is experiencing significantly increased levels of tourism from both Turkish and Australian and New Zealand citizens.
- The ANZAC Cove sector of Gallipoli, as defined in the 1923 Treaty of Lausanne, is experiencing a similar level of pressure. The site is remote and environmentally sensitive to urban settlement and agriculture, as well as tourism, and access by tourists is relatively uncontrolled.
- The facilities for those attending commemorative activities at the Australian commemorative site adjacent to ANZAC Cove are inadequate. There is insufficient space for attendees on ANZAC Day, poor water supply, and inadequate toilet facilities.
- Foremost among the shortcomings of the Australian site over the last five years has been difficult access by road, insufficient parking space for buses, and traffic management arrangements on key ceremonial occasions, including ANZAC Day.
- Roads to the ANZAC site, until recently, have been allowed to fall into serious disrepair, posing risks of public safety and restricted access at times of high demand.
- The Turkish Government, in recognition of its responsibilities and the need to provide better access on the peninsula for visitors of all nationalities, has embarked on a major program of investment in road upgrades.
- The Australian Government, through the agency of the Minister for Veterans' Affairs and the Office of Australian War Graves, and the Department of Foreign Affairs and Trade, has been active in seeking improvements to all facilities at the Australian commemorative site, including improved road access and parking.
- A key request was made in a letter from the then Australian Minister for Veterans' Affairs, the Hon. Danna Vale, to the Turkish Minister for Environment and Forests, His Excellency Mr Osman Pepe. The letter suggested improved turnaround facilities for coaches at two northern locations on the coastal road. It also recommended an upgrade of the inland road from Lone Pine up to Chunuk Bair, and down to the Kemalyeri Memorial.

CHAPTER 3

Allegations of environmental damage, and Australian authorities' response

3.1 This chapter examines the two main criticisms of the recent construction work on the coastal road on the peninsula. The first is that the roadworks have uncovered bone fragments of soldiers killed without burial in the 1915 conflict. There has been accompanying concern that no archaeological survey of the site was conducted prior to the construction work commencing. The second criticism is that the roadworks have caused permanent damage to the military heritage of the landscape. It is claimed that the road has been widened beyond the extent necessary to ensure visitors' safety; that spoil has been deliberately dumped onto the beach below; that there were no environmental measures put in place to minimise erosion from the construction; and that no effort was made to preserve the footsteps of the original ANZACs. No effort appears to have been made to identify and record sites of military heritage by Australian authorities, despite representations to do so prior to the work.

3.2 The chapter then notes the response of Australian authorities to these claims. It does so based on official public statements from government ministers, and the evidence presented to the Committee by officials from the Department of Veterans' Affairs (DVA), the Department of Foreign Affairs and Trade (DFAT), the Department of the Environment and Heritage (DEH), and the Department of the Prime Minister and Cabinet (PMC).

Allegations that bone fragments have been unearthed

3.3 In terms of the effect of the roadworks, a matter of key interest to the inquiry was the allegation that human remains—bone fragments—had been unearthed in construction works on the coastal road.

3.4 This allegation was first made public on 6 March 2005 in Frank Walker's articles in both *The Age* and the *Sun Herald*.¹ The *Sun Herald* article reported that human remains 'are believed to have been dug up and destroyed by Turkish workers as they widen a road for tourist buses on ANZAC Cove'.² Both articles noted Mr Sellars' claims that the roadworks must have dug up human remains as many Australians and Turks were hastily buried on the beach and cliffside.

1 F. Walker, 'Sacrilige at ANZAC Cove: Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005, p. 5; N. Khadem and F. Walker, 'Graves, beach lost for wider road to Gallipoli', *Sunday Age*, 6 March 2005, p. 7.

2 F. Walker, 'Sacrilige at ANZAC Cove: Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005, p. 5.

3.5 On 12 March 2005, Mr Sellars himself authored articles in the *Daily Telegraph* and the *Herald Sun*, which produced photographs of 'what appear to be leg and hip bones' at the road construction site.³ The articles claimed that the photographs refuted statements by the Australian and Turkish Governments that no human remains have been dug up at Gallipoli.

3.6 The Committee heard evidence from Mr Sellars concerning his comments on the unearthing of bone fragments. Mr Sellars explained that on 1 March 2005, Fairfax journalist Russell Skelton, Turkish tourism operator Ilhami Gezici and his wife Bernina, and 'a number of other people' were all present when the bones were found.⁴ Mr Sellars subsequently identified these other people as his wife, Ms Serpil Karacan Sellars, and a tour guide with 'Hassle Free' tour agency named Baris.⁵

3.7 In his opening statement, Mr Sellars told the Committee that in mid-March 2005, the Australian Ambassador to Turkey, Ms Jean Dunn, had discussed these allegations with him. Mr Sellars explained to the Ambassador that one of the bones had been removed soon after he, Mr Skelton, and the others present, had found it at the site. The Committee heard Mr Sellars confirm that Turkish employees of the company carrying out the roadworks had removed the bone fragment.⁶

3.8 The skeletal findings of professional archaeologists in the Gallipoli area give credence to Mr Sellars' allegations. In January 2003, for example, Australian archaeologist Dr David Cameron found a largely uncovered human femur at ANZAC Cove, along Walker's Ridge. A picture of the femur is displayed on an Australian National University website.⁷

Allegations that the landscape has been damaged

3.9 The second matter of environmental concern to the Inquiry was the allegation that the roadworks had permanently damaged the landscape at ANZAC Cove.

3.10 On 9 April 2005, federal opposition leader, the Hon. Kim Beazley, described the roadworks as a 'historical tragedy', and accused the Government of 'appalling neglect' of the ANZAC Cove site. Mr Beazley was quoted in the *Sunday Age* as saying:

We need to comprehend how the battleground has changed as a result of the work...Somewhere in the interpretation centres or in some sort of

3 B. Sellars, 'Photos reveal truth of ANZAC remains', *Daily Telegraph*, 12 March 2005, p.5; B. Sellars, 'Gallipoli's bones of contention', *Herald Sun*, 12 March 2005, p. 4.

4 *Committee Hansard*, p. 18.

5 Mr Sellars explained that 'Baris' was working with Mr Skelton as a translator and guide. (Correspondence, 26 June 2005).

6 *Committee Hansard*, p. 4.

7 <http://car.anu.edu.au/Jan2003newsfull.html> (accessed 27 June 2005).

descriptive plaque, it needs to be made clear how different this now is from what was originally seen by our forefathers.⁸

3.11 Several submissions to the inquiry also expressed concern at the transformation of the landscape as a result of the roadworks.⁹ One submission alleged that:

- no specific measures were undertaken to control erosion or deposition, such as the erection of appropriate barriers
- there was no evidence of efforts to revegetate or rehabilitate the slopes
- a number of temporary structures and facilities were located in previously vegetated and/or ecologically sensitive areas
- some permanent parking and traffic management areas have been placed in the most prominent locations rather than areas with less visual impact, and
- the 'sense of place' has been greatly altered by the change in the contours and the gradients of the hillside—spoil has been allowed to spill right down to the beach and the water line.¹⁰

3.12 The questioning of officials at the Committee hearing concentrated on two issues—the widening of the coastal road and the dumping of spoil onto the beach at ANZAC Cove. These actions had been widely publicised and condemned in the Australian media.

The widening of the road

3.13 The key accusation against Turkish—and Australian—authorities was that the roadworks were excessive. In particular, it was widely commented in the media that the widening the coastal road by up to 20 metres was unnecessary.

3.14 Chapter 2 noted Mr Sellars' concerns that the extent of this widening risked uncovering bone fragments and destroying the trenches dug in the 1915 campaign.

3.15 In early April 2005, Mr Jeff Cleverly, a former Australian army officer, described the roadwork as 'excessive and largely inappropriate'.¹¹ Mr Cleverly argued that the '20 metre widening of the road inside ANZAC Cove seems more than the once-a-year heavy demand requires'.¹² Moreover, he argued that the real problem of erosion on the beach side of the road remained unaddressed.

3.16 Les Carlyon, author of the bestseller, *Gallipoli*, has similarly criticised the short-term mindset of the construction work:

8 R. Skelton and P. Hudson, 'Revealed: ANZAC Cove trail of destruction', *Sunday Age*, 10 April 2005, p. 1.

9 See Submissions 5, 7, 9, 11, 14 and 15.

10 I. Tait and G. Ostling, *Submission 9*, p. 5.

11 See a. Albanese MP, 'Heartbreaking photos show Anzac Cove destruction', *Media Release*, 5 April 2005.

12 *ibid.*

They were concerned with putting on a show for one day of the year, rather than preserving the site for 365 days when a lot more than the 20,000 who attend on Anzac Day tour the battlefields. The last thing needed was a wider road.¹³

3.17 The extent of the road widening was also a point of disagreement between the Australian Government and the Turkish contractors. On 25 April, the *Courier Mail* and *Herald Sun* reported the comments of Veterans' Affairs Minister, De-Anne Kelly MP: 'they've certainly widened it more than we were expected, were advised or wanted' (sic).¹⁴ The articles also noted the Minister's claim that the Turkish Government had received engineering advice that a bigger excavation was required. However, this explanation seems to have been made after the work was done, with no evidence of prior inquiry before it commenced, nor interest sufficient to motivate the government to intervene politically.

The dumping of soil

3.18 On 3 March, several Australian newspapers published reports claiming the ANZAC Cove beach had been buried under a pile of excavated soil (see above). Press reports in *The Canberra Times* and the *Courier Mail* quoted the following statements from Mr Bill Gudgeon, spokesman for the political party, New Zealand First:

Recent photos of parts of the site under excavation are almost unrecognisable, and ANZAC Cove Beach in some places has actually ceased to be a beach because it is covered in dirt...I would urge the Turkish Government to monitor the damage construction is causing to the area to ensure that this designated national park does not suffer any long-term damage through erosion.¹⁵

3.19 On 6 March, Frank Walker wrote in the *Sun Herald* that work had been stopped on the '20-metre-wide' road the previous week following 'outrage that workers had...dumped tonnes of rubble over the beach'.¹⁶ The article claimed that 80 metres of the 500-metre-long beach was covered in rubble, which had caused the rest of the beach to erode rapidly.

3.20 On 9 March, Mr Sellars wrote in an article for the *Daily Telegraph* that the waters of the cove 'are filled with sediment'.¹⁷ He elaborated on this claim to the Committee:

13 'Anzac Cove road tears up sites, and political process', *Sunday Age*, 24 April 2005, p. 4.

14 N. Wilson, 'Cove works shock MPs', *Herald Sun*, 25 April 2005, p. 14; N. Wilson, 'Roadworks more extensive than thought', *Courier Mail*, 25 April 2005, p. 5.

15 'ANZAC Cove roadworks cause concern', *Courier Mail*, 3 March 2005, p. 11; 'Fears work will damage ANZAC Cove', *The Canberra Times*, 3 March 2005, p. 9.

16 F. Walker, 'Sacilege at ANZAC Cove': Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005, p. 5.

17 B. Sellars, 'Desecration', *Daily Telegraph*, 9 March 2005, p. 29.

[L]ast Tuesday I was snorkelling in ANZAC Cove and there has been an effect from the roadworks on the sea area off the beach. Many of the relics in the cove, such as a sunken barge from the campaign and piles for the piers that were used to land troops and supplies, and the seabed itself have been covered by a layer of silt coming from earth dumped directly onto the beach of the cove by the Turkish firm building the road.¹⁸

3.21 On 10 April, the theme was continued by Russell Skelton in the *Sunday Age*:

The removal and relocation of tonnes of earth has dramatically altered the physical environment and compromised the heritage integrity of the area. What has actually been lost may be impossible to know because it lies under tonnes of rubble.¹⁹

3.22 These allegations are supported in a submission to the inquiry from the Australasian Institute of Maritime Archaeology (AIMA):

AIMA was alarmed by the recent damage to this near-pristine archaeological site. The current works program has done more than compromise the archaeological integrity of fragile relics situated along the length of the affected road area. [It] may have impacted on the archaeological remains within the near-shore areas.²⁰

Australian authorities' response to allegations that bones were unearthed

3.23 On 7 March 2005, the Minister for Defence, Senator the Hon. Robert Hill, was questioned in Parliament on claims that human remains had been unearthed at the coastal construction site at Gallipoli. The Minister told the Senate that he would 'have to seek advice' on the issue.²¹

3.24 On 8 March 2005, the Australian Foreign Minister, the Hon. Alexander Downer MP, refuted allegations that remains had been found. Mr Downer explained that Turkish authorities had told the Australian Ambassador to Turkey, Ms Dunn, that archaeological work had been carried out prior to the roadworks commencing, and that no human remains have been unearthed.²² The authorities had given an assurance that if any remains were unearthed, 'they would immediately instruct that the construction of the road be stopped'.²³

18 *Committee Hansard*, p. 5.

19 R. Skelton, 'Is nothing sacred?', *Sunday Age*, 10 April 2005, p. 15.

20 *Submission 11*, p. 1.

21 Senator the Hon. R. Hill, Minister for Defence, *Senate Hansard*, 7 March 2005, p. 25.

22 The Hon. A. Downer, *House of Representatives Hansard*, 8 March 2005, p. 26.

23 The Hon. A. Downer, *House of Representatives Hansard*, 8 March 2005, p. 26.

3.25 Minister Downer repeated these remarks in Parliament on 10 March, on this occasion citing his discussions with the Turkish ambassador to Australia earlier in the day.²⁴

3.26 On 11 March, the Australian Prime Minister, the Hon. John Howard, defended the advice given by the Turkish authorities. The Prime Minister stated, 'I'm satisfied by the advice, that it [the roadworks] is being done properly'.²⁵

3.27 On 14 March, Government member Mr Bob Baldwin MP, asked the Foreign Minister for an update on the roadwork developments at ANZAC Cove. In response, Mr Downer mentioned the meeting between Mr Sellars and Ambassador Dunn (see above).²⁶ Mr Downer told Parliament that Mr Sellars had informed the ambassador that one of the bone fragments had disappeared, and the other could not be relocated. The Foreign Minister further noted that Ambassador Dunn had instructed Mr Sellars 'to advise us and of course the Commonwealth War Graves Commission if he does find any further remains'.²⁷

3.28 Mr Sellars mentioned this meeting with the ambassador in his opening statement before the Committee. He claimed Mr Downer's account of the conversation was inaccurate—one of the bones was removed by roadworks employees, the other was 'still in the place I had seen it at least three days after my meeting with the ambassador'.²⁸ Mr Sellars also noted that neither the ambassador, nor any other official, asked to be shown the remains.

3.29 At a press conference in Istanbul on 26 April 2005, Prime Minister Howard responded to suggestions that the roadworks had disturbed bones, saying:

[Y]ou cannot rule out the possibility in doing work on any battlefield site of turning up bones. I mean remains are still being discovered in Northern France and in Belgium almost 90 years...after the Great War.²⁹

3.30 Similarly, in evidence to the Committee, the Secretary of the DVA noted:

In Gallipoli there is always the chance, or risk, of human remains and bones being found, either in situ or having been washed down from the hills.³⁰

3.31 However, Mr Sullivan also cited the following passage from a Commonwealth War Graves Commission report:

24 The Hon. A. Downer, Minister for Foreign Affairs, *House of Representatives Hansard*, 10 March 2005, p. 11.

25 The Hon. John Howard, Prime Minister, *Interview on Melbourne Radio 3AW*, 11 March 2005.

26 The Hon. A. Downer, *House of Representatives Hansard*, 14 March 2005, p. 10.

27 The Hon. A. Downer, *House of Representatives Hansard*, 14 March 2005, p. 11.

28 W. Sellars, *Committee Hansard*, p. 4.

29 The Hon. J. Howard, *Press Conference*, Istanbul, 26 April 2005
<http://www.pm.gov.au/news/interviews/Interview1355.html> (accessed 24 June 2005).

30 M. Sullivan, *Committee Hansard*, p. 61.

As a result of public concern regarding the development of work currently being undertaken in the ANZAC Cove area of the Gallipoli Peninsula, the Commonwealth War Graves Commission would like to reassure the public that our representatives have carried out an extensive examination of the area and *have found no evidence that human remains have been disturbed*. The Commission would also like to reassure the public that our cemeteries and memorials remain unaffected by the development work.³¹

He added, 'that, for us, was authoritative'. The Committee, however, disputes this assertion and is less inclined to accept such authority given that other evidence indicated that the CWGC's inspection was relatively cursory.

3.32 The DVA Secretary also argued that where bone fragments had been uncovered, it was 'probably the result of erosion, not of a bone having been buried where the road was'.³² Mr Sullivan and Mr Beck both agreed that during the winter months, it is not uncommon for rain to wash bones, from above the coastal road, down the slope.³³

Recommendation 1

The Committee strongly recommends remedial action before the onset of winter to stabilise and restore the vegetation at ANZAC Cove. This will ameliorate the scarring caused by the earth works and minimise future erosion.

3.33 Mr Jeremy Newman, the First Assistant Secretary of the America and Europe Division of DFAT, explained to the Committee that the department had received no evidence that bones had been uncovered. Mr Newman noted that on two separate days, the Australian ambassador and senior administrative staff from the embassy had 'inspected the roadworks and saw no evidence of bones at that time'.³⁴ There is no evidence that these inquiries were pressed with any vigour, or any attempt made to reach an objective and independent conclusion sufficient to satisfy Australian interests.

3.34 The Committee also finds that the process for treating uncovered human remains found at Gallipoli is unclear. The current practice seems to be to report human remains to the Commonwealth War Graves Commission. The Commission may either bury them in situ or, if this is an area of high erosion, they may be moved elsewhere.³⁵ The basis upon which the Commission chooses this other location is unclear. The Commission's practice also seems to vary according to whether there are major bone findings or small fragments. Mr Sullivan noted that 'the Commission

31 *Committee Hansard*, p. 53. Italics added.

32 *Committee Hansard*, p. 61.

33 *Committee Hansard*, p. 76.

34 *Committee Hansard*, p. 89.

35 *Committee Hansard*, pp 76–77.

probably does not want to go and see every small fragment'.³⁶ He also suggested that small fragments may be taken to the Commission.

3.35 The Committee notes that there been recent public discussion that an ossuary should be established at the ANZAC site. However, without proper identification of bones, this would mean a common repository for Allied and Turkish remains. The Committee acknowledges Turkish officials' reservations on the idea of an ossuary.

Recommendation 2

The Committee recommends clearer guidelines for the future management, recovery, reburial or storage of human remains at Gallipoli. The current arrangements are clearly not understood, and their effectiveness is doubtful.

Australian authorities' response to claims the landscape had been damaged

3.36 Both the Australian Prime Minister and the Minister for Veterans' Affairs have openly noted that the roadworks went beyond the expectations of Australian authorities. The evidence before the Committee from Government agencies on this matter sought to exonerate the Australian Government of any knowledge of, or involvement in, the scale of the works. The question remains, however, given the level of official activity which included 17 trips by Australian officials to Gallipoli in the relevant period, about the adequacy of advice to the government. More to the point the question concerns the failure of the Minister, once briefed, to respond with the priority required.

3.37 On 23 April 2005, for example, Prime Minister Howard released the August 2004 letter from Minister Vale to Minister Pepe. The Prime Minister's accompanying media release made two points:

- First, 'the letter addressed improvements to the dawn service site and possible works on an entirely different road on the peninsula, not work on the ANZAC Cove road'.
- Second, 'I feel I should put it on record that works of the scale that have actually taken place were not sought by the Australian Government'.³⁷

The Committee believes these statements were designed to downplay the damage caused by the roadworks. They are also at odds with the Australian Prime Minister's intervention, which led to the complete suspension of the roadworks until further research had been done.

3.38 On 24 April 2005, the Australian Treasurer, the Hon. Peter Costello MP, highlighted the difficulty of Australian authorities constantly supervising a construction project in a foreign country.³⁸ Mr Costello noted: 'the Australian Government doesn't control Turkey, we don't control roadworks in Turkey. We have

36 *Committee Hansard*, p. 79.

37 The Hon. J. Howard, 'ANZAC Cove', *Media Release*, 23 April 2005
http://www.pm.gov.au/news/media_releases/media_Release1346.html (accessed 27 June 2005).

38 'We don't control Turkey: Costello', *Sydney Morning Herald*, 24 April 2005.

enough trouble controlling roadworks in Australia'. However, the Treasurer also noted that the Australian Government 'wouldn't want to see any widening [of the road] or any further works to go on'.³⁹

3.39 At a press conference in Istanbul on 26 April 2005, Prime Minister Howard was asked his impression of the roadworks. In response, Mr Howard noted: 'just remember this is Turkish property, this is Turkish land and they do have a large issue of crowd management and safety'.⁴⁰

Australian officials' knowledge of the widening of the coastal road

3.40 An issue of key interest to the Committee was whether Australian officials had any knowledge of Turkish authorities' plans to widen the coastal road to the extent that has happened.

3.41 Mr Beck told the Committee that he had met with Turkish authorities, including Turkish National Parks Director, Professor Mustafa Yalinkilic, in early October 2004. There was mention at this meeting that the coastal road south of ANZAC Cove would be widened from 5.5 metres to seven metres.⁴¹ However, DVA's main source of information on plans to widen the road came from the Australian Embassy in Ankara.

3.42 Mr Beck emphasised that Australian authorities 'never sought nor required a widening of the road from 5.5 to seven metres'. Further, he could not see why it was necessary to widen the road. However, Mr Beck told the Committee that 'I did not think widening the road 75 centimetres either side would have any impact on the environment'.⁴² For this reason, DVA did not instruct the embassy to raise any objections. The need to protect the military heritage at ANZAC Cove does not seem to have been considered at all.

3.43 Mr Beck also noted that he first became aware that the road was to be widened significantly more than 75 centimetres after reading a February newspaper article by Mr Sellars. He did add, however, that 'maybe in my visit of 27 February', the section along Brighton Beach had 'quite literally' been widened about one metre either side.⁴³ Mr Sullivan clarified the broader point that 'there was no engagement with us in respect of the roadworks prior to the press becoming interested'.⁴⁴ More to the point, DVA was not engaged of its own volition despite full public knowledge of what was happening.

39 'We don't control Turkey: Costello', *Sydney Morning Herald*, 24 April 2005.

40 The Hon. J. Howard, *Press Conference*, Istanbul, 26 April 2005
<http://www.pm.gov.au/news/interviews/Interview1355.html>.

41 *Committee Hansard*, p. 48.

42 *Committee Hansard*, p. 50.

43 *Committee Hansard*, p. 51.

44 *Committee Hansard*, p. 51.

3.44 It was only after these early press reports that DVA first briefed Minister Kelly on the roadworks issue. The Secretary says he assured the Minister that the road would be in a state to carry the traffic for the dawn service. He also talked to the Minister about environmental and heritage protection issues.⁴⁵ The detail of that briefing has not been revealed, and the Government has failed to respond to a Senate order for the production of those documents. Given this failure to act, it can only be concluded that the Minister did not consider the protection of military heritage to be important either.

3.45 Following the early press reports, the Department also had a report prepared for the Minister by Arup Engineering and Consulting Ltd. The purpose of the report was not to gauge environmental damage, but to assess whether the construction work would be completed in time for the ANZAC Day services. The Turkish engineers were solely concerned with the safety of the road and meeting the 20 April 2005 deadline. DVA was concerned not only with this matter, but also claims of human remains being disturbed and whether the roadworks were damaging the landscape.⁴⁶

3.46 On 8 March 2005, Mr Beck briefed his Minister's Chief of Staff on the roadworks. This was the first time he had correspondence with the Minister's office on the issue.⁴⁷

Officials' response to the dumping of spoil

3.47 Mr Sullivan contested the allegations that rubble had been dumped on to the beach. He told the Committee that it was fill (dirt), not rocks, that was 'inappropriately tipped over the side'.⁴⁸ He added, 'fill, in the end, is what has fed that beach forever'.⁴⁹ Mr Beck confirmed that 'there is no granite on the peninsula'.

3.48 The Secretary also disputed claims that the recent excavations had caused an added layer of silt on relics and the cove seabed (see above). He accepted that the silt was there, but argued:

I could not see how you would associate what appeared to be a general silt covering off some waters off ANZAC Cove with the very limited spill of fill across ANZAC Cove. Even the worst photograph of the spill...is probably a tonne or two of fill.⁵⁰

3.49 DVA maintains that erosion is the principal cause of the silt on the relics and in the Cove waters. Not only have wind and rain displaced bone fragments from the hills above the Cove, but also silt which has run into the water.⁵¹

45 *Committee Hansard*, p. 63.

46 *Committee Hansard*, p. 53.

47 *Committee Hansard*, p. 59.

48 *Committee Hansard*, p. 49.

49 *Committee Hansard*, p. 49.

50 *Committee Hansard*, p. 81.

51 *Committee Hansard*, p. 81.

3.50 The Committee is not convinced of these responses. Clearly, from the photographic evidence, material has spilled onto the beach and into the sea causing discoloration and siltation far in excess of natural occurrences. The photographs also show deposits of fill on the beach that are significantly more than 'a tonne or two'.

Findings

- The Committee finds that bone fragments were unearthed by the coastal roadworks, and that the military heritage was damaged permanently—with no convincing evidence to the contrary. Significant sites of the ANZAC campaign between April and December 1915 have been lost forever.
- The Committee finds that the Australian Government has wanted to improve the roads around Gallipoli for a long time. Given this desire, the letter from Minister Vale, and frequent attendance by Australian officials, the Committee finds that the Australian Government is largely responsible through its own inaction for the damage caused by the recent road works.
- The Committee finds that Australian officials did have first-hand knowledge while construction was ongoing that the road works were causing damage to the landscape. There was no effort made to investigate allegations that bone fragments had been uncovered, nor to negotiate with Turkish authorities on the extent of the road works.
- Concern expressed by Australian and Turkish people at the nature of the work and the risk of archaeological damage, resulted in only a short suspension of work late in February 2005. By then, the damage was done. Work proceeded shortly thereafter.
- The Committee finds that there was no scope for a process of planning and consultation between the Turkish and Australian Governments, prior to the construction work proceeding in late February 2005. There was no systematic oversight of military heritage issues by Australian authorities. Turkey's National Parks Directorate had employed three consultants to undertake a survey of the area. It lasted only 15 minutes and was performed after the excavations.
- The Committee finds that the process for treating uncovered human remains at Gallipoli is unclear. It is unclear whether the CWGC is to bury the bones in situ, or transfer them to another site. It is also unclear whether the Commission needs to be informed of small bone fragment findings, and whether small fragments may be taken to the Commission in person.
- The Committee finds that the Australian Government was 'asleep at the wheel' in the months prior to the road works commencing in late February 2005. It placed too much faith in the assurances of Turkish officials and the Commonwealth War Graves Commission. It responded almost two months

after the damage was done, despite the knowledge of Australian officials that construction was affecting the site.

- Advice to the Australian Government on the damage which occurred in late February 2005, was not properly heeded and prompted no serious intervention until the Prime Minister's visit on 26 April 2005. It was not until then that work was fully suspended by the Government of Turkey.
- The Government, by its failure to safeguard the ANZAC Cove site and its Australian military heritage, defaulted on its responsibility to the Australian people, particularly the expectations of veterans.

CHAPTER 4

Summary of the evidence and current initiatives

4.1 This chapter begins by reviewing the recent controversy over construction works at Gallipoli. It then notes future initiatives between Turkish and Australian authorities to develop and preserve the site.

Summary of the evidence

4.2 Chapter 1 recognised that on some measures, the Australian and Turkish peoples' cultural attachment to the site of Gallipoli has increased appreciably over the past decade. For instance, there has been greater formal recognition of the Gallipoli site from both the Turkish and Australian Government. In 1997, the Turkish Government declared the peninsula an international peace park. In 1999, the Australian and New Zealand Governments proposed an ANZAC Commemorative site, which was built north of Ari Burnu the following year.

4.3 The building of the Commemorative site was a response to the sharp increase in the number of visitors to Gallipoli. On 25 April 1988, 200 people attended the Dawn Service at ANZAC Cove; on 25 April 2004, 18 000 attended the ceremony at the new Commemorative site.¹ The vast majority of these were Australians and New Zealanders. The number of Turkish visitors has also increased markedly. In 2003, an estimated 600,000 Turkish people visited Gallipoli; in 2004, the number had risen to 1.2 million; in 2005, in excess of two million Turks are expected to visit the site.²

4.4 Inevitably, this level of visitation has put considerable strain on existing facilities, particularly the access roads to key sites. Under the 1923 *Treaty of Lausanne*, it is the responsibility of the Turkish Government to ensure the upkeep of the roads to the many Allied and Turkish memorials on the Peninsula. The Turkish Government has recently pledged \$A100 million to upgrade facilities (including roads) on the peninsula.

4.5 Chapter 2 recognised that Australian and Turkish authorities had common concerns about the need to ensure the safety of the vastly increased number of people travelling on the coastal and inland roads. Not only had the volume of traffic increased considerably, but the existing roads were narrow and subject to erosion. The Turkish Government has already spent in excess of \$A25 million building a series of car parks and upgrading 6.3 kilometres of coastal road. Turkish authorities told an Australian official in October 2004 told that the existing road would be widened from 5.5 metres to 7.0 metres. However, in some places, the new road clearly exceeds this dimension.

1 W. Sellars, 'Desecration', *Daily Telegraph*, 9 March 2005, p. 29.

2 T. Stephens, op. cit.

Engineers instructed that the existing road be brought significantly inland to reduce the risk of erosion and collapse. Both Australian and Turkish authorities feared the existing road might collapse into the sea.

4.6 Chapter 2 also noted that the Australian Government's formal request to the Turkish Government was for improvements to the inland road from Chunuk Bair to Lone Pine. It then suggested turnaround facilities for coaches near the Ari Burnu Cemetery and north of the Commonwealth War Graves Commission. Mr Beck advised that Turkish officials had ignored or declined these requests. DVA officials claimed that repairs to this northern access road did make a marginal improvement in walking time to the 2005 Dawn Service. Moreover, Australian officials have maintained that the work along the coastal road was needed, and was delivered by the Turkish authorities in time for the ANZAC Day commemorations.

4.7 Chapter 3 outlined the controversy surrounding the roadworks. It was generated by claims from Australian journalists that bones had been found at the site. This aroused concern from the archaeological community in Turkey and Australia, and the public at large. The intrusiveness of roadworks, it was claimed, was also affecting the landscape itself. The road had been widened beyond the extent indicated to Australian authorities. The excavation work had cut deeply into the cliffs, changing the appearance of the 1915 landscape. The fill from this excavation was dumped onto the beaches at Brighton and ANZAC Cove.

4.8 Chapter 3 also noted the position of Australian authorities on these matters. It highlighted:

- the explanation of Turkish authorities that archaeological work had been carried out prior to the roadworks, and that no human remains have been uncovered
- the assertion of Turkish authorities that if any remains were unearthed, construction of the road would be stopped immediately
- the assertion of the Commonwealth War Graves Commission that no bones had been disturbed
- the belief that the proposed 75 centimetre widening of the coastal road either side would have no adverse impact on the environment
- the failure of Turkish contractors and authorities to inform Australian officials that the road would be widened beyond these parameters
- the need, in many parts, to bring the existing road significantly inland to ensure the new road is not as susceptible to erosion
- that the fill dumped onto the beach was dirt, not rubble, and that it has been removed
- that the uncovering of bones and the presence of silt in the Cove's waters is more likely to have been caused by erosion than the recent roadworks

-
- the clear statement of DVA and OAWG officials that their concern was not simply to ensure the safety of roads, but also to address concerns that the construction had uncovered remains and was damaging the landscape, and
 - that Minister Kelly was informed of the environment and heritage issues concerning the roadworks.

4.9 However, the Committee finds that these claims are not entirely valid and obscure the Australian Government's inaction and negligence during the construction work on the coastal road. Australian officials were aware in early March of the extent and damage that the construction was causing to the landscape, yet the Australian Government failed to act authoritatively at a political level until 26 April.

4.10 The allegations that bones were unearthed and the landscape has been damaged remain credible evidence. No statements from Australian Government sources contradict this evidence. Indeed, the Committee has photographic evidence that the fill dumped onto the beach was substantially more than what was claimed by the DVA Secretary.

Proposed road construction and environmental planning

The Inter-Departmental Committee on Gallipoli

4.11 One of the major initiatives of the Australian Government on matters relating to the Gallipoli Peninsula has been to establish an Inter-Departmental Committee (IDC). The IDC is chaired by PM&C, and has representatives from DVA, DEH and DFAT.

4.12 The IDC is currently considering matters that arose from the meeting of the Australian and Turkish Prime Ministers in April 2005. In broad terms, the task is to balance issues relating to military heritage, environmental protection and road construction in the Gallipoli area. The IDC will meet on an as-needs basis.

4.13 The Committee heard that DVA has the lead role within the Committee on two key issues. They are:

- to provide suggestions to the Turkish Government on the completion of roadworks at ANZAC Cove, including any need for shore protection and
- to lead on the broader historical and archaeological review of the area, which balances visitor safety, military heritage and environmental considerations.³

Completing the coastal road

4.14 On the first IDC issue, the Committee heard from the DVA Secretary that the coast road will require a further two stages before completion. First, two further layers of asphalt will seal the road. Second, there is the possibility that a rock wall will be

3 *Committee Hansard*, p. 71.

built along parts of the road to safeguard against further erosion. This is the issue of shore protection.

4.15 The DVA Secretary told the Committee there was a 'fairly compelling argument' that the road will require some form of shore protection.⁴ The Australian Prime Minister was briefed on the possibility of a rock wall, and subsequently wrote to his counterpart in Turkey to seek discussions on the subject. In response, Mr Erdogan has invited Australian officials to suggest their preferred forms of shore protection. Mr Sullivan told the Committee that DVA will be taking these suggestions to the Turkish Government 'on Monday' (20 June 2005).⁵

Viewing points

4.16 In a supplementary submission to the Committee in August 2005, Mr Sellars expressed strong concern at recent proposals by the Turkish Culture and Tourism Ministry to develop a number of scenic viewing areas for visitors at high points on the battlefields of the Gallipoli Peninsula.⁶ These areas would be accompanied by carparks. In particular, Mr Sellars argued that any construction at Chunuk Bair, Hill Q, the Nek or near the Sphinx would be carried out over terrain that was fought over by the Allies. Historians and experts advising the Gallipoli Historical National Park have recommended against any construction at these sites. However, there is no obligation for the National Parks Authority to heed this advice. A response from DVA to Mr Sellars supplementary submission sidestepped addressing the matters he raised and left the impression that the Australian Government has not yet been officially informed of these proposals.⁷

The Chunuk Bair to Lone Pine road

4.17 The Committee acknowledges the Turkish Prime Minister's plans to commence construction work on the Second Ridge road from Chunuk Bair to Lone Pine. The Turkish Government clearly regards this project as a priority, given it is a key access road to the major Turkish memorials. The Australian Government also recognises that work on this road is urgently needed. Indeed, the August 2004 letter from the Australian Veterans' Minister made first reference to the Chunuk Bair to Lone Pine Road. Air Vice Marshal Beck explained to the Committee that 'within our traffic plan, that [road] was the major difficulty we faced'.⁸

4.18 Both the Australian and Turkish Governments also acknowledge that close by the Second Ridge road, there are areas of extreme military heritage sensitivity. Mr

4 *Committee Hansard*, p. 66.

5 *Committee Hansard*, p. 66.

6 Mr W. Sellars, *Submission 15a*, 16 August 2005.

7 Department of Veterans' Affairs, additional information, 9 September 2005.

8 *Committee Hansard*, p. 69.

Sellars commented in his submission that 'any roadwork on the scale of that carried out along the coastal strip...will cause massive damage to the heritage value of the...region'.⁹ He further claimed that this work would disturb many more human remains than were unearthed by the roadworks at ANZAC Cove.

4.19 Australian and Turkish authorities are clearly aware of these risks. Mr Beck told the Committee he had received advice from *Arup Engineering* in Istanbul that a safe, two-way road could be made without impacting on anything other than the existing surface.¹⁰ Mr Sullivan noted that the Turkish Government has invited DVA to offer views on how best to carry out the roadworks. He added:

My understanding is that if, in looking at widening that road or looking at making it into two-way traffic, it impinged on the military and cultural heritage issues of the road the Turkish Government would not agree... [W]e would have to look at other solutions.¹¹

4.20 The Committee heard opposing views about the need for repairs to the road from Chunuk Bair to the Kemalyeri memorial (see the map in Chapter 1). Mr Beck told the Committee that parked coaches along this road posed 'a major problem' for people getting to Lone Pine and Chunuk Bair for the services.¹² However, Mr Sellars noted that work had been done on this road in 2003.¹³

The need for a comprehensive audit

4.21 On the second IDC issue of an historical and archaeological review of the area, discussions between the Australian and Turkish Governments are in their infancy. Mr Sullivan told the Committee he planned to use his June 2005 visit to Turkey to discuss the issue of an archaeological study with his Turkish counterparts, and ascertain 'what the two prime ministers meant when they agreed to this joint second study'.¹⁴

4.22 Mr Sullivan noted that in the past, DVA has employed historians to assist with heritage issues at ANZAC Cove. He explained that the proposed study would 'concentrate our historians on scoping, from their perspective, areas of great significance'.¹⁵ Mr Sullivan accepted that a full military audit of the whole battlefield area may be 'part of what we...end up doing'.

9 *Submission 15*, p. 5.

10 *Committee Hansard*, p. 70.

11 *Committee Hansard*, p. 70.

12 *Committee Hansard*, p. 69.

13 *Submission 15*, p. 3.

14 *Committee Hansard*, p. 75.

15 *Committee Hansard*, p. 75.

4.23 The Committee is surprised at the lack of preliminary research prior to 2005 roadworks given the risks involved, the significance of the site, and the knowledge of DVA, OAWG and DFAT officials that construction was planned. It is particularly alarming in light of the allegations presented in Chapter 3. The Committee finds that Australian officials should have been more active in communicating the need for political intervention to the Australian Government.

4.24 The Committee is concerned that the military and heritage protection be afforded not only to the battlefield landscape, but also to the waters of ANZAC Cove. The Committee heard evidence that the recent road construction has damaged these waters. A submission from Tim Smith, the Director of Joint Australian-Turkish *Project Beneath Gallipoli*, highlighted the importance of a thorough maritime archaeological survey of the Cove. Mr Smith noted that his team is currently undertaking the first such survey, designed to identify 'the full range of cultural relics in the near-shore and under-water component of the battlefield site'.¹⁶

Recommendation 3

The Committee recommends a full military-historical audit of the entire battlefield area at Gallipoli, with Australian priority for the ANZAC area. This survey must be made public and must be continually updated.

A comprehensive conservation management plan

4.25 In proposing an audit and an on-going survey of the site, the Committee also acknowledges the need for an appropriate plan of action flowing from this information. Ten of the fifteen submissions to the inquiry specifically recommended a conservation management plan as the best process for addressing physical conservation and visitor pressure at Gallipoli.¹⁷

4.26 A submission from the National Council of Australian Trusts argued:

The basis for all conservation management is detailed knowledge about the site. This provides the information base for the identification of the site's heritage values and for the site's significance to be assessed. Therefore we welcome the proposed historic and archaeological surveys of ANZAC Cove, but only if they are to be carried out by experts, and only if the information gathered is then used to develop an effective management instrument.¹⁸

4.27 A submission from the Australian National Committee of the International Council of Monuments and Site (ICOMOS) similarly claimed that the joint historical surveys 'will not in themselves achieve the essential formulation of effective

16 *Submission 13*, p. 2.

17 *Submissions 1, 3, 4, 7, 8, 9, 10, 11, 12 and 14*.

18 *Submission 14*.

conservation management strategies at Gallipoli'.¹⁹ The Council endorsed a joint conservation management process as a matter of urgency. The submission noted that Australia is a world leader in the field of conservation management planning.

4.28 The Committee agrees that a comprehensive audit is only the first stage in the conservation management plan. It is crucial that this information is subsequently coordinated among the Turkish, Australian and New Zealand Governments, and among experts within non-government organisations.

4.29 The Committee welcomes the recent initiative of the Australian Government to establish an IDC that coordinates military heritage protection and visitation pressures. It also acknowledges and supports the cooperation of the Turkish and Australian Prime Ministers to undertake an archaeological survey of the Gallipoli site. However, the approach needs to be formalised and more systematic.

Recommendation 4

The Committee recommends that a working group be established by the government to advise it on the coordination of the conservation management planning of the Gallipoli site. This group should include key government departments (including DVA, DEH and OAWG), the Returned Services League, the Australian War Memorial, and historians and archaeologists with specialist knowledge of Gallipoli.

Recommendation 5

The Committee recommends that the activities of this working group are documented in annual reports. These reports should be sent to the proposed parliamentary committee (see recommendation 6).

4.30 The Committee insists that the activities of this working group are open to the scrutiny of the Parliament. It is particularly concerned that military commemoration in Australia has become politicised. The Committee therefore believes that oversight of the entire commemorative function ought to be passed to a joint standing parliamentary committee.

Recommendation 6

The Committee recommends to the parliament that it establish a joint standing military commemorations committee. This Commemorations Committee will exercise bi-partisan oversight over all commemorative programs, including the management of all sites of Australian military heritage. It is hoped that the establishment of the Committee will remove the risk of political exploitation of commemorative events by the government of the day.

19 *Submission 8*, p. 2.

Recommendation 7

The Commemorations Committee should receive quarterly reports from the relevant government agencies on all commemorative activity and planning, including all memorial construction, event preparation, meetings, agendas, outcomes, public education and budgets.

The Commemorations Committee should also receive advice from the working group on all military heritage conservation issues, and develop a rapport with comparable groups in Turkey and New Zealand.

National Heritage Listing

4.31 One of the inquiry's terms of reference was to examine the heritage protection of ANZAC Cove. In this context, the major issue is the Australian Government's proposed National Heritage Listing of ANZAC Cove.

4.32 The discussions with Turkey on the issue of National Heritage Listing commenced in 2002. The Committee was told that officials from DEH and several other Australian agencies were present at these discussions, and that DFAT had kept Turkish representatives informed of the progress made. DEH advised the Committee that discussions were held with Turkish officials on 22 separate occasions.

4.33 On 18 December 2003, Prime Minister Howard commented: 'it seems to me...entirely appropriate that the ANZAC site at Gallipoli should represent the first nomination for inclusion on the National Heritage List'.²⁰ The following day, the Prime Minister expressed confidence that given the understanding between Australian Government and Turkish authorities, ANZAC Cove would be heritage listed.

4.34 However, 18 months later, the Committee was told that discussions are continuing between Turkey and Australia on the Heritage Listing of ANZAC Cove. Mr David Young, First Assistant Secretary in the Heritage Division of the DEH, noted that the conversation between the Australian and Turkish Governments is at a 'pretty sensitive stage'.²¹

4.35 Mr Young explained to the Committee that the two Prime Ministers are now seeking an 'appropriate mechanism for symbolic recognition' of the site.²² He noted that 'symbolic recognition' may or may not include listing; it is a way 'to engage with Turkey to find a mutually acceptable way forward'. Mr Young claimed the term

20 See A. Albanese, 'Howard back-flip on ANZAC Cove listing', *Media Release*, 27 April 2005.

21 *Committee Hansard*, p. 104.

22 *Committee Hansard*, p. 105.

'symbolic' is used to assure Turkey that Australia has no intention to apply its domestic environmental legislation to ANZAC Cove.²³

4.36 More to the point, Australia has no capacity to do so, given Turkish sovereignty over this land. Even a domestic Australian listing of ANZAC Cove would require the consent of the Turkish Government, and may only have symbolic effect in Turkey. This is a significantly different approach to that originally advocated by the Prime Minister, and it signifies the failure of the Department and the Government to persuade the Turkish Government of its expressed commitments.

4.37 The Committee acknowledges that negotiations with the Turkish Government on the issue of National Heritage Listing are at a sensitive stage. It believes that the Turkish Government should be credited with the declaration of the Gallipoli Peninsula as an international peace park, in recognition of its significance as an original World War I battlefield of immense importance to the nations who fought there.

4.38 In its submission to the Committee, the Australian Council of National Trusts recommends that the Australian Prime Minister support the Turkish suggestion of nominating the Gallipoli Peace Park as a World Heritage site. The Council argues that this would serve as:

A constructive means to achieving agreement for the development of an effective conservation management process, because...the Gallipoli sites...[would] be managed through an agreed conservation management plan.²⁴

Recommendation 8

The Committee recommends that the Australian Government should maintain a dialogue with the Turkish Government on the symbolic recognition of Gallipoli, with the express objective of a management plan for the protection of Australian military heritage at Gallipoli.

Recommendation 9

The Committee recommends that special arrangements be established whereby discussions and negotiations with the Government of Turkey with respect to the international recognition of Gallipoli should be reported to the new parliamentary standing committee on a quarterly basis.

23 *Committee Hansard*, p. 106.

24 *Submission 14*, p. 2.

Findings

- Recognising its accepted status as an international cemetery where over 130,000 people died, Gallipoli has not been adequately surveyed, researched, or catalogued for its military heritage value, nor for the sensitivity of its natural environment, so as to inform current and future management policy.
- The failure to undertake such research has resulted in significant public concern in both Turkey and Australia at the destructive nature of the 2005 roadworks.
- An archaeological survey of the roadworks site was conducted after the event by the Commonwealth War Graves Commission (CWGC), at the request of the Department of Veterans' Affairs. The survey was cursory and inadequate, and the advice provided has been directly contradicted by local people.
- Sole reliance on CWGC advice, rather than direct Australian initiation of an archaeological survey by Australian experts, was a serious error of judgement. The Australian Government must be held accountable for this oversight.
- The significant degradation of the beach and coastal waters at ANZAC Cove could have been avoided had the area been properly researched.
- On 26 April 2005, the Prime Minister of Turkey initiated an assessment of the damage to military and cultural heritage at ANZAC Cove, and to rectify this damage. These research projects should have preceded the roadworks, not followed them.

Heritage issues

- The Government of Turkey should be credited with the declaration of the Gallipoli peninsula as an international peace park, in recognition of its significance as an original WWI battlefield of immense importance to the nations who fought there.
- The Committee find that progress on the Heritage listing of the site on the Australian Register of the National Estate is at a sensitive stage. Since discussions on this issue commenced, there has been a shift from heritage listing under Australian legislation to more symbolic means of recognition.
- Notwithstanding the current assessments being undertaken, much more research needs to be done not just of the immediate ANZAC area, but the entire peninsula. A systematic survey of the entire peninsula would obviously need the agreement and cooperation of Turkish authorities, and as such, the Australian Government should make representations on this matter to the Turkish Government.

- Future roadworks must be subject to detailed scrutiny to ensure that no damage is done to any military heritage.

Senator Michael Forshaw
Chair

Australian Senate

Finance and Public Administration

Reference Committee

Inquiry into Matters Relating to the Gallipoli Peninsula

Minority Report

by

**Senator John Watson (Deputy Chair) and
Senator Concetta Fierravanti-Wells**

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Terms of Reference

On 11 May 2005, the Senate referred the following matters to the Finance and Public Administration References Committee for inquiry and report by 30 June 2005:

- (a) the circumstances surrounding the request by the Australian Government to the Turkish Government in August 2004 to undertake work to ease congestion on the Gallipoli Peninsula;
- (b) the role of the Minister for Foreign Affairs (Mr Downer), the Department of Foreign Affairs and Trade, the Department of Veterans' Affairs, the Attorney-General's Department, the Office of Australian War Graves, the Department of the Prime Minister and Cabinet and Environment Australia in the road works, and related construction activity, at ANZAC Cove in the lead-up to ANZAC Day on 25 April 2005;
- (c) the heritage protection of ANZAC Cove, including the proposed joint historical and archaeological survey of ANZAC Cove and proposals for the establishment of an international peace park, as well as national and world heritage listing for the area; and
- (d) any other related matter.

On 21 June 2005 the Senate extended the time for reporting by the Committee to 18 August 2005.

On 17 August 2005 the Senate further extended the time for reporting to 15 September 2005.

On 8 September 2005, the Senate extended the time for reporting to 12 October 2005.

Background to the Inquiry

We feel compelled to write this Minority Report following a review of the Majority Report. In short, the Australian Government has, at all times, acted appropriately and correctly.

The fundamental starting point of any inquiry on the Gallipoli Peninsula is that it is situated in Turkey and therefore, Turkish laws and Turkish sovereignty prevail. This should have been the starting point of the Majority Report however, unfortunately the Majority Report has been written on the misconceived basis that the Australian Government is responsible for what happens on the Gallipoli Peninsula. Indeed, the few references to Turkish sovereignty in the Majority Report are obscurely concealed as merely passing references.

We are especially concerned that that the allegations made during this political point scoring exercise have the potential to damage relations between Australia and Turkey. As indicated, the starting point is the fact that Gallipoli is in Turkey and Turkish sovereignty prevails. Australia, in any dealings with Turkey in relation to the Gallipoli Peninsula, must therefore rely on the goodwill of the Turkish government and to date the relationship has been cordial and based on mutual respect.

The Inquiry was established purely as a cynical and point-scoring exercise against the Government. The Majority Report adopts an accusatorial tone against the Australian Government. Throughout, the issue has been played out as a grubby political point scoring exercise rather than preservation of a significant and historically important military site.

The Majority Report bases the majority of its finding on the sensational and unsubstantiated evidence of Mr William Sellars, a resident of the Gallipoli Peninsula. The Report fails to adequately and correctly reflect the overwhelming bulk of the written and oral evidence given to the Committee and instead relies on conflicting evidence from Mr Sellars that is beyond his area of expertise, is often baseless and invariably at odds with the evidence of other learned persons giving evidence before this Committee. Mr Sellars, a self-styled historian and journalist (who conceded he has no formal qualifications in history or archaeology) was the source of the media allegations regarding the discovery of alleged human remains and bones during roadworks undertaken by the Turkish authorities. Mr Sellars makes serial appearances around ANZAC Day and tellingly, conceded in evidence that he has financially benefited from his sensationalised media assertions.

Turkey and Australia share a history in Gallipoli. Over the years, goodwill has prevailed and there has been a very positive relationship to date. It would be a very disturbing if the politicisation of this issue caused damage to the relationship between Australia and Turkey. Accordingly, it is important that we rise above the issue and address the facts before this Committee, rather than the hyperbole and innuendo, to ensure that the goodwill, positive relationship and cooperation with the Turkish Government continue.

Conduct of the Inquiry

Submissions and Hearing

The Committee advertised the inquiry on 25 May 2005 and 8 June 2005 in *The Australian* and on the Senate website. Interested persons were invited to lodge submissions by 10 June 2005 although the Committee agreed to accept submissions after that date.

The Committee received 15 submissions from various individuals, private and non-government organisations and Government departments.

On 17 June 2005, the Committee met in Canberra to hear evidence from the following witnesses:

Name	Organisation	Referred to in Minority Report as follows
Mr William Sellars (via teleconference from his home in Eceabat on the Gallipoli Peninsula)	Private capacity	Mr Sellars
Department of Veterans' Affairs (DVA) encompassing the Office of War Graves (OAWG)		
Air Vice Marshal Gary Beck	Director Office of Australian War Graves	AVM Beck (OAWG)
Mr Ian Campbell	Deputy President, DVA	Mr Campbell (DVA)
Mr Mark Anthony	Secretary, DVA	Mr Anthony (DVA)
Department of Foreign Affairs and Trade (DFAT)		
Ms Denise Fisher	Director Southern European Section DFAT	Ms Fisher (DFAT)
Mr Jeremy Newman	First Assistant Secretary, Americas and Europe Division, DFAT	Mr Newman (DFAT)

Department of the Environment and Heritage (DEH)		
Mr Theo Hooy	Assistant Secretary, Heritage Management Branch, Heritage Division	Mr Hooy (DEH)
Mr David Young	First Assistant Secretary, Heritage Division	Mr Young (DEH)
Department of the Prime Minister and Cabinet (PM&C)		
Mr Hugh Borrowman	Assistant Secretary, International Division	Mr Borrowman (PM&C)
Mr Ian Kemish	First Assistant Secretary, International Division	Mr Kemish (PM&C)
Mr Andrew Metcalfe	Deputy Secretary	Mr Metcalfe (PM&C)

Subsequent to the hearing of evidence, further documentation has been provided to the Committee.

We note that since the Inquiry, Air Vice Marshal Gary Beck has retired. In a Press Release dated 3 August 2005, the Minister for Veterans Affairs, the Hon. De-Anne Kelly BE MP stated that AVM Beck had served eight years as Director of the Office of Australian War Graves. Given that AVM Beck's term was to expire in January, the Australian Government had decided to advertise the position, affording him the opportunity to apply for the position. We understand that subsequently, AVM Beck has resigned.

Procedural Issue – Non Disclosure of Government Legal Advice

The Majority Report claims to raise a serious procedural issue in relation to the disclosure of Government legal advice during the course of this Inquiry.

It has been a long standing practice of this, and previous Australian governments, not to disclose legal advice provided to a government minister, unless there are compelling reasons to do so in a particular case.

In this instance, as contained in reasoning provided by Department of Foreign Affairs and Trade officials in their evidence to the Committee, no compelling case was made for the disclosure of legal advice provided to DFAT relating to the Treaty of Lausanne.

As is proper based on past practice, the Minister for Foreign Affairs provided the Committee with written reasoning outlining his decision to decline request to provide legal advice and this decision is strongly supported.

Structure of the Report

The Minority Report commences with an Executive Summary, our Findings and Recommendations and Comments on the Recommendations in the Majority Report followed by five chapters which cover the following detail:

Chapter 1 - reviews the historical significance of the 1915 conflict and the Gallipoli Peninsula for both the Australian and Turkish people. It also examines the resurgence of interest in visiting Gallipoli.

Chapter 2 - looks at the need for roadworks on the Gallipoli Peninsula and the adequacy of facilities and in particular, examines the request by the Australian authorities to improve facilities at the Australian Commemorative site.

Chapter 3 - examines the response of the Australian government to damage caused by the roadworks and in particular, focuses on the overwhelming evidence given which contradicts the sensational allegations made by Mr Sellars.

Chapter 4 – examines various research and heritage issues and examines some of the current initiatives by Turkish and Australian authorities to preserve the ANZAC site.

Chapter 5 – examines the completion of the roadworks and other current initiatives, including the work of the Inter Departmental Committee and the Joint Turkey/Australia Second Study.

Executive Summary

On numerous occasions, the Australian Government has expressed its appreciation for the role of Turkish authorities in maintaining the ANZAC sites and in enabling organisation of an annual commemoration of ANZAC Day on the Gallipoli Peninsula.¹

The Inquiry was established purely as a cynical and point-scoring exercise against the Government without regard to the potential to the damage the close relationship between the people of Turkey and Australia.

The fundamental starting point of this Inquiry should have been that the Gallipoli Peninsula is situated in Turkey and therefore, Turkish laws and Turkish sovereignty prevail. Hence, the Turkish Government can make whatever decisions it deems appropriate on the Gallipoli Peninsula. Therefore, any construction, changes, and/or alterations to the area are matters wholly within the responsibility of Turkey, not Australia. Whilst it is open to the Turkish Government to seek Australia's views in relation to the Gallipoli Peninsula, it is a matter entirely for the Turkish authorities to either accept or reject those views.

The Majority Report bases the majority of its finding on the sensational and unsubstantiated evidence of Mr William Sellars, a resident of the Gallipoli Peninsula. The Majority Report fails to properly and correctly reflect the overwhelming bulk of the written and oral evidence given to the Inquiry and instead relies on conflicting evidence from Mr Sellars that is beyond his area of expertise, is often baseless and invariably at odds with the evidence of more expert persons. Mr Sellars, a self-styled historian and journalist (who conceded he has no formal qualifications in history or archaeology) was the source of the media allegations regarding the discovery of alleged human remains and bones during roadworks undertaken by the Turkish authorities. Mr Sellars makes serial appearances around ANZAC Day and tellingly, conceded in evidence that he has financially benefited from his sensationalised media assertions.

Instead, the Majority Report has been deliberately and knowingly written on the misconceived notion that the Australian Government is somehow responsible for what happens on the Gallipoli Peninsula. Indeed, the few references to Turkish sovereignty in the Majority Report are conveniently and obscurely concealed as merely passing references.

Rather than respecting and preservation of a significant and historically important military site, the Inquiry has been used as a grubby political point scoring exercise aimed at taking cheap political shots at the Government.

We are concerned that that the allegations made during this political point scoring exercise have the potential to damage relations between Australia and Turkey.

¹ Department of Foreign Affairs and Trade, *Submission*, June 2005

Australia, in any dealings with Turkey in relation to the Gallipoli Peninsula, relies on the goodwill of the Turkish Government and to date the relationship has been cordial and based on mutual respect.

Gallipoli has been of significance to Australia since the landing of troops on the beaches in 1915 and since then, commemorations have paid tribute to the ANZACs - to celebrate their achievements and to mourn those who had sacrificed their lives.

The significance of the 1915 Allied campaign at Gallipoli in the history of the Australian nation has experienced a resurgence of interest in recent years as a symbol of independence, nationhood, national ethos and identity. The significance of Gallipoli is reflected by strongly growing attendances at ANZAC Day ceremonies at ANZAC Cove over the last decade, and by a resurgence of interest and support for commemorative activities.

The entire Gallipoli Peninsula, is experiencing significantly increased levels of tourism from both Australian and New Zealand citizens but more overwhelmingly, by Turkish citizens with an estimated two million Turks visiting the Gallipoli Peninsula every year.

Arising from high usage, especially due to the millions of Turkish visitors as well as visitors from other nationalities, the roads on the ANZAC site are in need of repair so as to ensure minimum risks to public safety. This has also resulted in the need to restrict access at times of high demand.

Whilst the facilities for those attending commemorations at the Australian Commemorative Site adjacent to ANZAC Cove have been improved, they are still inadequate.

The Turkish Government, in recognition of its responsibilities and the need to provide better access on the Peninsula for visitors of all nationalities, embarked on a program of roadworks.

The Australian Government, through the agency of the Minister for Veterans' Affairs and the Office of Australian War Graves, and the Department of Foreign Affairs and Trade, sought improvements to facilities at the Australian Commemorative Site. In a letter from then Minister for Veterans' Affairs, the Hon. Dana Vale to Turkish Minister for Environment and Forests, His Excellency, Mr Osman Pepe, dated 2 August 2004 issues were outlined where assistance was sought from the Turkish Government to cope with increased attendances. The letter concentrated on improving parking arrangements for coaches on the northern side of ANZAC Commemorative Site to cater for larger crowds; on improvements to Ridge Road running past Lone Pine and Chunuk Bair – a substantial section of this road needed to be improved to improve traffic and safety; and on measures to reduce walking distances and easing traffic congestion.

At no time, did the Australian Government request that the ANZAC Cove Road be widened or changed.

Whilst Australian authorities were told in or about October 2004 by a Turkish official that there were a number of projects on the Peninsula that they were going to spend \$US64 million, no information was provided on the roadworks. Australian officials did not become aware of the extent of the roadworks until February 2005.

We have rejected the Majority finding that bone fragments were unearthed by the coastal roadworks and that military heritage and significant sites were damaged permanently. These are based on sensationalised allegations, generated primarily by Mr Sellars through the paid media reports. The only person alleged to have found bones at the time of the roadworks was Mr Sellars and then, the bones "disappeared" before a full assessment of their scientific nature, provenance or age could be made. We believe Mr Sellars has used ANZAC Day as a vehicle for profit and journalistic coverage to benefit financially from the stories.

The Inquiry heard evidence of the considerable changes over the years to the landscape at Gallipoli which have resulted in past unearthing of bones.

We have rejected outright the Majority finding that there was no effort made by Australian authorities to investigate allegations that bone fragments had been uncovered, nor to negotiate with Turkish authorities on the extent of the roadworks. The Majority Report overlooks the detailed and compelling testimony of the actions taken by Australian officials both in Australia and in Turkey on the extent of consultation.

Given the longstanding relationship of cooperation between Australia and Turkey, the Australian Government accepted assurances given by Turkish officials about the roadworks.

Australian officials, at all times, acted properly. In this case, we were dealing with actions being undertaken by a foreign Government on its own sovereign territory. Any suggestion or inference that Australian officials ought to have taken direct and interventionary action in these circumstances is totally unjustified and erroneous.

Gallipoli is a recognised international cemetery. The Treaty of Lausanne sets out the responsibilities for maintenance of the area. The Commonwealth War Graves Commission (CWGC) is the properly designated international body responsible for the management of the Gallipoli Peninsula on behalf of all participant countries under the overall control and sovereignty of the Turkish Government. The CWGC has an office at Canakkle on the Gallipoli Peninsula. Australia is a board member of the CWGC. Hence, the reliance by Australian authorities on the advice from the CWGC (this being the body with maximum authority and expertise) that following an extensive examination of the area, no evidence was found that human remains had been disturbed, was entirely appropriate and fully justified under the circumstances

We have recommended that the Australian Government give consideration to basing a full time representative at the CWGC at Canakkle. This appointment would not only formally recognise the importance of the Gallipoli Peninsula to Australia but provide an important resource to assist in the planning of upcoming ANZAC Day ceremonies ahead of the centenary commemorations in 2015 and most importantly, provide a resource to assist the Turkish Government with World Heritage Listing.

The Government of Turkey should be credited with the declaration of the Gallipoli Peninsula as an international peace park, in recognition of its significance as an original WWI battlefield of immense importance to the nations who fought there. Additionally, the Gallipoli Peninsula has been heritage listed under Turkish law.

Discussions regarding heritage listing of the Gallipoli Peninsula on the Australian Register of the National Estate commenced in 2002. Since then, there has been a shift from heritage listing under Australian legislation to more symbolic means of recognition. Much was sought to be made of the failure to list, however, even if the site had been World Heritage listed, there would have been no veto over any roadworks – they could still have gone ahead.

The discussions between Prime Minister Howard and Prime Minister Erdogan and the press release issued by Prime Minister Howard on 26 April 2005 now form the backdrop to ongoing cooperation and progress on bilateral issues between Turkey and Australia including the Gallipoli Peninsula.

The Inter Departmental Committee is effectively addressing the issues arising from the meeting of Prime Minister Howard and Prime Minister Erdogan, which covers a range of issues, including, but not exclusively, the roadworks. Whilst any archaeological survey of the roadworks site conducted either prior to or after the commencement of the roadworks is a matter for the relevant Turkish authorities, the Inquiry heard evidence that discussions on the broader historical and archaeological review were underway as to how best these could be progressed.

In summary, the Inquiry was little more than a blatant and unmitigated political exercise undertaken in the full knowledge of Australia's inability to intervene in the Turkish management of the Gallipoli Peninsula.

Findings

Chapter 1 - The Significance of the Gallipoli Peninsula to both Australia and Turkey

- The Gallipoli Peninsula is in Turkey and hence, any construction, changes, and/or alterations to the area are fully within the territorial sovereignty of Turkey. They are matters of responsibility of Turkish authorities, not Australia.
- Whilst Australia may have views in relation to what occurs on the Gallipoli Peninsula, such views may only be proffered by Australia. What consideration they receive lies in the discretion of the Turkish Government.
- Gallipoli has been of significance to the Australia since the landing of troops on the beaches in 1915. Since then, ANZAC Day commemorations have paid tribute to those who had been ANZACs, to celebrate their achievements and to mourn those who had sacrificed their lives.
- The significance of the 1915 Allied campaign at Gallipoli in the history of the Australian nation has experienced a resurgence of interest in recent years as a symbol of independence, nationhood, national ethos and identity.
- The significance of Gallipoli is reflected by strongly growing attendances at ANZAC Day ceremonies at ANZAC Cove over the last decade, and by a resurgence of interest and support for commemorative activities.
- In the lead-up to the centenary of the 1915 landing, public interest in Gallipoli is likely to grow
- The Turkish people commemorate the Canakkale naval and Gallipoli land battles as founding national events. The conflict was Turkey's sole victory in five First World War campaigns. It is seen as the last great victory of the Ottoman Empire.
- Kemal, who in 1923 became the first president of the newly-created Republic of Turkey, was commander of the 19th Division at Gallipoli. He was on hand to oppose the Allied landing in April 1915, and was feted for his military strategy. In 1934, Kemal was awarded the title "Ataturk" - father of the Turks.
- The official toll of Turkish dead was 87,000 although it could have been higher.
- Turkey has seen fit to protect Gallipoli as a national park.

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- Other nations also suffered heavy losses at Gallipoli including 22,000 British soldiers and 10,000 French.
 - In addition to millions of Turkish visitors and thousands of Australians and New Zealanders, many other visitors of different nationalities visit the Gallipoli Peninsula.

Chapter 2 - The Need for Roadworks on the Peninsula

- The entire Gallipoli Peninsula, which was the field of battle from 25 April to December 1915, is experiencing significantly increased levels of tourism from both Australian and New Zealand citizens and most overwhelmingly, by Turkish citizens.
- The ANZAC Cove sector of Gallipoli, as defined in the 1923 Treaty of Lausanne, is experiencing a similar level of pressure. Turkish authorities do not appear to have imposed any restrictions on access by tourists.
- Whilst the facilities for those attending commemorative activities at the Australian Commemorative Site adjacent to ANZAC Cove have been improved, they are still inadequate. There is insufficient space for attendees on ANZAC Day, poor water supply and inadequate toilet facilities.
- Whilst improvements have been made at the Australian site, access by road remains difficult, there is insufficient parking space for buses and traffic management arrangements on key ceremonial occasions, including ANZAC Day.
- Arising from high usage, especially due to the millions of Turkish visitors as well as visitors from other nationalities, the roads on the ANZAC site are in need of repair so as to ensure minimum risks to public safety. This has also resulted in the need to restrict access at times of high demand.
- The Turkish Government, in recognition of its responsibilities and the need to provide better access on the Peninsula for visitors of all nationalities, has embarked on a program of roadworks.
- The Australian Government, through the agency of the Minister for Veterans' Affairs and the Office of Australian War Graves, and the Department of Foreign Affairs and Trade, sought improvements to facilities at the Australian Commemorative Site.
- In a letter from then Minister for Veterans' Affairs, the Hon. Dana Vale to Turkish Minister for Environment and Forests, His Excellency, Mr Osman Pepe, issues were outlined where assistance was sought from the Turkish Government to cope with increased attendances. The letter concentrated on improving parking arrangements for coaches on the northern side of ANZAC

Commemorative Site to cater for larger crowds; on improvements to Ridge Road running past Lone Pine and Chunuk Bair – a substantial section of this road needed to be improved to improve traffic and safety; and on measures to reduce walking distances and easing traffic congestion

- We find that **at no time**, did the Australian Government request that the ANZAC Cove Road be widened or changed.

Chapter 3 - Response of the Australian Government in Damage Caused by the Roadworks

- The Turkish Government has sovereign authority over the Gallipoli Peninsula and therefore, can make whatever decisions it deems appropriate in the area. Whilst it is open to the Turkish Government to seek Australia's views, it is a matter entirely for the Turkish authorities to either accept or reject those views.
- The Australian authorities first became aware of the extent of the roadworks in February 2005.
- We reject the Majority finding that bone fragments were unearthed by the coastal roadworks and that military heritage was damaged permanently. These are based on sensationalised allegations, generated primarily by Mr Sellars through the paid media reports.
- The only person alleged to have found bones at the time of the roadworks was Mr Sellars and then, the bones "disappeared" before a full assessment of their scientific nature, provenance or age could be made.
- We find that Mr Sellars has used ANZAC Day as a vehicle for profit and journalistic coverage to benefit financially from the stories generated by him in recent years.
- We find that Mr Sellars lacks the expertise and qualifications to make many of the assertions upon which the Majority Report bases its findings.
- We reject the Majority finding that significant sites of the ANZAC campaign between April and December 1915 have been lost forever as a result of the roadworks. We accept evidence that erosion and changes to the landscape at Gallipoli have resulted in past unearthing of bones.
- We reject outright the Majority finding that Australian officials did have first-hand knowledge while construction was underway that the roadworks were causing damage to the landscape. The overwhelming evidence given by all officials was that they became aware of the extent of the roadworks in February 2005.

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- We reject outright the Majority finding that there was no effort made to investigate allegations that bone fragments had been uncovered, nor to negotiate with Turkish authorities on the extent of the roadworks. The Majority Report overlooks the detailed and compelling testimony of the actions taken by Australian officials both in Australia and in Turkey on the extent of consultation.
 - Given the longstanding relationship of cooperation between Australia and Turkey, the Australian Government accepted assurances given by Turkish officials in relation to the roadworks.
 - We find that officials from Department of Veterans' Affairs (DVA), primarily AVM Beck (OAWG), did have discussions with Turkish officials prior to the roadworks, but these were confined to areas which had been the subject of the correspondence from Minister Vale to Minister Pepe.
 - We find that the procedures for treating human bones at Gallipoli are clear and fall within the responsibility of the Commonwealth War Graves Commission (CWGC). The CWGC maintains a physical presence at Gallipoli and we find that any person, especially one such as Mr Sellars who purports to have an interest in such matters, ought to have availed himself of the updated information on procedures relating to bone discovery.
 - We find that at all relevant times, Australian officials acted properly and within the framework of actions being undertaken by a foreign Government on its own sovereign territory. Any suggestion or inference that Australian officials ought to have taken direct and interventionary action in these circumstances is unjustified and wrong.
 - We reject outright the Majority finding that, by its failure to safeguard the ANZAC Cove site and its Australian military heritage, the Government defaulted on its responsibility to the Australian people, particularly the expectation of veterans. We find this Inquiry to be little more than a blatant and unmitigated political exercise undertaken in the full knowledge of Australia's inability to intervene in the Turkish management of the Gallipoli Peninsula.

Chapter 4 – Research and Heritage Issues

- Whilst Gallipoli is recognised as an international cemetery, the Treaty of Lausanne sets out the responsibilities for maintenance of the area. Whilst Australia is a board member of the Commonwealth War Graves Commission, the Commission is the properly designated international body responsible for the management of the Gallipoli Peninsula on behalf of all participant countries under the overall control and sovereignty of the Turkish Government.

- We recommend that Australia base a full time representative at the CWGC at Canakkle. This appointment will be a formal recognition of the place that the Gallipoli Peninsula holds in the Australian national psyche, assist in the planning of upcoming ANZAC Day ceremonies ahead of the centenary commemorations in 2015 and most importantly, provide a resource to assist the Turkish Government with World Heritage Listing.
- Any historical or archaeological survey of the Gallipoli area is entirely a matter for the Turkish Government. Australia's involvement in his task can only come as a direct consequence of an invitation by the Turkish Government to participate in such a task.
- Any archaeological survey of the roadworks site conducted either prior to or after the commencement of the roadworks is a matter for the relevant Turkish authorities.
- Reliance on the advice of the CWGC advice, this being the body with maximum expertise and authority, was appropriate and justified under the circumstances.
- The Government of Turkey should be credited with the declaration of the Gallipoli Peninsula as an international peace park, in recognition of its significance as an original WWI battlefield of immense importance to the nations who fought there.
- We find that progress on the Heritage listing of the site on the Australian Register of the National Estate is at a sensitive stage. Since discussions on this issue commenced, there has been a shift from heritage listing under Australian legislation to more symbolic means of recognition.
- Even if the site had been World Heritage listed, there would have been no veto over any roadworks – they could still have gone ahead.

Chapter 5 – Completion of roadworks and other current initiatives

- We find that the Inter Departmental Committee is effectively addressing the issues arising from the meeting of Prime Minister Howard and Prime Minister Erdogan, which covers a range of issues, including, but not exclusively, the roadworks.
- We would recommend that the IDC give consideration to any financial commitment to future road works at Gallipoli.

Rejection of the Majority Report's Recommendations

Majority Report Recommendation 1

The Committee strongly recommends remedial action before the onset of winter to stabilise and restore the vegetation at ANZAC Cove. This will ameliorate the scarring caused by the earth works and minimise future erosion.

We reject this recommendation. The Gallipoli Peninsula is within Turkish sovereignty. Following the meeting between Prime Ministers Howard and Erdogan on 26 April 2005, an agreement was reached in relation to various bilateral issues, including pertaining to the Gallipoli Peninsula. We refer subsequently to the Inter Departmental Committee which has been established to give effect to the agreement between the two Prime Ministers.

Any action in relation to the Gallipoli Peninsula is ultimately a matter for the Turkish Government. Australia cannot simply take unilateral action on the territory of another sovereign country.

Majority Report Recommendation 2

The Committee recommends clearer guidelines for the future management, recovery, reburial or storage of human remains at Gallipoli. The current arrangements are clearly not understood, and their effectiveness is doubtful.

We reject this recommendation in that the Treaty of Lausanne establishes the regime for the overseeing of war cemeteries. As indicated above, the Commonwealth War Graves Commission is the properly designated international body responsible for the management of the Gallipoli Peninsula on behalf of all participant countries

Given the expertise and standing of the CWGC, our recommendation would be instead to base a full time official at the CWGC's office in Cannakle on the Gallipoli Peninsula. This appointment not only formally recognises the importance of Gallipoli to the Australian national psyche, but is a practical suggestion which will result in on the ground assistance in the planning of upcoming ANZAC Day ceremonies ahead of the centenary commemorations in 2015 and most importantly, provide a resource to assist the Turkish Government with World Heritage Listing.

Majority Report Recommendation 3

The Committee recommends a full military-historical audit of the entire battlefield area at Gallipoli, with Australian priority for the ANZAC area. This survey must be public information and must be continually updated.

This recommendation again, fails to understand that Turkey is a sovereign country and any decisions relating to what may or may not be undertaken on the Gallipoli

Peninsula is a matter ultimately for the Turkish authorities. Any investigation, survey or "audit" is a matter for consideration by the Turkish Government.

Furthermore, the Majority Report's recommendation fails to recognise Turkish authorities have already agreed to Prime Minister Howard's proposal for a joint historical survey of the ANZAC area (including archaeological aspects) to provide a clear basis for balancing development plans for the park and the preservation of key sites.

It is clear from evidence given at the Inquiry that negotiations for this to occur are on foot.

Majority Report Recommendation 4

The Committee recommends that a working group be established by the government to advise it on the coordination of the conservation management planning of the Gallipoli site. This group should include key government departments (including DVA, DEH and OAWG), the Returned Services League, the Australian War Memorial, and historians and archaeologists with specialist knowledge of Gallipoli.

Again, we reject this recommendation. An Inter Departmental Committee has been established which brings together officials from the DVA (including OAWG), DFAT, DEH and PM&C. The IDC's role is to give effect to the agreement of Prime Ministers Howard and Erdogan of 26 April 2005 in relation to a broad range of bilateral matters, including, a wide range of matters pertaining to the Gallipoli Peninsula:

- Continued close consultation over symbolic recognition of the historical importance of the ANZAC area;
- Further enhanced cooperation on ANZAC issues, including the preservation of sites and the environmental and historical values of the area;
- Agreement for a joint historical survey of the ANZAC area (including archaeological aspects) – as referred to in commentary on our rejection of Recommendation 3;
- Agreement on a joint engineering review to ensure that the roadworks, including measures to control erosion in the ANZAC area are completed in a way as sympathetically as possible to the landscape;
- Cooperation and assistance to provide a safe environment for growing number of visitors to the area whilst protecting important historic sites.

Majority Report Recommendation 5

The Committee recommends that the activities of this working group are documented in annual reports. These reports should be sent to the proposed parliamentary committee (see recommendation 6).

Given the comments made in relation to Recommendation 4, the IDC will be composed of officials from a range of Australian Government departments. As part of

the current annual reporting requirements applicable to Departments, significant event reporting will likely occur through the normal departmental reporting processes. Furthermore, Departments are subject to scrutiny pursuant to the Estimates process. This, in our view, will afford sufficient reporting for the IDC.

Majority Report Recommendation 6

The Committee recommends to the parliament that it establish a joint standing military commemorations committee. This Commemorations Committee will exercise bi-partisan oversight over all commemorative programs, including the management of all sites of Australian military heritage. It is hoped that the establishment of the Committee will remove the risk of political exploitation of commemorative events by the government of the day.

We reject this recommendation as we believe that it will lead to a less harmonious relationship between Australia and Turkey than that which has existed over the years. Indeed, as we have expressed earlier, we are concerned as to the effect that the Inquiry may have on the relationship. This report shows that rather than removing the risk of political exploitation, risk will actually be heightened by the establishment of such a committee.

We are concerned that the establishment of such a parliamentary committee further opens up scope for unnecessary and ongoing opportunities for political point scoring. Given the sensationalism that this Inquiry has produced, one can only imagine the effect and magnitude that an ongoing parliamentary committee would generate.

As previously indicated, avenues of current parliamentary scrutiny are sufficient.

Majority Report Recommendation 7

The Commemorations Committee should receive quarterly reports from the relevant government agencies on all commemorative activity and planning, including all memorial construction, event preparation, meetings, agendas, outcomes, public education and budgets. The Commemorations Committee should also receive advice from the working group on all military heritage conservation issues, and develop a rapport with comparable groups in Turkey and New Zealand.

As outlined in our earlier responses to Recommendation 6, a commemoration committee is not necessary for reasons previously outlined.

Majority Report Recommendation 8

The Committee recommends that the Australian Government should maintain a dialogue with the Turkish Government on the symbolic recognition of Gallipoli, with the express objective of a management plan for the protection of Australian military heritage at Gallipoli.

This recommendation fails to recognise the ongoing and dialogue already existing between Turkey and Australia from the Prime Ministerial level to departmental level on a wide range of bilateral issues, including those relating to the Gallipoli Peninsula. Indeed, we are most concerned that the Majority Report may be negatively received by Turkey and has the potential to damage the good relations between the two countries.

Majority Report Recommendation 9

The Committee recommends that special arrangements be established whereby discussions and negotiations with the Government of Turkey with respect to the international recognition of Gallipoli should be reported to the new parliamentary standing committee on a quarterly basis.

Based on our previous comments in relation to Recommendation 6, we believe such a committee is not necessary.

Since 2002, the Howard Government has kept the Australian people, through the appropriate avenues, well informed as to the progress of recognition of the Gallipoli area. In keeping with this approach, we are confident that any future decisions will be similarly dealt with.

List of Abbreviations

ANZAC	Australian and New Zealand Army Corps
CWGC	Commonwealth War Graves Commission
DEH	Department of the Environment and Heritage
DFAT	Department of Foreign Affairs and Trade
DVA	Department of Veterans' Affairs
IDC	Inter-Departmental Committee
OAWG	Office of Australian War Graves
PMC	Department of the Prime Minister and Cabinet

Committee Hansard Proof Committee Hansard, Senate, Finance and Public
Administration References Committee, Friday, 17 June 2005,
Canberra

Chapter 1

The Significance of the Gallipoli Peninsula

The 1915 Allied campaign at Gallipoli remains one of the most significant in our history.

There has been a marked resurgence of interest in visiting Gallipoli by a growing number of Australians, in particular, many young people over the last decade. Indeed, for many young people it has become a rite of passage – an important milestone in their travels.

ANZAC Day causes Australians to reflect upon the enduring symbols of independence, nationhood and the quintessential ethos of mateship which remains so embedded in the psyche of the Australian nation.

The significance of Gallipoli to Australians is demonstrated by the strong and growing attendance at ANZAC Day ceremonies not only at ANZAC Cove, but all over Australia.

1.1 Sovereignty of the Turkish State

It is critical to any inquiry into the issues before this Committee that it is restated unequivocally that the Gallipoli Peninsula lies within the territory of the Turkey.

We refer specifically to the Department of Foreign Affairs and Trade Submission which attests that:

On numerous occasions, the Australian Government has expressed its appreciation for the role of Turkish authorities in maintaining the ANZAC sites and in enabling organisation of an annual commemoration of ANZAC Day on the Gallipoli Peninsula.²

This is further underlined by the media statement by Prime Minister, the Hon John Howard MP of 26 April 2005 following his meeting with the Prime Minister of Turkey, Mr Erdogan in Istanbul:

Prime Minister Erdogan and I reaffirmed our shared understanding of the profound mutual significance of Gallipoli to the national identities and historical experience of Turkey and Australia. The annual commemorations of those events which take place in each country each year attest to their continuing relevance to our peoples and to our nations today. On behalf of the Australian people, I expressed deep appreciation for Turkey's stewardship of

² Department of Foreign Affairs and Trade, *Submission*, June 2005

the ANZAC area and the warm welcome extended to the many thousands of Australian visitors there each year.

It is again reaffirmed in paragraph 2 of the correspondence from Minister Vale to Minister Pepe dated 2 August 2004 and set out below.

It is interesting to note that the Majority Report includes very few references to Turkish sovereignty. It is therefore gratifying to note that in paragraph 1.25 of the Majority Report, there is at least some acknowledgement, albeit in passing, that the Gallipoli Peninsula is part of Turkey.

The Committee and its witnesses acknowledge that construction on the Gallipoli Peninsula, and efforts to heritage list the area, are ultimately matters for the sovereign state of Turkey. The Gallipoli Peninsula is a part of the territory of Turkey.

The facts of Turkish sovereignty is an issue that lies at the core of this Committee's deliberations and must be stated up-front and unequivocally.

The Gallipoli Peninsula is managed by a number of Turkish authorities. Ms Fisher (DFAT), gave the following evidence on this point:

Ms Fisher—A number of authorities. The three main areas involved are the department of national parks, the environment and forestry ministry and an environment adviser to the ministry of foreign affairs.

Senator Fierravanti-Wells—And we deal with all of them through our embassy?

Ms Fisher—Yes.

Senator Fierravanti-Wells —Who has responsibility for safety and security at the ANZAC Day commemorations on the Gallipoli peninsula?

Mr Newman—The Turkish Jandarma has overall responsibility for security.

1.2 The 1915 Campaign

On 2 August 1914, two days before Turkey went to war with the Allies, Turkey and Germany signed an alliance that pitted both nations against Russia.³ Turkey's alliance with Germany was fairly pragmatic. The Ottomans had no grievance with either France or Britain, but saw the Russians as a traditional enemy. Many within the Turkish bureaucracy, including the Minister of War, Enver Pasha, had sympathies with the Germans. After a flurry of diplomatic activity, it was that linkage which prevailed.

³ L. Carlyon, *Gallipoli*, Pan MacMillian Australia Pty Ltd, 2001, p.41

The 1915 Dardanelles campaign was intended as a means for the Allies to make progress on a second front, linking with Russia to the north, given the prospect of prolonged trench warfare on the Western Front. In September 1914, Winston Churchill's plan was clear: "*a good army of 50,000 men and sea power - that is the end of the Turkish menace*".⁴ The plan was for the Allies to claim the Dardanelles, and then Constantinople (Istanbul).

By February 1915, however, the British command believed a swift and effective naval attack would be adequate. On 19 February, Allied battleships entered the Dardanelles and attacked the fixed guns on the outer Turkish forts.

The naval attack came to a head on 18 March, when seventeen Allied battleships attacked Turkish forts at the Narrows. In the ensuing battle, the Allies lost three of these ships - *Ocean*, *Irresistible* and *Bouvet*- and another three - *Gaulois*, *Suffren* and *Inflexible* - ran aground or were shelled. On 18 March, 700 British and French sailors were killed; the Turks lost 40 soldiers. It was in response to the complete failure of the naval campaign that the Allies questioned the merit of a military landing on the Peninsula. In the event, the decision was made to proceed with an army of 75,000 men, including ANZAC troops on training exercises in Egypt. The ANZACs had been preparing for conflict on the Western Front.

The 1915 conflict on the Gallipoli Peninsula was part of an Allied plan for Australian and New Zealand troops to distract the Turkish army from British troops landing further down the peninsula. It was hoped that the British would then face little resistance in their push to capture the Dardanelles, and then Istanbul, assuming naval success.

The Australian Imperial Force's 9th and 10th battalions landed at what is now ANZAC Cove, shortly before dawn on 25 April 1915, and made initial progress up steep slopes. By day's end, however, they were ordered to dig trenches, as Turkish forces had secured the cliffs. After six months of trench warfare, the British commanders realised the campaign's failure and ordered a withdrawal.⁵

AVM Beck (OAWG) told the Committee that the nine-month conflict on the Peninsula cost the lives of something in the order of 87,000 Turkish, 22,000 British, 10,000 French, 8,700 Australian and 2,700 New Zealand soldiers, among others.⁶

In total, around 450,000 people were killed or wounded.⁷ It is estimated that one-third of Allied soldiers who fell have no known grave. The figure is much higher for the Turkish army and 4,200 Australians were never recovered.

⁴ L. Carlyon, *Gallipoli*, Pan MacMillian Australia Pty Ltd, 2001, p.56

⁵ See 'Our Federation Journey, 1901–2001, Topic Six—The ANZAC Legends', <http://www.museum.vic.gov.au/federation/pdfs/ANZACw.pdf> (accessed 22 June 2005)

⁶ *Committee Hansard*, p.82

⁷ <http://www.abc.net.au/tv/btn/teachers/gallipoli/REVEALINGGALLIPOLI.pdf> (accessed 22 June 2005)

1.3 The National and Heritage Significance of the Peninsula

1.3.1 Significance to Australia

The national significance of the 1915 conflict, and the heritage value of the Gallipoli Peninsula, is undisputed.

Australia's greatest military defeat has been transformed, through time and remembrance, into iconic status.⁸ The battle is widely regarded as the foundation legend of Australian military history and as a potent symbol of the birth of a nation. It was reported first-hand by the eminent military historian, Charles Bean; popularised in Peter Weir's 1981 film, *Gallipoli*; documented in Les Carlyon's 2001 book of the same name; and was recently revisited in Dr Peter Stanley's book, *Quinn's Post*.

Various departmental submissions indicate that ANZAC Day ceremonies had been held intermittently in the vicinity of ANZAC Cove at various times since the early 1920s with the Dawn Service being conducted more regularly by the Australian and New Zealand Embassies during the 1980s and was held at the Ari Burnu War Cemetery until 1999. The Australian Service is conducted at the Lone Pine War Cemetery.

In the 1980s, those attending the ANZAC commemorations at ANZAC Cove every year were limited to several hundreds of people.

In 2000, this figure had grown to about 10,000 attendees, being mostly Australians but also including some New Zealanders and Turks. AVM Beck (OAWG) indicated at the Committee that the numbers had increased to 17,000 in 2005.⁹

Furthermore, AVM Beck (OAWG) also referred to some work which had been done on forward projections in relation to young people travelling overseas. He indicated that the growth was occurring due to working visa arrangements and additionally, referred in evidence to the increase in tour operators out of Istanbul with the number up to 300 or 400, and a continuous growth anticipated.¹⁰

Since that time, ceremonies have been planned and conducted by the Department of Veterans' Affairs (DVA) in cooperation with the Australian Embassy in Ankara. The Director of War Graves has primary responsibility for this work supported by the Office of Australian War Graves. In relation to the Dawn Service, close liaison is maintained with the New Zealand Government.¹¹

⁸ 'Remembering Gallipoli', ABC, *Lateline*, 25 April 2002, <http://www.abc.net.au/lateline/stories/s540706.htm> (accessed 22 June 2005)

⁹ *Committee Hansard*, p.36

¹⁰ *Committee Hansard*, p.36

¹¹ Department of Veteran's Affairs, *Submission*, 9 June 2005

1.3.2 Significance to Turkey

The Turkish people similarly view the Canakkale naval and Gallipoli land battles as founding national events, albeit for different reasons. The conflict was Turkey's sole victory in five First World War campaigns.¹² It is seen as the last great victory of the Ottoman Empire. More particularly, it flagged the military capability and ambition of Mustafa Kemal, and the beginning of his role in Turkey's transition to a secular republic.

Kemal, who in 1923 became the first president of the newly-created Republic of Turkey, was commander of the 19th Division at Gallipoli. He was on hand to oppose the Allied landing in April 1915, and was feted for his military strategy.¹³ In 1934, Kemal was awarded the title "Ataturk" - father of the Turks. The same year, he wrote of the ANZACs killed at Gallipoli, "*you are now lying in the soil of a friendly country*".

Mr Sullivan gave evidence that the official toll of Turkish dead was 87,000 although it may have been higher.¹⁴

During the course of acknowledging the presence at the Inquiry of the First Secretary of the Turkish Embassy, Mr Metcalfe (PM&C) made the following important observation.¹⁵

The final point I would like to make is that I think it is appropriate at the outset for Prime Minister and Cabinet (PM&C) to acknowledge, yet again, our deep appreciation of the importance of the ANZAC issue for both Australia and for Turkey to acknowledge the shared history that it has given both countries, and the generosity of Turkey in continuing to welcome tens of thousands of Australians to Gallipoli and to Turkey each year. In doing that I acknowledge the presence of the First Secretary of Turkey up here today. The fact that Turkey has provided protection to the Gallipoli area in the form of a national park and the extraordinary significance of the naming, as a place name in Turkey, ANZAC Cove for the 75th anniversary I think is evidence of the extraordinary tradition and legacy that has been left as a result of the Gallipoli campaign.

In short, not only has Turkey seen fit to protect Gallipoli as a national park, but to honour the memory of those killed by the naming of ANZAC Cove on Turkish soil.

¹² P. Gough, 'From Heroes' Groves to Parks of Peace: landscapes of remembrance, protest and peace', *Landscape Research*, 1 July 2000, vol. 25, no. 2, pp.213–228(16)

¹³ Australian War Memorial, 'Ataturk', <http://www.awm.gov.au/encyclopedia/ataturk.htm> (accessed 22 June 2005)

¹⁴ *Committee Hansard*, p.82

¹⁵ *Committee Hansard*, p.114

1.3.3 Significance to other Nations

There were British, French, Indian, Newfoundland, Australian, New Zealand and Turkish soldiers involved in the Gallipoli campaign.¹⁶

Evidence given at the Inquiry was that about 22,000 British soldiers died, 8,700 Australians, 2,700 New Zealanders and 10,000 French.¹⁷

Hence, in addition to millions of Turkish visitors and thousands of Australian and New Zealand visitors, it is likely that the Gallipoli Peninsula is visited by many other visitors from different nationalities.

1.4 The Gallipoli Peninsula, the Peace Park and the ANZAC Commemorative Site

1.4.1 Changes to Gallipoli since 1915

The physical appearance of ANZAC Cove has changed significantly since 1915.¹⁸ The ANZACs themselves made changes to the Peninsula including:

- Roads and tracks constructed from ANZAC Cove to the north and south along the coast and up to surrounding hills; and
- road built above the beach at ANZAC Cove, running generally along the line of the current road.¹⁹

The DVA Submission also refers to the changes following the evacuation in December 1915 and the re-occupation of the area by the Turkish forces. These include:

- extension of the road above the Beach at ANZAC Cove by Turkish forces;
- further extension of the road from Maidos (now Ecebat) through Gaba Tepe (Kabatepe) to ANZAC Cove and beyond to facilitate the building of cemeteries and the erection of memorials; and
- subsequent upgrading and repairing of the road above the Beach to cope with increased traffic, erosion and subsidence.

The main period of cemetery and memorial planning on the Peninsula took place in the 1920s under the direction of the Imperial (later Commonwealth) War Graves Commission (CWGC). There are currently 31 cemeteries and five Allied memorials on the Gallipoli Peninsula.²⁰

¹⁶ Mr Sullivan, *Committee Hansard*, p.82

¹⁷ Mr Sullivan, *Committee Hansard*, p.82

¹⁸ Department of Veteran's Affairs, *Submission*, 9 June 2005, p.1

¹⁹ Department of Veteran's Affairs, *Submission*, 9 June 2005

²⁰ *Committee Hansard*, p.82

In 1973, the Turkish Government announced that 33,000 hectares on the southern tip of the Gallipoli Peninsula would become a designated National Park. The site covers the Gallipoli battlefield and the area of the Battle of Canakkale in the Dardanelles. In the 1980s, it was designated as a heritage site by the Turkish Government. It is included in the United Nations' List of National Parks and Protected Areas.

In evidence to the Committee, Mr Young (DEH) described the nature of the heritage listing:²¹

Senator Fierravanti-Wells—In his press release of 26 April the Prime Minister referred to the declaration of the area as a national park in, I think, 1973 by the Turkish authorities. Can you tell me what we know about that declaration?

Mr Young—I am certainly no expert in Turkish law, but we understand that, by and large, as with most countries in the world, Turkey has legislation which allows it to declare as national parks places of particular importance. I believe that an area larger than the ANZAC area has been declared a national park under their national parks legislation.

Senator Fierravanti-Wells—I understand the area was declared a heritage site by the Turkish government in the early eighties. Can you tell us a bit about that?

Mr Young—That is similar to the way in which we can designate national parks in Australia and designate particular areas of cultural or heritage importance within those national parks. I believe that is what Turkey has done under its equivalent legislation.

In 1997, on the initiative of the President of the Republic of Turkey, an international competition was launched to transform the area into a 'Peace Park'. The objective was to "*design a place devoted to peace and harmony*", while respecting the site and the natural environment.²² The winners, Norwegians Lasse Brogger and Anne-Stine Reine, were announced in 1998.

1.4.2 ANZAC Commemorative Site

In 1999, the Australian and New Zealand Governments proposed an ANZAC Commemorative site. The ANZAC Commemorative Site was constructed at North Beach during 1999-2000 and officially opened by the Australian and New Zealand Prime Ministers during the 2000 ANZAC Dawn service.

²¹ Committee Hansard, p.112

²² See UIA, 'International Competitions', <http://www.uia-architectes.org/texte/news/2a1aad.htm> (accessed 22 June 2005)

The sharp increase in visitations for the April ANZAC Day Service - from 4,500 in 1995 to 8,500 in 1999 - required a move from the Ari Burnu War Cemetery.²³ In particular, there were concerns that the volume of visitors to the Cemetery was causing permanent damage to graves and plantings. In 1999, there were around 5,000 people attending the last of the services at the Ari Burnu War Cemetery.²⁴

In 2000, the Office of Australian War Graves (OAWG) constructed the ANZAC Commemorative Site within the Battlefield Heritage Zone of the Peace Park. It is situated 300 metres north of the Ari Burnu Cemetery on North Beach, and accessed from the coastal road. The Australian Government committed \$1.2 million to the project.²⁵

In April 2000, the first ANZAC Day ceremony at the new Commemorative site, between 9,000 and 10,000 people attended services on the Peninsula. Of these people, only 2,000 attended the ceremony at Ari Burnu.²⁶

However, given the increase in numbers visiting the area, facilities are not adequate and access roads are difficult with low traffic and parking capacity.

In his evidence, AVM Beck (OAWG) stated that Australia has not been able to make any improvements to the ANZAC Commemorative Site since it was constructed:²⁷

In terms of what I might claim that we were responsible for, we have not been able to make any improvements to the ANZAC commemorative site since we constructed it. We have made some attempts to raise the levels at the rear above the road to try to improve sightlines. That was unsuccessful. Certainly all of last year we were trying to get the site enlarged. That has been unsuccessful.

However, AVM Beck (OAWG) did refer to certain improvements.²⁸

But, in terms of the improvements, they are all mobile activities—things that we can install and take away, like the toilet trailers. We have had great difficulty getting access to mains water. We have had to cart it a few kilometres by tractor every day for the irrigation of the site by hose. But, as to other areas of improvement—and I am talking of both the ANZAC commemorative site and Lone Pine—we have installed improved seating over the last few years. This year, for the first time, we installed seating at the ANZAC commemoratives site. Off the top of my head, I cannot think of other changes that we have been

²³ 'Building the ANZAC Commemorative Site', <http://www.ANZACsite.gov.au/3building/concept.html> (accessed 22 June 2005)

²⁴ *Committee Hansard*, p.36

²⁵ Department of Veterans' Affairs, *Annual Report*, 1999–2000.

²⁶ *Committee Hansard*, p.36

²⁷ *Committee Hansard*, p.39

²⁸ *Committee Hansard*, p.39

able to make. We certainly keep building more and more toilet trailers, but there never seem to be enough.

This is an important piece of testimony by AVM Beck (OAWG) in that it graphically highlights the restrictions on the Australian authorities in terms of ameliorating facilities at the ANZAC Commemorative Site. Hence, the criticism levelled at the Australian Government for an alleged failure to take action on the territorial soil of another country is not justified.

The accompanying map shows the main features of historic significance on the Gallipoli Peninsula, the remit of the Peace Park, and the two roads of interest to the Committee.

1.5 The Treaty of Lausanne 1923

The Treaty of Lausanne 1923 defines the boundaries of the ANZAC battlefield. As stated by DVA the Treaty:²⁹

grants rights to the (now) Commonwealth War Graves Commission to safeguard the cemeteries and memorials on Gallipoli.

The DVA Submission states that the Turkish Government's approval of the ANZAC Commemorative Site was the first time a place had been approved outside of the Treaty obligations concerning cemeteries and memorials. The ANZAC Memorial Site and associated plant and equipment are maintained by DVA.

However, various submissions also cited the Treaty of Lausanne 1923. The DVA Submission explains that the Treaty:³⁰

defines the boundaries of the ANZAC battlefield and grants rights to the (now) CWGC to safeguard the cemeteries and memorials on the Gallipoli Peninsula. Turkey retains overall sovereignty.

Part V, section 128 of the Treaty states:

The Turkish Government undertakes to grant to the Governments of the British Empire ... and in perpetuity the land within the Turkish territory in which are situated the graves, cemeteries, ossuaries or memorials of their soldiers and sailors who fell in action... The Turkish Government undertakes further to give free access to these graves, cemeteries, ossuaries and memorials, and if need be to authorise the construction of the necessary roads and pathways.

In evidence, Mr Sullivan stated that:³¹

²⁹ Department of Veteran's Affairs, *Submission*, 9 June 2005, p.1

³⁰ Department of Veteran's Affairs, *Submission*, 9 June 2005, p.2

³¹ Mr Sullivan, *Committee Hansard*, p.80

In the Treaty, the ANZAC battlefields are granted to the Government of Britain, the 'British Empire'. It is very vague about what that means, although it certainly very explicitly states that Turkish sovereignty is retained.

In this context, Article 129 makes specific mention to "*the region known as ANZAC, Ari Burnu*". Article 135 states that the Turkish Government undertakes "*to maintain in perpetuity the roads leading to this land*".³²

Various interpretations were sought to be given to the Treaty of Lausanne. Notwithstanding his lack of expertise in this area, the Majority Report appears to make much of the novice interpretation by Mr Sellars. This is contrary to the bulk of the opinion proffered by various qualified officials with requisite expertise in the area of international treaties.

The following example highlights the Majority's reliance on Mr Sellars' erroneous view of the Treaty of Lausanne details.

Senator Bishop—Can we now turn to this issue of the treaty raised by Mr Sellars. I take it you have seen his submission this morning?

Mr Newman—I was listening on the television.

Senator Bishop—What veracity is there to the claim made by Mr Sellars in his submission that the treaty of Lausanne gave Australia authority over ANZAC Cove, as described by the survey reference points? Can you outline the law on that? Article 129 of the treaty says:

The land to be granted by the Turkish Government will include in particular, as regards the British Empire, the area in the region known as ANZAC (Ari Burnu), which is shown on Map 3.

There is a whole range of conditions attached of what you can and cannot do. Could you give us the legals on that?

Mr Newman—The legal advice I have on that is that article 128 of the treaty of Lausanne makes it quite clear that the treaty does not in any way affect Turkish sovereignty over any of the lands mentioned. While article 129 purports to grant the land to the British Empire, that grant of land was made subject to conditions that limited the rights of governments of the British Empire, including in the way the land could be used. The Turkish government has undertaken and is obliged to maintain in perpetuity the roads leading to the land and, if necessary, to authorise the construction of any roads and pathways.

³² The Lausanne Treaty 1923. Available at: <http://www.hri.org/docs/lausanne/part5.html>

Senator Bishop—You are obviously aware of this issue. Have you received legal advice on the effect of the treaty and its application to the British Empire and countries like Australia?

Mr Newman—That was the legal advice of this morning.

Senator Bishop—Could you table that advice to the committee?

Mr Newman—I believe I could, yes.

Senator Bishop—Prior to getting that legal advice this morning, has the department taken legal advice on the issue?

Mr Newman—Yes, we have.

Senator Bishop—What was the legal advice then?

Mr Newman—The same.

Senator Bishop—Exactly the same. So why did you get new advice?

Mr Newman—Because the senator here had been raising it and I thought it was wise to check, given the issue had come up in that form.

Senator Bishop—So the current advice is the same as the previous advice?

Mr Newman—Yes.

Senator Bishop—I ask you to take on notice tabling both sets of advice.

Mr Newman—We will take it on notice. I will take advice on that.

In short, despite a clear legal interpretation that the treaty does not in any way impinge on Turkish sovereignty, much was sought to be made at the hearing of Mr Sellars' view, a view which he later conceded were only "*personal comments*".³³

Mr Sellars also made certain allegations, again through media reports and in his Submission, that the Turkish authorities were about to impose a fee for access to the Gallipoli Peninsula.

It is surprising that Mr Sellars made this allegation given his insistence on having read the Treaty of Lausanne. As Mr Sullivan stated, the Treaty:³⁴

³³ Mr Sellars, *Committee Hansard*, p.29-30

³⁴ *Committee Hansard*, p.80

requires the Turkish government to provide access to those cemeteries and graves free of charge. There could never be a question of a fee to go to the cemeteries.

Indeed, the wording of the Treaty and the evidence of Mr Sullivan also cast doubt on the assertion that a fee could be charged into the National Park, given that the ANZAC battlefields are part of the National Park.³⁵

We also note that Mr Newman (DFAT) was asked to proffer a view on the meaning of "free access". He replied:³⁶

I think it is a commonsense reading. It says 'representatives of the British, French or Italian governments as well as persons desirous of visiting the graves, cemeteries, ossuaries and memorials shall at all times have free access thereto

*...
Certainly, from our perspective, we would see 'free access' as meaning uninhibited in any way in terms of a fee.*

1.6 Commonwealth War Graves Commission (CWGC)

The Commonwealth War Graves Commission was established by Royal Charter on 21 May 1917, the provisions of which are now amended and extended by a Supplemental Charter of June 1964. Its duties are to mark and maintain the graves of the members of the forces of the Commonwealth who died in the two World Wars, to build memorials to those who have no known grave or who perished at sea and to keep records and registers. The cost of the work is shared by the member governments - Australia, Britain, Canada, India, New Zealand and South Africa - in proportions based on the numbers of their graves. Other Commonwealth countries contribute by carrying out the routine care and maintenance of graves and memorials in their own lands.

The High Commissioners from each of the member governments are represented on the governing body of the Commission along with other Commissioners appointed by Her Majesty the Queen. To enable the Commission to carry out its world-wide task efficiently and effectively, in addition to the work carried out at Head Office, it has also established offices where there are major concentrations of Commonwealth war graves.³⁷

³⁵ Mr Sullivan, *Committee Hansard*, p.80

³⁶ *Committee Hansard*, p.96

³⁷ Organisational Structure, Commonwealth War Graves Commission. Available at <http://www.cwgc.org/cwgcinternet/search.aspx>

1.6.1 CWGC on Gallipoli Peninsula

AVM Beck (OAWG) highlights the responsibility of the CWGC for gravestones and cemeteries on the Gallipoli Peninsula.³⁸

I am not responsible for gravestones, but the commission takes a great interest in Australian headstones there. I suppose we can claim some credit for three matters. Firstly, we have got the re-engraving of the headstones started—they first started at Lone Pine. Secondly, we have also managed to rearrange the maintenance schedule for the commission so that they do not dig up all the turf at Lone Pine during the ANZAC Day ceremonies. Thirdly, we have managed to get irrigation of the Beach cemetery and Ari Burnu, and they are both looking much better. They are the only two cemeteries of the 31 on the peninsula that are irrigated.

The CWGC have an office on the Gallipoli Peninsula.³⁹ There is a senior person in Canakkale responsible to the CWGC for Turkey, and in particular, for the Gallipoli Peninsula.⁴⁰

Mr Sullivan advised the Committee of Australia's connection with the CWGC:⁴¹

We are a board member of the Commonwealth War Graves Commission but that does not involve us in their everyday work. We contribute to it, we pay money and we are a board member.

Whilst Gallipoli is recognised as an international cemetery, the Treaty of Lausanne sets out the responsibilities for maintenance of the area. Whilst Australia is a board member of the Commonwealth War Graves Commission, the Commission is the properly designated international body responsible for the management of the Gallipoli Peninsula on behalf of all participant countries under the overall control and sovereignty of the Turkish Government.

We recommend that Australia base a full time representative at the CWGC at Canakkale. This appointment will be a formal recognition of the place that the Gallipoli Peninsula holds in the Australian national psyche and assist in the planning of upcoming ANZAC Day ceremonies ahead of the centenary commemorations in 2015.

³⁸ *Committee Hansard*, p.39

³⁹ Mr Sullivan, *Committee Hansard*, p.42

⁴⁰ Mr Sullivan, *Committee Hansard*, p.56

⁴¹ *Committee Hansard*, p.55

1.6.2 Procedure for dealing with uncovered bones

AVM Beck (OAWG) gave evidence as to the proper process once bones were uncovered with respect to identification and burial. Given that the ANZAC area is considered by the CWGC to be one large cemetery, it is unique in the fact that the Commission management rebury the bones where they are found. The current plan is for individuals to report findings and for the commission to attend, investigate and bury any unearthened remains.⁴²

Accordingly to AVM Beck (OAWG), relocation of bones may occur if they are likely to be eroded by water, in which case they may be moved and interned somewhere protected and nearby. Otherwise, fragments are reburied where they are found - in situ.⁴³

Mr Sullivan was emphatic in stating that notification of the discovery of remains to the CWGC was important in the procedure, particularly in respect of bones where they do not have a natural resting place. He stated:⁴⁴

The first advice is that you leave bone fragments where they are. Do not touch them; leave them. If it is anything significant, please report it. The commission probably does not want to go and see every small fragment; it will probably say: 'Please tell us if the bone is somewhere where it is in danger. Please notify us or, if necessary, bring it to us.' That is certainly the current advice.

1.7 The Turkish Government's Financial Commitment to New Roads

In his evidence, Mr Sullivan, in reference to responsibilities under the Treaty of Lausanne, stated that Turkey is responsible for roads on the Gallipoli Peninsula.⁴⁵

The Turkish Government has committed \$A100 million to various activities on the peninsula, including the upgrade of roads and construction of new car parks. In May 2005, Mr Bulent Arinc, the President of the Turkish Grand National Assembly, announced that \$A25 million has already been spent upgrading the coastal road.⁴⁶ The roadworks cover 6.3 kilometres, from Brighton Beach in the south, past ANZAC Cove, Ari Burnu, the ANZAC Commemorative site, and up to Embarkation Pier (see map).

⁴² *Committee Hansard*, p.77

⁴³ *Committee Hansard*, p.78

⁴⁴ *Committee Hansard*, p.79

⁴⁵ *Committee Hansard*, p.80

⁴⁶ P. Malone, 'Turkey plans to spend \$100m on Dardanelles work: President', *The Canberra Times*, 13 May 2005, p.9

AVM Beck (OAWG) also gave evidence about his understanding of Turkish government spending on roads in Gallipoli during his meetings in October 2004. He states:⁴⁷

Senator Bishop—I accept that. My question to you, Air Vice Marshal, is: when was that work drawn to your attention by the Turkish authorities during your various meetings?

AVM Beck—They did not draw it to my attention. I did not gather that from looking at this master plan, because that was not really discussed with us. He was just showing us that there were a number of projects on the peninsula that they were going to spend the \$US64 million on. I never gained any information from Yalinkilic about the roadworks. I think I first heard about it from the embassy when I was told that the road was going to be widened from 5.5 metres to seven metres.

⁴⁷ *Committee Hansard, p.49*

Plate (1) 1.8 Map of the Gallipoli Peninsula



Source: Geoscience Australia

Chapter 2

The Need for Roadworks and the Involvement of Australian Authorities

2.1 Conditions of the Roads

This chapter shows that the partially completed roadworks at Brighton Beach, ANZAC Cove and North Beach were urgently needed. It identifies several factors contributing to the decay of the coastal road, including erosion, lack of adequate repair work in the past and the increased volume of traffic over the past five years. It is important to stress that even critics of the impact of the recent roadworks acknowledge that without major repair work, both the coastal road and the road from Chunuk Bair to Lone Pine posed threats to public safety.

The evidence presented to the Committee was unanimous that the roads around Gallipoli Peninsula were in need of repair. The continuing popularity of ANZAC Day commemorations has increased the volume of traffic on these roads, particularly coach traffic from the north of ANZAC Cove.

The number of visitors attending the 25 April 2005 ceremony at ANZAC Cove has increased from roughly 10,000 people in 2002 and 2003, to an estimated 18,000 in 2004 and 17,000 in 2005.⁴⁸ The Committee heard evidence that hundreds of coaches used the roads on and around ANZAC Day.

The roads on the Peninsula are also crumbling from erosion, poor construction and lack of past repair work. Mr Sullivan asserted that Australian authorities often expressed concerns to the Turkish Government that the coastal road was unsafe. He stated in evidence that:⁴⁹

... the professional view that there has been horizontal erosion at ANZAC Cove of approximately 10 metres my major concern was that buses...were going past each other on a road that was crumbling into the sea.

Turkish authorities also appear to have held these concerns. The Committee received a submission from a Turkish-born Australian citizen, Mr Vecihi Basarin, who had spoken to the Turkish authorities responsible for the roadworks. Mr Basarin wrote

⁴⁸ These figures are drawn from media reports. 'Thousands pay tribute at historic site', *The Age*, 26 April 2002; N. Bitá, '10,000 brave Gallipoli cold', *The Weekend Australian*, 26 April 2003; I. Warden, '18,000 gather in cold to remember ANZACs', *The Canberra Times*, 26 April 2004, p. 1; J. Button, 'In their thousands they came to proclaim, we do remember them', *The Age*, 26 April 2005, p.1

⁴⁹ *Committee Hansard*, p.73

that the authorities had told him their concerns that one of the buses full of school children or tourists would be involved in a road collapse into the sea.⁵⁰

The Committee heard evidence that the road from Chunuk Bair down to Lone Pine was also in urgent need of repair.⁵¹

Mr Sullivan noted that the road is highly arched, and "*the prospect of something disastrous occurring is very real*".⁵² AVM Beck (OAWG) also noted the "*very high crown*" on the Chunuk Bair to Lone Pine road made two-way coach access difficult.

AVM Beck (OAWG) further claimed that the connecting road from the Kemalyeri Memorial to Chunuk Bair is "*very old narrow bitumen*". In the past, the difficulty of passing parked coaches on this road meant that "*hundreds of coaches were not even getting to Lone Pine or Chunuk Bair for the Service*".⁵³

Mr Bill Sellars, who has lived on the Gallipoli Peninsula in the town of Eceabat for the past three years, gave evidence to the Committee by teleconference. While a prominent critic of the roadworks, he admitted that both the coastal road and the Chunuk Bair to Lone Pine road were breaking up due to erosion and posed safety and environmental concerns. In evidence he stated:⁵⁴

Concerning the roadworks, I have said in articles that I have written and in interviews that I have given to the media that there is no question that the roads around ANZAC Cove to the north and south and, indeed, elsewhere on the battlefields were in urgent need of repair. Here were concerns about safety and environmental protection because of erosion.

Mr Sellars did note that at one point above ANZAC Cove, there had been "*some collapsing of the road*". However, he claimed this condition was attributed to the collapse of a culvert built by the Turkish state "*many years ago*".⁵⁵

Mr Sellars agreed that construction on the Chunuk Bair to Lone Pine road was "*definitely necessary*", but added that "*any widening of the road from its original width would be unnecessary*".⁵⁶ The Majority Report relies on his evidence, notwithstanding he has absolutely no expertise to make such assertions. In addition, it contradicts evidence given to the Committee by a number of qualified and professional persons.

⁵⁰ Mr Vecihi Basarin, *Submission*, p.2

⁵¹ Mr Sullivan, *Committee Hansard*, p.70

⁵² *Committee Hansard*, p.70

⁵³ *Committee Hansard*, p.69

⁵⁴ *Committee Hansard*, p.2

⁵⁵ *Committee Hansard*, p.8

⁵⁶ *Committee Hansard*, p.9

Further, Mr Sellars claimed that widening this road on the scale that was conducted at ANZAC Cove would risk exhuming bones, and the tunnels and trenches still intact from the 1915 campaign.⁵⁷

Again, the Majority relies on these assertions and fails to take account the evidence given by AVM Beck (OAWG) based on engineering advice provided to him.⁵⁸

AVM Beck—If we could just go to the map, the ridge road—the one running inland up to Chunuk Bair; the one that runs past Lone Pine—has become a one-way road as part of a loop. What is currently the dotted line here is now a road; just imagine that as an anticlockwise loop. The section from Chunuk Bair south to the intersection with Brighton Beach on the coast is one way and very narrow. There is a section from Chunuk Bair south-east to Kemalyeri memorial, which is not shown there but it is where the fully lined road intersects with the dotted line. That was Ataturk’s headquarters. There is a memorial there. That road was very old narrow bitumen. When you have 500 coaches parked on that section, nothing can pass the parked coaches. Hundreds of coaches were not even getting to Lone Pine or Chunuk Bair for the service. So we have a major problem there in getting to those services.

When the services are over, because all these coaches are parked there it takes hours to move the traffic again. So quite simply the proposals were to improve that section from Chunuk Bair down south-east to Kemalyeri memorial and perhaps—just a suggestion—to restore two-way traffic to the roads south-west of Chunuk Bair through Lone Pine. Of course, the purpose of twoway traffic is to free up all the coaches. All the Australians at Lone Pine, for example, could leave after their service rather than there being a complete stop of the traffic until all the services are over.

Senator Bishop—I understand that. Given that the road was given specific mention—and I understand your reasoning there—why didn’t you also seek assurances on environmental and heritage research and protection there, it really being the central part?

AVM Beck—Simply because the advice I had from Arup engineering in Istanbul was that that road could be improved—a two-way road—without it impacting on anything other than the existing road surface.

Senator Bishop—Without impacting on anything but the existing road surface?

Air Vice Marshal Beck—Yes.

It is clear from the evidence given that Australian authorities did seek appropriate engineering advice prior to making the request to Turkish authorities.

⁵⁷ Committee Hansard, p.9

⁵⁸ Committee Hansard, p.70

2.2 Increased Turkish Visitors and Usage of the Roads

In terms of the use of the coastal road, Mr Sellars argued that it is not heavily used except the week around ANZAC Day. Once again, Mr Sellars evidence is subject to dispute and conflicting accounts from other persons before the Committee and official Turkish Government figures.

The Majority Report agrees that there have been conflicting media reports.

Ms Fisher (DFAT) stated that Turkish Government figures indicated two million people visited the Gallipoli Peninsula every year. In evidence she stated:⁵⁹

Senator Fierravanti-Wells —Do you have estimates of the number of people who visit the peninsula every year and how many of them are Turkish?

Ms Fisher—Using the Turkish government figures, we know that over two million visitors visit the area every year. A large majority are Turkish nationals but there are also visitors from other countries.

On 6 March 2005, *The Age* reported that:⁶⁰

... more than 2 million Turks are expected to visit the area this year.

The article quoted Australian tour operator, Bernina Gezici, as saying:⁶¹

the road wasn't built because of the people coming for ANZAC Day—it was built because more and more Turks are coming to celebrate what was for them a historic victory.

A rough calculation would indicate an average of 5,479 per day or about 109 coaches (assuming 50 people per coach).

This is in direct contradiction to Mr Sellars' written submission in which he states that most Turkish tour groups do not visit the coastal strip as "*there is only one Turkish monument in this region*".⁶² He added, "*the argument that the road had to be upgraded due to the weight of visitor numbers is not sound*".⁶³

AVM Beck (OAWG) also gave evidence that contradicted Mr Sellars' testimony:⁶⁴

⁵⁹ *Committee Hansard*, p.99

⁶⁰ N. Khadem and F. Walker, 'Graves, beach lost for wider road to Gallipoli', *Sunday Age*, 6 March 2005, p.7

⁶¹ *ibid.*

⁶² Mr Bill Sellars, *Submission*, 10 June 2005, pp.6–7

⁶³ *ibid.*

⁶⁴ *Committee Hansard*, p.81

In his evidence about traffic he said that domestic traffic is mostly down the south as opposed to our area – the ANZAC area. This is not quite true either because probably the most visited sites are Chunuk Bair, the statue of Ataturk, the 57th Regiment cemetery and all of the memorials in that area. It is true that the coastal road traffic is not as heavy as on the Second Ridge road, but it would be every bit as heavy as down the south.

In evidence to the Committee, Mr Sellars asserts that for all but less than one week of the year, the road is not heavily used. He asserts that usually, on a daily basis in the warmer months of the year:⁶⁵

you may only get one or two smaller tour coaches coming through with Australian and New Zealand visitors. On an hourly basis-as when I was there only a few weeks ago – on average there were only 10 or so coaches, or fewer, going through the area.

There is a real issue about the credibility of this evidence. Mr Sellars resides at Eceabat, which is some 10 kms from the road in question. It is clear from his evidence that he has based this assessment not on prolonged and constant observations, but on casual viewings when he is in the area.⁶⁶

That is in part correct. I would say that there are some periods of the year, in about March, when there is heavier traffic. That is the peak period of Turkish visits, but it is nowhere near the time of ANZAC Day and the days before and following. ... The only time that there are large numbers of visitors from either of those countries is in and around ANZAC Day.

On balance, the evidence of increased usage and especially increased Turkish usage of the site is overwhelmingly against Mr Sellars. This again calls into question the overall credibility of his evidence.

Mr Sellars seeks to invoke an alleged discussion with Professor Yalinkilic (the same Professor Yalinkilic with whom AVM Beck (OAWG) was having discussions), to bolster his assertion that the work was being carried out to facilitate the movement of Australian and New Zealand tourists and at the request of the Australian Government.⁶⁷

Subsequent to the hearing, he has provided to the Committee a hand written pages of notes which he alleges are his notes of one interview with Professor Yalinkilic. The notes are undated, unsigned and are of no probative value at all and the veracity of this assertion is questionable.

⁶⁵ Committee Hansard, p.9

⁶⁶ Committee Hansard, p.9

⁶⁷ Mr Sellars, Committee Hansard, p.6

2.3 The Australian Government's Request for Roadworks on the Peninsula

Whilst Australia and Turkey had a shared concern about the roads at ANZAC Cove, **Australia did not request the recent roadworks at ANZAC Cove.**

We would like to highlight the following clear and unequivocal evidence given at the Inquiry by Mr Newman (DFAT), First Assistant Secretary, International Division, DFAT:⁶⁸

Senator Watson—For the public record, could you confirm that Australia did not request the recent roadworks at ANZAC Cove?

Mr Newman—That is correct.

Senator Watson —We shared a belief that some reinforcement may have been necessary in the interests of public safety, but the works of the scale that took place were not sought by the government?

Mr Newman—That is correct.

Senator Watson —Thank you. Could you confirm that Australia at all times has urged that all developments in the ANZAC Cover area should preserve the cultural and historical heritage of the area?

Mr Newman—That is correct.

Chair—You can give the answers before you hear the questions if you like.

Senator WATSON—I do not need any assistance.

Chair —I am sure he does not.

Senator Watson —I think you have recognised the very appreciative stewardship that Turkey has accorded to the peninsula over many years.

Mr Newman—That is correct. It is a very well known thing. Indeed, our chairman made a very impressive statement in the parliament last year to record his appreciation of Turkey.

Access to the ANZAC site has long been a matter of concern to the Australian Government. Each year, when officials prepare for the ANZAC Day ceremony, discussions on traffic arrangements are held, centring on the adequacy of the existing network and options for improving access for visitors. Road improvement has long been central to Australian concerns.

⁶⁸ *Committee Hansard, p.98*

In this context, the letter dated 2 August 2004 from the (then) Australian Minister for Veterans' Affairs, the Hon. Danna Vale MP to the Turkish Minister for Environment and Forests, His Excellency Mr Osman Pepe, is of particular significance. Minister Vale's letter proposed several "improvements" to the ANZAC Commemorative Park in light of an expected increase in visitor numbers for the 90th anniversary of the Battle of Canakkale.

The letter was signed on 2 August 2004 but there was a gap between signature and delivery due to a change of ambassadors.⁶⁹

2.3.1 Increased Congestion

The DFAT Submission highlights two important points regarding this reference.

Firstly, that Australian officials at the Embassy in Ankara, working in conjunction with DVA officials, since 2000, had been having ongoing discussions with Turkish officials in relation to traffic flows, congestion, access and safety issues in the preparation periods leading up to ANZAC Day commemorations.

Secondly, the access and safety concerns of Australian officials were shared by the Turkish Government, given the increase in Turkish visitors to Gallipoli. The DFAT Submission states:⁷⁰

It is estimated that over 2 million people visit the Gallipoli Peninsula every year, most of them Turkish nationals. About 800 coaches with Turkish tourists visit the peninsula each weekend.

2.3.2 Letter from Minister Vale to the Government of Turkey - August 2004

On 2 August 2004, the (then) Minister for Veterans' Affairs, the Hon. Dana Vale MP signed a letter to the Turkish Minister for Environment and Forests, Mr Osman Pepe which was subsequently delivered by the Australian Ambassador in when she [H.E. Ms Jean Dunn] gained accreditation.⁷¹ Mr Sullivan confirmed that the actual date of delivery was 27 September.⁷²

Contrary to assertions made both in the Parliament and the media no request was made to widen or change the ANZAC Cove Road.

Indeed, during the Inquiry various assertions were sought to be made regarding the interpretation of the letter in an attempt to distort the true intention and meaning of the

⁶⁹ *Committee Hansard*, p.67

⁷⁰ *Submission 4*, p.1

⁷¹ *Committee Hansard*, p.69

⁷² *Committee Hansard*, p.69

Minister's position. In light of this, we believe that the full content of the letter warrants reproduction below:

**Attachment B**

MINISTER FOR VETERANS' AFFAIRS

His Excellency Mr Osman Pepe
Minister for Environment and Forests
Government of the Republic of Turkey
Ankara
TURKEY

Your Excellency

I am writing as the Australian Government Minister responsible for the planning and preparation of the Anzac Day services in the Gallipoli Peninsula Peace Park. My colleague, Senator Robert Hill, Minister for Defence expressed his appreciation of your support when he met with you earlier this year.

I would like to add my appreciation for the widespread goodwill among the Turkish people in allowing these services to be conducted annually. The Gallipoli experience seems destined to become an ever-increasing ingredient of overseas travel, particularly for young Australians.

The Director, Office of Australian War Graves (OAWG) within my Department liaises with the New Zealand Government and our respective Ambassadors in Ankara to ensure full cooperation with Turkish authorities in the preparation and conduct of these services. The Director, Air Vice-Marshal Gary Beck AO (Retd) also manages the contracts for the maintenance of the site undertaken by Dr Nuri Ozer Erbay of Nik Insaat Ltd, Istanbul on behalf of the Australian and New Zealand Governments. AVM Beck will be visiting Ankara late August 2004 and it is hoped that he will be able to call on you with the new Australian Ambassador, Her Excellency Ms Jean Dunn.

Our outgoing Ambassador, His Excellency Mr Jon Philp, has advised that he recently discussed with you some of the difficulties caused by the increasing numbers of visitors each year. He noted that you were prepared to consider formal proposals to increase the area of the Anzac Commemorative Site and other measures to ease congestion. For that I am most grateful and I understand that you are also planning to improve general access and camping areas on the Peninsula to accommodate the increasing numbers of visitors annually. He reports that those increases are occurring throughout the year as both the Turkish people as well as foreign visitors come to appreciate the military history of the Gallipoli area and its focus on preserving world peace.

As you may know, we constructed the Anzac Commemorative Site as the first project undertaken within the newly designated Peace Park and in keeping with the guidance to preserve the archaeological, cultural and military heritage of the area as well as the native flora. Significant steps were taken to control soil erosion and to limit sea erosion of the beach. ~~After five years, it seems this project has been most successful in meeting~~ its objectives. Each year it is attended by an Australian Government senior minister who also attends the Turkish International Service as well as the other services conducted over these two days. Hundreds of visitors inspect the site and information panels each week and it is now the largest annual Anzac Day gathering in the world.

Our current difficulties stem from its success. We are expecting numbers to keep increasing in line with the growth in popularity of battlefield tours and in particular, with overseas travel trends of young Australians and New Zealanders. With the 90th anniversary of the Battle of Canakkale in 2005, we are expecting an increase above the design limit of 15,000 visitors. It is for that reason I seek your agreement to consider the proposals outlined in the attachment that relate to the growth in visitor numbers on Anzac Day. Noting the satellite image of the current site attached, I have asked the Director to look at beautifying the site by improving its overall shape while seeking an increase in area.

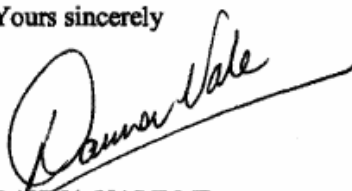
Among the attached proposals is one seeking improved access to mains water. I recognise the water shortages that exist in the area and I stress this proposal would result in a major net reduction in usage, even allowing for the increased irrigation area proposed. The problem is that water is currently transported from wells further to the north and the elimination of this practice would result in much improved underground supplies in the area. This site is popular with all visitors and I would like to see it gain the same access to water as other memorial sites in the area.

We are grateful to Turkish authorities for the considerable progress that has already been made with the creation of the loop road and one-way coach traffic on Anzac Day. However, the growth in visitation suggests that further improvements would be welcomed to ensure safety of coach passengers. If Ridge Road past Lone Pine and Chunuk Bair to the Kemalyeri Memorial could be widened, it would enable two-way or passing traffic to flow again and would ease the considerable delays in coach departures after the services. Among the attachments is one showing the current traffic flow pattern and relevant commemorative sites within the designated Anzac Area of Gallipoli Peninsula.

My government stands ready to consider any solution and to assist in any way we are able to ease the traffic congestion that occurs on Anzac Day each year. I am especially keen to solve the lengthy walking distances elderly and infirm visitors face attending the Dawn Service, over seven kilometres in some cases. AVM Beck will be keen to explore possible solutions to this problem with our Ambassador and relevant authorities.

I look forward to the opportunity that we may meet and again express my sincere appreciation for your strong support in accepting these proposals for consideration by your Ministry.

Yours sincerely



DANNA VALE MP

02 AUG 2004

Attachments:

- A. Summary of Proposed Improvements
- B. Visitors after Dawn Service in 2003
- C. Map of Anzac Area, Gallipoli Peninsula
- D. Satellite image of Anzac Commemorative Site
- E. Proposed expansion of area
- F. Mobile toilet trailer site
- G. Survey of existing site
- H. Proposed installation of bollards beyond temporary stakes
- J-M Various images of site
- N. Satellite image of Lone Pine War Cemetery
- O. Visitors at Australian National Service, Lone Pine 2004

Minister Vale attached as part of her correspondence a summary of proposed improvements to the ANZAC Commemorative Site. Approval was sought from relevant Turkish Government ministries for the following proposals designed to accommodate increasing numbers attending the ANZAC Day commemorations on Gallipoli Peninsula:

We would like to stress the point made in the DVA Submission that traffic management for the ANZAC Day services are a major issue with the responsibility residing with the Turkish Jendarme through the office of the Governor of Canakkle. The DVA Submission particularises some of these concerns:

- Several hundred coaches are needed to transport those attending the services;
- On 25 April the road is made one-way and all coach travel is diverted from the Visitors Centre at Kilye Koyu northwards through Bigali and Buyukanafarts, except in 2005 when a shuttle service for the elderly was allowed to approach from the south during specified times;
- Significant walking distances of up to 7 kms from coaches to the ANZAC Commemorative Site;
- Following the Dawn Service, many people walk to Lone Pine and onto Chunuk Bair with those unable to walk transported in buses;
- Buses proceed along the narrow and dangerous Ridge Road and Gun Ridge Road to Lone Pine and Chunuk Bair.

Again, given the assertions made in the Inquiry, it is important that the specific proposals are detailed in this Minority Report:

- Site Enlargement – widen the site up to seven metres by the removal of native bushes and returfing. The increased area enabling attendance by about 20,000 visitors. Additional adjoining area parallel to the road between the site and the toilet area proposed to enable off-site parking for video, generator and media vehicles;
- Toilet Installation - timber retaining walls and gravel surfaces;
- Mains-water supply;
- Installation of traffic bollards;
- Coach turnaround facilities
- Lone Pine War Cemetery – better space utilisation and temporary stands.

The DVA Submission further notes that the Turkish authorities approved final drawings and the 6.3 km of road works along Brighton Beach, ANZAC Cove and North Beach in the second half of 2004.

Criticism was sought to be levelled at DVA for not consulting with the Department of Environment and Heritage in preparing the letter. However, as AVM Beck (OAWG) indicated, given the very limited scope of the letter, consultation with DEH was not necessary and under the circumstances, such action was justified.⁷³

⁷³ *Committee Hansard*, p.67

Furthermore, AVM Beck (OAWG) was questioned as to why the letter concentrated on the Lone Pine-Chunuk Bair-Kamalyeri road within the context of total traffic movement on the Peninsula. In his reply, AVM Beck (OAWG) stated that:⁷⁴

Because within our traffic plan, that was the major difficulty we faced.

The crux of DVA's confinement of its proposals to this road is evidenced by the following exchange:⁷⁵

Senator Bishop —Understood. Thank you, Mr Sullivan. We were talking about why the letter concentrated on the Chunuk Bair road.

AVM Beck —If we could just go to the map, the ridge road—the one running inland up to Chunuk Bair; the one that runs past Lone Pine—has become a one-way road as part of a loop. What is currently the dotted line here is now a road; just imagine that as an anticlockwise loop. The section from Chunuk Bair south to the intersection with Brighton Beach on the coast is one way and very narrow. There is a section from Chunuk Bair south-east to Kemalyeri memorial, which is not shown there but it is where the fully lined road intersects with the dotted line. That was Atatürk's headquarters. There is a memorial there. That road was very old narrow bitumen. When you have 500 coaches parked on that section, nothing can pass the parked coaches. Hundreds of coaches were not even getting to Lone Pine or Chunuk Bair for the service. So we have a major problem there in getting to those services.

When the services are over, because all these coaches are parked there it takes hours to move the traffic again. So quite simply the proposals were to improve that section from Chunuk Bair down south-east to Kemalyeri memorial and perhaps—just a suggestion—to restore two-way traffic to the roads south-west of Chunuk Bair through Lone Pine. Of course, the purpose of two way traffic is to free up all the coaches. All the Australians at Lone Pine, for example, could leave after their service rather than there being a complete stop of the traffic until all the services are over.

Senator Bishop —I understand that. Given that the road was given specific mention—and I understand your reasoning there—why didn't you also seek assurances on environmental and heritage research and protection there, it really being the central part?

AVM Beck —Simply because the advice I had from Arup engineering in Istanbul was that that road could be improved—a two-way road—without it impacting on anything other than the existing road surface.

Senator Bishop —Without impacting on anything but the existing road surface?

⁷⁴ Committee Hansard, p.69

⁷⁵ Committee Hansard, pp 69-71

AVM Beck —Yes.

Senator Bishop —It was already a two-lane road?

AVM Beck —The problem with the road is that it has got a very high crown and it is very dangerous for passing traffic, and the road would need to be levelled.

Mr Sullivan—There is no disagreement with any evidence that I have heard here today or any submission that I have made about the sensitivity of the ridge road and the statements that, not far off that road, you will enter areas of extreme military heritage sensitivity. Both the Australian government and the Turkish government fully recognise that. This was not to say: let us move into what are very sensitive areas. We continue, again having been invited by the Turkish government, to offer views as to how they can address what is a major problem for them. The traffic in that area, regardless of 24 and 25 April, through the spring and into the summer months is enormous. Several hundred buses are there each weekend.

The camber of the road has quite a big arch on it. There is a mix of buses and walkers. Sometimes you can even see buses passing each other on edges of the camber, and the prospect of something disastrous occurring is very real. So the Turkish government is looking at how it can address the traffic issue while remaining sensitive to the military heritage issues, and we are certainly assisting in any way we can in looking at that issue.

Senator Bishop —But, by fixing that road up there at Chunuk Bair—going back to a two-lane road—would involve, would it not, widening the current road?

Mr Sullivan—Not necessarily.

Senator Bishop—I am familiar with the road, as is Air Vice Marshal Beck—as you are, Mr Sullivan—and, as you say, there is a heightened crown in the middle of the road. If you are going to effectively level the road, by definition it will expand out on either side and, as there are significant military heritage sites immediately adjacent to the current road, it strikes me as odd that the request was not made in Minister Vale's correspondence seeking assurances on that military heritage and environmental protection.

Mr Sullivan—My understanding is that if, in looking at widening that road or looking at making it into two-way traffic, it impinged on the military and cultural heritage issues of the road the Turkish government would not agree, and my knowledge is that the Australian government would urge for it not to happen. We would have to look at other solutions in terms of traffic management which did not impinge. Implicit in every bit of material that passes between the two governments on this matter is their shared concern at all times for the conservation of military heritage issues in Peace Park.

The Committee received a submission from environmental consultants Mr Ian Tait and Mr Geoffrey Ostling, which appears to support the proposal for a turn-around facility. Both Mr Tait and Mr Ostling had attended the 25 April 2005 ceremony at ANZAC Cove. The first part of their submission noted:⁷⁶

It appears that the audience was only allowed access from the northern access [road]...We were required to walk past several hundred buses parked single file on the side of the narrow road into the cemetery site, a distance of about 5 kms. The access from the south appears to have only been for the dignitaries and service vehicles...

Why was no centralised parking area or even a bus set-down and turn around area on the northern access road to facilitate the movement of the general public ...

AVM Beck (OAWG) told the Senate Committee Inquiry that the roadworks on a northern coastal road near 'Embarkation Pier' had made a 'marginal improvement' in walking distance to the April 2005 service.⁷⁷ There was also a system whereby those who were over 75 years of age could pre-register to be taken off the coach at the visitors' centre and transported by a shuttle service to within 300 metres of the site.

In short, there were only two road issues for the Australian authorities. In evidence AVM Beck (OAWG) stated:⁷⁸

Senator Bishop—So there was active consultation all through that negotiation phase with the relevant Turkish authorities?

AVM Beck—Absolutely. That included the then Minister for Forests and Environment, Professor Nami Cagan.

Senator Bishop—You mentioned in your discussion that road access was an issue. Why was that an issue and why did the Turks effectively veto your initial plans?

AVM Beck—The diversion of the traffic north through Bigali and Buyukanafarta in 2000, that first year, occurred completely unknown to us. During those early years there was very limited communication and I fully expected the traffic to go east-west and traverse the site, but it was all diverted. In the years since, that plan has been confirmed and it remains that way today.

My interest in it was simply getting people to the site to minimise complaints to the minister and to make sure that we could move the people between the services. I will give you one example. It was the year 2000 when the Prime

⁷⁶ Mr Ian Tait and Mr Geoffrey Ostling, *Submission*, pp3–4

⁷⁷ *Committee Hansard*, p.36

⁷⁸ *Committee Hansard*, pp.40-41

Minister was there. We were only allowed to send 30 coaches up Ridge Road to Lone Pine, and we had over 300. The road was two-way then. The loop road, as we call it—which is the one you see running north-east from the Gaba Tepe museum on the map—was not there. That did not exist.

Senator Bishop—The loop road being the dotted lines?

AVM Beck—More or less, yes. That was a two-way road, north and south, and we were only allowed 30 coaches. So there were very evident difficulties with the traffic plan right from those early days.

Senator Bishop—Were there also problems with the road planning in terms of the areas north of Ari Burnu?

AVM Beck—No, except that we would have liked somewhere to park coaches. We could never find any places to park. We tried to negotiate with farmers for the lease of some of the land for parking coaches but it was difficult. They are all planting tomatoes at the very same time, so that was never possible. Because it is one-way traffic south, our only problem with the coastal road was where to park the coaches.

Senator Bishop—On the map, what is that dotted line from Embarkation Pier up around to Lala Baba? What does that dotted line represent?

AVM Beck—I am not sure that that is accurate, but that road is there. It is a coastal dirt road. As part of the peninsula park development, all the illegal farmlets and houses there have been evacuated and are being demolished. That is why we used that road this year to try and create a coach park.

Senator Bishop—Your evidence is that when you set up the Australian design competition and your ongoing negotiations with the Turks over there you tried to address issues of road access from down around Gaba Tepe museum. You also had problems with road access in terms of turnaround or parking facilities in the north. They are the only two road issues you had?

AVM Beck—Those are the only two road issues.

The above evidences that clearly, the proposals made by the Australian authorities were confined to the two road issues and did not request any work to the coast road.

2.5 The Roadworks Timetable

The Majority Report sets out the following roadworks timetable:

February 2005	Work commenced on the coastal road
2 March 2005	Turkish authorities halted the work following accounts in the Turkish and Australian media that the site was being damaged (see chapter 3 Work resumed shortly thereafter
14 March 2005	The major excavation work commenced on the ANZAC Cove section of the coastal road on 4 March and was completed
18 March 2005	Turkish Prime Minister Erdogan announced that the next major construction work would be on the road from Chunuk Bair to Lone Pine
2 April 2005	The widening of the coastal road and the first layer of asphalt was completed

2.6 The Extent of the Recent Roadworks

The Majority Report states that the most recent roadworks have been confined to the coastal road. Along this road - from Embarkation Pier in the north to Brighton Beach in the south - there have been six areas of construction work:

- at North Beach, on the seaward side of the road at the foot of Reserve Gully, where a car park has been constructed
- the northern headland of Ari Burnu, where the road has been extended into the hillside
- the seaward end of ANZAC Gully, where a short section has been removed
- on the seaward side of the road adjacent to Shrapnel Valley, where a car park has been built

- the southern headland of Hell's Spit, which has been deepened and raised, and
- on Brighton Beach to the south of ANZAC Cove, there has been a 15 metre excavation.⁷⁹

At the time of the Committee hearing in June 2005, construction work on the coastal road was only partially finished. The first level of asphalt had been laid and the engineering aspect of the work was complete. There are two further coatings of asphalt planned, as well as furnishings such as guttering and safety railings.⁸⁰

The Committee heard evidence that the coastal road along ANZAC Cove has been widened from 5.5 metres to 7.0 metres of bitumen. Either side of the new road is one-and-a-half metres of platform, making the new road's platform roughly 10 metres wide. These measurements vary, however. Mr Sullivan explained to the Committee that in some places, the old road has cut "*significantly inland*".⁸¹

However, irrespective of the extent of the roadworks, this was a matter for the Turkish authorities. As highlighted in other parts of this report, Australia authorities did not become aware of the extent of the roadworks until February 2005. Whilst AVM Beck (OAWG) was aware of the master plan of \$US64 million of projects on the Gallipoli Peninsula, Professor Yalinkilic provided no indication of the extent of the works.⁸²

⁷⁹ Department of Veterans' Affairs, *Submission*, p.2; R. Skelton, 'Revealed: ANZAC Cove trail of destruction', *Sunday Age*, 10 April 2005, p.1

⁸⁰ Mr Sullivan, *Committee Hansard*, p.62

⁸¹ Mr Sullivan, *Committee Hansard*, p.48

⁸² Mr Sullivan, *Committee Hansard*, p.49

Chapter 3

Allegations of Environmental Damage and Australian Authorities' Response

This chapter examines the two main criticisms of the recent construction work on the coastal road on the Gallipoli Peninsula. The first is that the roadworks allegedly uncovered bone fragments of soldiers killed without burial in the 1915 conflict. The Majority Report asserts that there has been accompanying concern that no archaeological survey of the site was conducted prior to the construction work commencing and includes the concomitant inference in the assertions that the Australian Government ought to have conducted the archaeological survey.

Again, this fails to take into account the fundamental issue that the Gallipoli Peninsula is Turkish sovereign territory and that any decision in relation to a survey or other matter on the Peninsula is a matter for the Turkish authorities. It would be totally out of place for Australian authorities to have turned up on Gallipoli and purported to go ahead and conduct any survey, archaeological or otherwise, on Turkish sovereign territory.

The second criticism levelled in the Majority Report is that the roadworks have caused permanent damage to the military heritage of the landscape. It is claimed that the road has been widened beyond the extent necessary to ensure visitors' safety; that soil has been deliberately dumped onto the beach below; that there were no environmental measures put in place to minimise erosion from the construction; and that no effort was made to preserve the footsteps of the original ANZACs. Also that no effort appears to have been made to identify and record sites of military heritage by Australian authorities, despite representations to do so prior to the work.

Yet again, this analysis is flawed as it fails to critically recognise the first principle that does, and must properly underline any inquiry into matters on the Gallipoli Peninsula – that is, that the fundamental premise that the Gallipoli Peninsula is Turkish territory and that any decision in relation to roadworks, soil movements, or other changes to the landscape is a matter for decision of the Turkish authorities. It would be totally out of place for Australian authorities to dictate to the Turkish authorities how they undertake activities on their own sovereign territory, just as we would rail against any attempt by Turkish to impose similar requirements on Australian soil.

However, this does not sadly prevent the Labor Members of this Committee from using the resources of a Senate Committee to wage a politically motivated 'fishing expedition' in the full knowledge that what is being asserted is wrong.

This chapter outlines the response of Australian authorities to these claims. It does so based on official public statements from Government Ministers, submissions and the evidence presented to the Committee by officials from the Department of Veterans' Affairs (DVA), the Department of Foreign Affairs and Trade (DFAT), the Department of the Environment and Heritage (DEH) and the Department of the Prime Minister and Cabinet (PMC).

3.1 Summary of the Australian Government Position

A summary of the Government's position on ANZAC Cove was made clear in Prime Minister, the Hon John Howard MP's media release of 23 April 2005. It states:

Recent weeks have seen various claims, including in the Australian Parliament, about the involvement of the Australian Government in the road works which have taken place at ANZAC Cove. In particular, it has been claimed that the former Minister for veteran's Affairs, the Hon Dana Vale MP, requested these works.

I have decided to release the letter of 2 August 2004 from Mrs Vale to the Hon Osman Pepe, Turkish Minister of Environment and Forests. The letter addressed improvements to the Dawn service site and possible works on an entirely different road on the peninsula, not work on the ANZAC Cove Road. [underlined added] (The specific section of road where Mrs Vale was actually seeking improvements was the stretch of road between Chunuk Bair and the Kemalyeri Memorial. It has since been resealed.)

While it was common ground between Australia and Turkey that some reinforcement and improvement of the ANZAC Cove Road was needed, I feel I should put it on record that works of the scale that have actually taken place were not sought by the Australian Government.

There is and should be no question that the road at ANZAC Cove was in need of repair and improvement to cope safely with the increasing number of Turkish and foreign visitors to the peninsula each year, and not just on ANZAC Day.

As indicated in the DFAT Submission, significant roadworks began in February 2005 at ANZAC Cove.

3.2 Allegations of unearthing of bone fragments and damage to landscape and Australian authorities' response to allegations

Term (b) of the Terms of Reference specifically requires that the Committee examine roles of the Minister for Foreign Affairs (Mr Downer), the Department of Foreign Affairs and Trade, the Department of Veterans' Affairs, the Attorney-General's Department, the Office of Australian War Graves, the Department of the Prime Minister and Cabinet and Environment Australia in the road works, and related

construction activity, at ANZAC Cove in the lead-up to ANZAC Day on 25 April 2005.

The Majority Report seeks to cover Term (b) through a series of allegations and sub-allegations interspersed with commentary and findings.

Indeed, an analysis of the Majority Report highlights that the principal source of the allegations relied upon to make the above criticisms of the Government are based on nothing more than unsubstantiated sensational media reports, fuelled principally by Mr Sellars. As we heard in Mr Sellars' own evidence, financial reward was received in exchange for information and allegations.

3.2.1 Allegations that bone fragments have been unearthed

The Majority Report states that in terms of the effect of the roadworks, a matter of key interest to the Committee was the allegation that human remains, namely bone fragments, had been unearthed in construction works on the coastal road.

This allegation was first made public on 6 March 2005 in Frank Walker's articles in both *The Age* and the *Sun Herald*.⁸³ *The Sun Herald* article reported that human remains:⁸⁴

are believed to have been dug up and destroyed by Turkish workers as they widen a road for tourist buses on ANZAC Cove.

We would stress that the sensationalism is based not on fact, but on a mere supposition or belief. Furthermore, the accompanying photograph showing a truck and heavy lifting machine, has the following caption underneath it:

Roadworks for bus parking have disturbed the previously pristine ANZAC Cove, leading to fears for the many unmarked graves.

Photo: Bill Sellars

This is totally misleading because the photograph was taken in February 2004 and not in March 2005 as the article implies. At the Inquiry, Mr Sellars was forced to correct the deliberately misleading statement:⁸⁵

Senator Fierravanti-Wells —Mr Sellars, I would like to take you to your article. You have been mentioning the Daily Telegraph, but of course there are

⁸³ F. Walker, 'Sacrilige at ANZAC Cove: Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005, p. 5; N. Khadem and F. Walker, 'Graves, beach lost for wider road to Gallipoli', *Sunday Age*, 6 March 2005, p.7

⁸⁴ F. Walker, 'Sacrilige at ANZAC Cove: Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005, p.5

⁸⁵ *Committee Hansard*, p.19-20

other articles. There was one in The Age of 6 March which included a photograph taken by you. When did you take that photograph?

Mr Sellars—Within, I would say, a couple of days of its publication—within about two or three days of that. I could check on my computer when the photograph was generated.

Senator Fierravanti-Wells —Is that the only photograph you have taken? Have you taken photographs in the past?

Mr Sellars—Do you mean prior to the excavation work or from the time the work began?

Senator Fierravanti-Wells —Prior to the excavation works.

Mr Sellars—Yes, I have. Over the many years since I first visited the battlefields I have taken photographs of many of the areas there. And since the excavation work began, when I first visited the site some days after the work had begun, I took photographs at that time and, I believe, probably on every subsequent visit to the area.

Senator Fierravanti-Wells —Does that include the photograph that you took that was referred to in the article? There is an article in the Daily Telegraph of 13 February. I have the transcript but I do not have the photograph. I assume that you took the photograph that was included with that article?

Mr Sellars—What was the date given? Did you say 13 February?

Senator Fierravanti-Wells —The date was 13 February 2004.

Mr Sellars—I beg your pardon, I thought you were referring to the roadworks. If that is a photograph of a heavy lifting machine and the story details the proposal to charge admission fees to the battlefields, yes, that was my photograph.

We would like to state at the outset that Mr Sellars has no qualifications in history or archaeology,⁸⁶ yet professes to make assertions in areas of which he has no professional expertise. He deposed to the Inquiry as follows:⁸⁷

Senator Fierravanti-Wells—Thank you, Mr Sellars. Taking you back to your qualifications: basically you have no academic qualifications. Is that the situation? Yes or no?

⁸⁶ Committee Hansard, p.13

⁸⁷ Committee Hansard, pp 13-14

Mr Sellars—I have academic qualifications, yes. I have a degree in writing. I do not have academic qualifications as far as a degree in the study of history.

Senator Fierravanti-Wells —So you are not a qualified historian. Do you have any qualifications in archaeology? What is your expertise? You have made substantial comments in your submission—

Chair—Slow down the questions a little bit because of the telephone connection.

Senator Fierravanti-Wells —I will slow down my questions. Mr Sellars, you have made substantial assertions in your submission about archaeology—

Chair —It seems that we have lost the telephone connection. Can we get the connection restored? We are now back on air. Mr Sellars, Senator Fierravanti-Wells was just asking you some questions when we were cut off.

Senator Fierravanti-Wells —We were talking about your qualifications, Mr Sellars. You have just indicated to me that you do not have qualifications in history and you do not have qualifications in archaeology. You also assert that you are a journalist. Do you have qualifications as a journalist?

Mr Sellars—I have a degree in writing from what is now the University of Canberra. I have also worked as a journalist full time and professionally since 1989. With respect to your questions or your comments on my qualifications—

Senator Fierravanti-Wells —Mr Sellars, I simply asked you: yes or no? I was satisfied with your answer. You live some 10 kilometres away. Tell me how long you have been at Gallipoli. You have been at Gallipoli now for—what—three years?

Mr Sellars—I have been living on the peninsula for three years. I first visited it more than 17years ago.

Senator Fierravanti-Wells —What is your regular work, Mr Sellars?

Mr Sellars—As I have explained, I am a journalist.

Senator Fierravanti-Wells —I see. And who do you work for?

Mr Sellars—A variety of media outlets. Part of my work is freelance. I write English language news material for the television networks here in Turkey for their internet site. I am an accredited correspondent to a magazine in Paris. I write on occasion for the Daily Telegraph and also business and commodities publications in England and elsewhere in Europe as well as contributing other articles on a freelance basis to other publications.

Senator Fierravanti-Wells —How many reports do you regularly file on Gallipoli? Or do you only do it on and around ANZAC Day?

Mr Sellars—It would depend on the circumstances of the story and the events. I believe this year I filed three stories—or it could have been four—on various issues around ANZAC Day, not all of them to do with the roadworks. Last year I believe I filed two stories that had any relationship to the Gallipoli Peninsula. The year before that I do not believe I filed any around ANZAC Day. At the time of ANZAC Day most Australian media outlets send their own staff reporters so the pickings can be somewhat slim for freelance writers here.

The importance of the above deposition is threefold. Firstly, Mr Sellars' assumes that by virtue of the fact that he resides at Gallipoli, it gives him authority to speak on a range of matters of which he has no expertise or qualifications. Secondly, he has some qualifications in writing and works as a freelance journalist. Thirdly, he derives financial benefit from writing about Gallipoli and given the nature of his writings over the past years, this has been sensationalised allegations about access fees (which never eventuated) and bones (which then disappeared). The implication from the above testimony is that he needs to write his stories before ANZAC Day because the major Australian media outlets send their own journalist to cover ANZAC Day and that as a primary source of income, he has tended to write an annual batch of Gallipoli stories in the period leading up to ANZAC Day for pecuniary gain.

It is curious to also note that whilst Mr Sellars states his regular work is that of a journalist, he then seems somewhat coy about some fees paid to him. Indeed, he is at pains to seek to differentiate work he gets paid for and unpaid work. The following evidence also raises some interesting issues:⁸⁸

Senator Fierravanti-Wells—You indicated earlier that you have no commercial interests. Does that mean that, when you file your stories et cetera, you are not paid for anything?

Mr Sellars—Thank you for clarifying that. As a working journalist, when these stories appear I am paid if commissioned by a media outlet. I do not charge money for any of the interviews that I have conducted with the Australian media. I have been paid for two stories that have appeared in the Australian media. They pertain to the Gallipoli peninsula and the developments and the roadworks there.

At first, Mr Sellars is telling the Inquiry that he has only been paid for two stories. He then goes on to depose that notwithstanding he is much sought after for his work, he does not actually charge fees. This seems a somewhat unusual proposition. His evidence continued as follows:⁸⁹

⁸⁸ Mr Sellars, *Committee Hansard*, p.14-15

⁸⁹ Mr Sellars, *Committee Hansard*, p.14-15

Senator Fierravanti-Wells —I notice in the introduction to your submission you tell us that you are much sought after by writers and documentary film makers. Could you tell us a little bit more about that and the commercial nature of these enterprises?

Mr Sellars—I may be sought after. I do not actually charge fees. As I have mentioned previously, I think in answer to Senator Watson, I have acted as a historical consultant to a Turkish documentary production here. There was no fee involved in that. Other historians have at times sought my advice or input. I do not work on a fee-charging basis for such activities.

Senator Fierravanti-Wells —Can I just summarise that by saying that, in short, you have not derived any commercial benefit from any story—sensational or otherwise—that you have promulgated, published or otherwise contributed to in relation to ANZAC or Gallipoli?

Subsequently, Mr Sellars advises he was also paid well in advance for commentary on Channel Nine. Indeed, it lends further credence to the proposition that Mr Sellars' actions regarding the roadworks were part of an extended and premeditated campaign by him to generate sensational allegations from which he ultimately derived commercial gain.⁹⁰

Mr Sellars—As I made clear before, I was commissioned by one Australian newspaper, the Daily Telegraph. I have been paid for two stories. There was also a fee for providing some commentary provided by the Nine Network well in advance of ANZAC Day. Those are the only payments that I have received and I have never sought payment for interviews. I must say that the Channel Nine payment was something of a surprise, because I had neither asked for nor expected to have it. And I should say, whether you are implying this or not, I have not been involved in the campaign to make public and put on the open forum what is being done here on the peninsula as an attempt to either gain monetary benefit or enhance my career in any way.

Notwithstanding his denial to gain monetary benefit, he forcibly maintains he was the first to go public with his sensational allegations:⁹¹

Senator Fierravanti-Wells —So, as to your last comment, when you say in your submission, 'I was the first who went public in the media,' that is not the case, then?

Mr Sellars—It is most definitely the case that I was the first person to go public in the media saying there were human remains being disturbed by the roadworks. In that statement I was trying to make a clear point, identify myself and explain my involvement and my qualifications to discuss the matter of the

⁹⁰ Committee Hansard, p.15

⁹¹ Committee Hansard, p.15

human remains, the other issues of damage to the area and the disturbing of historical relics and artefacts in the area.

It seems very strange that a person whose "regular work" is as a journalist, then distinguishes between what he is or is not paid for. We believe that in recent years Mr Sellars, in anticipation of ANZAC Day has deliberately sought to raise sensationalised claims from which he has then directly gained monetary benefit. Previously he did this in relation to an allegation about access fees which were never proposed and never imposed and more recently, about human bones he alleges to have found but which then disappeared.

The Majority Report states that both articles noted Mr Sellars' claims that the roadworks must have dug up human remains as many Australians and Turks were hastily buried on the beach and Cliffside – not that bones **were** dug up but a mere hypothesis that **the roadworks "must have" dug up remains**. Again, sensationalism not based on solid facts, but on a mere hypothesis from an unqualified amateur archaeologist.

Again, Mr Sellars' testimony regarding the bones he allegedly dug up is questionable. In short, he asserts that because he has allegedly found bones in the past, then the roadworks must have "dug up remains this time". The following extract from his testimony demonstrates the lack of credibility of this witness:⁹²

Senator Fierravanti-Wells—We do not have a copy of that but it would be useful if you could provide a copy of it as well. In the article in the Age of 6 March 2005, you are quoted as saying that the roadworks must have also unearthed human remains. You were not sure about that, were you?

Mr Sellars—I was positively sure, because I had seen human remains before that time.

Senator Fierravanti-Wells—From the way it is attributed to you, it does not seem clear.

Mr Sellars—It may not be—

Senator Watson—It was your story.

Mr Sellars—but I can assure you that I have seen human remains prior to 6 March.

Senator Fierravanti-Wells—You say, 'I am always finding bones from soldiers that were buried'—

⁹² *Committee Hansard, pp 19-21*

Mr Sellars—Is that in a story by-lined by Mr Russell Skelton or by me? I think I heard Senator Watson saying, ‘It was your story.’

Senator Fierravanti-Wells —I did not say it was your story, Mr Sellars. I am just saying that there are comments—

Mr Sellars—Does my name appear—

Chair—Order! We can only have one speaker at a time, please.

Senator Fierravanti-Wells —I do not wish to pursue it. Mr Sellars, the article quotes you as saying, ‘I am always finding bones from soldiers that were buried there in the first few days of battle to get ashore.’ So what is your basis for asserting that you are so sure that they were all there from the first few days? You told me before that you do not have archaeological qualifications so how can you make that sort of assertion?

Mr Sellars—Probably the assertion could be made—not as an archaeologist but in some ways as a historian—that that area was only fought over extensively on the first day of the campaign. There was extensive shelling of the area—as I have also written in another article—throughout the campaign, from the morning of the landing until the final evacuation of the ANZAC beachhead in December. So, yes, the case is that I have often found human remains in that area.

Senator Fierravanti-Wells —Thank you, Mr Sellars.

Mr Sellars—That story was not by me. I would not have quoted myself in my own story, so it was written by another journalist.

Senator Fierravanti-Wells —I did say that, but they do quote you in inverted commas.

Mr Sellars—Yes.

Senator Fierravanti-Wells —Are you saying that you have been misquoted?

Mr Sellars—In reference to this story, no, I have not. I can think of one other story in which I was misquoted, yes. The journalist later acknowledged that he had not accurately reflected my comments.

Senator Fierravanti-Wells —In this case, Mr Sellars, you agree with me that you have not been misquoted?

Mr Sellars—I do not believe that I have. I have not got the exact story in front of me. It was some time back. There is a high probability that there are human remains in that area which may well have come from the initial day’s fighting.

Alternatively, they may have been generated through casualties from indirect artillery fire later in the campaign or from erosion of the battlefields bringing debris down over the last 90 years.

Senator Fierravanti-Wells —But you are not sure, Mr Sellars and that is very clear from the comments that were made by and attributed to you. So you are not really sure, are you?

Mr Sellars—No. Not to the extent of—

Senator Fierravanti-Wells —Thank you.

On 12 March 2005, Mr Sellars himself authorised articles in the *Daily Telegraph* and the *Herald Sun*, which allegedly produced photographs of:⁹³

what appear to be leg and hip bones at the road construction site.

The articles claimed that the photographs refuted statements by the Australian and Turkish Governments that no human remains have been dug up at Gallipoli. We refute the veracity of these assertions and indeed, the Inquiry was offered no proof of the authenticity of any of the photographs including when the photographs were allegedly taken, by whom and where they were taken.

The Committee heard evidence from Mr Sellars concerning his comments on the unearthing of bone fragments. Mr Sellars alleges that on 1 March 2005, Fairfax journalist Russell Skelton, Turkish tourism operator Ilhami Gezici and his wife Bernina, and 'a number of other people' were all present when the bones were found.⁹⁴ Mr Sellars subsequently identified these other people as his wife, Ms Serpil Karacan Sellars, and a tour guide with 'Hassle Free' tour agency named Baris.⁹⁵ Interestingly, no evidence was proffered by any of these five people that supported Mr Sellars' allegations.

It is particularly important to note that Mr Sellars alleges Mr Skelton was present at the time when the bones were allegedly found. However, in his articles of 10 April 2005 in the *Sun Herald* and in the *Sunday Age*, or in his article of 17 April 2005 in the *Sunday Age* Mr Skelton does not disclose that he was present when the bones were allegedly found. Given this was the key complaint in the articles, it would not be unreasonable to assume that if Mr Skelton had indeed witnessed so important an event as the alleged discovery of human bones, he would have specifically and deliberately stated this in his articles? We believe this casts some doubt on the circumstances of

⁹³ B. Sellars, 'Photos reveal truth of ANZAC remains', *Daily Telegraph*, 12 March 2005, p.5; B. Sellars, 'Gallipoli's bones of contention', *Herald Sun*, 12 March 2005, p.4

⁹⁴ *Committee Hansard*, p.18

⁹⁵ Mr Sellars explained that 'Baris' was working with Mr Skelton as a translator and guide. (Correspondence, 26 June 2005)

the alleged finding of bones and at the very least, calls for further corroboration of Mr Sellars' claim that Mr Skelton was present when human remains were discovered.

In his opening statement, Mr Sellars told the Inquiry that in mid-March 2005, the Australian Ambassador to Turkey, HE Ms Jean Dunn, had discussed these allegations with him. Mr Sellars asserted that he explained to the Ambassador that one of the bones had been removed soon after he, Mr Skelton, and the others present had found it at the site. The Inquiry was told however, that Turkish employees of the company carrying out the roadworks had removed the bone fragment.⁹⁶ This seems a curious turn of events that, having made allegations of finding bone fragments, the alleged find mysteriously disappears.

Mr Sellars held himself out to be a "*writer and historian*".⁹⁷ It is surprising that, for someone who professes to have such a love and respect for the Gallipoli Peninsula, he is remarkably ignorant of the proper way of dealing with the finding of bones. He stated that:⁹⁸

I live on this peninsula because I choose to do so and I have the greatest respect for all the soldiers of all nations who served and fell here. My concern, as a mark of respect to the men and indeed some women of all nations who were involved in this campaign, is to preserve the battlefield in the best way that it can be using best management practices and causing the least amount of damage to this site that is of great historical and heritage importance to the people of our country and, in particular, the people of Turkey and New Zealand.

Notwithstanding this, it is clear from his own evidence that Mr Sellars was not aware of the proper process for the discovery, identification and disposal of human remains. He sought advice "*many years ago and have since acted on that advice.*"⁹⁹

There are a number of troubling features and inconsistencies about Mr Sellars' evidence on this point:

- his clear lack of knowledge of the proper procedure for dealing with human remains;
- his failure to acquaint himself with the proper procedures given his comment that he is "always finding bones from soldiers that were buried there in the first few days of battle to get ashore";¹⁰⁰
- given his self-styled expertise as a "writer and historian",¹⁰¹ one would assume that he would not only have made an effort to contact the CWGC and appraise

⁹⁶ *Committee Hansard*, p.4

⁹⁷ *Committee Hansard*, p.2

⁹⁸ *Committee Hansard*, p.23

⁹⁹ *Committee Hansard*, p.23

¹⁰⁰ N. Khadem and F. Walker, 'Graves, beach lost for wider road to Gallipoli', *Sunday Age*, 6 March 2005

himself of current procedures – he admitted in evidence that he was relying on information provided to him almost twenty years ago (in 1988) when he alleges he first found bones;¹⁰²

- having allegedly sought advice "many years ago" and had "since acted on that advice";¹⁰³
- given he has resided on the Gallipoli Peninsula for the past 3 years and in Turkey for 10 years,¹⁰⁴ one would assume that he knew of the location of the CWGC and indeed, ought to have made some effort of at least some contact with the very body that has responsibility in his area for something he avows to have a clear passion and interest in;
- his clear admission that he had not spoken to the current CWGC officer based in the Gallipoli Peninsula area;¹⁰⁵
- given his outdated information, it is clear that Mr Sellars made little or no effort to formalise any alleged find through the proper channels but rather chose to adopt more sensationalised methods through the media, some of which netted him financial gain;
- having allegedly found bones, he should have notified the CWGC.¹⁰⁶

The Majority Report refers to skeletal findings made in January 2003 by Australian archaeologist Dr David Cameron.¹⁰⁷ We have referred to the website headed "January 2003 News" which refers to a photo of "Debris located on Walkers ridge, femur at ANZAC Cove, the Sphinx" courtesy of Dave Cameron.

We have examined the website and quote the relevant background and explanation to the finding:

THE ARCHAEOLOGY AND HISTORY OF THE ANZAC GALLIPOLI BATTLEFIELDS OF 1915

David Cameron and Denise Donlon (Department of Anatomy and Histology, University of Sydney) are submitting an ARC Discovery Grant application based on the archaeology and history of the ANZAC Gallipoli Battlefields of 1915. A joint preliminary survey conducted of the ANZAC Battlefields, by Cameron, Peter Dowling and their Turkish colleagues from the 18th March University, during January 2003 has confirmed the viability of this project. Cameron and Dowling also had extensive discussions with Professor R. Bademli of the Gallipoli Peninsula Peace Park (Middle East Technical University, Ankara), representatives from the Turkish National Parks (Ankara) and colleagues from the 18 March University (Çanakkale, Turkey) concerning

¹⁰¹ Mr Sellars, *Committee Hansard*, p.2

¹⁰² Mr Sellars, *Committee Hansard*, p.22

¹⁰³ Mr Sellars, *Committee Hansard*, p.23

¹⁰⁴ Mr Sellars, *Committee Hansard*, p.12

¹⁰⁵ Mr Sellars, *Committee Hansard*, p.22

¹⁰⁶ Mr Sullivan, *Committee Hansard*, p.79

¹⁰⁷ <http://car.anu.edu.au/Jan2003newsfull.html> (accessed 27 June 2005)

joint fieldwork projects and publications. These discussions, along with talks conducted with the Australian Office of War Graves, Environment Australia, the RSL and the Australian Ambassador to Turkey have resulted in the refinement of project aims (see below). This trip has resulted in close ties being drawn between these institutions and the University of Sydney and the ANU.

Archaeological excavations will attempt to reconstruct the movement of ANZAC and Turkish troops through the landscape of Baby 700 and Battleship Hill during the first day of the landings. Another set of excavations will attempt to locate the furthest inland point reached by Australian troops on the morning of 25th April. In addition to these excavations, for the first time a detailed survey of the ANZAC battlefields in the Gallipoli Peninsula will be undertaken to document the archaeological remains in detail. We will also for the first time address issues associated with potential environmental impacts associated with ongoing road works and visitor facilities being planned for the Peninsula. This will involve a number of student dissertations. We will work with Turkish authorities to help limit the impact that increased tourism and ongoing problems associated with erosion are having on places of historic and cultural significance.

The extract also describes the archaeological finding in the following terms:

Photos: Debris located on Walkers ridge, femur at ANZAC Cove, the Sphinx, courtesy Dave Cameron.

It is also interesting to note the scope of the study:

While this project is not actively searching for human remains, it is important that any remains discovered be examined in order to assist in determining their national identity. This level of identification will enable them to be reburied in the most appropriate cemetery on the Peninsula. Identification will be conducted using archaeological techniques, forensic anthropological examinations, DNA and isotope nitrogen/oxygen ratio studies. Finally this project will provide an English translation of the Turkish Official Histories of the Gallipoli Campaign. This will for the first time enable non-Turkish reading scholars to finally include Turkish accounts of the campaign, which until now have been almost totally lacking. It will involve an Australian and Turkish multidisciplinary team

Allegations were made at the Inquiry that Dr Cameron had undertaken a preliminary survey and that it had been provided to DVA.¹⁰⁸ However, it is clear from the extract above that Dr Cameron had simply submitted an application for an ARC Discovery Grant.

¹⁰⁸ Committee Hansard, p.59

We would stress the need to put these allegations into proper context. The risk of finding bones on the Gallipoli was put to Mr Sullivan in connection with roadworks along the coast road at ANZAC Cove. He proffers the more plausible explanation that any potential unearthing of bones is likely due to erosion and not the alleged roadworks. He states:¹⁰⁹

Senator Bishop—Did you also at that time provide advice from the Commonwealth War Graves Commission that there was no risk of finding bones associated with the roadworks along the coast road at ANZAC Cove?

Mr Sullivan—You can never assert that there is no risk of anything. What we asserted was that a report by the Commonwealth War Graves Commission said that there was no evidence of any human remains. In Gallipoli, there is always the chance, or risk, of human remains and bones being found, either in situ or having been washed down from the hills. After every winter, and every rain season, bones are commonly found. In a place where erosion is significant, if a bone fragment had been found as a result of the roadworks, our view is that it was probably the result of erosion, not of a bone having been buried where the road was. It extends into the third area, and the level of battlefield activity resulting in death and burial in situ at that part of the battlefield, is very low.

Senator Bishop —Down the bottom?

Mr Sullivan—Yes. They are is the combination of how much battle activity there was and how much of that battle activity resulted in soldiers bodies, for all sorts of circumstances, unfortunately having to be left in place, buried on site where they lay. Casualties in the area were generally Australian. It was an area always under Australian control from the early hours of 25 April 1915. The wounded were extracted and treated either offshore or in the early established medical centres and those who died were buried. That was the basis of us forming a view, not dismissing the chance that there was a risk of human bones but, if there was, it would have been the result of erosion.

The exaggerated nature of the initial press allegations also included references to "desecration". It is important to note that the CWGC's assurance that following an extensive examination of the area, no evidence was found that human remains had been disturbed.¹¹⁰ Hence, the use of a highly emotive term as "desecration" in such an erroneous manner belies the seriousness of the claim. Clearly, the intention is simply be sensational and inflammatory.

Mr Sellars also asserted that notwithstanding he had no qualification in archaeology, nevertheless, he holds himself out as having the capacity to identify human bones.

AVM Beck (OAWG) agreed with the Chair that if bones were found, the species of the bones may have been human or animal. Indeed, AVM Back replied that whilst it

¹⁰⁹ Mr Sullivan, *Committee Hansard*, p.61-62

¹¹⁰ *Committee Hansard*, p.53

would be difficult for him to identify the bones, it would not be so for officials from CWGC.¹¹¹

AVM Beck (OAWG) went on to give an example of bones uncovered in Merris in Northern France and the forensic examination undertaken in that instance to ascertain their origins.¹¹²

3.2.2 Allegations that the landscape has been damaged

The second matter of environmental concern to the Committee was the allegation that the roadworks had permanently damaged the landscape at ANZAC Cove.

The Majority Report asserts that several submissions to the Committee expressed concern at the transformation of the landscape as a result of the roadworks.¹¹³ Whilst this may be the case, it is important to note that whilst they made references to allegations of damage, most concede that responsibility for the Gallipoli Peninsula rests with the Turkish authorities.

A submission by Ian Tait and Geoffrey Ostling is qualified by the authors as a submission prepared in a short time with limited opportunity to research background details.¹¹⁴

Some submissions are simple and contain an outright barrage of allegations regarding what the the Australian Government should or should not do but fail to even mention that Turkey has sovereignty over the Gallipoli Peninsula.¹¹⁵ Others make the concession as to Turkish sovereignty as an aside and then appear to continue in a similar vein asserting what Australian authorities ought to do in the sovereign territory of another country.¹¹⁶

The questioning of officials at the Committee hearing concentrated on two issues - the widening of the coastal road and the dumping of spoil onto the beach at ANZAC Cove.

3.2.3 The widening of the road

The Majority Report states that the key accusation against Turkish and Australian authorities was that the roadworks were excessive and that "*In particular, it was widely commented in the media that the widening the coastal road by up to 20 metres was unnecessary.*" Again, the Majority Report bases its allegations principally on the

¹¹¹ *Committee Hansard*, p.78

¹¹² *Committee Hansard*, p.79

¹¹³ See Submissions 5, 7, 9, 11, 14 and 15

¹¹⁴ I. Tait and G. Ostling, *Submission 9*, p.3

¹¹⁵ Dr Bruce Scales, *Submission 7* and Australian Institute for Maritime Archaeology, *Submission 11*

¹¹⁶ Marie Wood, Australian Council of National Trusts, *Submission 14*

assertions of Mr Sellars and to some extent, on the self-serving media releases of Labor Members of Parliament.¹¹⁷

The Majority Report cites Les Carlyon, author of the bestseller, *Gallipoli*:¹¹⁸

They were concerned with putting on a show for one day of the year, rather than preserving the site for 365 days when a lot more than the 20,000 who attend on ANZAC Day tour the battlefields. The last thing needed was a wider road.

This assertion reinforces the evidence that many more people visit Gallipoli other than on ANZAC Day. Indeed, it lends added credence to the evidence of the estimated two million Turkish visitors to the Gallipoli Peninsula.¹¹⁹

The Majority Report also notes that the extent of the road widening was also a point of disagreement between the Australian Government and the Turkish contractors. On 25 April, the *Courier Mail* and *Herald Sun* reported the comments of Veterans' Affairs Minister, De-Anne Kelly MP:¹²⁰

they've certainly widened it more than we were expected, were advised or wanted.

3.2.4 The dumping of soil

The Majority Report states that on 3 March 2005, several Australian newspapers published reports claiming the ANZAC Cove Beach had been buried under a pile of excavated soil. Press reports in *The Canberra Times* and the *Courier Mail* quoted the following statements from Mr Bill Gudgeon, spokesman for the political party, New Zealand First:¹²¹

Recent photos of parts of the site under excavation are almost unrecognisable, and ANZAC Cove Beach in some places has actually ceased to be a beach because it is covered in dirt ... I would urge the Turkish Government to monitor the damage construction is causing to the area to ensure that this designated national park does not suffer any long-term damage through erosion.

¹¹⁷ Anthony Albanese MP, 'Heartbreaking photos show ANZAC Cove destruction', *Media Release*, 5 April 2005

¹¹⁸ 'ANZAC Cove road tears up sites, and political process', *Sunday Age*, 24 April 2005, p.4

¹¹⁹ Nassim Khadem and Frank Walker, 'Graves, beach lost for wider road to Gallipoli', *The Age*, 6 March 2005

¹²⁰ N. Wilson, 'Cove works shock MPs', *Herald Sun*, 25 April 2005, p. 14; N. Wilson, 'Roadworks more extensive than thought', *Courier Mail*, 25 April 2005, p.5

¹²¹ 'ANZAC Cove roadworks cause concern', *Courier Mail*, 3 March 2005, p. 11; 'Fears work will damage ANZAC Cove', *The Canberra Times*, 3 March 2005, p.9

It is interesting to note that Mr Gudgeon's concerns are directed at the Turkish authorities. No mention at all is made about the Australian or for that matter, the New Zealand Government.

Again, the Majority Report seeks to rely purely on media allegations made by Mr Sellars about the cessation of works and purports to cite an article in the *Sun Herald* dated 6 March 2005. In the article, author Mr Frank Walker quotes Mr Sellars wherein he alleges that more than 80 metres of the 500-metre-long beach are covered in rubble and it is impossible to traverse and that when they dug into the side of the cliff to widen the road to 20 metres, they undercut the only path leading to the cemetery and it is now eroding away.¹²²

The Majority Report continues its reliance on its principal "authority" Mr Sellars in an article for the *Daily Telegraph* that the waters of the cove "*are filled with sediment*".¹²³ Mr Sellars continued with this claim to the Committee when he stated:¹²⁴

... last Tuesday I was snorkelling in ANZAC Cove and there has been an effect from the roadworks on the sea area off the beach. Many of the relics in the cove, such as a sunken barge from the campaign and piles for the piers that were used to land troops and supplies, and the seabed itself have been covered by a layer of silt coming from earth dumped directly onto the beach of the cove by the Turkish firm building the road.

As AVM Beck advised the Committee, swimming at ANZAC Cove is banned.¹²⁵ Again, it demonstrates the inconsistency of Mr Sellars' approach. On the one hand he professes that "*at no time would I ever consider that I have acted in any way in a disrespectful manner*"¹²⁶ yet on the other hand, he is happy to swim in ANZAC Cove where swimming is banned. In short, this demonstrates a disregard for proper procedures and questions Mr Sellars' credibility in relation to his allegations and purported respect for the ANZAC heritage area.

In short, the Majority Report and its finding on this issue are nothing more than a series of unsubstantiated assertions based on allegations reported in the media by a witness whose credibility, at best, is questionable.¹²⁷

¹²² F. Walker, 'Sacrilège at ANZAC Cove': Remains dug up to make way for ANZAC Cove', *Sun Herald*, 6 March 2005

¹²³ B. Sellars, 'Desecration', *Daily Telegraph*, 9 March 2005

¹²⁴ *Committee Hansard*, p.5

¹²⁵ *Committee Hansard*, p.80

¹²⁶ Mr Sellars, *Committee Hansard*, p.23

¹²⁷ R. Skelton, 'Is nothing sacred?', *Sunday Age*, 10 April 2005, p.15

Mr Sellars also made allegations about general silt covering some of the waters off ANZAC Cove. Again, this was repudiated in evidence given by Mr Sullivan when he rejected them as an exaggeration:¹²⁸

The only other thing is that, in recording the silt, I could not see how you would associate what appeared to be a general silt covering of some of the waters off ANZAC Cove with the very limited spill of fill across ANZAC Cove. Even the worst photograph of the spill of ANZAC Cove is probably a tonne or two of fill. That area is largely, as I say, subject to erosion. If wind or rain occurs it does not surprise me at all that silt is in ANZAC Cove. Those areas of water would quite commonly have silt from those hills on them. I do not think you could specifically say it was a result of the spill across the cove of some fill in the road construction. It looked quite stable when I saw it.

The Majority Report refers to the submission of the Australasian Institute of Maritime Archaeology (AIMA):¹²⁹

AIMA was alarmed by the recent damage to this near-pristine archaeological site. The current works program has done more than compromise the archaeological integrity of fragile relics situated along the length of the affected road area. [It] may have impacted on the archaeological remains within the near-shore areas.

Unfortunately, the AIMA submission fails to recognise that ANZAC Cove is within the sovereign domain of a foreign country and not one where Australia has joint responsibility, which appears to be the tenor of their submission. Indeed, apart from an oblique reference to the complexities regarding management of ANZAC Cove arising from its location in another country, there is no definite recognition of Turkish sovereignty and authority over decisions and actions taken in relation to ANZAC Cove.

3.3 Details of Response of Australian Authorities

As we have repeatedly shown above, the findings in the Majority Report are primarily based on a series of sensationalised allegations made by Mr Sellars. They do not examine the detailed response made by Australian authorities and in particular, the evidence given by Australian officials at the Inquiry.

We have however preferred to adopt a more systematic approach in keeping with the request of Senate and the terms of reference. We have therefore opted to review the various roles mentioned above and examine the adequacy or otherwise of their response to various allegations.

¹²⁸ *Committee Hansard*, p.81

¹²⁹ Australasian Institute of Maritime Archaeology (AIMA), *Submission 11*, p.1

3.3.1 Role of the Department of Veteran's Affairs, including the Office of Australian War Graves

The DVA Submission categorically and unequivocally states that DVA had no role in road works in the lead up to ANZAC Day 2005:¹³⁰

DVA had no role in road works, and related construction activity, at ANZAC Cove in the lead up to ANZAC Day on 25 April 2005. The Director of War Graves was aware of a proposal to widen the road from October 2004. He understood the proposal to be the widening of the road from 5.5 metres to seven metres. DVA, including the Director, was not aware of the extent of the works undertaken to achieve this widening until they occurred.

AVM Beck (OAWG) advised the Committee that post August 2004 he had visited Gallipoli on six occasions since August 2004.¹³¹ Other DVA staff from DVA had also visited. He stated that the first two of these meetings were with the Turkish Director-General of National Parks, Mr Yalinkilic in relation to enlargement of the ANZAC Commemorative site where the Dawn Service is conducted so that stands could be put further back. Indeed, three submissions had been made to the Turkish authorities over the latter part of 2004 but never gained approval.

Assertions were sought to be made regarding the point at which the improvements to the roadworks became known. It is clear that AVM Beck (OAWG) first became aware of the widening of the road in early November 2004:¹³²

Senator Bishop – Did those discussions that you had in those half-dozen meetings with your Turkish colleagues also include improvements to the roadworks either north or south?

VAM Beck – I cannot quite recall when I first heard about it but I know that in our second meeting with Yalinkilic he produced a master plan that showed little dots where car parks would be. I did not come away with any impression that the road was being widened. I first heard that from DFAT in about early November.

Senator Bishop – When was your second meeting?

AVM Beck – Between 3 and 9 October.

Senator Bishop – So in the second meeting there was some discussion on roadworks and the Turkish officials indicated to you potential sites for car parks.

¹³⁰ Submission 6, p.3

¹³¹ Committee Hansard, p.43

¹³² Committee Hansard, p.47

AVM Beck – Yes. The roadworks we were talking to Yalinkilic about were on a dirt road from Shell Green up to Lone Pine, called Artillery Road. It is marked on the map.

AVM Beck (OAWG) remained emphatic in his view that the roadworks were not drawn to his attention by the Turkish authorities in his meetings with them:¹³³

AVM Beck – They did not draw it to my attention. I did not gather that from looking at the master plan, because that was not really discussed with us. He was just showing us that there were a number of projects on the peninsula that they were going to spend the \$US64 million on. I never gained any information from Yalinkilic about the roadworks. I think I first heard about it from the Embassy when I was told that the road was going to be widened from 5.5 metres to seven metres.

Senator Bishop – And when was that?

AVM Beck – I think that was about October.

Senator Bishop – Okay. So around October, the Embassy in Ankara was aware of the widening of the road from the south and that was communicated to DVA and came to your attention. Is that correct?

AVM Beck – Yes. We were told that the road would be widened by 75 centimetres each side.

Senator Bishop – When the proposal to do the work from the south on the roads was drawn to your attention by the Embassy, did you instruct the Embassy to raise any objections to any of the proposals?

AVM Beck – No. I had no grounds for doing that. I was surprised when I heard about it because it did not seem to be relevant to our traffic plan at all.

In short, AVM Beck's (OAWG) evidence is clearly that he, and consequently, the Australian authorities through him, were not aware of the extent of the road works until February 2005.

Whilst AVM Beck (OAWG) held various meetings and was shown a master plan of various Turkish projects, he denied in evidence that they (the extent of the roadworks) were brought to his attention:¹³⁴

AVM Beck—They did not draw it to my attention. I did not gather that from looking at this master plan, because that was not really discussed with us. He was just showing us that there were a number of projects on the peninsula that

¹³³ Committee Hansard, pp.49-50

¹³⁴ Committee Hansard, pp.49-51

they were going to spend the \$US64 million on. I never gained any information from Yalinkilic about the roadworks. I think I first heard about it from the embassy when I was told that the road was going to be widened from 5.5 metres to seven metres.

Senator Bishop—And when was that?

AVM Beck—I think that was about October.

Senator Bishop—Okay. So around October, the embassy in Ankara was aware of the widening of the coast road from the south and that was communicated to DVA and came to your attention. Is that correct?

AVM Beck —Yes. We were told that the road would be widened by 75 centimetres each side.

Senator Bishop —When the proposal to do the work from the south on the roads was drawn to your attention by the embassy, did you instruct the embassy to raise any objections to any of those proposals?

AVM Beck —No. I had no grounds for doing that. I was surprised when I heard about it because it did not seem to be relevant to our traffic plan at all.

Senator Bishop —But you did not pursue it any further other than being surprised?

AVM Beck —No. I was concerned about its impact on our cobblestone road through the site. The road widening, as it turns out, looks like it will affect our site as well. They are going to widen the cobblestone road. That is part of the plan. But that was the limit of my—

Senator Bishop —Where is the cobblestone road?

AVM Beck —Through the site.

Senator Bishop —Through the ANZAC Cove site?

Mr Campbell—No. Through the commemorative site.

AVM Beck —No. Through the ANZAC commemorative site.

Mr Sullivan—It is only 100 metres or so. Instead of bitumen, it is cobblestone.

Mr Campbell—The road by the commemorative site wall is of cobblestones not bitumen. It has been cobblestones since 2000.

Senator Bishop —I understand. Did you raise any environmental and heritage protection issues at this series of meetings you attended, Air Vice Marshal?

AVM Beck —No, I did not. To be honest, I did not think widening the road 75 centimetres either side would have any impact on the environment.

Senator Bishop —When did it come to your knowledge that the road construction or extensions were going to be significantly more than the 75-centimetre extension?

AVM Beck —I think I read about it in Mr Sellars' article.

Senator Bishop —When was that? In February or March?

AVM Beck —February, perhaps.

Senator Bishop —And you had not been aware of it prior to then?

AVM Beck —No.

Clearly, AVM Beck (OAWG) was viewing the matter from the perspective of the impact of the road widening on the cobblestone road through the ANZAC commemorative site. Furthermore, he did not raise any environmental and heritage aspects given that he did not believe that widening the road by 75 centimetres either side would have any impact on the environment.¹³⁵ Given this perspective, it is clear that AVM Beck (OAWG), or any other Australian official, ought reasonably not to have been alerted to the true nature of the work envisaged by the Turkish authorities.

DVA officials were categorical in their responses to questioning about their knowledge of the roadworks:¹³⁶

Senator Bishop – When did it come to your knowledge that the road construction or extensions were going to be significantly more than the 75-centimetre extension?

AVM Beck – I think I read about it in Mr Sellars' article.

Senator Bishop – When was that? In February or March?

AVM Beck – February, perhaps.

Senator Bishop – And you had not been aware of it prior to then?

AVM Beck – No.

¹³⁵ *Committee Hansard*, p.50

¹³⁶ *Committee Hansard*, pp. 50-51

Senator Bishop – Had you been aware of it prior to then, Mr Sullivan?

Mr Sullivan - No, Senator.

Senator Bishop – Mr Campbell?

Mr Campbell – No, Senator.

Senator Bishop – No-one in the department or the organisation has been aware prior to then of the extent of the actual work as it contrasted to the proposal?

Mr Sullivan – No.

It is clear from the evidence that DVA and the Embassy, through AVM Beck (OAWG) were aware in about October 2004 that the road was to be widened from 5.5 metres to 7 metres. However, it is also evident that given the discussions between officials were in relation to only a limited road widening, under the circumstances, there was no reason or basis to envisage the nature and extent of the roadworks as they subsequent emerged.¹³⁷

Senator Bishop—No-one in the department or the organisation has been aware prior to then of the extent of the actual work as it contrasted to the proposal?

Mr Sullivan—No.

Senator Bishop—So the post had not sent an officer down to check on the road construction work at all?

Mr Sullivan—That is something you would have to ask DFAT. As Gary Beck has said, certainly the department and the embassy, through Air Vice Marshal Beck, were aware in around October that the road was to be widened from 5.5 to seven metres. We became engaged on the roadworks issue following the press reports of the works.

Senator Bishop—You had no advice prior to that that warranted your involvement?

Mr Sullivan—There was no engagement with us in respect of the roadworks prior to the press becoming interested.

AVM Beck—Senator, could I add that maybe in my visit of 27 February, or the visit of 5 February, they had certainly started roadworks but it was down from the museum north along Brighton Beach—where it says ‘Gaba Tepe’, that section running north—and they quite literally had just widened the section about one metre either side. Even when I was there, there was no evidence that

¹³⁷ Committee Hansard, p.51

it was going to be anything more than they said. But I repeat that, to this day, I do not know why it was necessary to widen the road. Certainly, repairs were needed. The way they have done repairs is a matter for the Turkish authorities, but in terms of meeting our objective—and I am not saying that that is why they did it—we never sought nor required a widening of the road from 5.5 metres to seven metres.

Senator Bishop —So the net content of your evidence is that, over a series of meetings over a number of months from early October, the Turkish government had made you aware of a widening of the coast road from the south from 5½ metres to seven metres; that you regularly visited the site thereafter, but that the differentiation from actual construction to what you had been informed in planning terms did not come to the attention of you or the department until it hit the press some time in February or March?

AVM Beck —I would add that it was on the 20 March visit when I saw the roadworks. It was well and truly progressed by then.

Senator Bishop —So that was the first time you saw it. That would have been after the time it had achieved some press notoriety back here, wouldn't it?

AVM Beck —Yes.

Mr Sullivan indicated that since the roadworks had become an issue, the conduct of most of the discussions around the roadworks with the Turkish officials had been led by DVA.

When the reports of the roadworks were first brought to public attention, Mr Sullivan and AVM Beck (OAWG) went to Turkey to report to the Minister.¹³⁸ On the 20 March visit, AVM Beck (OAWG) states he saw the roadworks on this visit and that they were well and truly progressed by then.¹³⁹ He observed that they were cutting into the cliff far more than he had ever imagined they would need to.¹⁴⁰

AVM Beck (OAWG) states that DVA commissioned a report from Arup Engineering and Consulting to principally examine the impact that the roadworks would have on the conduct of the commemoration services, including traffic and safety. In evidence, he stated that he did not think the roadworks could possibly be completed in time (for 25 April 2005) given the culverts being cut across the road and the utter dependence on this road for traffic access. AVM Beck advised the Committee that Arup thought the works would be completed by 20 April and indeed, Minister Pepe also gave an assurance that the works would be completed by 20 April.¹⁴¹

¹³⁸ Mr Sullivan, *Committee Hansard*, p.34

¹³⁹ *Committee Hansard*, p.51

¹⁴⁰ *Committee Hansard*, p.52

¹⁴¹ *Committee Hansard*, p.52

Mr Sullivan indicated that the roadworks had raised concerns with DVA in three areas:¹⁴²

1. the effect of the roadworks on the commemoration service;
2. the claims of human remains being disturbed; and
3. whether the roadworks had caused any significant damage or raised significant issues regarding military and cultural heritage in the area.

The engagement of Arup Engineering and Consulting was an appropriate response by DVA to determine whether the road would be safe and to gather an understanding of what had occurred in terms of access to drawings, the standard of the road in respect of Turkish design standards, contractual responsibilities including linkages between the various Turkish agencies from Ankara to Canakkle and then down to the contractors.

Assertions were sought to be made about the conduct of DVA in relation to the latter two issues.

In respect of the remains, Mr Sullivan gave evidence that DVA approached the custodians of the Gallipoli cemeteries, graves and memorials: the Commonwealth War Graves Commission. This is the responsible authority. Mr Sullivan advised the Committee that the Commission had publicly reported back to DVA as follows:¹⁴³

As a result of the public concern regarding the development of work currently being undertaken in the ANZAC Cove area of the Gallipoli Peninsula, the Commonwealth War Graves Commission would like to reassure the public that our regional representatives have carried out an extensive examination of the area and have found no evidence that human remains have been disturbed. The commission would also like to reassure the public that our cemeteries and memorials remain unaffected by the development work. They stand ready to receive the thousands of pilgrims who will pay their respects to the fallen this, the 90th anniversary, of the ill-fated Gallipoli campaign.

It is important to note Mr Sullivan's evidence on this point:¹⁴⁴

That, for us, was authoritative. It came from the people who were charged under the Treaty with these matters, and it satisfied us.

It must be remembered that the CWGC has an office on the Gallipoli Peninsula and was thus in the best position, not only given its authority under the Treaty, but its proximity to the site, to make the best assessment. Mr Sullivan understandably placed

¹⁴² Committee Hansard, p.52

¹⁴³ Committee Hansard, p.53

¹⁴⁴ Committee Hansard, p.53

great weight on the assessment of the "eminent and qualified" staff of the CWGC.¹⁴⁵ He stated in evidence that:¹⁴⁶

I personally put great weight on what is generally a very conservative organisation when it comes to the protection, over 90 years, of the graves of Commonwealth soldiers. When they say they have done a special examination and they make a finding, I give it great weight.

DVA's reliance on the investigation, finding and advice of the Commonwealth War Graves Commission was fully justified and appropriate.

3.3.2 Department for Foreign Affairs and Trade and the role of the Minister for Foreign Affairs, the Hon Alexander Downer, MP

Mr Newman (DFAT) summarised the role of the Department:¹⁴⁷

Our role has been to support and advise the Department of Veterans' Affairs, who were just here. As you are aware, we conveyed the letter from the Minister at the time to her counterpart, so we were a point of transmission. In Canberra we have been involved in a number of Inter Departmental Committee discussions. Basically, we help and support the Department of Veterans' Affairs with preparations for the ANZAC Day ceremony. We play a major part in it, as you would be aware from your visits with the Ambassador, by making frequent visits, generally having contact with officials of the Turkish Government and Turkish Ministers, and talking about our needs in terms of preparations for the event. That has included, on occasion, discussions on the road situation.

It is clear from Mr Newman's evidence that DFAT first became aware of the roadworks at Gallipoli in late February 2005:¹⁴⁸

Mr Newman—The first time we became aware of that was in late February. I could not give you the exact date, but we were alerted towards the end of February, and by 3 March the Ambassador, Jean Dunn, had raised concerns with the Turkish authorities about the scale of the works and had alerted us in Canberra to that.

Senator Bishop—How did you become aware back in late February?

Mr Newman—We had a visit at the time from the Embassy down to the Peninsula. I think that was the first time people saw the actual scale of it.

¹⁴⁵ *Committee Hansard*, p.56

¹⁴⁶ *Committee Hansard*, p.55

¹⁴⁷ *Committee Hansard*, p.84

¹⁴⁸ *Committee Hansard*, p.85

From 1 to 4 February, the Australian Ambassador went to Gallipoli with officers of the Office of Australian War Graves, the Federal Police, Defence and New Zealand officials to examine security preparations for the ANZAC Day ceremony but did not become aware of the work in the south and north.¹⁴⁹

Mr Newman (DFAT) gave evidence of the circumstances surrounding when DFAT first become aware of the roadworks:¹⁵⁰

Mr Newman—The first report we had was from the Ambassador. There was an email to us on 3 March, followed very quickly by a cable. That was referring to the extent of the roadworks. At that stage, the Ambassador had been told that they were talking about building buttresses along ANZAC Cove, which I assume is a reference to the future of the seawall, which was being raised earlier.

Senator Bishop—It sounds like it.

Mr Newman—So she then raised concerns about the state of the road repairs with the Ministry of Foreign Affairs and a National Parks official, and separately with other officials.

Senator Bishop —So she raised concerns deriving from her observations with a range of relevant Turkish government officials after 3 March?

Mr Newman—Yes.

Senator Bishop —And she cabled you from time to time, I presume, on the progress of her negotiations or consultations with those Turkish departments?

Mr Newman—That is correct.

Senator Bishop —You might just tell us who she raised concerns with and when she did so.

Mr Newman—At that stage, she raised concerns with the Ministry of Foreign Affairs, an official from National Parks, and a deputy undersecretary in the Prime Minister's department.

Senator Bishop —You are referring there to departments of the Turkish Government, aren't you?

Mr Newman—Yes.

¹⁴⁹ Committee Hansard, p.86

¹⁵⁰ Committee Hansard, p.86

Given that the issue of the roadworks had the potential to affect the bilateral relationship between Australia and Turkey, it is understandable that the Hon. Alexander Downer, Minister for Foreign Affairs, who has overall responsibility for the bilateral relationship, became involved.¹⁵¹

Furthermore, as Mr Newman (DFAT) told the Committee, Minister Downer was reporting to Parliament of discussions he was having with the Ambassador of a foreign country. In those circumstances, it was entirely appropriate that the Minister report accordingly.¹⁵²

On 8 March 2005, Minister Downer, in response to a question, made the following statement to Parliament:¹⁵³

... There have been some media reports – I think in the Daily Telegraph and possibly on one of the commercial stations – about the rebuilding of an existing road around ANZAC Cove. The road is being rebuilt for safety reasons. There is no question that the road does require some urgent reinforcing, and the Turkish authorities are endeavouring to complete the road in time for the 90th anniversary commemorations.

On seeing the media reports, Minister Downer took immediate action by asking the Australian Ambassador to contact Turkish authorities. This was relayed to Parliament on 8 March 2005.¹⁵⁴

On seeing the media reports I instructed our Ambassador to Turkey, Jean Dunn, to raise with the Turkish government the issues that have been raised in the media reports because, obviously for all of us, the site is of enormous historical and emotional importance and it would be of very great concern to us if the remains of fallen soldiers were being disturbed and dirt was being dumped onto the beach at ANZAC Cove.

The Turkish authorities were categorical in advising the Australian Ambassador that **no remains have been unearthed during the roadworks**. Minister Downer informed Parliament on 8 March 2005 as follows:¹⁵⁵

During the course of the discussions yesterday, the Turkish authorities told our Ambassador that archaeological work had been carried out prior to the roadworks commencing and that no remains have been unearthed during the roadworks.

¹⁵¹ Mr Newman, *Committee Hansard*, p.87

¹⁵² *Committee Hansard*, p.100

¹⁵³ Cited in *Submission 4*, Attachment A

¹⁵⁴ Cited in *Submission 4*, Attachment A

¹⁵⁵ Cited in *Submission 4*, Attachment A

Furthermore, **in the event that any remains were unearthed, an assurance was given by the Turkish authorities that reconstruction would stop.** It is clear from Minister Downer's statement to Parliament on 8 March 2005 that the Turkish authorities had responded to Australian concerns sensitively and with what appears to be great promptness:¹⁵⁶

They also assured us that if any remains were unearthed they would immediately instruct that the reconstruction of the road be stopped. We appreciate that very much. I must say I very much appreciate the sensitivity with which the Turkish authorities responded to our representations.

Furthermore, in response to earth being put onto the beach at ANZAC Cove, the Turkish Government also was clear and unequivocal in its response, namely **to remove the earth promptly.** Minister Downer informed Parliament on 8 March 2005:¹⁵⁷

It is true that contractors have put some earth onto the beach at ANZAC Cove. The Turkish government is instructing the contractors to remove the earth from the beach so the beach can be restored to its proper condition.

Minister Downer then went on to conclude:

... From the Ambassador's discussions with the Turkish authorities I am satisfied that they are aware of our concerns, that they are aware of the media reports and that they will take all necessary steps – as they have done for many, many years – to protect the dignity of the site.

As we have repeatedly stated, what actions the Turkish authorities take in relation to the Gallipoli Peninsula is, ultimately, their decision. Australia can make representations but clearly, it is up to the Turkish authorities to heed any concerns and take what action they deem appropriate. The Majority Report fails to take this singularly important fact into account.

On 10 March 2005, Minister Downer took further positive action and met with Turkey's Ambassador to Australia. It is clear from the majority of the written and oral evidence that there was a need to improve the road system – this is freely admitted. In answer to a question he told Parliament of his meeting and advised the House that:¹⁵⁸

... We had a discussion about the proposal to improve the road system around ANZAC Cove. The member for Hughes, in her capacity as the Minister for Veterans' Affairs, in August last year wrote to the Turkish authorities and

¹⁵⁶ Cited in *Submission 4*, Attachment A

¹⁵⁷ Cited in *Submission 4*, Attachment A

¹⁵⁸ Cited in *Submission 4*, Attachment B

explained that she thought there was a need for improvement in some of the road systems, for safety reasons.

The Turkish authorities are responsible for improving the road system. To suggest or otherwise imply that in some way Australia or Australian authorities could simply have gone onto the Gallipoli Peninsula and told Turkish authorities how or what they should do with their road system is preposterous. Unfortunately, this is the overwhelming inference in the Majority Report.

As Minister Downer advised Parliament on 10 March 2005:¹⁵⁹

The Turkish authorities, quite rightly, are endeavouring to improve those roads. There has been significant erosion over the years, and the road above ANZAC Cove, in particular, requires urgent reinforcing.

Again, the Turkish authorities provided assurances to Minister Downer. Based on the good relations between Australia and Turkey, to have doubted such assurances would not have been proper or correct. Minister Downer advised the House on 10 March 2005:¹⁶⁰

The Ambassador, yet again, has reassured me that the historical significance of ANZAC Cove and other sites will be protected while these essential roadworks are undertaken.

Again, the Turkish authorities advised that **no remains had been uncovered** and further, **that the soil would shortly be removed from the beach**. Minister Downer told the House on 10 March 2005 that:¹⁶¹

He has confirmed the advice that I provided to the House a couple of days ago that no remains have been uncovered during the roadworks and that soil which has been placed on ANZAC Cove beach would be removed shortly.

Again, Minister Downer took positive action in requesting the Australian Ambassador to once again visit the site. On 14 March 2005, he told the House that Ambassador Jean Dunn had visited the ANZAC sites and found **no evidence of disturbance of human remains**. He stated to the House that:¹⁶²

... I asked our Ambassador based in Ankara, Jean Dunn, to visit the Gallipoli Peninsula and ANZAC Cove over the weekend so she could inspect the roadworks herself. She has done so over two days. During those inspections, she found no evidence of any human remains or bone fragments.

¹⁵⁹ Cited in *Submission 4*, Attachment B

¹⁶⁰ Cited in *Submission 4*, Attachment B

¹⁶¹ Cited in *Submission 4*, Attachment B

¹⁶² Cited in *Submission 4*, Attachment C

In addition, Ambassador Dunn took counsel from the experts on the site, namely the Commonwealth War Graves Commission (CWGC) which has its office at Canakkle. Given the expertise, responsibility and proximity that the CWGC has for the area, it is totally reasonable for Ambassador Dunn not only to consult with CWGC but to rely on their expert information.

Minister Downer reported to the House as follows on 14 March 2005:¹⁶³

The Commonwealth War Graves Commission, which operates in the Gallipoli area, advised her that they inspected the area thoroughly before and during the roadworks and found no evidence of remains. The Commonwealth War Graves Commission also advised that they thought it very unlikely that any human remains would be found, because the area was thoroughly searched for remains in the 1920s and any remains found then were interred in local cemeteries.

Given the sensational allegations made by Mr Sellars, Ambassador Dunn spoke with Mr Sellars during her visit. It is interesting to note that Mr Sellars was unable to produce the two bone fragments that he alleged to have photographed. Minister Downer relayed to the House on 14 March 2005 the information provided by Mr Sellars to Ambassador Dunn:¹⁶⁴

A man called Bill Sellars, who is an Australian who lives in the area and has an intense interest in the preservation of Gallipoli, has told our ambassador that of two bone fragments that he had photographed one had disappeared and he could not relocate the other.

In response, Ambassador Dunn also requested Mr Sellars to advise Australian authorities and of course, the CWGC of any further alleged finds.¹⁶⁵

The Ambassador has asked him to advise us and of course the Commonwealth War Graves Commission if he does find any further remains, in particular so those remains can be treated respectfully and in the appropriate way.

It is interesting to note that on the one hand Mr Sellars holds himself out to be a person allegedly versed in history and understanding of military heritage, but on the other hand, demonstrates a rather cavalier and inappropriate attitude in relation to the care and attention of remains which he alleged were human. One would have thought at the very least, he would have promptly contacted the CWGC and informed them of the find so that the find could have been verified and the bones interred in an appropriate and respectful manner by appropriately qualified archaeologists. Instead,

¹⁶³ Cited in *Submission 4*, Attachment C

¹⁶⁴ Cited in *Submission 4*, Attachment C

¹⁶⁵ Cited in *Submission 4*, Attachment B

it would appear that Mr Sellars opted instead to parade his alleged find through sensationalised media avenues – here and abroad.

Yet again, the Turkish authorities gave assurances that **in the event that remains were located, the roadworks would stop**. As indicated above, given the good relations between Australia and Turkey, to have not accepted the assurances given by the Turkish authorities to Ambassador Dunn would have been inappropriate. Minister Downer advised the House on 14 March 2005:¹⁶⁶

The Ambassador did register yet again with the Turkish authorities our concern that, if remains were to be found, the roadworks should stop, and the Turkish authorities have agreed to do precisely that.

It is clear from Minister Downer's statements that overall, the responsibility for the works remained with the Turkish authorities. Further, whilst it was important for the road to be safe for visitors, the Australian Government's continued position of ensuring that the historic significance of the site be properly preserved is paramount and evident.

Mr Newman (DFAT) gave evidence to the Senate Committee that Turkish authorities had undertaken an inspection before the road was built.¹⁶⁷

The Turkish authorities informed us that they had had an inspection before the road was being built and that if they found any bones they would stop the work. We also had our ambassador go down there—this is at the time when the stories about the bones had emerged in the newspapers—with the senior administrative officer from the embassy. On two separate days they inspected the roadworks and saw no evidence of bones at that time. It was on this same visit that our ambassador called on Mr Bill Sellars to discuss his claims about the bones.

We have been concerned that the sensationalised press coverage and the various allegations made by persons such as Mr Bill Sellars had the potential to affect the relationship between Australia and Turkey. We should be grateful that the Turkish authorities accept that the media do not necessarily reflect the Government's view in any way. Mr Newman (DFAT) in his evidence made the following point:¹⁶⁸

In answer to your last question, I am not aware of any particular sensitivity being raised with us. I think that the Turkish authorities fully understand the role of the media, and that the media does not necessarily reflect, in any way, the government's view. We have certainly had very constructive discussions with the Turkish authorities through this period, and they understand that our

¹⁶⁶ Cited in *Submission 4*, Attachment C

¹⁶⁷ *Committee Hansard*, p.89

¹⁶⁸ *Committee Hansard*, p.97

position has not necessarily been reflected in some of the press reporting of the issue.

3.3.3 Role of Department of Environment and Heritage

The Department of Environment and Heritage Submission dated 10 June 2005 (the DEH Submission) notes that the Department of Environment and Heritage (DEH) had no role in the road works.

In relation to the awareness of DEH about the roadworks, we note the following evidence given to the Inquiry by Mr Young (DEH), First Assistant Secretary, Heritage Division, DEH:¹⁶⁹

Senator Bishop—When did your department learn that Australia had requested the roadworks that were referred to in the letter that Mrs Vale wrote which was released by the Prime Minister in April?

Mr Young—I do not believe the department was ever advised of that letter.

Senator Bishop—Did you see the letter sometime after it was released by the Prime Minister?

Mr Young—Yes.

It is clear from the evidence that the role of DEH has been primarily in relation to the heritage listing of the Gallipoli Peninsula and by way of support to DVA in relation to the historical and archaeological study.¹⁷⁰

Mr Young—I think our formal role is purely in relation to the listing issue but, as the wider department responsible overall for heritage matters, we are supporting the Department of Veterans' Affairs in their second study, which is the study of the wider historical and archaeological significance of the area. We are doing that because, firstly, we have heritage expertise and, secondly, it will assist us with our task of finding a mutually acceptable way of symbolically recognising the area. The idea behind those studies is very much that they are joint studies carried out by Turkey and Australia together. If we can through completing those studies come to a common agreement on the mutual significance of the area then we think that that is a very important step in reaching some subsequent agreement on listing or another appropriate mechanism. I think we see our response role as contributing to the work of Veterans' Affairs through our expertise in heritage and also to establish, hopefully, the relationships with Turkey that will enable us to advance the other matter.

¹⁶⁹ Committee Hansard, p.108

¹⁷⁰ Committee Hansard, pp 108-109

Senator Bishop—So your role is, firstly, directly related to your registry processes but, secondly, supportive and facilitative of making a contribution to the Department of Veterans' Affairs in doing the work that has been delegated to them. Is that correct?

Mr Young—That is correct.

Senator Bishop—Coming back to what initiated this discussion, did the Prime Minister's release of Minister Vale's correspondence requesting roadworks in the Gallipoli park trigger any action or activity on the part of officials of your department?

Mr Young—The release of the letter, no, but in the wider context of the debate and the discussions, yes. I was part of a delegation led by Mr Metcalfe from the Department of the Prime Minister and Cabinet to Turkey to discuss a wide range of issues including the roadworks. So directly, no; indirectly, yes.

Senator Bishop—Indirectly what has emerged is an expanding role, or a clearer role, for some of the heritage aspects of your department's work arising out of this whole discussion.

Mr Young—I think that is correct, yes.

In summary, the expertise of DEH, especially in the current situation, centres around the protection and management of heritage places, with DVA providing the specialist military history or military heritage input.¹⁷¹ In evidence Mr Young stated:¹⁷²

There are two issues: what is important and why is it important? I think that is rightly addressed by the military historians and heritage specialists. The question is: once you have established what is important about this heritage, what are the appropriate ways of protecting and managing it? I do not believe that the military historians would see themselves as experts in the way in which those places can then be protected. I should not really speak for them, but our expertise is that, once the values are established, how do we go ahead and protect and conserve them for future generations? We are, in our endeavours with Turkey, trying to find a way forward and think about how the ANZAC area will be in 10 to 50 years time and that is essentially the context in which our expertise is provided.

Much was sought to be made at the Inquiry about the heritage list. The Majority Report seems to suggest that somehow, heritage listing under Australian law might have prevented the roadworks. Mr Young (DEH) clearly stated that heritage listing would NOT have prevented the roadworks:¹⁷³

¹⁷¹ *Committee Hansard*, p.109-110

¹⁷² *Committee Hansard*, p.110

¹⁷³ *Committee Hansard*, p.113

Senator Fierravanti-Wells—I am interested in aspects of their heritage listing and how much it compares to our heritage listing under the Environment Protection and Biodiversity Conservation Act 1999.

Mr Young—We have not done an analysis of that type.

Senator Fierravanti-Wells—Would heritage listing under Australian law provide us with a veto over any proposed changes to the Gallipoli peninsula?

Mr Young—No.

Senator Fierravanti-Wells—Could it have prevented the roadworks?

Mr Young—No.

Furthermore, it must be remembered that the ANZAC area was declared a heritage site by the Turkish Government in the early 1980s. Notwithstanding protection which one would assume that Turkish law could provide to the area by virtue of its listing as a heritage site, the Turkish Government still saw fit to undertake the roadworks.

Therefore, simply put, if heritage listing under Turkish law did not preclude the roadworks, clearly, similar heritage listing under Australian law would not have had any effect. Any adverse criticism of the Australian Government's conduct in relation to the area, especially under these circumstances, is absolutely unwarranted.

3.3.4 Role of Department of Prime Minister and Cabinet

In his opening comments, Mr Metcalfe (PM&C) referred to the Submission provided to the Committee and made the following comments:¹⁷⁴

The Secretary of the Department wrote to the committee recently and drew your attention to the two recent media releases from the Prime Minister. As you are aware, PM&C is working closely with a number of departments—particularly the Department of Veterans' Affairs, the Department of Foreign Affairs and Trade and the Department of the Environment and Heritage—on the range of issues associated with Gallipoli and ANZAC Cove. I led a delegation to Turkey in April involving senior officials from those departments to hold discussions with senior Turkish officials on a range of issues relating to the shared heritage of the ANZAC area, the works occurring in the park and the preparations for the ANZAC ceremonies. Mr Kemish and I were both at Gallipoli as part of the Prime Minister's party and the wider official party for ANZAC Day this year. Mr Borrowman was part of the recent delegation led by Veterans' Affairs specifically dealing with issues in relation to the road engineering at ANZAC Cove.

¹⁷⁴ Committee Hansard, p.114

Mr Metcalfe (PM&C) was asked whether PM&C had sought legal advice in relation to the Treaty of Lausanne and gave evidence as follows:¹⁷⁵

Senator Bishop—Has PM&C taken any legal advice on the significance of the Treaty of Lausanne?

Mr Metcalfe—No. To be absolutely precise, we have consulted with DFAT in relation to the Treaty, but we have not sought or received legal advice on the treaty.

Senator Bishop —If you sought advice and you got it from DFAT, would that be regarded as definitive or not?

Mr Metcalfe—Yes and no. I must say that on the application of treaty law certainly the Department of Foreign Affairs and Trade and their legal advisors would be a highly regarded source of advice. But I must say that ordinarily on international law matters, I would usually look to the Attorney-General's Department to provide that advice. But we have neither sought nor received such advice.

Senator Bishop —Neither sought nor received it?

Mr Metcalfe—That is my understanding.

It is also clear from the evidence that PM&C became aware of the issue of the roadworks at the same time as everyone else.¹⁷⁶

Mr Metcalfe (PM&C) also gave evidence of first-hand viewing of the roadworks and on his return to Australia, he briefed the Prime Minister. He stated as follows:¹⁷⁷

Mr Metcalfe—Essentially, there were three aspects to the work that I was doing. One was in relation to getting a first-hand understanding of the issues associated with the roadworks. The second was to continue discussions with the Turkish officials in relation to the issue of heritage. Third, it was an opportunity for the delegation, particularly Mr Campbell and me, to reassure ourselves about the arrangements for the commemoration, given the very large number of people that we were expecting.

Senator Bishop —When you returned after 12 April and 13 April, were you able to advise the Prime Minister as to the adequacy or otherwise of archaeological research on the coast road, which was the subject of work?

¹⁷⁵ Committee Hansard, p.115

¹⁷⁶ Mr Metcalfe, Committee Hansard, p.116

¹⁷⁷ Committee Hansard, pp 116-117

Mr Metcalfe—I met with the Prime Minister upon my return to Australia and I briefed him on my observations of the range of issues that I had been sent to consider and discuss. It was at that stage that I provided him with briefings about the roadworks and specifically drew to his attention the understanding that I had obtained while visiting the ANZAC Cove area of the proposed completion of the roadworks involving a seawall. That led to a chain of events that you are probably aware of.

Senator Bishop —Why don't we go through both of those issues. Firstly, on the nature of your briefing to the Prime Minister: what were your observations? The reason I ask that is that it was still fairly stark when I was there about two weeks later.

Mr Metcalfe—I do not think it is appropriate to go into what I briefed the Prime Minister on. That is an issue between the Prime Minister and me. But I am happy to say that there was a briefing in relation to those three areas. As a result, it was agreed some representation should be made to Turkish officials, particularly in relation to the completion of the roadworks, which, as I said, has led to the chain of work that is now under way.

Senator Bishop —You had some concerns that you related to the Prime Minister?

Mr Metcalfe—I told the Prime Minister what I saw.

Senator Moore—Were photographs taken of it?

Mr Metcalfe—Yes, I did have some photographs. I do not want to be cute about this. There is no disputing the fact that the scale of the works was larger than we had expected. We understand the reasons why the works had been carried out in the way that they had, but we are very keen to work with the Turkish authorities to ensure that the completion of the works occurs in a way that is as complementary as can possibly occur to the environment and to the heritage significance of the site.

It is clear from the testimony of Mr Metcalfe (PM&C) that once he had briefed the Prime Minister on the issue of the rock wall, the Prime Minister asked that Turkish authorities be contacted with a request that no further action be taken until full engineering advice had been received.¹⁷⁸

Senator Bishop —Why did the Prime Minister request that work on the rock wall cease? My understanding is that the rock wall was absolutely essential to the future support of that portion of ANZAC Cove.

¹⁷⁸ Committee Hansard, pp 117-118

Mr Metcalfe—At the end of the day, I think various engineering solutions are possible, depending on where the road is seated and the angle of the slope from the road down to the beach. But it is fair to say that it is an extremely active coastline. The advice I have seen indicates that the coastline has probably receded around 10 metres since 1915 through the active erosion that has occurred. Indeed, it is interesting that the advice I have seen indicates that the beaches in the area are actually fed from erosion from the hillsides behind and that an active south-north littoral current moves sand up the beaches. You have obviously seen it yourself at first-hand. Given the ferocity of the winter storms and the rain in the area, erosion is very much a part of the environment. It became apparent to us when we visited ANZAC Cove and talked to the road engineers that their plans for the protection of the road involved a significant solid rock seawall. I am quite happy to put on the record that that obviously raised concerns for me as to what that would mean for the ultimate appearance of, and accessibility to, the beach at ANZAC Cove. It was for that reason that the Prime Minister, on being briefed about this, asked that we contact the Turkish authorities and request that no further work occur until we had had the opportunity to receive full engineering advice. That process is happening in a very cooperative way and is continuing.

Senator Bishop—It is almost to the completion stage?

Mr Metcalfe—Certainly the engineering assessment has been undertaken. We now need to talk further with the Turkish authorities about how we can find a solution that meets all of the various interests that have to be accommodated.

Again, this underlies the basic issue that work on the Gallipoli Peninsula is a matter for the Turkish authorities. Accordingly, no criticism can or should be levelled at Australian authorities. It is clear that to the extent possible through talks and cooperation, Australian authorities have put forward suggestions. Whether Turkey accepts these or otherwise, is ultimately a matter for Turkey. Failure by Turkey to follow Australian suggestions is not a responsibility which Australian authorities should bear.

Senator Bishop sought in the Inquiry to take issue at certain concerns raised by Dr Cameron, an archaeologist from Sydney University with some reputed interest in Gallipoli. We assume he is the same Dr Cameron referred to earlier who had, together with Denise Donlon, submitted an ARC Discovery application. It is unclear whether that application was successful and if not, whether this may have constituted a motive for Mr Cameron's negative public utterances.

In any case, Dr Cameron did not see fit to lodge a submission to this Inquiry and preferred to instead air his grievances publicly without putting them before the Committee. Accordingly, we found this to be another example of the sensationalism on which the majority sought to place some credit.

3.3.5 Role of the Attorney General's Department

As far as we are aware, no submission was made by Attorney-General's and no evidence was given by the Department to the Committee.

3.4 Comments by Turkish Authorities in Australia

During the Inquiry, Senator Bishop referred to a statement made by the Turkish Ambassador alleging the roadworks were done at the direction of the Australian Government. Evidence was given that this was based on a misunderstanding and it is important to note the exchange:¹⁷⁹

Senator Bishop—The Turkish Ambassador to Australia made a statement that was put out on the wires and reported by the ABC on 25 April that the roadworks were done at the direction of the Australian government. Did anyone from DFAT contact the Turkish Ambassador to Australia and seek clarification of his comments?

Mr Newman—I do not believe we did, no.

Senator Bishop—Were you aware of his comments?

Mr Newman—Yes.

Senator Bishop—What is your view of them?

Mr Newman—I think there was a misunderstanding.

Senator Bishop—You do not believe the comments are correct?

Mr Newman—I think there may have been a misunderstanding.

Senator Bishop—So the comments were erroneous, based on a misunderstanding of the facts?

Mr Newman—I think it is a misunderstanding.

Chair—I think that is all you can say. You have answered the question.

It is clear that any comments which have been made by Turkish authorities were under a mistaken belief. In any case, it is obvious from the considerable evidence provided to the Inquiry that the roadworks in question were not undertaken at the request of the Australian Government.

¹⁷⁹ Committee Hansard, pp 97-98

Chapter 4

Heritage Issues and Related Current Initiatives

Term (c) of the Terms of Reference specifically requires that the Committee examine the heritage protection of ANZAC Cove, including the proposed joint historical and archaeological survey of ANZAC Cove and proposals for the establishment of an international peace park, as well as national and world heritage listing for the area.

The Majority Report attempts to cover Term (c) by tagging on the end of Chapter 4 a section on Heritage Issues following a series of findings and recommendation.

We have however preferred to adopt a more systematic approach given that the heritage issue was so comprehensively covered at the Inquiry. This is also in keeping with the request of Senate and the terms of reference.

It must be remembered that it is the Turkish Government which has the responsibility for protecting the ANZAC sites. Known as the Gallipoli Peace Park, the sites are protected pursuant to two Turkish laws, the *Gallipoli Peninsula Historical National Park Law* and the *Law for the Protection of Cultural and Natural Heritage*.

The DEH Submission reaffirms that ANZAC Cove is part of the sovereign territory of Turkey and that consequently, any protection and management arrangements for the area are matters within the sovereign responsibility of the Turkish Government. ANZAC Cove is part of the Gallipoli National Park which has also been declared by Turkey as a historical site.

DFAT has joined with the Department of Environment and Heritage (DEH) in raising the issue of the heritage status of the ANZAC site on various occasions with Turkish officials.

4.1 National Heritage Listing

4.1.1 Relevant Sections of the Legislation

The National Heritage List was established through amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) which came into effect on 1 January 2004. The Act specifies the conditions pursuant to which places in Australia and in other countries can be included on the National Heritage List.

The DEH Submission highlights that section 324J(2A) of the Act stipulates that the Minister for the Environment and Heritage MUST NOT include on the National Heritage List a place wholly or partly in a foreign country unless the Minister is

satisfied that the national government of the country where an overseas place is located has agreed to its inclusion.

The relevant except of section 324J(2A) is cited in the DEH Submission as follows:

- (2) The Minister must not include in the National Heritage List a place that is wholly or partly in a foreign country unless:
 - (a) the Minister is satisfied that the national government of the foreign country has agreed to the inclusion in the List of the place so far as it is in the country;

The DEH Submission also states that the statutory framework for the assessment of nominations pursuant to section 324E (2) and section 324E (3) of the Act does not apply to nominations located partly or wholly in a foreign country. This enables consultations to take place with the national government of the foreign country. The relevant provisions of the Act are referred to in the DEH Submission as follows:

- (2) The Minister must give the Chair of the Australian heritage Council a written request for the Council to assess under section 324G whether the place meets any of the National Heritage criteria, unless the Minister rejects the nomination under this section.
- (3) If the Minister must give the Chair a request, he or she must give the request within 10 business days after receiving the nomination, unless:
 - (a) the place is wholly or partly outside the Australian jurisdiction;

Hence, it is clear from the provisions that procedures for listing of a foreign place are different to listing of a place which falls within Australia jurisdiction.

In evidence, Mr Young (DEH) stated that there were about five or six overseas applications that the DEH had extant at the time.¹⁸⁰

4.1.2 Initial Discussions with Turkish Authorities

Mr Newman (DFAT) gave evidence that the first indications given to Turkey in relation to the possibility of Australia's heritage listing of the Gallipoli Peninsula were in 2002. The news was conveyed to the Turkish authorities by DEH with further discussions occurring in 2003.¹⁸¹ Whilst DEH had some direct contact through the Turkish Ambassador in Canberra and also overseas with Turkish officials, it was principally pursued through DFAT and the Australian Embassy in Ankara.¹⁸²

The DEH Submission also indicates that discussions with the Turkish Government on the proposal for inclusion of the ANZAC area on the National Heritage List

¹⁸⁰ *Committee Hansard*, p.101

¹⁸¹ Mr Newman, *Committee Hansard*, p.90

¹⁸² Mr Newman, *Committee Hansard*, p.90

commenced in 2002. Mr Young (DEH) stated his belief at the Inquiry that initial discussions had been held between Australian Government officials and Turkish officials in about September 2002.¹⁸³

Mr Young (DEH) advised the Committee of the process in that:¹⁸⁴

Basically, it requires the Australian Government to consider nominations for overseas places to be put on the National Heritage List. It requires that, before those nominations are accepted, there is discussion and agreement reached with the foreign country. It requires that, prior to placing an overseas place on the National Heritage List, the Minister for Environment and Heritage must also have the approval of the foreign minister.

Mr Newman (DFAT) outlined Turkey's initial reaction to the Committee as follows:¹⁸⁵

It is a bit hard to categorise because there are a number of different ministries involved in looking at the issue, but the basic reaction from Turkey was largely, initially, noncommittal. Looking at the idea, we had some officials who were quite enthusiastic about it but the main issue that they raised was that this would take a lot of time to consider and they would need to look at it very closely and understand the full potential ramifications. But they understood fully, as the Prime Minister has indicated on many occasions, that the proposal would not go all the way forward without the agreement of the Turkish government.

The DEH Submission indicates that that Prime Minister announced his intention to put forward the ANZAC area as the first nomination to the National Heritage List at the launch of the new heritage system on 18 December 2003. In his speech, the Prime Minister stated that discussions on the proposal had commenced.¹⁸⁶

At the Inquiry, the Committee sought to question officials about whether it has been made clear publicly in statements that the listing was dependent upon agreement with the Turkish authorities. Mr Newman (DFAT) gave evidence to the Committee that prior to this announcement, the issue has been raised with the Turkish authorities on at least 28 occasions.¹⁸⁷

Senator Bishop—Some consultation in 2002 ramped up the process of negotiation from September 2003, the Prime Minister made his announcement in December 2003, and you have outlined that the Turkish government's reaction was mixed: initially noncommittal and of interest over time. How

¹⁸³ *Committee Hansard*, p.103

¹⁸⁴ *Committee Hansard*, p.103

¹⁸⁵ *Committee Hansard*, p.91

¹⁸⁶ *Submission 10*, p.4

¹⁸⁷ *Committee Hansard*, p.90

many meetings on this issue did DFAT attend with the Turkish government in Canberra and Ankara prior to 2005?

Mr Newman—We have raised this with the Turkish authorities to date at least 28 times and 12 times before the Prime Minister's announcement in December 2003. On the last of those occasions, we had informed the Turkish authorities of the intention of the Prime Minister to make this reference, to which they agreed, as long as the caveat, which was in the statement, was made.

Mr Young (DEH) elaborated on the nature of these discussions:¹⁸⁸

Senator Bishop—That is probably correct. After that meeting in September 2002—in which officials of your department broadly canvassed issues with the Turkish government—when was the next meeting?

Mr Young—What happened was that there were a series of briefings given to Turkish officials in the lead-up to the passing of the amendments to the EPBC Act. The nature of those briefings was that they were a series of updates on the progress of the legislation. Turkey was kept informed at all stages over a number of months. There were a number of calls made to the Turkish ambassador here in Canberra. There were communications made through the Department of Foreign Affairs and Trade directly to Turkish officials. There was a general desire, and I believe an intent, to keep Turkey well informed on how the bill was being prepared and the way in which overseas nominations might be considered—and indeed there was a desire to learn how Turkey might feel about a nomination for ANZAC Cove.

Senator Bishop —When was the bill finally passed? When did it finally go through the parliament

Mr Young—On 8 September 2003.

Senator Bishop —And it was proclaimed to have effect from 1 January 2004?

Mr Young—Correct.

Senator Bishop—The previous department advised us that from around September 2003 the intensity of the various discussions or negotiations with the Turkish government on this issue increased dramatically prior to the Prime Minister making his statement in December 2003. Were the negotiations that were conducted between September and December attended by officials of your department?

Mr Young—Not the ones that occurred in Turkey. I believe that officers may have attended some meetings in Canberra with the Turkish ambassador or their delegates.

*Senator Bishop —But the post essentially had carriage of the matter in Turkey.
Mr Young—In terms of representing the discussions with Turkey, yes.*

Senator Bishop —You advised them on the detail, the intricacies and the desire of the government from the perspective of your department.

Mr Young—The sort of information we provided was, as I mentioned, the way that the legislation was structured and how it would operate, to ensure that Turkey understood as closely as possible what the Australian legislation was saying.

Senator Bishop —Since that time there has been something in excess of 25 meetings between officials of the Australian government and the Turkish government. How many of those meetings addressed the issue of the heritage listing of the Gallipoli site? Do you know?

Mr Young—I do not know that. DFAT held meetings. I could not say how many there were. I presume a range of issues were discussed, and one of them may have been the national heritage listing. It is a question for—

Senator Bishop —But you would receive advice on the progress of negotiations conducted by the post on your behalf.

Mr Young—Yes, cables are returned to Australia. We could go through all the cables and work out which ones did and did not refer to this matter. I do not have that information with me.

It is clear from the evidence given that issues about Turkish sovereignty and how the heritage legislation could potentially affect issues for the state were uppermost in the discussions. Hence, any suggestion that Australian officials did not make this clear are unfounded.

4.1.3 Turkish Concerns Regarding Sovereignty

The key issue in relation to heritage listing is the sensitive issue of sovereignty. Whilst the Turkish government has not outrightly rejected the proposal for heritage listing, it has been a difficult issue for them. This was highlighted in the evidence given by Mr Newman (DFAT) to the Committee:¹⁸⁹

Mr Newman—No. I think there is an element of confusion here. This was raised, I think, in the earlier discussions in estimates, with the Department of the Environment and Heritage, whom I think have issued a correction on that because the Turkish Prime Minister made no statement at that time saying that there was no approval or whatever for this listing. In fact, at no time have the Turkish authorities in Ankara told us that the proposal was not acceptable.

¹⁸⁹ Committee Hansard, p.93

They have told us at times that it involves a lot of sensitive thinking for them about the sovereignty. It is particularly difficult for them, I think, because of the treaty of Lausanne itself, for which they need to think through implications and what it might mean. While being sympathetic to the Australian case, they have to be aware of possible precedent being set for other countries as well.

Senator Bishop—That is very interesting. I have been pursuing these discussions on apparently the wrong basis. Are you telling me that the request by the Australian government to be able to list Gallipoli on the National Heritage Register has not yet been rejected by the Turkish government?

Mr Newman—It has not been rejected by the Turkish government, but I would qualify that by saying that in the discussions between the two prime ministers—and in our own Prime Minister’s statement afterwards—they agreed to this joint historical archaeological study and ‘to continue to consult closely with Turkey over our desire, fully consistent with Turkish sovereignty over the area, to symbolically recognise the historical importance of the ANZAC area’.

Senator Bishop —That form of words indicates to me an alternative and different approach to achieve listing, apart from that which is in the act, which Environment and Heritage have been pursuing and which your department has pursued some 28 times over the last two or three years. Is that correct?

Mr Newman—To go back a little on that, we had never had any rejection of the proposal in Ankara, but I think it was becoming apparent that the whole issue of sovereignty would take a long time to resolve and it was then prudent—

Senator Bishop —To think about alternative options.

Mr Newman—to think about alternative ways. I think the Prime Minister seized that opportunity of meeting with the Prime Minister of Turkey. We both want the same thing, which is symbolic recognition of the importance of this area to Australia. There is no difference between the two governments on that point.

The issue was summed up by Mr Newman (DFAT) in response to a question from Senator Watson, namely:¹⁹⁰

... everything that we have been doing, including in discussions with the Department of the Prime Minister and Cabinet, has been based on the understanding that nothing could be done on the heritage listing without the approval of the Turkish government. This has been a matter that has been discussed with them over a period of time and they have expressed to us more recently the need to examine the issue very closely for all the aspects that relate to their own sovereignty.

¹⁹⁰ Committee Hansard, pp 97-98

Senator Watson—But, apart from the protocol arrangements, I just want to make it clear and put it on the record that we have an act of parliament that is quite specific in relation to this area, which I think government officials also need to acknowledge.

Mr Newman—Yes, indeed we do.

It has been important from the Australian side to ensure that the Turkish authorities fully understand the potential implications of the heritage legislation. Mr Newman (DFAT) in evidence stated:¹⁹¹

Senator Watson—While the Turkish authorities have not said no to the proposals for the listing, there have been Turkish concerns over the proposed listing of the ANZAC area on the National Heritage List—is that true?

Mr Newman—That is correct.

Senator Watson —There have been concerns?

Mr Newman—There has been a concern that Turkish authorities fully understand the potential implications including in terms of precedents.

4.2 Symbolic Recognition of Gallipoli Peninsula

Since the meeting of the two Prime Ministers on 26 April, there is now an agreed strategy for consultation on the mutual desire between Australia and Turkey, fully consistent with Turkish sovereignty, to have the historical importance of the ANZAC area symbolically recognised.¹⁹²

As Mr Young (DEH) indicated in evidence:¹⁹³

I think we are now operating within the boundaries set by the meeting of the two prime ministers, which is to look at an appropriate mechanism for symbolic recognition. If that includes listing, then so be it. I do not think listing has been ruled out but I think that the idea is to explore a range of appropriate, mutually acceptable ways in which this matter can be progressed.

The Prime Minister's media release following his meeting with Prime Minister Erdogan on 26 April 2005, referred to those negotiations. According to the DEH Submission, this is the current position on national heritage issues.

Prime Minister Howard referred to the protection already afforded to the ANZAC site by Turkey:

¹⁹¹ *Committee Hansard*, p.99

¹⁹² Mr Newman, *Committee Hansard*, p.92

¹⁹³ *Committee Hansard*, p.105

I noted with appreciation the extensive protection already afforded by Turkey to the area, including its declaration as a National Park in 1973 and its designation as a Heritage site in 1980.

Prime Minister Howard, yet again indicated Australia's continued commitment to consult with Turkey over our desire "*fully consistent with Turkish sovereignty over the area, to symbolically recognise the historical importance of the ANZAC area.*"

In relation to the symbolic recognition, Mr Newman (DFAT) advised the Committee as follows:¹⁹⁴

The only instructions we have are the basis of the ongoing IDCs, the mandate for which is the Prime Minister's statement of 26 April, so it is looking for a way that will symbolically recognise. It could be through amended legislation, it could be through another way, but that is me speculating. The core is the Prime Minister's message.

Mr Young (DEH) sought to explain the terms "symbolic listing" and "symbolic recognition".¹⁹⁵

Senator Bishop—'Appropriate mechanism for symbolic listing'—that is a very broad set of words. What is the difference between symbolic listing and actual listing?

Mr Young—I think the term symbolic is designed to differentiate the overseas listing from the domestic listing. As you would be aware, the domestic listing has the full force and effect of the Environment Protection and Biodiversity Conservation Act, which requires owners of listed places to carry out certain actions, including preparation of management plans. It also has severe penalties associated with any actions that would damage the values for which the place was listed. I think the term 'symbolic' is to ensure that Turkey fully understands that Australia has no intention for those powers that apply in the domestic context to be applied to Turkey. It is to ensure that it is seen to be an entirely symbolic recognition and very clearly recognises Turkish sovereignty over the place.

Senator Bishop—Perhaps we are getting to the heart of the problem. You used the phrase previously 'symbolic listing' and you then used the phrase 'symbolic recognition'. Which do you mean?

Mr Young—As I have said, symbolic recognition could include listing but there may be other ways of achieving that.

¹⁹⁴ Committee Hansard, p.94

¹⁹⁵ Committee Hansard, p.106

Senator Bishop—In fact, for overseas sites to be listed on the Australian register requires the consent of the overseas government?

Mr Young—Correct.

Senator Bishop—Once that consent is given and the listing is concluded, that is an actual or real listing.

Mr Young—Correct.

Senator Bishop—The consequence of that actual or real listing of the overseas site is that it may only have symbolic effect in the foreign country.

Mr Young—Correct.

Senator Bishop—But it is not necessarily a symbolic listing; it is an actual listing.

Mr Young—Correct.

Senator Bishop—The set of instructions that have been given, the framework established by the two prime ministers, PM&C's chairing of the IDCs to put flesh on the bones, some of the negotiations that are going to be pursued in the near future and more in the medium term as outlined by Mr Sullivan: are they designed around actual listing with symbolic consequences or symbolic listing with, by definition, no consequences?

Mr Young—You are correct in your assertion that the boundaries have deliberately been drawn widely. One of the things we are trying to do is to engage with Turkey to find a mutually acceptable way forward. As I have said, that does not rule out listing if we can reach agreement. If listing, as we currently know it, is not acceptable to Turkey then we have some parameters to look at ways in which we can proceed.

We would yet again stress that the Turkish authorities, and not Australia, have sovereignty over the site. Australia's desire to see historical recognition of the site can only be realised through continued cooperation.

Indeed, the Australian Prime Minister then outlined the agreement between the two leaders on continued cooperation as follows:

“We agreed to further enhance cooperation on ANZAC issues, including the preservation of sites and the environmental and historical values of the area. Mr Erdogan agreed with my proposal that there be a joint historical survey of the ANZAC area (including archaeological aspects) to provide a clear basis for balancing development plans for the park with the preservation of key sites. We also agreed to a joint engineering review to ensure the roadworks,

including measures to control erosion, in the ANZAC Cove area are completed in a way as sympathetic as possible to the landscape. We noted the large and growing number of visitors from many nations and that plans for the future of the Park aimed to provide a safe environment for visitors whilst protecting important historic sites. I noted the cooperation to date and welcomed the opportunity to provide further assistance in the future.”

The DVA Submission outlines that DVA was asked to lead the joint historical and archaeological survey of ANZAC Cove on behalf of the Australian Government. The first phase of this review took place from 15-20 May 2005 when an official delegation led by DVA and accompanied by the Australian Ambassador to Turkey, visited the Gallipoli Peninsula and Ankara and met with Turkish officials. The delegation included members from the following:

- The Department of the Prime Minister and Cabinet (PM&C);
- ARUP Australia (civil and geotechnical engineers);
- Mr Edaw Gillespie (landscape architect); and
- The Australian War Memorial.

The substance of the meeting with Turkish officials was explained in the DVA submission as follows:¹⁹⁶

They were briefed on Turkish proposals to complete earthworks, paving, drainage and shore protection. The party was invited, in keeping with Prime Minister Erdogan’s offer to Prime Minister Howard, to offer views and suggestions on the proposed works.

As indicated in the DVA Submission, this process is proceeding and further, that a further historical survey of the ANZAC area (including archaeological aspects), to provide a clear basis for balancing development plans for the park with the preservation of key sites, will also proceed.

4.3 Establishment of an International Peace Park and World Heritage Listing

The DEH Submission makes clear that as the Gallipoli Peninsula is Turkish territory and hence, any proposal for the development of an international peace park is a matter for the Turkish Government.

Furthermore, World Heritage nominations can only be made by the country in whose territory the proposed place is located. Consequently, any application for World Heritage Listing needs to be made by Turkey. The DEH Submission indicates that at this time, DEH is not aware of any decision by Turkey to nominate the Gallipoli peninsula, or part thereof, for World Heritage listing.

¹⁹⁶ Submission 6, p.3

The DEH Submission concludes that should the Turkish Government plan to develop a proposal for an international peace park or a World Heritage nomination, DEH would provide advice to the Australian Government on ways in which Australia could be supportive of either or these proposals.

As indicated above, we recommend that Australia base a full time representative at the CWGC at Canakle. This appointment will not only be a formal recognition of the place that the Gallipoli Peninsula holds in the Australian national psyche but most importantly, it can provide an important resource to assist the Turkish Government with World Heritage Listing.

Chapter 5

Completion of Roadworks and other Current Initiatives

5.1 Roadworks as at June 2005

Since the issue of the roadworks "entered the public domain courtesy of the press",¹⁹⁷ DVA officials have made several trips to Gallipoli and noted work in progress on the coast road. Mr Sullivan advised the Committee of the status of the roadworks as at the time of the Inquiry.¹⁹⁸

The roadworks as they are now. After March, it was established that the roadworks in terms of the engineering works had been completed. The roadworks are still not complete. At the moment, they are completed to the first level of asphalt. There are two further coatings of asphalt to be laid and then the road has to be furnished in respect of guttering, safety rails or other things. There has been a progress report that the road got to the point where it got to on around the week before ANZAC Day and, other than some minor works, no further work has occurred on the roadworks to date.

As we have previously stressed, action in relation to the roadworks is a matter ultimately for the Turkish authorities. However, the Turkish authorities have graciously agreed to listen to Australian suggestions. As Mr Sullivan stated in evidence:¹⁹⁹

We have got to remember that the Prime Minister of Turkey graciously agreed with the Prime Minister to listen to our suggestions as to the progress of the completion of the roadworks and other shore protection issues. We have taken that offer from the Turkish government very seriously and we are engaging with them in respect of that work. The focus has been the pursuit of what the prime ministers agreed to do.

5.2 Other current initiatives

As indicated by Mr Sullivan, the focus of activities and the trips by officials to Gallipoli have been in pursuit of what Prime Minister Howard and Prime Minister Erdogan agreed to in April 2005. He summarised the actions as follows:²⁰⁰

¹⁹⁷ Senator Bishop, *Committee Hansard*, p.62

¹⁹⁸ *Committee Hansard*, p.62

¹⁹⁹ *Committee Hansard*, p.63

²⁰⁰ *Committee Hansard*, p.63

You are covering all these trips, and most of those trips are about that. We got the revelation of the roadwork in March, got an understanding of the extent of the roadwork and pursued the issues of the human remains and military heritage. There was the conduct of the services in April, and most of the travel since then has been around the pursuit of the agreements between the two prime ministers of the countries involved.

It must be remembered that both Australian and Turkish authorities have shared concerns about the safety of the coast road. Indeed, this was accepted by Senator Bishop although we are concerned that it has not been given any relevance in the Majority Report. We refer to the following exchange at the Inquiry:²⁰¹

Senator Bishop—All right. Did you or any of your officials, from the time this came into the public domain in late February or early March right up until ANZAC Day of this year, on any occasion express concern to the government of Turkey about that work—such as the extent of the work and those sorts of matters?

Mr Sullivan—No. We have always expressed to the government of Turkey the fact that we had issues about that coastal road. It was unsafe. Their addressing of it, we understood. But we were concerned, as they were, that the road was well built and that the road did not disturb significant Australian or Turkish cultural or military heritage. That was a shared concern, and it remains a shared concern. You could only get to a hypothetical, but whether we would have requested change if we had engaged with the Turkish government before the excavations had occurred, I do not know. I cannot answer that, because it is hypothetical. But we have not expressed concerns as to what the Turkish government has done about their road.

Senator Bishop—You have not. That is clear. You regularly inspected the work. You received cables from other people who visited the site. Important and serious matters have been regularly drawn to the attention of the minister by you—and quite properly so. Your concerns were and are for the safety and the serviceability of the road, the remains and the military heritage. Those concerns are extant. They continue.

Mr Sullivan—And they are shared.

Reference was also made at the Inquiry about a suggestion that a rock wall be used to underpin the coast road. Whilst Mr Sullivan agreed that there was a fairly compelling argument that the embankment and the coast road required shore protection, he underlined that:²⁰²

No, we will be taking suggestions to the Turkish government very soon, and

²⁰¹ *Committee Hansard*, p.64

²⁰² *Committee Hansard*, p.66

then it will be up to the Turkish government to decide what to do with their own roadworks. They have graciously given us the opportunity to make suggestions.

Indeed, following press reports about the possibility of a rock wall, Prime Minister Howard made a call prior to ANZAC Day and wrote to the Turkish Prime Minister seeking that any construction be suspended subject to their discussions due a short time later. As a consequence of the Prime Minister's action, Australia has now been invited to make suggestions.²⁰³

5.3 The Inter Departmental Committee (IDC)

The Interdepartmental Committee is chaired by PM&C and involves DVA, DFAT and DEH and is addressing a number of issues arising from the meeting of Prime Minister Howard and Prime Minister Erdogan, which covers many issues including but not exclusively the roadworks.²⁰⁴

As far as the IDC is concerned, DVA has the lead in two issues. Mr Sullivan stated that:²⁰⁵

The first was to lead the work in providing suggestions to the Turkish government as to the roadworks on ANZAC Cove and their completion, including any need for shore protection work or a seawall. The second issue that we are to lead on is the broader historical and archaeological review of the ANZAC battlefield area. This review seeks to provide input so that an appropriate balancing of the development of the traffic, military and cultural heritage and environment can be achieved with good, agreed and accepted knowledge of the significance of each and every part of the ANZAC battlefield.

Mr Sullivan gave detailed evidence of the outstanding work to complete the road and shore protection. Again, allegations were raised by Mr Sellars about possible military remains outside known grave sites along the coast road. As with other allegations, these were unsubstantiated and were clearly and unequivocally denied by DVA and CWGC.²⁰⁶

I do not think anyone is suggesting that there is an incidence of human remains along the constructed road at the moment. None of the work envisaged is going to require any further excavations or work; it is basically road finishing and then there is the shore protection issue. I will make the point that not only was it the Commonwealth War Graves Commission's release but also no other party had come forward asserting the existence of human remains.

²⁰³ Mr Sullivan, *Committee Hansard*, p.66-67

²⁰⁴ Mr Sullivan, *Committee Hansard*, p.68

²⁰⁵ Mr Sullivan, *Committee Hansard*, p.71

²⁰⁶ Mr Sullivan, *Committee Hansard*, p.72

Again, Mr Sellars' unsubstantiated, sensational and attention grabbing assertions sit out on their own:²⁰⁷

There are three elements: we have a party—and I am not indicating any disrespect for his assertion—who has made an assertion; no other assertion has been made to us; and the Commonwealth War Graves Commission have made their release.

5.3.1 The underpinning of the rock wall on the coast road

Mr Sullivan gives an explicit history of the complexities of the coast road issue:²⁰⁸

The history of the road since 1915 is that Gallipoli and the peninsula as a whole is an area of significant erosion. In fact, there is a professional view that there has been horizontal erosion at ANZAC Cove since 1915 of approximately 10 metres. The old road was certainly subject to major problems at the seaside edge because of erosion. There is little or no doubt that this road will continue to be subject to damage from erosion if there is not some shore protection.

Indeed, as we previously noted, even Mr Sellars himself agreed that the current road is already in need of some repair.

Mr Sullivan outlined serious safety issues associated with the coast road:²⁰⁹

It is subject to the forces on that embankment, and it is of course a road which has significant traffic. There was a bit of a debate this morning about what is significant traffic. The major worry for me in terms of the old road was that, except on 25 April, it was a two-way road. So you had big buses passing each other at speed on an inadequate road with a crumbling seaside edge. There was no potential, given the road system around the park, of moving permanently, for instance, to a one-way traffic system. Unless you started building major loops for things to turn around in you could not do it. I am not one who believes that the previous road was viable in terms of what I would describe as the significant traffic issues. I am not getting into whether there are 10 buses every 30 minutes. My major concern was that buses—and someone has reported that a lot of children are often on those buses—were going past each other on a road that was crumbling into the sea. This road could face the same fate if there is not some shore protection involved.

Mr Sullivan indicated that the IDC has signed off on proposals to suggest to the Turkish authorities for their consideration.

²⁰⁷ Mr Sullivan, *Committee Hansard*, p.72

²⁰⁸ Mr Sullivan, *Committee Hansard*, p.72-73

²⁰⁹ Mr Sullivan, *Committee Hansard*, p.73

Mr Metcalfe, in response to questioning about timing of the roadworks, replied as follows:²¹⁰

The roadworks are being dealt with as a matter of urgency, for quite practical reasons. You made the very point before about the stability of the slope, which is at quite an acute angle. I am told that it is at about a 45-degree angle and is subject to erosion and possibly attack from the sea. I note, of course, that there has been a road there for many years and it has been subject to the elements for many years. There is a weather factor in the timing of the completion of those roadworks. Quite understandably, the Turkish authorities, having invested considerable time and energy in upgrading that road—given the volumes of people now visiting the park—are keen to complete that road. And we are quite confident that the sorts of proposals that we will discuss will be progressed quite quickly.

5.3.2 Joint Australia/Turkey Second Study

Mr Sullivan indicated that decisions would be required with the Turkish Government to understand what the two Prime Ministers meant by the term *joint second study*:

We have not gone anywhere near as far. It is the second phase, and we will use this visit to Turkey to initiate some decisions with the Turkish government to fill out what the two prime ministers meant when they agreed to this joint second study. From our perspective, we will be ensuring that we have a very good understanding of the engineering side of some of the battlefield ridges and where existing roads, monuments and other things are. We will concentrate our historians on scoping, from their perspective, areas of great significance.

Senator Bishop—Military significance?

Mr Sullivan—Yes, and we will also have some advice with us from Environment and Heritage. The engineering advice we take is a mixture of advice, from road engineers, coastal waters engineers and landscape engineers, so we cover all aspects of engineering. We will engage the Turkish government and say, ‘Let’s sit down and work out what our prime ministers were after, where we’re going to take it and how we’re going to take it forward.’ So it is preliminary in respect of the second stage.

Senator Bishop—Is it an agenda item yet to do a full military/historical audit of that whole battlefield area?

Mr Sullivan—I would not be surprised if that formed part of what we may end up doing.²¹¹

²¹⁰ Mr Metcalfe, *Committee Hansard*, p.123

²¹¹ *Committee Hansard*, p.75

Mr Sullivan conceded that use could be made of the term "archaeological audit of significant battle sites."²¹²

Mr Metcalfe, in response to questioning about timing of the historical and archaeological review, gave the following reply:²¹³

In relation to the broader joint historical and archaeological review, discussions are now under way as to how that can be best taken forward. I note that there is no work currently being undertaken in that very precious area of the front line, but there is enormous pressure in terms of numbers of people wishing to visit the area. Therefore, we have a very clear understanding of the point you were raising before—in relation to tunnels, trenches and remains—and how all of these issues can be worked through together. There is a second track that is also proceeding but I suspect that because it is a bigger area, and because there are undoubtedly large numbers of undisturbed human remains as well as other historical sites—a number of cemeteries and all that sort of thing—that will probably be a longer process to work through.

We note that the joint historical survey between Australia and Turkey is a unique undertaking and to the best of the knowledge of officials at the Inquiry, has not been undertaken previously.²¹⁴

5.3.3 Australian financial commitment to work on Gallipoli

It is important to note that while Australia has made no financial commitments to fund any future work in Gallipoli, there is a preparedness to do so if necessary.

Mr Metcalfe (PM&C) gave the following evidence on this point:²¹⁵

Senator Bishop—Have we made any financial commitments to fund any future work in Gallipoli?

Mr Metcalfe—No, but certainly there is a preparedness to contemplate that if necessary.

Senator Bishop—those two working groups?

Mr Metcalfe—Essentially, work is being carried forward, firstly, quite specifically around the road at ANZAC Cove. I did not have the opportunity to see colleagues from Veterans' Affairs earlier today, but they may well have said that that work is under way. As I indicated in my opening statement, Mr

²¹² Committee Hansard, p.75

²¹³ Committee Hansard, p.124

²¹⁴ Mr Metcalfe, Committee Hansard, p.124

²¹⁵ Committee Hansard, p.123

Borrowman was part of the technical delegation on that issue. That has led to us having some quite useful ideas as to how the roadworks could be completed in a way that meets all concerns. There will be further discussions about that.

5.3.4 Allegations of Turkish plans to build viewing platforms

Subsequent to the Inquiry, Mr Sellars forwarded correspondence to the Committee in which he makes further allegations that Turkish authorities were purportedly planning "to develop a number of scenic viewing areas for visitors at a number of sites at high points on the battlefields of the Gallipoli Peninsula."²¹⁶ Mr Sellars relies on alleged media coverage, none of which has been detailed in his correspondence or provided to the Committee.

Subsequently, he goes on to allege that the information that I have received on the proposed developments comes from two different sources, both of them Turkish, however, he is not at liberty to disclose their names. He goes on to make general assertions about allegedly proposed construction, none of which are authenticated or substantiated.

The Secretary to the Committee requested comment from DVA on 22 August 2005. In response, DVA replied as follows on or about 9 September 2005.²¹⁷

The Australian Government shares Turkish concerns that unrestricted public access may cause damage to the historical and environment values of the Anzac area. The Turkish authorities have advised that they may have to consider options to contain and minimise this impact, including protection measures such as boardwalks and viewing platforms. Turkish authorities have advised that they will consult closely with the Australian Government about the development of any measures or works in the Anzac area. This is consistent with the agreement reached between Prime Ministers Howard and Erdogan regarding close cooperation and consultation between the two governments on the protection and preservation of sites in the Gallipoli Peace Park.

Given the ongoing work of the IDC and its interaction with Turkish authorities, Australian authorities have clearly not been made aware of any such alleged proposals. Indeed, it brings in to question the veracity of the fresh assertions made by Mr Sellars.

²¹⁶ Letter from Mr Sellars to Committee Secretary dated 16 August 2005

²¹⁷ Attachment to e-mail from FPA Committee to Committee members dated 9 September 2005

In short, we believe this information is of no probative value. Given Mr Sellars' propensity in the past in making sensational and unsubstantiated allegations, we believe that such fresh allegations ought to similarly be discounted.

**Senator John Watson
(Deputy Chair)**

Senator Concetta Fierravanti-Wells

Additional Comments and partial dissent

The Gallipoli Peninsula and ANZAC Cove are indisputably places of major significance to Australians and the Senate has acted responsibly in trying to ensure public examination of the facts about recent activities there and any possible damage to the area.

The Australian Government has been eager to exploit public relations opportunities by associating itself with protecting and promoting the ANZAC legend and traditions, all of which are given physical reinforcement at Gallipoli. There is little doubt, however, that this has not been backed up by a genuine commitment to do everything possible to ensure the heritage values of this irreplaceable area are properly protected.

I support Committee recommendations 1-5 and 8-9 of this report.

However, whilst I can see some merit in the idea of some type of military commemorations committee as outlined in recommendations 6 and 7, the weight of evidence provided to this specific inquiry was not sufficient to convince me to support these two recommendations at this time. I believe the idea would benefit from further examination and consultation among ex-Service Organisations and the wider veterans community before proceeding with it.

I am supportive of the specific content and general thrust of most of the findings outlined in the Committee's main report. However, based on the evidence that I am aware was presented to this Inquiry, I do not wish to be as definitive in my assessment as to whether bone fragments were unearthed as a consequence of the roadworks, or of the extent of the heritage damage and loss of significant sites. This is in part due to the very fact which the Committee has identified in Chapter 4 of the report – the inadequate research, survey work and cataloguing of the military heritage of the area conducted prior to the roadworks commencing.

Given how regularly Australian Governments have extolled the importance of Gallipoli over so many years, it is of great surprise and alarm to me to have discovered that there are such significant gaps in the heritage assessments of the area. I particularly want to emphasise the need to ensure the marine areas - as well the land areas - of the battlefield are fully researched and assessed.

Andrew Bartlett

Democrat Senator for Queensland

Appendix 1

List of Submissions, Tabled Documents and Additional Information

Submissions

1. Mr Duncan Marshall
2. Mr Vecihi (John) Basarin
3. Mr David Young
4. Department of Foreign Affairs and Trade
5. Ms Lynne Dore
6. Department of Veterans' Affairs
7. Dr Bruce Scates
8. Ms Kristal Buckley, Australian National Committee of the International Council on Monuments and Sites (Australia ICOMOS)
9. Mr Ian Tait, Jointly with Mr Geoffrey Ostling and 25 others
10. Department of the Environment and Heritage
11. Australasian Institute for Maritime Archaeology (AIMA)
12. Mr Graham Wilson
13. Mr Tim Smith and Mr Mark Spencer, Project Beneath Gallipoli
14. The Australian Council of National Trusts
15. Mr William Sellars
- 15a. Mr William Sellars
(Supplementary submission)

Tabled Documents**17 June 2005**

Excerpt from the transcript of a press conference with the Hon John Howard MP in Istanbul, Turkey, 26 April 2005, tabled by Mr Andrew Metcalfe

Excerpt from the transcript of an interview with the Hon John Howard MP, tabled by Mr Andrew Metcalfe

Additional Information

Mr William Sellars, Additional information received 27 June (two items) and 7 July 2005

Department of the Environment and Heritage, Additional information received 4 July 2005

Department of Foreign Affairs and Trade, Additional information received 17, 20 and 22 June and 14 July 2005

Appendix 2

Public Hearings

Friday, 17 June 2005 – Canberra

Department of Veterans' Affairs

Mr Mark Sullivan, Secretary

Mr Ian Campbell, Deputy President

Air Vice Marshal Gary Beck (retired), Director, Office of Australian War Graves

Department of Foreign Affairs and Trade

Mr Jeremy Newman, First Assistant Secretary, Americas and Europe Division

Ms Denise Fisher, Director, Southern Europe Section

Department of the Environment and Heritage

Mr David Young, First Assistant Secretary, Heritage Division

Mr Theo Hooy, Assistant Secretary, Heritage Management Branch, Heritage Division

Department of the Prime Minister and Cabinet

Mr Andrew Metcalfe, Deputy Secretary

Mr Ian Kemish, First Assistant Secretary, International Division

Mr Hugh Borrowman, Assistant Secretary, International Division

Mr William Sellars (Private capacity)

Appendix 3

Correspondence regarding disclosure of legal advice

20. JUN. 2005 17:02

AEC
AEC

NO. 028 P. 2



Australian Government
Department of Foreign Affairs and Trade



17 June 2005

Mr Alistair Sands
Secretary
Finance and Public Administration
References Committee
Parliament House
CANBERRA 2600

Inquiry into Matters Relating to the Gallipoli Peninsula

Dear Mr Sands

At the hearings of the above inquiry on 17 June 2005, I was asked by Senator Foreshaw to provide, on notice, advice on the precise meaning of the word "free" with respect to article 135 of the Treaty of Lausanne 1923. I am advised that such advice would be an interpretation of the text of the treaty and would therefore amount to legal advice. I am further advised that under Senate Standing Order 73 the department is unable to provide legal advice for the committee.

Yours sincerely

A handwritten signature in black ink that reads "Jeremy Newman".

Jeremy Newman
First Assistant Secretary
Americas and Europe Division

17. JUN. 2005 16:41

AEC
AEC

NO. 017 P. 2



Australian Government
Department of Foreign Affairs and Trade



17 June 2005

Mr Alistair Sands
Secretary
Finance and Public Administration
References Committee
Parliament House
CANBERRA 2600

Inquiry into Matters Relating to the Gallipoli Peninsula

Dear Mr Sands

At the hearings of the above inquiry on 17 June 2005, I was asked by Senator Bishop to table two sets of legal advice concerning the Lausanne Treaty to which I had referred. The legal advice had been prepared by officers of this department. I undertook to seek advice as to whether it was permitted to table such advice. I am advised that under Senate Standing Order 73, the department is unable to provide legal advice for the committee and that therefore it would not be appropriate to table this advice.

Yours sincerely

A handwritten signature in cursive script that reads "Jeremy Newman".

Jeremy Newman
First Assistant Secretary
Americas and Europe Division



AUSTRALIAN SENATE

FINANCE AND PUBLIC ADMINISTRATION

REFERENCES COMMITTEE

PARLIAMENT HOUSE
CANBERRA ACT 2600
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Email: fpa.sen@aph.gov.au

21 June 2005

Mr Jeremy Newman
First Assistant Secretary
Americas and Europe Division
Department of Foreign Affairs and Trade
R G Casey Building
BARTON ACT 0221

Dear Mr Newman

Inquiry into matters relating to the Gallipoli Peninsula

I refer to your two letters of 17 June 2005 relating to two matters taken on notice at the hearing of that day and your response that under Senate standing order 73 the department is unable to provide legal advice to the committee.

As conveyed to your staff, standing order 73 does not apply to committees but to questions put by senators to ministers and other senators at question time in the Senate. Nor does it prevent a request for the tabling or provision of legal advice in the government's possession. I have attached advice from the Clerk of the Senate that sets out the matter clearly.

I also draw your attention to the Clerk's advice that if the department believes there is a public interest ground for a claim that the legal advices should not be provided to the committee, the department should refer the matter to the minister for a ministerial response.

Accordingly, I ask that you reconsider the committee's request for the department to provide the two sets of legal advice concerning the Lausanne Treaty to which you referred in evidence and advice on the meaning of the word 'free' under that treaty.

Please contact me on 6277 3530 should you wish to discuss this matter further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alistair Sands', written over a horizontal line.

Alistair Sands
Secretary



AUSTRALIAN SENATE

CLERK OF THE SENATE

PARLIAMENT HOUSE
CANBERRA ACT 2600
Telephone: (02) 6277 3350
Facsimile: (02) 6277 3199
E-mail: clerk.sen@aph.gov.au

hc/let/14666

20 June 2005

Mr Alistair Sands
Secretary
Finance and Public Administration
References Committee
The Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Sands

GALLIPOLI PENINSULA INQUIRY — RESPONSE BY DFAT

You asked for a note on the response by the Department of Foreign Affairs and Trade to a request by the committee for a copy of legal advice provided in relation to the Gallipoli Peninsula matter.

I understand that the department has declined to provide a copy of the advice on the basis that Senate standing order 73 prohibits questions which ask for legal opinions.

Standing orders 72, 73 and 74, as their language makes abundantly clear, apply to questions put by senators to ministers and other senators at question time in the Senate. The suggestion that they apply to questions asked in the course of committee inquiries or to requests by committees for information is bizarre and ridiculous. Even in relation to question time, standing order 73 only prohibits a question asking for a legal opinion; it does not prevent a question which asks for the tabling of a copy of legal advice in the possession of the government

In any event, the application of the standing orders is not a question of law on which legal advice can appropriately be given, but a question of the application and interpretation of the rules of the Senate, which are a matter for the Senate itself.

Questions at committee hearings and requests by committees frequently ask for copies of legal advices available to government, and they are frequently provided, unless the responsible minister thinks that there is some public interest ground for a claim that the advice should not be provided, for example, that disclosure of the advice would prejudice legal proceedings or the Commonwealth's position in legal proceedings.

If the Department of Foreign Affairs and Trade thinks that there is some such ground for declining to provide the advice in question, they should refer the matter to the minister for a ministerial response. As both the procedures of the Senate and the government guidelines for public service witnesses before parliamentary committees make clear, such a claim should be made only by a minister.

Please let me know if I can be of any further assistance in relation to this matter.

Yours sincerely

(Harry Evans)



Australian Government
Department of Foreign Affairs and Trade



14 July 2005

Mr Alistair Sands
Secretary
Finance and Public Administration
References Committee
Parliament House
CANBERRA ACT 2600

Dear Mr Sands

Inquiry into matters relating to the Gallipoli Peninsula

I refer to your letter of 21 June 2005 concerning the request of the Finance and Public Administration References Committee for this department to provide legal advice concerning the Treaty of Lausanne.

The Minister for Foreign Affairs has decided that this department should decline the committee's request to provide the advice, on the grounds that it has been a longstanding practice accepted by successive Australian governments not to disclose legal advice which has been provided to government, unless there are compelling reasons to do so in a particular case.

Accordingly, I will not be in a position to provide the committee with a copy of the advice requested.

Yours sincerely,

Jeremy Newman
First Assistant Secretary
Americas and Europe Division



AUSTRALIAN SENATE

CLERK OF THE SENATE

PARLIAMENT HOUSE
CANBERRA A.C.T. 2600
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E-mail: clerk.sen@aph.gov.au

21 July 2005

hc/let/14696

Mr Alistair Sands
Secretary
Finance and Public Administration References Committee
The Senate
Parliament House
CANBERRA ACT 2600



Dear Mr Sands

**GALLIPOLI PENINSULA INQUIRY —
REQUEST FOR LEGAL ADVICE FROM DFAT**

You asked for comments on the response dated 14 July 2005 from the Department of Foreign Affairs and Trade relating to the committee's request for a copy of a legal advice held by the department.

The letter does not contain a claim of public interest immunity, simply a refusal to provide the advice on the basis of an alleged "longstanding practice".

The letter states that the minister has considered and refused the request. Presumably this is so, and the committee can take it as a refusal by the minister. It would have been preferable for the chair of the committee to write directly to the minister and to elicit a response from the minister, but there would seem to be no point in doing that now.

As for the alleged "longstanding practice", it is surprising that there has been such a practice but that it has not been heard of hitherto. I know of no previous occasion of any government stating that legal advice would not be disclosed "unless there are compelling reasons to do so in a particular case". There have been many instances of governments disclosing legal advice without any indication that there were any "compelling reasons to do so", and when the only reason for doing so appeared to be that the advice supported a case being made out by government at the time. The statement in the letter therefore appears to be a completely new declaration in relation to the disclosure of legal advice. The committee should ask the minister whether this declaration now represents government policy on the disclosure of advice. I would be surprised if the minister were to answer in the affirmative. Such an answer would prove to be inconvenient to government in the future when it wished to disclose legal advice simply to support some government position and in the absence of "compelling reasons".

Please let me know if I can be of any further assistance in relation to this matter.

Yours sincerely

(Harry Evans)



AUSTRALIAN SENATE

FINANCE AND PUBLIC ADMINISTRATION

REFERENCES COMMITTEE

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5 August 2005

The Hon Alexander Downer MP
Minister for Foreign Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

Inquiry into matters relating to the Gallipoli Peninsula

I refer to the letter from your department of 14 July 2005, signed by Mr Jeremy Newman, relating to a Committee request for information to be provided to the above inquiry. Mr Newman indicated that you had decided that the department would not provide legal advice concerning the Treaty of Lausanne.

The Committee has noted that you did not decide to withhold the information by way of a claim on the ground of public interest immunity, but instead "on the grounds that it has been a longstanding practice accepted by successive Australian governments not to disclose legal advice which has been provided to government, unless there are compelling reasons to do so in a particular case".

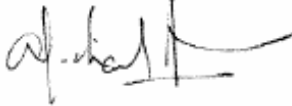
Advice to the Committee casts considerable doubt on the assertion that such an approach has been a "longstanding practice". The many instances of governments disclosing legal advice without any indication that there were "compelling reasons to do so" suggest that such a practice has been, at most, inconsistent and anything but "longstanding".

In view of those precedents, the Committee is concerned that your decision marks a new declaration of government policy in relation to the disclosure of legal advice.

I therefore write on behalf of the Committee to ask you to confirm whether the declaration in your letter represents government policy on the disclosure of advice.

I would be obliged if you provided an answer by no later than 8 August 2005. Should you or your department have any queries in relation to the above please contact the committee secretary, Mr Alistair Sands, on 02 6277 3530.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. Forshaw', with a long horizontal flourish extending to the right.

Senator Michael Forshaw
Chair



09 2005 11:35 FAX 61295453119

SENATOR: FORSHAW

001/001

61295453119



THE HON ALEXANDER DOWNER MP

MINISTER FOR FOREIGN AFFAIRS
PARLIAMENT HOUSE
CANBERRA ACT 2600

22 SEP 2005

Senator the Hon Michael Forshaw
Chair
Finance and Public Administration References Committee
Parliament House
CANBERRA ACT 2600



Dear Senator Forshaw

Thank you for your letter dated 5 August 2005 which referred to my decision that my department not provide legal advice to the Committee on the Treaty of Lausanne.

My decision to decline to provide the Committee with a copy of legal advice prepared by my department concerning the Treaty of Lausanne does not mark a new declaration of government policy in relation to the disclosure of legal advice.

It is my understanding that it has indeed been a longstanding practice, accepted by this government and previous governments, not to disclose legal advice which has been provided to government, unless there are compelling reasons to do so in a particular case.

Yours sincerely

Alexander Downer