



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

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ECONOMICS LEGISLATION COMMITTEE

Thursday, 17 February 2022

Members in attendance: Senators Bragg, Chisholm, Cox, Faruqi, Gallagher, Lines, McAllister, McDonald, McKim [by video link], McLachlan [by video link], Mirabella, Patrick, Pratt, Rennick, Rice, Roberts, Scarr, Small [by video link], Urquhart, Van, Walsh, Waters and Watt

TREASURY PORTFOLIO

In Attendance

Senator Hume, Minister for Superannuation, Financial Services and the Digital Economy, Minister for Women's Economic Security

Australian Securities and Investments Commission

Mr Joe Longo, Chair [by audio link]
Ms Sarah Court, Deputy Chair [by video link]
Ms Karen Chester, Deputy Chair [by video link]
Mr Sean Hughes, Commissioner [by video link]
Ms Danielle Press, Commissioner [by video link]
Ms Cathie Armour, Commissioner [by video link]
Mr Warren Day, Chief Operating Officer [by video link]
Mr Chris Savundra, General Counsel [by video link]
Mr Greg Kirk, Executive Director, Strategy Group [by video link]

Australian Competition and Consumer Commission

Mr Rod Sims, Chair
Mr Scott Gregson, Chief Executive Officer
Mr Tim Grimwade, Executive General Manager, Consumer Product Safety
Mr Richard Fleming, Acting Executive General Manager, Consumer and Fair Trading
Ms Melinda McDonald, Executive General Manager, Competition [by video link]
Ms Sarah Proudfoot, Executive General Manager, Infrastructure Regulation [by video link]
Mr Tom Leuner, Executive General Manager, Mergers, Exemptions, and Digital [by video link]
Mr Paul Franklin, Executive General Manager, Consumer Data Right [by video link]

Australian Energy Regulator

Dr Liz Develin, Chief Executive Officer

Australian Bureau of Statistics

Dr David Gruen, Australian Statistician
Ms Helen Wilson, Deputy Australian Statistician, Statistical Services Group
Ms Teresa Dickinson, Deputy Australian Statistician, Census and Data Services Group
Mr Lane Masterton, Acting Deputy Australian Statistician, Chief Operating Officer, Enterprise Services Group

Committee met at 09:00

CHAIR (Senator Scarr): I declare open this meeting of the Senate Economics Legislation Committee. The Senate has referred to the committee the particulars of proposed expenditure for 2021-22 and related documents for the Treasury portfolio, the industry, science, energy and resources portfolio and elements of the infrastructure, transport, regional development and communications portfolio. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has set 25 February 2022 as the date by which senators are to submit written questions on notice and 25 March 2022 as the date for the return of answers to questions taken on notice. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given

reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. In particular, I draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised. I will now incorporate it in the *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead, witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document.

I ask members of the media to follow the established media guidelines and the instructions of the committee secretariat. As set out in the guidelines, senators' and witnesses' laptops, mobile phones, other devices and personal papers are not to be filmed or photographed. I remind everyone in the gallery that they are not permitted to speak or interfere with the proceedings or with witnesses at any point during the hearing. Security is present and they will be asked to remove anyone who does not follow these instructions.

Witnesses and senators who are seeking to table documents during the committee's hearing were requested to provide an electronic copy of those documents the day prior to the hearing so that the documents could be circulated electronically during the hearing. Please liaise with the secretariat if you need assistance.

Senators, departments and agencies have been provided with advice on the arrangements in place to ensure the additional budget estimates 2021-22 hearings are conducted in a safe environment. This guidance is also available from the secretariat. I draw your attention to the QR codes available at all wait rooms. Witnesses, observers and staff are encouraged to use the codes before entering rooms to allow a full record of attendance to be kept. The committee appreciates the cooperation of all attendees in adhering to these arrangements.

The committee proceedings today will commence with the Treasury portfolio. It will begin with the Australian Securities and Investments Commission. The hearing will then follow the order as set out in the circulated program.

Australian Securities and Investments Commission

[09:05]

CHAIR: I now welcome Senator the Hon. Jane Hume, Minister for Superannuation, Financial Services and the Digital Economy. I also welcome the chair, Mr Joe Longo, and officers from the Australian Securities and Investments Commission. Minister, Chair or officers, would you like to make an opening statement? I note, Chair Longo, you've circulated an opening statement. Would you like to speak to that? Your audio is a bit scratchy. Do you want to try without the video and see how that goes?

Mr Longo: Can you hear me now?

CHAIR: We can hear you. It's a bit scratchy. Do you want to keep going? We'll see how it goes. It hasn't improved, unfortunately. Chair Longo, just as you are trying to work out your audio, we might take the opening statement as read and move to questions. I'm very familiar with the capacity and quality of all the members from the Australian Securities and Investments Commission, so I'm sure they'll be able to do a very good job of answering questions. We are trying to get you on chorus call. I will give a few minutes. Senator McKim, are you with us?

Senator McKIM: I am with you, Chair.

CHAIR: While we are trying to get Chair Longo, I understand you have a few questions. Would you like to ask some of your questions? It may well be that Chair Longo's colleagues will be able to answer them.

Senator McKIM: Sure. Thanks, Chair. I appreciate that. Good morning, everyone. I want to start by asking if someone could step me through what happens when ASIC forms a view that a search warrant needs to be obtained in order to assist an investigation.

Ms Court: I might hand over to our general counsel, Chris Savundra, for the detail of that question. Mr Savundra, are you able to answer that for Senator McKim?

Mr Savundra: Thanks, Senator, for the question. We assess a matter. We have power both under the Crimes Act and under the ASIC Act to access search warrant powers. It's very much in the assessment by the team as to the need for a search warrant. A number of factors feed into that decision, such as the need to ensure that there is not any disruption of evidence. A key aspect of a search warrant is the element of surprise as opposed to the use of other powers. We have coercive powers to obtain documents through notices or coercive powers to examine people. It is generally used where the matter is criminal. It is not always, but generally where the matter involves us investigating criminal misconduct or serious misconduct. We have made an assessment that there is a need for a search warrant to obtain evidence through a search warrant generally to preserve that evidence. For the search warrant, we apply to a magistrate on an ex parte basis. The search warrant needs to be proved by a magistrate or a judicial officer. We then work generally, not always, with the Australian Federal Police and sometimes the state police as the warrant holder. They execute the warrant. ASIC officers attend the search warrant generally as constable assisting. They are authorised by the relevant police force to be present at the search warrant.

Senator McKIM: Thanks, Mr Savundra. How many search warrants has ASIC applied for and obtained over, say, the last 12 months? Do you keep figures on that? If possible, you could go back a couple of years so that we could see whether the trend is going up or down?

Mr Longo: Sorry, to interrupt, Senator Scarr. I'm back online via audio.

CHAIR: Thank you, Chair Longo. Senator McKim has been asking some questions. Senator McKim, does it make sense for us to finish your line of questions and then I'll go to the chair? How long do you think it will take?

Senator McKIM: I've got a few questions, Chair. If you are going to give the ASIC chair an opportunity to speak to his opening statement, perhaps we could do that now and then come back in a little while.

CHAIR: We'll do that. I didn't want to interrupt your flow.

Senator McKIM: Thank you.

CHAIR: Chair Longo, we have your opening statement. Are there any particular comments you would like to make on that opening statement?

Mr Longo: No. Through the secretariat, I simply wanted to table it. I don't propose to speak to it in any more detail. Of course, I and the other commissioners are quite happy to answer any questions coming out of it, thank you.

CHAIR: Thank you. It was a very useful opening statement, so thank you very much. Back to you, Senator McKim. I will give you until 9.20 am. We will then go to Senator Walsh and/or Senator McAllister.

Senator McKIM: Sure, Chair. I don't think another five minutes is going to allow me to finish, but I am happy for you to come back to me.

CHAIR: We'll see how we go. Thank you, Senator McKim.

Senator McKIM: Can someone answer that question about the number of times that ASIC has applied for and been granted a search warrant every 12 months, going back for three years?

Mr Savundra: Unless any of my colleagues can assist, we do report on those numbers in our annual report. Within the time you've given me, I can articulate the number of notices in the financial year 2020-21 and 2019-20 because that is in our most recent annual report. I would need to go back one more year to get you that third year. In 2020-21, there were 30 search warrants executed. In 2019-20 financial year, there were 10.

Senator McKIM: Thanks, Mr Savundra. That is a relatively significant increase. Are you able to answer the same question in terms of the use of your section 19 powers? How many section 19 notices has ASIC issued each year back for three years?

Mr Savundra: Again, our annual report only has the two years. I do have that data. For section 19 examinations, we do have the power to summon witnesses under the ASIC Act and under the credit act. I will focus on section 19 examinations. There were 975 section 19 examination notices—this is notices; the examination may not have proceeded—issued in 2020-21. In the prior year, 2019-20, there were 857.

Senator McKIM: Thank you. Do you have data on how many of those notices did proceed to interview?

Mr Savundra: Not to hand. I will take that on notice.

Senator McKIM: Sure. Thanks. I appreciate that. Off the back of both the number of section 19 notices issued and the number of search warrants you applied for earlier, do you have information about the number of cases where charges were actually laid?

Mr Savundra: Not to hand. I anticipate that would be a manual exercise to undertake. It's not, to my knowledge, a measure. I note that a number of our investigations are fact finding exercises. It may well be that we speak to people through examinations, be it the person of interest or a relevant witness. They provide us with useful information. It might mean that the investigation ends without any action very quickly because of the information that has been obtained through those examinations.

Senator McKIM: Sure. If you are able to take it on notice and provide it, that would be appreciated.

Mr Day: We answered a series of questions of a similar nature at a parliamentary joint committee hearing last week. One of the things we pointed out then, which I think is worthwhile pointing out now, is that just because ASIC issues, say, a section 19 examination doesn't necessarily mean—in fact, probably doesn't mean—that that person be a person of interest or, in fact, the person who ultimately ASIC's investigations are aimed at. In fact, more often than not, those powers are used sometimes because, in fact, the relevant person wants to be compelled to give evidence to protect them from criticism potentially from employers or third parties. It may be that it's also a way to ensure that we get the full cooperation of, and answers from, other witnesses who are not, again, persons of interest or the target of those investigations. So I don't think it can be assumed that any person who receives a section 19 examination is automatically someone we are considering prosecuting ultimately or is the target of the investigation. I think it's difficult to approximate how many of those section 19 examinations led to that person being prosecuted. If it is how many of those were used—it might be five or six that relate to the one matter and the one person or entity that we are looking at then gets prosecuted—that is an appropriate sort of consideration. I want to caution you to say it's not necessarily the case that everybody who receives a section 19 examination is a person of interest.

Senator McKIM: Thanks, Mr Day. Would you make the same assertion with regard to people who have had search warrants executed against them?

Mr Day: It's probably less so, but there is still a chance of that. A search warrant may be executed at a premises that may have nothing to do potentially directly with the person who might be the subject of the investigation. It might be a related third party. It may, in fact, be an unrelated third party. It may be, though, that we need to be able to collect evidence from that premises because we have a suspicion that there is required evidence that might be found at that premises. Again, I don't think it's easily said that the search warrant against a particular premises and a person at that premises is automatically a case that they are the person of interest.

CHAIR: Senator McKim, do you have one final question before I share the call as I foreshadowed?

Senator McKIM: I've actually got a number of further questions, Chair. As I indicated, I'm very happy for you to share the call. I want to place on the record that I would like another block of questions, please.

CHAIR: Noted, Senator McKim. Thank you.

Senator McALLISTER: I want to get an update on the investigations into the allegations against Nuix. I am not sure how to pronounce the name of this company. I've read about it a lot. I understand ASIC may be constrained in how much you can say. If you are able to provide an update, I would appreciate it.

Mr Longo: I will get Deputy Chair Sarah Court to answer that question. We might ask you to elaborate a bit. We announced, I think last week, that our investigation into financial forecasts and the prospectus is not continuing. We concluded that investigation. There's another examination that is continuing. Would you like a quick overview of what we're doing and not doing and then take it from there? Would that be helpful?

Senator McALLISTER: I think that sounds good. I'm interested to understand which issues are a continuing source of interest to ASIC.

Mr Longo: I will ask Deputy Chair Court to elaborate on that. I will hand over to her.

Ms Court: I will set the broad scene. The committee may recall from the last occasion that ASIC is looking at three elements of the issues concerning Nuix. The first relates to the issue of the prospectus on 18 November 2020 and the financial forecasts that were included in the prospectus. The second is an investigation in relation to potential insider trader. The third is the disclosure concerns that we are investigating that relate to repeated downward revisions of the forecast in April and May 2021.

In relation to the first of those matters, the issue of the prospectus, as Chair Longo indicated, we have concluded our investigation in relation to that set of issues and the revenue forecasts that were included in the prospectus. We have looked at the issues very intensively and examined all of the material that was available to the board and senior executives of Nuix at the time the prospectus was issued. We have concluded that we do not have any reasonable basis on which to take any further action in relation to that part of the investigation. We have concluded that aspect. What we completed on that issue is in the public domain now. Nuix have been advised to that effect. Our investigations in relation to the insider trader allegations and continuous disclosure issues are continuing. We are hoping to be able to conclude them by the end of June this year, so in the next couple of months.

Senator McALLISTER: I'm interested in the way that this might interact with any of the class actions that I understand are also afoot. How does ASIC commonly manage circumstances where you're undertaking an investigation of a breach under your legislation but there is a parallel action coming from shareholders?

Ms Court: I might answer that broadly but then defer again to Mr Savundra, our general counsel, on any particular issues. In my experience, there are often class actions at or around the same time as a regulator is conducting an investigation. We conduct our investigation with the class action, if you like. We see largely that the public interest of the regulatory outcome is what ASIC focuses in on. There are, of course, often requests from class action participants for information or material that a regulator has gathered. It very much depends on the circumstances and where we are at in a particular investigation as to how we deal with those requests. We will very much focus on proceeding our investigation and getting that matter in court, if that is where it ends up, as soon as we can. The class actions often follow in behind that. Mr Savundra, is there anything else you want to add to that answer?

Mr Savundra: No. Class actions can request information under legislative provisions that we've obtained through our investigation. But it is discretionary. One of the discretionary factors is whether the release of that information may have the potential to interfere with or prejudice ASIC's investigation. It's often the case that we tend to release information to class actions later on in investigations or after they've concluded rather than during because of that potential.

Senator McALLISTER: Essentially, I think the structural point that both of you have alluded to in your answers is that an ASIC investigation or potential prosecution doesn't really provide any remedy for affected

shareholders if they seek remedy for any financial loss that they've experienced because of behaviour. They need to do that through a class action or some other means. Your actions don't really support their interests in that sense directly?

Mr Savundra: That's correct. Ours is a public action. The class action is about private rights, generally compensatory rights. ASIC, by and large or almost always through public law enforcement, is seeking to deter or punish misconduct. We are looking at addressing misconduct rather than compensation. We do have powers where it is in the public interest to pursue compensation. By and large, they are used in limited cases where there is a strong public interest. It generally needs to be further in ASIC's statutory mandate, which is to promote good conduct and compliance with the law.

Senator McALLISTER: One of your lines of investigation relates to continuous disclosure. You provided advice to Treasury back in 2020 that the previous regime against continuous disclosure was a fundamental tenet of our markets and is particularly important during times of market uncertainty and volatility. ASIC stands by that advice?

Ms Court: I'm not sure I'm the right person to be answering that, Senator, only because I wasn't here at the time of the advice.

Mr Longo: Commissioner Armour might be able to speak to that topic.

Ms Armour: We provided input into Treasury on our view of the importance of the continuous disclosure regime as it was then operating in the context of the markets at the time.

Senator McALLISTER: Obviously, the government has changed the rules in relation to continuous disclosure in the Corporations Act. Would you accept that those changes diminish the prospect of class actions succeeding? They raise the threshold for claimants, don't they?

Ms Armour: They do make a change to aspects of the threshold, yes. Whether or not there will be a significant change is something we will need to see in the cases that we can take or the cases that third parties can take on those provisions. It is going to be something we'll have to see through practical application.

Senator McALLISTER: It's a matter for the courts, of course. But, on the face of it, the test that needs to be met by the claimants is higher. They have to demonstrate that it was an intentional failure to disclose the information now, don't they?

Ms Armour: Yes. There has been a change in the test. That's correct.

Senator McALLISTER: And it makes it a tougher test, doesn't it, for claimants to meet?

Ms Armour: Yes. As I understand it, that was the policy thinking.

Senator McALLISTER: At the time, changes were explained by saying that the old rules exposed company directors to the threat of opportunistic litigation. How many class action suits against company directors have been successful in recent years?

Ms Armour: I'm sorry. I don't have the figures in front of me to give you an answer to that. Class actions cover a range of laws, not just the continuous disclosure laws that have been referred to. I think some of the policy discussion wasn't necessarily focusing on success in the courts but class actions that had commenced and then been settled. It would be a difficult exercise. There is some empirical work that has been done. I think a parliamentary joint committee reviewed the proposals on the number of cases. I would be happy to refer the secretariat of this committee to that material if that would be of assistance.

Senator McALLISTER: You made a submission to the Australian Law Reform Commission saying that the economic significance of fair and efficient capital markets dwarfs any exposure to class action damages. Does ASIC stand by that assessment?

Ms Armour: In that submission, we pointed out the size of the Australian equity markets and the value of the daily trading in those markets. Those markets are based on a system of continuous disclosure. We were talking about the value of those transactions.

Senator McALLISTER: Yes, indeed. It is essential that participants in those markets, as far as is possible, have equitable access to information about the performance of the companies that are trading in those markets. The Nuix shareholders don't feel that they had access to adequate information, do they? That is the basis on which they've launched their class action.

Ms Armour: I'm going to not answer any queries—I hope you don't mind—in relation to Nuix because I have recused myself from that matter. I will hand over to one of my colleagues.

Mr Longo: Maybe Deputy Chair Court could have a go at answering that. I might amplify, if necessary. Deputy Chair Court, do you want to answer that?

Ms Court: I don't feel qualified to comment on the nature of the shareholder class action, Senator. As I say, we are continuing our inquiries into the continuous disclosure issues and the financial forecast downgrades or the downgrades that were announced to the market in April and May 2021. No doubt where we end up on that may be relevant for the class action. I should add that class actions don't always mirror regulatory actions in the sense of maybe other provisions or other allegations that those class action plaintiffs choose to file.

Senator McALLISTER: At the end of the day, the Nuix shareholders want any remedy. It's the class action pathway that's going to deliver it for them, isn't it?

Ms Court: Well, it depends where the investigation ends up. I'm assuming that the class action is seeking—some sort of financial redress or compensation for those shareholders for a decrease in the share price.

CHAIR: I have some follow-up questions in relation to the issues raised by Senator McAllister. I want to clarify the first point. Commissioner Armour, we've had previous discussions in relation to this issue. It's not correct to say, is it, that the changes in the law mean that there has to be an intention to mislead the market before there's liability under the continuous disclosure laws? The liability can also be triggered if the relevant enhanced disclosure entity—the ASX entity—was negligent, wilful or reckless. So it's not just intentional misleading that is captured and could be the subject of class action litigation under the law as amended. It also includes situations where there's recklessness or negligence. Is that correct?

Ms Armour: I believe so. I haven't got the section in front of me. I would have to check on the negligence point just to be clear. I think what you said is largely correct.

CHAIR: I just read an update from MinterEllison on my phone to double check. It was my recollection.

Ms Armour: Okay.

CHAIR: I'll give them a plug. I'm sure they're correct. We talk about class action litigation being successful. You made the point that one issue is that very few class action continuous disclosure cases actually end up going to court to final judgement. Many of them are actually settled before they go to court. It becomes almost a pro forma procedure of the class action fund of the civil litigation lawyers and the insurer providing the D&O insurance, the class C cover, coming to some agreement as to what the settlement is. Isn't that a fair observation?

Ms Armour: That was one of the concerns raised in the discussions about changing the provisions. Of course, the settlement is a court approved settlement, but you are right; there haven't been many, particularly in recent years, liability hearings on class action based on continuous disclosure. I think the Myer case is a notable exception.

CHAIR: And it's also correct to say that ASIC still has powers with respect to prosecuting breaches of listing rule 3.1, which is the continuous disclosure listing rule. Is that correct?

Ms Armour: ASIC's powers have been amended in line with the amendments that apply to third party litigants when we talk about civil penalty. ASIC does still have a power to issue an infringement notice that hasn't been amended. So we have that separate power, if you like.

CHAIR: I think Senator McAllister raises legitimate concerns, as she diligently does. There is a review, isn't there, with respect to the changes that are going to occur in two years? The concerns presumably can be soberly assessed by an independent expert, who can look back over the last two years and see if the concerns that have been raised have actually occurred in practice and whether or not companies have changed their behaviour, which is my expectation.

Ms Armour: Senator Scarr, I recollect that there was a discussion that there would be a review of these rules. I would have to go and check the exact details of that proposal.

CHAIR: Chair Longo, this is my final question on this. Senator McAllister made an important point by referring to ASIC submissions about the continuous disclosure regime. It is a very important part of our regulatory regime in Australia. It does have a positive impact in terms of the cost to capital that companies need to pay because investors are given added comfort by the rigour of the continuous disclosure regime. By the same token, those seeking to raise capital—companies and directors—are also incentivised to comply with the continuous disclosure regime. If a company doesn't comply with a continuous disclosure agreement, that will in fact raise their own cost to capital in terms of future capital raisings. Is that a fair comment?

Mr Longo: Yes. I think they are clearly pertinent observations to make. I suppose from my perspective—I think I have made this observation before, although I can't remember before which committee—Australia has had high standards of disclosure for many years now. We've had quite rigorous standards under the corporations

legislation since the 1990s in this area. Clearly, there have been some changes in the law, as the exchange between Senator McAllister and Commissioner Armour shows. I don't expect standards of disclosure to drop as a result of those changes. I think your observation, the way I would put it, is to say that list of corporates in particular remain committed to high standards of compliance in that area because it's in everybody's interest to do so and it is the right thing to do. At this stage, I think we need see how these reforms play out in the coming period of time and do a look back.

CHAIR: I'm aware of time. Senator Small is joining us remotely and has a few questions. I will give you a few minutes, Senator Small. There are other senators seeking the call.

Senator SMALL: Thanks. I will be nice and brief. The first issue I would like to turn to this morning is design and distribution obligations. I will just address my questions broadly. Only on 31 January this year, the ANZ Bank announced that, with DDO, any future capital notes offers will be limited to wholesale investors only and those investors receiving financial advice. Is there anything that has gone wrong in the implementation of DDO where retail investors might be prevented from having access to those hybrid securities, noting that they have intrinsic risk? Is it going too far to suggest that retail investors should be unable to assess that risk?

Mr Savundra: I will ask Deputy Chair Chester to answer that in the broad. She might also have a go at the more specific question.

Ms Chester: Thank you, Chair Longo. I couldn't quite catch the questions that Senator Small put to us on the design and distribution obligations. My apologies. Could he please repeat them?

Senator SMALL: The thrust of it, Ms Chester, is this: the ANZ Bank recently announced that future DDO will only be available to wholesale investors and those investors receiving advice, not retail investors. Has something gone wrong in rolling out DDO where hybrid securities are not available to retailer investors making their own assessment of the risks inherent?

Ms Chester: Senator Small, thank you for the question. I wasn't aware of that specific example. I didn't quite catch the name of the hybrid security that you were talking about.

Senator SMALL: It was an ANZ capital note.

Ms Chester: Thank you very much. You're right in saying that the design and distribution obligations do have some exclusions. They don't apply to wholesale investor products when they are targeted at them solely. You are right. As the design and distribution obligations took effect from October last year, product providers and distributors would begin to think about how they wanted to go through the process of targeted determinations. In doing that, they may have decided that it would be appropriate for the distribution mechanism to involve only personal financial advice. We know that some product issuers have decided that in terms of their distribution channels. The product may no longer be appropriate for retail investors. It might be something that is appropriate only for wholesale investors. Without knowing the particulars of the ANZ case, it could well be that they made that decision themselves. These are commercial decisions that are made by the financial institutions involved. To some extent, it's unsurprising. We expect that a more robust look at the product, its risk return profile, its complexity and the target market would mean that some of these products might be simplified or some of them might be retargeted to different client cohorts. It sounds like that is the case here. I wouldn't intuitively jump to the conclusion that something has gone wrong with the implementation of the design and distribution obligations. From our standpoint, we are seeing good changes to product design and better targeting of products to consumers and investors that are best placed to understand those products as it is in their best interests.

CHAIR: Senator Small, we really are running out of time. I need to give the call to Senator Walsh, who has told me she has seven minutes of questions. Once that is exhausted, there are three other senators wanting questions. I will give them the benefit of whatever time remains. I want to make sure you have an opportunity, Senator Walsh, so you have the call.

Senator WALSH: Thank you, Chair. My questions are about the Financial Services and Credit Panel. I am hoping to get the right official to answer those questions. I understand that the minister has set out the list of eligible people for convening the panel. First of all, I want to get my terminology right. I understand that there is a broader panel and then when there are disciplinary matters, a single specific panel will be constituted from that to hear those matters. What are we calling those single panels that are convened?

Mr Longo: I will ask Commissioner Press to speak in more detail. Essentially, we are talking about the Financial Services and Credit Panel. As you noted, the government has just appointed a number of people to that panel. It's from that group of people that particular panels are appointed to deal with particular matters. Each panel is made up of three people. Two of those people are allocated from the pool of external advisers. They are persons of appropriate background and experience that the minister has appointed. Each panel is then allocated an

ASIC officer to chair the particular panel meeting, where referrals from ASIC are dealt with. The only other thing I would say for today's purposes is that ASIC is very close to publishing some information and guidance to the market as to how these panels will work and what sort of matters will be sent to them. That's where we are at the moment. Commissioner Press can answer anything further.

Senator WALSH: Thank you. Can you give us more of an indication of when that guidance will be available? I have those sorts of questions. How are you going to go about appointing the two people that you appoint to each individual panel? Have you figured out how to manage, I guess, the caseload of work in terms of the number of matters that will come to you? How are you expecting to resource that by setting up these individual panels?

Mr Longo: The guidance is about to be published for consultation imminently. I will ask Commissioner Press to give a few more details. All those questions are very much on our mind as well. We will be doing our best in the material that is about to be published to answer that.

Ms Press: What Chair Longo explained is correct. We are very close to putting consultation out. I expect it to be out in the next three to four weeks, so at the end of the first quarter. I think that it will outline some of the way we're thinking about selecting a panel and what the panel will need to consider. We will be working with the panel to ensure they are well educated around the fact that they need to be considering when they look at each case. Someone has just sent me a text to correct me.

CHAIR: Who was it, Commissioner Press?

Ms Press: I'm not prepared to say.

CHAIR: I won't press the question. I won't even ask you to take public interest immunity.

Ms Press: It was one of the very capable executives at ASIC. The consultation paper will be out by the end of February. The actual guidance will be completed by May. I think it's important, that time. It's probably important to note that the panels will only look at referrals from 1 January this year. May is actually a timing that will work given that we will need to go through the investigative process before referring anything to that panel.

Senator WALSH: Thanks for that information. Minister, you've put out a list of people. You've made appointments to the panel. You've got people on the panel with a range of experience, including people who are past financial planning association representatives, financial adviser representatives as well as from the broader—

Senator Hume: Stockbroking, time shares and all the different aspects of advice.

Senator WALSH: Yes. Do you have members of the panel who are expert in some of the subsectors of the broader sector—for example, representatives expert in the specialised nature of self-managed super fund advice?

Senator Hume: I would imagine that most financial advisers have some experience with self-managed superannuation. It is a pretty broad skill set. Yes, we have tried to get a full cross-section of people from the industry. The way we went about that was Treasury requested nominations from the peak bodies by emails that were sent out to people that had submitted to the consultation process on the better advice bill. We prioritised candidates that were registered on the financial advice register or the Tax Practitioners Board. ASIC vetted those candidates for past misconduct. Treasury collected their CVs and checked out their private interest disclosures. Obviously, we made sure that the people we were picking were members from a range of specialisation within advice to ensure that the disciplinary body is a proper peer review process.

Senator WALSH: Thank you. In that process, you didn't think it was necessary to look at representation from the specific Self Managed Super Fund Association?

Senator Hume: We asked the peak bodies to nominate members. If there was somebody they nominated that was qualified and ready to go, they would have been included. The panel isn't just limited to these people. Obviously, this is the first tranche. If we feel that there is a skill set that is missing or an expertise that is missing, there is no reason why we couldn't appoint another person.

Senator WALSH: In relation to financial advice around stockbroking, was consideration given to the need to have representation from the stockbrokers and financial advisers area?

Senator Hume: Yes.

Senator WALSH: But not from the peak body, as I understand it?

Senator Hume: I am pretty sure that peak body did nominate some people who are on it.

Senator WALSH: Thank you. For my sins, I remember, Minister, doing the legislation hearings for this bill. I also remember getting representations from the consumer law sector. Given that this panel comes from the financial services royal commission and is a response to significant misconduct, much of which was advocated

around by consumer law groups, there doesn't appear from the list, as far as I can tell, to be any representation of consumers on the panel. What was the thinking around that?

Senator Hume: That is because it is a peer review panel. It's not a representative body.

Senator WALSH: So it's a peer panel. You didn't think it was appropriate to have people from—

Senator Hume: They are not peers. They are consumer representatives.

Senator WALSH: They may be qualified to understand the world of financial advice and what consumers' challenges are.

Senator Hume: That is why they are at places like AFCA, yes. This is a peer review body.

Senator WALSH: You think that they weren't appropriate for this panel?

Senator Hume: Not for a peer review body because they are not peers.

Senator WALSH: You've obviously just constituted the panel. What would you understand the process would be going forward for a set of additional appointments or replacement appointments?

Senator Hume: I imagine that we would take advice from ASIC and Treasury once the panel is up and running and we see how the peer review process is working and what the demand is. We would then make decisions accordingly.

CHAIR: Senator Walsh, your seven minutes is about to go into double digits.

Senator WALSH: Does that include the minute that you have taken up with your own interjection?

CHAIR: I knew you would say that.

Senator WALSH: I am concluded. Thank you very much.

Senator Hume: I want to clarify. I had a message that, in fact, 12 of the 31 members on that current list of the panel are members of the Tax Practitioners Board. They would be experts in the area of self managed super funds.

CHAIR: Thank you, Senator Walsh. Apologies for my interjection.

Senator McDONALD: I will be brief with my questions and put the rest on notice. At the Senate estimates last hearing, I asked a question about ASIC's decision to allocate 60 per cent of the cost of the High Court action against Westpac relating to the call centre activities of their super funds to the predominantly small business financial adviser section. It seems strange that the super fund sector didn't pay the full 100 per cent of this cost, given that it related to the actions of super funds owned by a major bank that had never positioned themselves as providing personal financial advice. Were there other cases like this where there has been an unfair allocation of costs to financial advisers?

Mr Longo: Thank you for that question. On the question of allocation of costs for the industry funding model, a lot of it is prescriptive. Some of it is in our discretion as to exactly how we allocate those costs. I will ask Warren Day, our chief operating officer, to respond to that question. We may need to take elements of it on notice.

Mr Day: As Chair Longo said, it is an ex-post model. In terms of the specific nature of the question about other matters, you're asking us to identify other matters in line with what you've said. I'm more than happy to take that on notice and give you an answer about that.

Senator McDONALD: Thank you. The law doesn't stipulate the split of costs. That is your discretion. Is that right?

Mr Day: There is a formula in administrative funding that is based on certain metrics about volumes of work. It is also in terms of where our activity has been. In relation to certain matters, it would depend on the nature of those matters. You would appreciate that, certainly in relation to certain superannuation matters, financial advice becomes part of that. Depending on the nature of the matter we're talking about and the issues being considered, there are sometimes elements of that are financial advice and vice versa. There are sometimes financial advice matters that have elements of superannuation. We endeavour to make the appropriate allocation between that. I will take on notice what you've asked.

Senator McDONALD: Thank you. I flag that I will put some other questions on notice. Of the two questions I asked at the last estimates, one you came back to me on Tuesday and the other one remains outstanding. I hope you will be more prompt in your responses this time, please.

Mr Day: Thank you, Senator.

CHAIR: Senator Rennick, quickly. We've got literally two minutes.

Senator RENNICK: This is a very quick one. Does ASIC require gold dealers and custodians of gold to comply with financial disclosure laws, such as product disclosure statements et cetera, when investors put their gold bars with gold dealers?

Mr Longo: I might ask Commissioner Armour to have a go at that question. I'm not quite sure of the extent of ASIC's jurisdiction over gold bars at this point in time. I will go to Commissioner Armour.

Ms Armour: My initial reaction is that I believe that a gold bar is likely to be a commodity and not necessarily a financial product, so may not be in our jurisdiction. I would be happy to go back and double-check that for you.

Senator RENNICK: A lot of super funds now are investing in gold bars. I would have thought it would be classified as a financial instrument. I will leave it at that.

CHAIR: Senator Bragg, do you have one question?

Senator BRAGG: I have one question to Ms Chester. I want to follow up from the discussion we had last Friday at the corporations committee. I want to ensure that I understood your answer correctly. You had not received any warnings about the prospect of insider trading or any sort of frontrunning that might be done by super fund trustees or executives during that period of 2020 that was covered in the questions on notice you were supplied?

Ms Chester: The question last week was with respect to whether or not ASIC had been getting communications over a three- or four-month period of time in 2020 regarding any complaints around insider trading?

Senator BRAGG: Yes.

Ms Chester: We've since received a broader question from one of your colleagues, as I understand it. We are going through a process of checking the electronic communications within ASIC at the moment to respond to that. I stand by the answer to the question put to me last week.

Senator BRAGG: Thank you.

CHAIR: Senator McKim, I'm acutely aware that we haven't had the time to come back to you. Do you have one quick question and ability to put the others on notice?

Senator McKIM: No. I have a few more than one. I will put some on notice. I appreciate the opportunity to ask a small block of questions, Chair. It would only be a few minutes.

CHAIR: Just a few minutes, please, Senator McKim.

Senator McKIM: Thanks. If witnesses could do their best to keep their answers brief, that would be helpful. I want to ask about the short-selling information sheet that you released in June last year. In that information sheet, you said that short-seller reports should be released outside trading hours and not immediately when markets open. Is there a legal requirement for short-sellers to follow that recommendation?

Ms Armour: There isn't a legal requirement, but it is definitely a preference.

Senator McKIM: Again, you said that short-sellers should fact check with the target entity. I presume that is not a legal requirement, just a preference?

Ms Armour: Yes. Again, it is a preference.

Senator McKIM: Thank you. You say that short-sellers should avoid overly emotive language. Again, there's no legal requirement but just a preference?

Ms Armour: Yes, Senator.

Senator McKIM: Do you have a preference that companies should avoid overly emotive language in their annual reports?

Ms Armour: The idea of annual reports is to provide information to investors that is useful. I think the language we encourage generally with reporting to investors is to be clear and concise and as effective as possible.

Senator McKIM: So you haven't put out an information sheet asking companies to avoid overly emotive language in their annual reports, have you?

Ms Armour: Not mirroring the information sheets on short-selling, but we do have quite a lot of guidance about the sort of material that companies should be putting out.

Senator McKIM: Would it be fair to say that the information pathway has shot across the bows of short-sellers and that in recent times ASIC has had an increased focus on the activities of short-sellers?

Ms Armour: It's actually designed for both short-sellers and issuers. We wanted it to be clear what our expectations are with short-sellers—how we expect issuers to handle short-selling issues. They are the sorts of discussions we have in those situations with market operators as well. We thought it appropriate that everybody be aware of our expectations.

Senator McKIM: One of the objects of the ASIC Act is for you to promote an informed participation of investors. Doesn't that mean supporting the flow of accurate information to the market, irrespective of whether that information is good news or bad news for a particular company? Would you agree with that statement?

Ms Armour: Yes.

Senator McKIM: Nevertheless, you have put out an information sheet targeting short-sellers but you haven't put out a similar communication issuing guidance around companies avoiding overly emotive language in their annual reports. So why this approach for good news versus bad news?

Ms Armour: It's not intended to be a different approach. We have a plethora of literary guides for companies on our expectations in the documents they provide for investors. It wasn't intended to be that. We have a track record of cases where we have focused on companies that have had overly positive information to the markets. In many situations, that's what our continuous disclosure cases have been about. So it wasn't intended to focus, if you like, just on one part of that.

Senator McKIM: This is the last question.

CHAIR: Thank you.

Senator McKIM: Perhaps this is a fairer question to put to the chair. In recent times, we've seen the government watering down continuous disclosure obligations. We've seen the government try to hamstring proxy advisers. It looks on the face of it like ASIC is going after short-sellers. I'm aware of a number of short-sellers that were raided by the AFP on the basis of warrants applied for by ASIC in recent times. Many times, charges have not been laid. I'm noticing a trend here. That trend is to go after short-sellers and clamp down on any bad news about the market. Is that a fair observation, Chair Longo?

CHAIR: Just before you answer that question, thank you, Senator McKim. There is a lot in that question, I appreciate. Could you try to deal with it as briefly as possible so that we can move on to our next witnesses? Thank you.

Mr Longo: I think the key point is that we will try to elaborate on the response I'm about to give in writing. ASIC's commitment to upholding high standards of transparency in the markets remains undiminished. There is a number of ongoing matters of insider trader and continuous disclosure. I'm not going to comment on proxy advisers. That is a matter for the government. Insofar as the reforms on continuous disclosure, I think it's well to understand that the standards and legal obligations have not changed. We still have very high standards of disclosure in Australian markets. I don't expect compliance with them to go down. If they do, we would be taking action. I think they are the key points for now. The short-selling phenomenon, as previous statements have indicated, can cause a lot of harm. We are keeping a watchful eye on that conduct. I might leave it at that unless Cath Armour wants to have the final word.

Ms Armour: Senator McKim, I don't think we have a view that short-selling is necessarily a negative. The short-selling reports can provide a positive set of opinions and information flows into the market. The reason for the report is to set out standards where we think that can happen in the most effective way.

CHAIR: Thank you, Commissioner Armour. Thank you to—

Ms Armour: I will come back to you on two points so I avoid giving you answers on notice. You were right; continuous disclosure is a negligence test. Yes, the law does require a review within six months of the second anniversary of the changes.

CHAIR: Thank you, Commissioner Armour, for that. Thank you to all of our witnesses from ASIC. Thank you for joining us today. We will now move to the ACCC.

Australian Competition and Consumer Commission

[10:11]

CHAIR: I welcome our friends from the ACCC. Chair, do you have an opening statement?

Mr Sims: I don't really. Rather than do it at the end, I want to say that this is my last committee appearance at all the committees after nearly 11 years. I want to thank this and other committee members. There has always been a very wideranging interest in ACCC matters. I have always appreciated the courtesy of the exchanges.

That's not to say there are not going to be hard questions. I have a sneaking suspicion that there will be some hard questioning today. I always appreciate the spirit and thank the committee very much.

CHAIR: Thank you for your service over such a long and extended period of time and for your cooperation during these important processes. On behalf of the committee, it's truly appreciated. Thank you very much.

Mr Sims: Thank you.

Senator CHISHOLM: I have some questions following on a speech you made from August last year about a new formal merger regime, which I'm sure you remember.

Mr Sims: Yes, I do.

Senator CHISHOLM: In your speech from 27 August last year, where you set out some possible ways to keep our markets competitive and open, you proposed that all acquisitions above specified thresholds would be subject to mandatory notification to the ACCC before proceeding. Notified acquisitions would be prohibited from being completed unless clearance has been granted. My understanding is that recommendation would take us closer to the way most other countries operate in this area—by moving away from the voluntary notification process the commission currently has in place. Is that correct?

Mr Sims: That's correct.

Senator CHISHOLM: Why did the ACCC make this recommendation that we change our merger rules to require large firms to make a mandatory notification to the ACCC about proposed acquisitions?

Mr Sims: We did it for a first range of reasons. The first point to note is that we get probably 300 merger applications a year. That has gone up recently. There is a lot of activity. There's probably only about 30 we look at closely. The others would get approved within two weeks. That won't change. The process won't change that at all. There will still be a very quick process for 90 per cent of mergers. So we're really talking about that probably five per cent of mergers. The reason is we have had, firstly, mergers being completed without coming to us. There are not many but some. We had a recent one in the IVF sector. We've also had merger parties, apropos your previous question—it sounds a bit emotive—almost having a gun at our head, in the sense of, 'Give us an answer now or we're going to proceed and fight you in court.' With dribbling information, we don't get very good information. I'm not saying this happens all the time. Merger control is the most important thing the ACCC does, because it's the only thing that prevents market power rather than tries to deal with it when you've got it, which is a lot harder. We felt that it would put us in a much better position for those five or 10 per cent of cases if we got upfront information and they couldn't just threaten to proceed. They had to notify. They can't proceed until our processes are completed. If they want to appeal the decision we make, it would largely be on the papers in front of us. They can't withhold information. It makes for a better process and a process that, as you say, Senator, does resemble what happens overseas in most jurisdictions.

Senator CHISHOLM: You mentioned a merger in the IVF space. What were the consequences? What prompted you to raise this?

Mr Sims: I can't remember the exact shares. We've got a cast of many on screen. I don't think they will be needed for this. You had a dominant IVF player buying out a fairly sizable but low-cost player. We were concerned about the consolidation and the impact on the prices for IVF. They gave us what is called a courtesy notification, which is, 'We know you're not going to be interested, but we thought we'd tell you as a courtesy.' After a very short period of time, they proceeded. We sought an injunction in the court. We got the injunction. Before the court case to hear the matter substantively, they dropped the matter. In that sense, that was okay.

Senator CHISHOLM: So the merger did not go ahead?

Mr Sims: The merger did not go ahead. Had there been two or three of them going at once, that would have been our entire merging resources tied up. So it is a very clumsy way to do things and resource intensive.

Senator CHISHOLM: When you say resource intensive, can you give us a sense of how many staff would be dedicated to something like that?

Mr Sims: Tom, any idea on how many resources? Mr Leuner, is the EGM for mergers.

Mr Leuner: I would have to check the exact figures. We would have had approximately seven to eight staff on that during the induction phase and then subsequent preparation for trial.

Senator CHISHOLM: So you don't necessarily think it would result in more mergers going ahead or less mergers going ahead? It would be a smoother function for the ACCC?

Mr Sims: I think it would be that. My guess is that it could change the result in two or three mergers a year. It depends on the mergers, of course. I think it would put us in a better place to deal with two or three mergers a year. Usually those two or three mergers a year matter.

Senator CHISHOLM: We've got some other questions.

CHAIR: We'll deal with your other questions first. It will help me manage.

Senator CHISHOLM: We just had some questions around scams targeting senior Australians, which I know you have been concerned about and we've asked questions about previously. We discussed the scams at additional estimates last year. You set a record for reported scams through the Scamwatch website. What has changed since we last talked about it?

Mr Sims: I will pass to my colleague on my left, who is the person best placed to answer that. We do spend a lot of time on scams. I always like to mention Delia Rickard, my deputy chair, who is doing media every second day, trying to send the messages out.

Mr Fleming: We prioritise scam activity in relation to people experiencing vulnerability. We have a whole lot of programs designed to prioritise that work. We have obviously our Scamwatch website, which receives over four million views a year. We have an annual event in November, which is the Scams Awareness Week, where we really focus on distinguishing or trying to dispel some of the stigma around scams. That is often a big thing for a range of communities. It is themed as 'Let's talk about scams'. We have a range of activities throughout the year designed to engage with different groups—CALD groups and other specific demographics.

Senator CHISHOLM: Have there been any recent trends that have evolved in recent months?

Mr Fleming: In 2021, we had around 288,000 scam reports. That is an increase of 32 per cent on 2020. That also had around \$320 million of reported losses, which is up 84 per cent on 2020. Our estimates, loosely based on some of the work we've done, is around \$2 billion a year is lost on scams.

Mr Sims: Lockdowns have probably increased the numbers. There have been a few more cryptocurrency scams as well, which we're trying to deal with through the scams area. There is also a digital platform issue as well. We've certainly seen an increase there. It's extremely worrying.

Senator CHISHOLM: What about anything in particular targeting senior Australians?

Mr Fleming: I don't have any specific information on that, but we could take questions, if you like.

Senator CHISHOLM: Many Australians are concerned that their parents or elderly grandparents are being targeted by a range of aggressive marketing tactics, including door-to-door sales and phone based telemarketing. What limitations are there on door-to-door sales in Australia? They are more likely to target retired or older Australians who are home during the work day. Is there any evidence that suggests that products or services sold through door-to-door marketing are likely to be less beneficial to customers?

Mr Sims: We did a lot of work on the door-to-door selling of electricity. I know it's not scams. Some of the behaviour almost bordered on it. As a result of that, door-to-door selling of electricity virtually stopped. I wasn't aware there was that much scam activity for door to door.

Mr Fleming: We put door-to-door sales, or unsolicited selling, in a different category to some of the scam work I was just talking about. We have taken action previously in relation to a fair degree of unsolicited selling work. It's not something that has particularly changed in recent times, but it's something we are always interested in for the reasons you mention.

Mr Sims: The elderly, perhaps not being as proficient with some of the technology and perhaps being not as questioning as other people might be, are often targeted by scams. Whether that is an increase or not I don't know, but it's a common feature of scams.

Senator CHISHOLM: In terms of the data that you've identified showing an increase, there's no way of telling whether that has been a demographic factor?

Mr Sims: We can take it on notice.

Mr Fleming: We haven't looked, but we could take that on notice.

Mr Sims: We've got a lot of data.

Mr Fleming: Sometimes we don't have the demographics, such as the age, but we certainly have the conduct. We can get back to you on that.

Senator CHISHOLM: What about telemarketing scams? Is that something that is also on the rise? Are there any limitations on telemarketing?

Mr Fleming: There are a whole lot of arrangements about unsolicited selling I mentioned before. Obviously, the ACMA has a role for scam calls. Is there any particular example you have, Senator, in mind?

Senator CHISHOLM: No. Not particularly. Are you aware that there has been a rise?

Mr Sims: A lot of scams happen by telemarketing, surprisingly; you would think they would be done online. A lot are done by telemarketing. We have talked to all the communication companies to see what can be done with some of them. Of course, a lot of the scams are coming from outside the country. There are things they can do to affect that call coming through. They are tricky, because you don't want to stop someone's overseas relative calling. We have had active discussions with the telcos on that. They are trying to do what they can. It's a tricky area. There's a lot of telephone scams out there—more than you would think—so I understand your line of questioning.

Senator Hume: I think it's important to recall that the government did introduce, in response to the Hayne royal commission and one of the recommendations there, some anti-stalking or anti-unsolicited selling legislation, which covers financial products. I think that falls into this.

Senator CHISHOLM: I think it's probably fallen a bit more low brow than that in recent times as well. I hear radio reports about people targeting older people, saying, 'We'll repaint your roof' and charging extra. I think it has gone a bit—

Senator Hume: Beyond financial products?

Senator CHISHOLM: Yes. I think so. They've become really opportunistic and low rent. They are targeting obviously a lot more elderly people at home who are not wanting to go out at the moment as well.

Mr Sims: We'll come back to you. We have got a lot of information, perhaps not to hand as it should be.

Mr Gregson: Many of those service based direct dealing issues are quite localised. We share responsibility for the consumer law with state and territory fair trading agencies. We'll see if we can get you some further information from them as well. We very much focus on those national trends. We try to educate and make awareness more broadly. When it comes to dealing with localised traders, such as the roof painting or the driveway providers, we do work closely with fair trading agencies.

Senator CHISHOLM: Mr Sims, what advice would you give to someone who is concerned about a particular marketing tactic or aggressive door-to-door sales? What would you recommend they do? What steps can they take?

Mr Sims: I will let my colleagues add to this. My usual advice is that if somebody has proactively contacted you, I would turn them away. That would be my advice generally. Usually when someone is proactively contacting you, they are not selling you something that is to your benefit. Otherwise, they would let you find out about it. You could be turning down some good opportunities, but there is so much contact these days online or by phone or SMS. I get them all the time; of course, being home more, I get all the phone calls as well that I never get in the office. I think you would be much advised just to not listen to anyone who is proactively contacting you. Maybe there is more sophisticated advice.

Mr Fleming: In many circumstances, there's a cooling-off period that applies. So, even if people sign up in their home, there is an opportunity to cancel a contract for up to a period. So it's worth understanding those rights. Their local fair trading agency has that detail on their website.

Mr Gregson: If you are looking for advice, there's even preliminary advice. The law is quite clear that if you're not interested and you ask someone to leave, they need to leave. Some of our cases have been quite on that point, including down to the effectiveness of stickers on your door saying that you are not open to people knocking. It sends a really clear message. If you are not interested, tell them to leave. The law requires them to leave.

CHAIR: It doesn't apply to politicians.

Senator CHISHOLM: The exception is Labor Party campaigners in the next couple of months. Thanks for that. I would be interested, on notice, to get whatever data you have on the increase and if there is a demographic trend in it, if it is identifiable.

Mr Sims: Yes. We'll get that.

CHAIR: I have a few follow-up questions in relation to the proposals for merger and acquisition reform. I want to ask you these questions to get this on the record. Other views were expressed after you gave that speech, including by a previous chair of the ACCC, who wrote an article. I lost the opportunity to go through the article with you. I don't want to go through the article again.

Mr Sims: I did say that I was going to enjoy that.

CHAIR: That's right. I have another article. We'll go through it today. I want to get on the record your acknowledgement. There is another view that the law as it is at the moment is working, that it is a well-trodden path. A number of the legal practitioners who specialise in this area say, 'We know the path we're on. It works well, so why change it? Why create more uncertainty and delay?' Do you recognise that there are alternative views?

Mr Sims: I do. That is why we started a debate, which will take some time. Of course, there is no doubt—let's be really clear—that the large businesses and their advisers, which is mainly the Law Council people you're talking about, do not want stronger merger laws. I would guess most consumer groups and most small business and medium sized business probably do want it. So I think there is a wide range of views. The larger companies and their advisers certainly do not want merger law change.

CHAIR: Do you recognise, though, Chair Sims, that it's not necessarily that they don't want stronger merger laws, to use your words? It's that they don't consider that there's a problem in the area that needs to be fixed?

Mr Sims: Sure.

CHAIR: They're concerned that we might exacerbate an issue when we don't need to. Do you recognise that is legitimate? It's not necessarily as if they are against strong merger laws. It's a process issue they are concerned about. Do you recognise that?

Mr Sims: I do have to make two comments. Yes, unambiguously I recognise that there are alternative views. That is why we started a debate. I absolutely recognise that. I think it has to be said, though, that just as we can be accused of bringing a certain perspective to the issue, those whose life is spent in merger parties and trying to get their mergers through us also come with a perspective. I completely accept, though, that there is a debate and there are legitimate views on both sides. I accept that.

CHAIR: I will now ask some questions about the ANZ Bank criminal cartel case. I want to say at the outset that my interest in this is to attempt to see what we can learn from this—

Mr Sims: Absolutely.

CHAIR: and work out the pathway forward. A lot has been written about the case.

Mr Sims: That is a joint interest.

CHAIR: In the first instance, Chair Sims, looking now with the benefit of hindsight, albeit objectively, at what occurred in that case, there was a two-year investigation, and charges were laid and proceedings commenced. Over a number of years, a number of the charges were dropped. Charges against particular defendants were dropped, so the pool of defendants became smaller and smaller. At one stage during the proceedings, the judge referred to—I will be very particular in this—the indictment as a complete shemuzzle. There were a number of attempts by the Commonwealth Director of Public Prosecutions to redraft the indictment in an acceptable form. We then got to the stage where, before the matter went to trial, the Commonwealth Director of Public Prosecutions, exercising their power, independent from the ACCC—you've made that point very well—decided not to proceed because there were no reasonable prospects of success. That occurred a week or so ago. In the aftermath of that, we heard from a number of the individual defendants, not corporate defendants, who talked about the human toll this case has taken on them personally, on their families and on their ability to progress their careers. They are left now pondering what that was all about. Looking at this objectively, it raises questions in our mind as to what happened. How did it go this wrong?

Mr Sims: I will make a few points. Firstly, we run a whole lot of cases. We have an 80 to 85 per cent success rate. I want to get on the record that we rarely spend time in this or any other forum talking about the ones that go as expected. We've had, I think, eight criminal matters now. Five have gone our way and three have not. The three are ANZ, Country Care and the case against the CFMEU. The other five went our way, including in both pharmaceutical and money remittance. We have guilty pleas under the criminal law. Absolutely, when you get that chain of events you describe, there have to be lessons learned. We did have an immunity applicant who came to us. They had concerns or felt there were issues there. You are right; we looked at it in detail. The CDPP looked at it in detail. Decisions were made. I think it's fair to say the full range of evidence that we based our decision on obviously didn't get aired in court. There's information we had when we made up our mind to pursue this criminally.

CHAIR: I want to interrupt you on that point. I want to tease out this point. Do you think you need to be quite reflective when you make comments like that, because there have been individuals who have gone through a criminal process? They never got their day in the ultimate trial. Charges never went to a jury. People in this

country are considered innocent until proven guilty. Do you think perhaps it isn't necessarily constructive to talk about evidence that didn't get its day in court, because it raises questions? It might be best to just say, 'The prosecution did not proceed. We'll reflect on the lessons learned. That's the end of the matter. Let them get on with their lives.'

Mr Sims: Absolutely. I completely agree with what you've just said. I apologise if it came out differently. I thought the question was about going back and looking at what we had done.

CHAIR: It is. But it is the human element to this.

Mr Sims: I understand. These cases, whether they are criminal or civil, are very difficult. There's no doubt that this case went on for too long. I think we had two years in the magistrates court. You would have to question what that achieved. I think there is an issue there. Certainly there will be lessons to be learned. There has been a lot of talk in the press that perhaps it should have been taken civilly, not criminally. We need to reflect on that. Yes, the case is over and those people can get on with their lives. As you say, the case did not proceed. That should be absolutely what happens. But we need to sit with the CDPP and get as many lessons out of this as we can. We most certainly will.

CHAIR: I want to refer to an article. I don't know if you've been provided a copy.

Mr Sims: I think I probably have.

CHAIR: It is an article entitled—and these aren't my words; this is the article—'The ACCC has failed on consultation, say ANZ cartel case lawyers'. It's written by Nigel Hunt, Will Heath and David Friedlander, who are partners at King & Wood Mallesons and who acted for one of the bank defendants in the case.

Mr Sims: Yes. There have been a lot of articles written.

CHAIR: I am a previous member of the profession. This is just as an observation. It's probably a big thing for lawyers to come out and put words as strongly as they have in this article, to be frank; that is one of my observations. You might have a different view on that. Maybe you are used to more robust debate.

Mr Sims: Lawyers involved in matters get very heavily invested. This is not uncommon.

CHAIR: I want to talk firstly about the threshold issues. When this case was initiated—I used to be a company secretary; I've been involved in capital raisings—a lot of people in the market queried, 'What is this all about?' It was considered that there were longstanding sophisticated commercial practices around capital raisings being underwritten by a number of different underwriters and that there's cooperation amongst those underwriters. I want to put a quote to you from the article and get your response. It said:

Companies benefit from engaging multiple banks to pull together large and complex capital raisings. Once mandated, it is expected that the banks act cohesively and with a single combined purpose.

Those banks need to be true to the investors who participate. This includes ensuring that the aftermarket is unaffected by their conduct (like gun-jumping each other to sell-down residual shares not taken up by investors who participate in the raising).

In this circumstance the banks are not competing in building a book of demand for equity, so why would it make sense that they should be constrained in dealing with any residual shares in an orderly way?

Do you have a response to that?

Mr Sims: I just look at the case in a completely different way. Given your earlier comments, I am loath to mention evidence. We did have a lot of things in front of us. We did consult widely with a range of market players to get a view. We came up with a very different view to the one put there. That was certainly an argument raised by the parties.

CHAIR: Okay. So this isn't the case? One of the observations people have made is, 'Why is ACCC doing this? Why wasn't ASIC doing this? ASIC will understand capital raisings better than the ACCC.' From your perspective, you did consult widely with people with deep understanding of capital markets?

Mr Sims: We did consult widely and separately. I think there is an issue that the financial markets do operate in a way different to other markets. There is a lot more sense of acting together in ways that just would not happen in other markets. I think a range of issues come out of this matter.

CHAIR: The other issue raised in the article—I did give it to you before you came so you could have a quick look, but I'm sure you have read it before.

Mr Sims: I have read it. But it was a nice thing to do that.

CHAIR: The question was posed—this is a general philosophical question, I think; again, it is looking forward—about why there wasn't consultation first in relation to the general practice of how these capital raisings could occur. That would put market players on notice that this was something the ACCC was looking at.

Everyone could take a step back and reflect, 'Gee, we saw it in a different way than how the ACCC sees it.' You just gave evidence that you see it in a different way to these senior legal practitioners.

Mr Sims: Sure.

CHAIR: Was that considered, or should it be considered, in the future in these sorts of cases?

Mr Sims: It comes up all the time. I have had more chief executives and chairs in my office saying, 'I understand that, but don't proceed to court. We've learnt our lesson.' The sense we had is that this was a very unusual and different situation to what you normally find is the outcome of these sorts of capital raisings. It has been reflected in much of the commentary. The question has been, 'What was the right answer to this?' rather than, 'Was there any concerning behaviour?'

CHAIR: Okay.

Mr Sims: I think there are different views on what can happen and what should happen when you've got competitors. I accept that the article doesn't accept the premise that they were competitors.

CHAIR: Or that they were acting in that particular context as competitors. They were actually combined into a single enterprise to try to deal with the shortfall and the capital raising. That is the other perspective.

Mr Sims: I get that. There was a contract in place that didn't cover this period. We do need to enter into a lot of reflection on this, I agree, and learn lessons. We most certainly will. We do always when cases don't go as we expect. But this one, I accept, is very much open in this respect.

CHAIR: I have two more questions on this. How do you engage in that reflection? I put this question to the Commonwealth Director of Public Prosecutions. Do you get someone external who hasn't been involved in the process and who hasn't been invested? I'm sure so many members of your team have invested so much time in this matter. Do you try to get someone to come in and look at it independently? How do you engage in that process with the CDPP, which is an independent body?

Mr Sims: We get someone who wasn't directly involved in it. I've asked Scott Gregson, the chief executive, to be closely involved in this. He was not involved in the original decision-making. If we want to really get lessons, I strongly believe it's better done internally. That means someone who knows the organisation but was not involved in the original decision. I agree that wouldn't be a good idea. Mr Gregson will lead it. He was not involved in the original decision. He will involve other people who weren't involved. Obviously, they will talk to those who were. Otherwise, you're not getting the lessons. We'll talk to the CDPP. We have a meeting lined up to do that. We have an excellent working relationship with the CDPP. There have been many successful cases run with them. We totally respect that the way the situation is set up is that they are independent from us. They don't want us in the room when they make their decisions. How we go about that consultation will very much be driven by them. We'll do our own work because we've got our own work to do. We'll talk to them and see how best to work together to draw the lessons. They will very much be calling those shots because they're a very independent organisation.

CHAIR: This is my last question. Again, we'll look forward. It is in relation to criminal cartel offence provisions themselves. There is another article. I haven't tabled it, but it's on the public record.

Mr Sims: I've got it memorised.

CHAIR: It is entitled 'Unfit for purpose; criminal cartel laws need a radical rewrite'. Does that ring a bell?

Mr Sims: No. One was about cryptic crosswords being drafted into law.

CHAIR: That is actually referred to in this article. I will quote from it

In the banks cartel prosecution, the Commonwealth Director of Public Prosecutions struggled to formulate a satisfactory indictment. It took multiple attempts and two decisions from the court.

Justice Michael Wigney noted that the criminal cartel offence provisions are "devilishly complex and labyrinthine", adding that it was difficult to think of any offence more complex and difficult.

Wigney pointed out that by the time the maze of provisions is worked through, it is very easy to lose sight of exactly what conduct the offence provisions are intended to bring to account and punish.

Even more bluntly, he suggested that those responsible for drafting the cartel offence provisions could not have set foot in a criminal trial court before, and had approached the drafting task—

and this is your quote—

"as if it were akin to producing a cryptic crossword".

I'm going to ask a question of the minister in this regard. Is this something where not only the regulators but we as members of the legislature and the government also need to reflect? These laws are so complicated that we've got

a judge in a superior court making those sorts of comments. With all the talent in the CDPP and your organisation, they can't get an indictment to pass muster. Isn't this a red flag to all of us that we need to have careful examination of these laws and see if they can be simplified and made more fit for purpose?

Mr Sims: Every judge I've heard—and it's probably only three or four of them—and every lawyer I've heard talk about the laws has made the point about their complexity. What I don't know, honestly, not being a lawyer, is just how much simpler you could make them. This is the one bit of our laws where all commentary suggests that they are too complex. Having a shot at simplifying would be, I suspect, a good idea. Where that leaves us I don't know. Simplification of laws is not a switch on a wall. Simplifying laws is complex; sorry if that doesn't make sense.

CHAIR: It does make sense.

Mr Sims: Justice Wigney's comments were amongst many that suggest how complex these laws are. What would be a good idea for us to do with the CDPP is have a look at that and see whether we should be thinking about approaching government.

CHAIR: Minister?

Senator Hume: I think that's a very reasonable comment. Your position is made very clear, Senator Scarr.

CHAIR: Thank you very much, Chair, for answering those questions.

Mr Sims: It is an important matter. I completely understand the concerns.

Senator McKIM: Good morning, Mr Sims and your colleagues. I want to refer you to a speech that Senator Chisholm was asking you questions about, which you gave in August last year. My questions have a slightly different focus to those of Senator Chisholm. You spoke in that speech about the negative effect that market concentration can have on productivity, wages and macroeconomic policy. In that speech, you provided a starting point for a debate on the reform of merger laws to stop further uncompetitive market concentration. I want to ask you about the existing uncompetitive market concentration. Do you have any suggested starting points for a debate on policy reform to deal with issues arising from the existing market concentration?

Mr Sims: It's tricky. That's why we need strong merger laws. Once you've got the concentration, it's hard to deal with it. One big change that we welcomed was the changes to section 46, which obviously helped deal with the misuse of market power. That's probably an important start. Subject to any comments from Scott Gregson, I think the key focus is trying to prevent those perhaps two or three mergers that may get through that shouldn't. Once you've got the concentration—we've fixed up the competition laws now—I think there's still a bit of an argument for an unfair practices provision in the consumer law. It's often companies with a fair bit of market power that engage in that behaviour. I think having got a fit for purpose section 46, having an unfair practices provision would also help us deal with that unfortunate behaviour.

Mr Gregson: Mr Sims has certainly covered the issues that the ACCC raised. I would note on a side issue that we have also floated concerns and issues with monopoly infrastructure and the type of things that might be raised there. But that's slightly different from the merger provisions at large.

Senator McKIM: Thanks. I have a question for you, Mr Sims, about the effects test. I will ask you about that. You've argued for the need for strong merger laws and made the comment that once this has happened, it's hard to deal with. Would it be fair to suggest that is an argument for divestiture laws?

Mr Sims: I had a number of minor disagreement was my predecessors. The chair has mentioned one with my immediate predecessor. I don't quite agree with my predecessor Professor Fels, who has argued for divestiture. I just think that it's, firstly, something that would be called for on many occasions and cause uncertainty yet would be very rarely used. Secondly, if you do use it, it is a fairly blunt instrument. It takes a long time. You don't quite know what you're going to end up with. Frankly, we've inevitably got limited resources, which everyone does. The whole world does. I'd rather we were focused on other provisions than trying to deal with queries for divestiture. Look, Alan Fels has a very different view, and that's healthy.

Senator McKIM: He certainly does. Just to be clear, Mr Sims, you don't believe that the creation of a divestiture law regime in Australia would be of assistance in dealing with uncompetitive market concentration? Is that your position? Is that fair?

Mr Sims: That is my view. There may be other different views inside the commission. It is an issue worthy of debate. I certainly take your point. If I'm complaining about too much concentration, your question about divestment is an extremely logical one. I just think it's going to cause us more problems than it's worth. Once you've got that law, people are going to call on you to use it all the time in numerous sectors. It's such a big stick. I have a general philosophical concern about really big sticks and what that opens up. Different people have

different views. That is just a personal view. I almost put it as a personal view as distinct from an ACCC one, because there may be different views inside the ACCC.

Senator McKIM: Thanks, Mr Sims. Perhaps I can ask you about a slightly smaller stick. Do you believe that a company tax system that in some part would target excess profits would help with issues associated with uncompetitive market concentration?

Mr Sims: I'm preceding my time at the ACCC. I have been a longstanding fan of an excess profits tax, which Ross Garnaut and Clunies Ross—I've forgotten his Christian name now—came up with about 35 years ago. I've always been in favour of that. I think it's a good, sensible way to deal with the resource industry. When you move away from the resource industry—I don't know whether Professor Garnaut has a different view—it again is a tricky matter to put in place. It's a lot easier in the resource industry because you've got a different philosophical approach to the limited resources in the ground. Once you do it for companies that just have worked their way to success, it is a fairly big stick again. I will finish on this. I may not be answering your question well enough. What I believe and what the ACCC believes, I think, is that in relation to the digital platforms, which have innovated and then acquired their way to a period of extreme concentration, we probably need upfront rules to deal with some of that, just like we have upfront rules in telecommunications. We have it in energy. As I understand it, although it's not my sector, we have it in the financial markets. I think the level of concentration there is so strong that you won't be able to deal with it via existing laws. You will be chasing your tail forever. So that is a bit of thinking. We will be putting out a discussion paper on that on 28 February. We will be putting proposals to the government in September. That has been much flagged. That is where that issue will again start another debate on what should happen there. Rather than divestiture and rather than excess profits, if you have issues in a particular sector, I would rather think about whether there is an upfront behavioural rule or something like that can deal with it. To me, that is a more manageable way of dealing with it. I think we should be open to that in various sectors. Various sectors may need more regulation, but the two you've mentioned wouldn't be the first ones that jump into my mind.

Senator McKIM: Thanks, Mr Sims. How effective do you think the effects test changes have been? I wanted to specifically ask whether you thought that the introduction of the effects test in some respects is too late to deal with concentration in some markets—in particular, whether it is in the food and grocery sector? We've already baked it in the time the effects test was introduced.

Mr Sims: There are two points. I think the effects test has been very useful. I know that it is called the effects test, but, from our point of view, the biggest change was getting rid of take advantage. Take advantage was interpreted by the courts and advised to companies as being that provided you are doing something that a little company could do, that's not a problem. We firmly believe that bigger companies have to play by slightly different rules than smaller companies. The old law allowed you to get away with doing whatever you like provided that what you did was the same as what a small company could do. Of course, the effect is vastly different. The advice that lawyers now give is very different advice. That has changed behaviour in the corporate sector. I think that is a plus. The second part of your question is how it can deal with already concentrated sectors. Was that the second question? My apologies.

Senator McKIM: Whether some of the concentration specifically in food and groceries was baked in before the effects test was introduced and, therefore, it hasn't been so efficacious.

Mr Sims: You have had Aldi come in. You've still got Metcash. You've got online. You've got your local grocer. The local stores have probably done a little better during COVID. We've had a lot of concern about the impact on suppliers. That is where a fair bit of our focus has been. There are consumer issues as well. Again, I think an unfair practices provision can actually bring more benefits when big businesses are dealing with small businesses. We can actually stop a range of practices that do take advantage of that market power. That is another debate we need to have about whether that could deal with many of the adverse effects from people having that market power.

Senator McKIM: Thanks, Mr Sims. Thanks for your comments and the open way that you've engaged with various committees that I have been on over the years. I thought the effects test was a great reform. I hope you and everyone else who worked on that are very proud of it. We might have a different view on divestiture laws. All the best for the future.

Mr Sims: Thank you, Senator.

CHAIR: Senator McDonald, I think you've got the last lot of questions we have for the ACCC. Over to you.

Senator McDONALD: Thanks, Mr Sims. Thank you for your service. I'm a big fan of yours because you are proactive around issues that I care about. Thank you for that.

Mr Sims: Thank you, Senator.

CHAIR: Chair Sims, you thought this was going to be difficult!

Mr Sims: It has always been very courteous and very interested in our issues, as I said, so I've always appreciated it.

Senator McDONALD: I understand that the ACCC is engaged with NBN Co and relevant industry stakeholders in considering the future regulatory framework for the NBN, which is currently set out in NBN Co's special access undertaking. I understand that this process is considering the future of matters, such as NBN products, pricing and cost recovery. This is obviously an important and complex process which has to navigate a range of factors, ensuring value for end users and reasonable cost recovery that will allow NBN Co to maintain and invest in the future of its network as well as providing certainty to the retail sector. I was hoping to ask a few questions about how this process is proceeding and the major issues and themes that the ACCC has identified. What is the commission's view when it comes to the demand for broadband speeds? The COVID pandemic has obviously emphasised and accelerated trends like working and studying remotely, all of which are underscored by good broadband speed. I'm interested in what types of speeds the ACCC expects consumers will need now and into the future.

Mr Sims: I'm going to warn the EGM responsible that I'll be passing to her to finish the rest of the question. Getting the NBN built—obviously there's a very wide range of views on the NBN—just as the pandemic came along was obviously very helpful for people. There is an active debate about how much speed you need working from home. I think our view is that a 25/5 service is good. If you have a hell of a lot of family members on things working from home and watching Netflix at the same time, you may need 50/20. That has been our advice. I might ask the executive general manager of infrastructure to see if she has a quick comment she wants to add.

Ms Proudfoot: We would agree with 25/5 at this point. That was also found by the recently reported regional telecommunication independent review committee to be appropriate for now. We note that, as things change going forward, that may change to higher speeds.

Senator McDONALD: What is the commission's view on NBN Co's need to recover its costs through revenue? How is the commission seeking to balance any revenue constraints with the need for the government and, therefore, the taxpayer to recover its investment?

Mr Sims: I have a slightly controversial view on this. I have always taken the view that obviously the NBN was built by the government. Now that it is built, I think it is appropriate to treat its costs as sunk. Therefore, what matters for Australia is getting the best use out of the NBN. Obviously, NBN need enough cash going forward to cover their investment. It would be absurd not to do that. I wouldn't be personally hung up on getting a commercial return on every last dollar spent. I think that's just bad economics. The best use we can make of the NBN should drive it. That is provided they've got enough money to do all the things they have to do. That would be my view.

Senator McDONALD: To support the best interests of end users, communications networks need to be both maintained and upgraded over time. Does the ACCC consider that it is in the long-term interests of end users that NBN Co should be able to generate sufficient revenue to continue upgrading and investing into the network to meet the future demand?

Mr Sims: Absolutely. That is the investment they need to make. That is what judgement has to be formed. That could be a different sum to just—I can't think of the right word—almost blindly making sure they can get a commercial return on everything that was spent. That will leave you one price. Doing what you have just described, which I completely agree with, might leave you with a different price. My guess is that the second one is better than the first.

Senator McDONALD: In considering this complex process, to what extent does the ACCC take into account both its own and NBN Co's statement of expectations?

Mr Sims: Absolutely. We take all that into account. I should also say that there has been an almost year-long process here. Obviously in this regulatory process there's a whole range of procedures that have to be followed. We are taking a very close interest in the views of the users as well—the RSPs, consumer groups and business groups. There's a range of expectations. The statement of expectations give a framework. We're following a good regulatory process. It involves getting all stakeholder views.

Senator McDONALD: That would include local infrastructure providers such as Field Solutions and Wide Sky, these guys up in the Gulf who are taking the NBN fibre but then extending the connectivity using windmills and tank stands to be able to stretch it miles away? You would be consulting with them as stakeholders?

Mr Sims: I'm not sure. I might refer to Ms Proudfoot again.

Ms Proudfoot: I'm sorry, Mr Sims. I missed that question. My Internet, unfortunately, is playing up.

Mr Sims: We are open to all views. I did not have a particular recollection of those players, but I am aware of those type of players. The names ring a bell. Yes, we consult very widely. Obviously, you've got city issues, you've got regional issues and you've got rural issues that have to be taken into account.

Senator McDONALD: I might provide you with those organisations, given that they'll give you a Far North Queensland and Northern Territory aspect.

Mr Sims: I would welcome that. We may already have it, but, for the avoidance of doubt, please do.

Senator McDONALD: Thank you. Finally, Dr Kennedy yesterday morning said that inflation was rising unexpectedly and quickly but that he suspected these were short-term disruptions. I am aware that supermarkets have increased the price of milk by 10 cents per litre on the basis of the increased cost of AdBlue. I know you've been doing some work on cost monitoring. Given that a tanker of fuel takes around 26,750 litres of milk, that would be a significant revenue gain for the supermarkets, and they don't pass those prices back to producers. What role have you had? I know that you've been looking at AdBlue prices. Has your inquiry into inflationary pressures on prices extended as far as those sort of price increases?

Mr Sims: I will pass to my colleague on my left. There are a lot of supply constraints in the system, as we all know. Our role—again, subject to contradiction on my left—is pretty well exclusively about whether companies are explaining price rises based on misleading information. The essence of consumer law is: don't mislead. We have no generalised power if people are pricing excessively. If Woolworths were to say to someone or whoever that this price rise is due to this when that's not true, we would take action. We are looking at that.

Mr Fleming: Yes. There's a range of industries where those kind of explanations are given by suppliers to customers, either to the end user as a consumer or throughout the supply chain. We are engaging with a number of those industries. We are asking them to tell us what they've been told by their suppliers so we can actually go and test those claims. That's certainly what we are doing with rapid antigen tests and a whole lot of other similar issues. We are happy to hear from anyone who has had those representations made to them. Then we can follow them up.

Senator McDONALD: Thank you very much.

CHAIR: Senator Patrick, just in time.

Senator PATRICK: That's how I run these things. I don't know if anyone has talked to you about RATs at all?

Mr Sims: No. Strangely not.

Senator PATRICK: Can you inform the committee where things are at in terms of the investigation that you are conducting into RATs?

Mr Sims: We have a number of investigations underway. My colleague on my left is the world expert on RAT investigation, so I will pass to him.

Mr Fleming: I might give you some context with complaint numbers and those sort of things. To date, we've received around 5,000 contacts about rapid antigen tests. Until last Friday, we were receiving around 35 contacts a day at its peak, around 4 January.

Senator PATRICK: So a contact means someone has called you?

Mr Fleming: Someone is calling our info centre or submitting a form on our website. At the peak, around 4 January, we were receiving around 450 a day. What we are doing with all of them is reviewing them to understand what the issues are. Most of them are around high prices. We are categorising them and prioritising for further follow-up those businesses that receive a number of complaints. We've written out to around 60 suppliers throughout the chain of supplying RATs, from the TGA approved sponsors all the way through to the retailers. We are getting close to finalising a number of those inquiries. We are looking at a range of issues, such as representations about price—whether the prices are high because of certain reasons. We're looking at that issue. We are looking at the non-provision of receipts, which is required under the law. We are also looking at whether some of the pricing might raise unconscionable conduct issues. That is the broad work we've been doing on RATs. We're getting close to finalising some of those inquiries.

Mr Sims: We're sort of running a two-track process. One is the investigations. The other one is that by looking at the data and, frankly, calling out some chains, we got them to look closely at their stores and make sure they weren't doing the wrong thing. We had complaints going like this with some chains. Once we named them,

they went like that. There was a bit of putting pressure on as well as the investigation, so it was a dual track process.

Senator PATRICK: Politics is about putting pressure on, so I understand that. When you have written to about 60 entities, does that mean you've sought to inquire or that a particular prima facie concern exists and that's the trigger for writing?

Mr Fleming: The trigger for writing was a combination of the nature of the representations they were making but also the number of complaints we were getting about that particular business. These are contacts that come to us directly from consumers and business. They are untested, so that is the purpose of us writing out—to better understand what is happening in those businesses. We're towards the end of that process. Hopefully in the next little while we will be in a position to form a view.

Senator PATRICK: If you form a view that someone has behaved in a manner unconscionable and has abused the circumstances, what are the remedies?

Mr Fleming: Whether it's misleading conduct, failure to provide receipts or unconscionable conduct, there's a whole range of options under our act all the way from administrative resolutions through to court action. In between there, you have infringement notices and court enforceable undertakings. All those things are available. We tailor them in accordance with our compliance and enforcement policy to fit the circumstances.

Senator PATRICK: I'm trying to recollect. As the issue arose in the media, the government acted to put in some sort of regulation. Is that right?

Mr Sims: Yes. Under the Biosecurity Act, the government passed a very helpful law, which said if you buy them retail and you onsell at more than 20 per cent, that is illegal and you can face a range of sanctions, including jail. That helped deal with a lot of rogues. The police are looking at a number of them.

Senator PATRICK: In those circumstances, because of the breach of the Biosecurity Act or a regulation, it becomes a police matter. Is that right?

Mr Fleming: Yes. They have been referred to the AFP.

Senator PATRICK: Some of them may have come to you and you've referred them on. That's how it's worked?

Mr Fleming: Yes.

Senator PATRICK: How many have you referred on to the AFP?

Mr Fleming: Around 70 so far.

Senator PATRICK: You say it was helpful. That can mean a number of different things. It could have been helpful to you. Was it effective in terms of causing a change in conduct?

Mr Sims: In my view, yes. I think all of this helped a lot. For example, I remember one television footage of someone who had clearly got them retail standing outside the shopping centre selling them at \$50 or \$70, an enormous price. That person was challenged. I can't now remember whether the Biosecurity Act was mentioned, but the guy just ran off. What we do is deal with complaints and systemic behaviour. If you had a company with a number of stores doing something systematic, in these circumstances, it would probably end up in court. If we find that we're dealing with a very small outfit, it may be an infringement notice; I don't know. But there is that rogue behaviour of people doing that sort of thing. What the police could do, taking that individual, is go up and arrest the person. We can't do that. We've got to go through an investigative process. So it was a very useful thing to send messages. I think those messages were sent. Certainly the police have knocked on doors. You only have to get knocked on the door once and I think you change your behaviour.

Senator PATRICK: That's useful. I want to turn to gas. We've had a history of conversations in relation to gas.

Mr Sims: We have. It would be a shame not to finish without a gas conversation.

Senator PATRICK: Exactly. I understand this is your last estimates, isn't it?

Mr Sims: That's right. I mentioned it at the start, thanking senators for the interest in our issues over time.

Senator PATRICK: I think we might have engaged not directly but on radio one after the other at various different times. Your release on gas raises some concerns. You've said that gas went from \$6 to \$8 per gigalitre in late 2020 to \$7 to \$9.50 by mid-2021. Where is it sitting right now?

Mr Sims: We can usually see the spot prices, almost daily.

Senator PATRICK: It comes down to what those numbers were that you were giving us.

Mr Sims: Yes, that's right. They are contract prices. We get them through issuing notices. We've probably got a bit of information up to about August, but that's six or so months ago. Anecdotally, we get the sense they've gone up just a bit more. Interestingly, in an energy crisis world wide, it's not as much. In Asia and Europe, it's been over \$35 a gigajoule. We're nowhere near that.

Senator PATRICK: What do you put that down to? I'm on record as saying that it is a gas cartel. I know you can't say that. Has there been some ethical injection somewhere? What is the cause of there not being what I might call gouging?

Mr Sims: You mean why haven't they followed world prices up?

Senator PATRICK: Yes.

Mr Sims: I think it's partly to do with when those contracts were put in place, so there's a bit of a lag effect. I seriously think, though, there's an element of concern over regulatory action, government action probably more.

Senator PATRICK: That is the ADGSM threat?

Mr Sims: Well, yes. That might be activated or enhanced. But the heads of agreement the government brought in requires the three LNG producers to go through a process before they sell the gas externally. I think that helps as well. It's an interesting issue with our gas prices. If you look at countries that don't produce much gas, you see that their prices are way higher than ours. If you look at countries that are massive gas exporters, as we are, you see that probably our prices are a bit high. I think the companies have now realised that they just can't keep putting prices up to world levels. Otherwise there might be government action to do things. I think the threat of government action in any form is relevant here.

Senator PATRICK: I want to raise the threat of Russia invading the Ukraine and perhaps a diversion of gas from Russia to other jurisdictions. People have been talking about the ADGSM. My understanding is that it's not a highly reactive thing. It has a particular process where you examine gas prices between June and December or something and—

Mr Sims: There are a lot of procedures to it, yes.

Senator PATRICK: And the decision gets made in January of the next year. So it's not like you can pull the ADGSM trigger next week in response to something happening. That's correct, isn't it?

Mr Sims: That's right. I have to say that when you have prices at \$35 a gigajoule in Asia and Europe and you've got prices here that are around \$9, \$10, \$11 or even \$12, I think the combined impact of actual regulation and threat of regulation is probably doing its job. That would be my guess. The world is facing extremely high gas prices and ridiculously high oil prices. We are a bit insulated from that because of, I think, those regulations.

Senator PATRICK: That's quite different to the situation after the LNG plants came online?

Mr Sims: Yes.

Senator PATRICK: You've basically had this—

Mr Sims: They were charging above world prices.

Senator PATRICK: That's right. We had what I would call this cartel behaviour and unreasonable behaviour. You are saying now that you think that has plateaued a bit and everyone is being a lot more reasonable. We actually now have an advantage in some respects from a manufacturing perspective over other jurisdictions?

Mr Sims: I think that's right. Manufacturing in Britain has been whacked really hard because of gas prices. I suspect that's happened in Europe. I suspect it's happened in Asia. I don't want to downplay the impact on our manufacturers. Pre the LNG producers, they were paying \$4 a gigajoule and now they're paying \$10 or \$11. Many of them can't handle that. This is a really complex issue, as you know better than I do.

Senator PATRICK: I wouldn't say that.

Mr Sims: When gas prices went up to \$20, that was outrageous because the international prices were nothing like that. That was a lack of supply to the market and prices going up. Now, as I say, with international prices north of \$30, it's a bit hard to be critical. I think, indeed, they are pulling their heads in in response to the threats of what could happen to them.

Senator PATRICK: This is a final line of questioning. It's my amateur observation that with the high prices they've actually caused a switch away from gas. In some sense, the conduct by the companies themselves drove some of their market to a different place.

Mr Sims: Yes.

Senator PATRICK: They almost put their foot in their own mouth. Is that a reasonable observation?

Mr Sims: Yes and no. Yes, when it goes from \$4 to \$10, you change your behaviour and you try and move away from it. So there has been much more of a reduction in gas usage. I would have to say that four or five firms have closed down, which would have been gas, so that has affected demand as well. I think that has happened. The real view I have is that I think the three LNG players are focused on the international market. I don't think they are much concerned about the domestic market. I don't think they've done themselves any harm because their focus is overseas.

Senator PATRICK: Sure.

Mr Sims: The non-LNG players do have an interest in gas demand.

Senator PATRICK: Thank you very much. I have always enjoyed our chats.

Mr Sims: As have I.

Senator PATRICK: I bid you well. I hope you have a relaxing future, if that's what you want, or an exciting future.

Mr Sims: It's exciting, not relaxing.

Senator CHISHOLM: Just on behalf of Labor senators, I want to thank you for your long record of public service. On my recollection, it's recognised by an AO earlier in the year as well. In the limited time I've been on this committee, we've always appreciated your efforts. I am sure I speak for all Labor senators who have been on this committee; they recognise your work as well. All the best for what you do next.

Mr Sims: Thank you very much.

CHAIR: Thanks very much, Chair Sims. You go with our deepest respect and our kindest regards. Thank you very much. Thank you to all the witnesses from ACCC.

Australian Bureau of Statistics

[11:25]

CHAIR: I welcome Dr Gruen and the team from the ABS. Thank you for joining us today. Do you have an opening statement?

Dr Gruen: I don't, Chair.

CHAIR: After discussions with the deputy chair, I will go to Senator Rice first, who has another commitment that she needs to go to.

Senator RICE: Lovely to see you here, Dr Gruen, given that the ABS is usually on at quarter to 11 and they've decided to not stick around or they are not on at all and getting put off. With last year's census, how far progressed are we with the processing of the census data now?

Dr Gruen: The processing is proceeding well. We are planning to have our first release at the end of June. There have been some minor delays as a consequence of COVID and the fact that much of the work has to be done on site. There have been some cases of people who have had to isolate because of COVID. So things are a bit behind where we hoped they would be, but nothing too serious at this stage. Our plans are to release the first release at the end of June. I might ask Teresa Dickinson whether there's anything she wants to add to that.

Ms Dickinson: Not at the moment, but I'm happy to take more detailed questions.

Senator RICE: I particularly want to go to the issues regarding sexuality and gender identity and the controversy over those questions at the time. The way the census was framed, many people were not able to express their gender identity or sexual orientation. Do you have any indications of how many people were not able to express their gender identity or sexuality because of the questions chosen by the Assistant Treasurer?

Dr Gruen: Just to be clear, the question asked in the census is a question about sex, not gender identity. There were three potential options—male, female or non-binary sex. The ABS gave advice to the government in 2019 about the pros and cons of seeking information about gender identity and sexual orientation in a census. The judgement of the ABS at the time was that the arguments were finely balanced and that we did not make a recommendation one way or the other. The government chose to simply have the question on sex. That is as the census was conducted. We don't have any information about what people would have answered to a question that wasn't there.

Senator RICE: No. So we don't have the information we need on sexuality and gender identity. Certainly the peak bodies and people from the LGBTIQ+ community know that this is critical data so that they are being appropriately counted.

Dr Gruen: Not from the census, but we have substantial surveys where we do ask those questions.

Senator RICE: I'm going to come to them. Before we do that, how many complaints did you receive about the fact that there wasn't a question there and that people were not able to express what, for many people, is a fundamental part of their identity?

Dr Gruen: I received a few letters. I have responded to those groups by saying that I am happy to meet with them. One of the things I've said is that obviously there will be a process in the lead-up to the 2026 census in which we have a look at the appropriate questions for that census. I have encouraged those groups to make submissions when the time comes. I'm also happy to meet with them.

Senator RICE: You sent a few letters. I think there was an option for people to send feedback on the census in some way?

Dr Gruen: Yes.

Senator RICE: I know I personally did, because I felt that my sexuality, which is an important part of my identity, is not something that questions were being asked about. My late wife was transgender. Her identity as a trans woman would not have been counted in the census. What is the processing of those comments? I certainly haven't received a letter back from you asking to meet.

Ms Dickinson: We received those comments when people completed the consensus. We looked at them but not attached to names. We looked at the results that came in. We looked at the feedback, most of which was about how easy it was to complete the census or not. A very small proportion—I cannot tell you the proportion—was about the questions themselves. Some were that there are too many questions and some were about particular questions that people would have liked to see or were unhappy that were on the census. But they were very much a minority.

Senator RICE: Given the controversy over the latter questions about gender identity and sexuality, did you do any analysis of the comments you got back about those questions or the lack of those questions in particular?

Ms Dickinson: We have done an analysis of the feedback that came in generally, yes.

Senator RICE: Are you able to table that analysis?

Ms Dickinson: I can certainly find what we've got on that and make it available.

Senator RICE: Thank you. Dr Gruen, you talked about other surveys that are being done and the census not having those questions. Can you quickly outline for us what they are?

Dr Gruen: I will get Michael or Helen to talk to that. Certainly there are health surveys that ask questions about sexual orientation and gender identity.

Ms Wilson: Questions on gender identity and sexual orientation will be included in surveys that are being undertaken as part of the intergenerational health and mental health study, which is rolling out as we speak.

Senator RICE: What is the sample size?

Ms Wilson: That is a very good question. For our mental health study, which is part of the intergenerational health and mental health study, we're aiming for around 17,000 people over two cohorts over two years.

Senator RICE: So the sexuality and gender identity is included in that mental health study?

Ms Wilson: Yes. That's right.

Senator RICE: And I presume that you've consulted with peak LGBTIQ+ organisations in the construction of that survey or that element of those surveys?

Ms Wilson: We consulted with a range of experts as we developed a new standard. We released a new standard on sex gender, variations of sex characteristics and sexual orientation variables. That standard underpins and guides the questions that we will be asking through the intergenerational health and mental health study.

Senator RICE: I want to go to that standard. So it has been used in those questions. Is it being used in any other data collection?

Ms Wilson: Not at this point. I will check. Not at this point. The aim, as we roll out any new surveys into the future, if questions are going to be asked, is to be guided by the new standard.

Senator RICE: At this stage, it will just be the intergenerational survey that it is being used in?

Ms Wilson: That's right.

Senator RICE: Thanks very much.

Senator WALSH: I want to go back to the census and the fact that it was conducted almost entirely online last year. I note the fact that you are not releasing any of the first results until June. Do you have any indication of any changes to the response rate from the methodology used last year?

Dr Gruen: An online option has been available for the previous two censuses. The proportion of people who have taken up the online option has been rising from one census to the next. The online response for the 2021 census is just shy of 80 per cent. So there's still 20 per cent of people who filled it in on paper. I think as part of checking the results, one of the standard things is to make sure that you don't have serious effects that depend on which way people answer the census. I don't know whether you want any more detail about that.

Senator WALSH: I will go back a step. This may have already been made public. I apologise if it has. You said the response rate to the last census was 80 per cent?

Dr Gruen: No. I apologise. That is the proportion of people who filled it in online. Our target response rate was 95 per cent. We are confident that we will do better than that.

Senator WALSH: Do you have any indication of any difference in your ability to achieve that target response rate for the last census as compared with previous censuses because of COVID and the shift to predominantly online?

Dr Gruen: I think COVID meant that in lots of neighbourhoods it was just a lot easier to fill it in online. We also encouraged people, if they knew where they were going to be on census night, which plenty of them did, to fill it in before the day. We got a very substantial response. COVID has had an impact on our ability to assess for households where there was no response as to whether they were vacant or not. In lockdown areas, we have to find other ways of finding out whether a dwelling was unoccupied. But in terms of the actual response, I don't think COVID hurt the response rate.

Senator WALSH: Would your thinking be that you would continue to embrace online methods for this major data collection in the future?

Dr Gruen: One of the things that is front of mind for us is making it as easy for people to fill in our surveys as possible. We will continue to have paper as an option, but we will encourage people to fill it in online, partly because that reduces the cost of processing it.

Senator WALSH: Of processing, not collection?

Dr Gruen: Well, collection as well. Both. To the extent that it is electronic, it is both. You're right; it's collection as well as processing.

Senator WALSH: In a general sense, when you look across the work of the ABS, are there major areas where you are looking to expand existing data series or introduce new data series? Conversely, are there areas where you are looking at reducing or cutting the existing data series?

Dr Gruen: We've introduced some new data series as a consequence of COVID. We introduced a couple of rapid surveys. Early in the pandemic, we introduced a small business survey and a small household survey. We had a much smaller sample size than would be our normal practice in order to publish the results quickly. We ran those surveys for an extended period. The funding for them then came to an end. With the Omicron wave, we've had considerable interest in restarting those rapid surveys, and we've done that. We've restarted the rapid business and household surveys. They are only relatively recent. The first results from the business survey were published within the last 10 days, so they are new. Another area where we have been producing new statistics has been in taking advantage of what is called big data. We are in the process of introducing new statistics on a monthly frequency to track, first of all, business turnover, where we are using business activity statements from the tax office to prepare them. We have been publishing them since late last year. We are about to introduce a new household consumption measure, which will have significantly wider coverage than the retail trade survey. We're going to be publishing that later this month for the first time. That will use deidentified bank transactions data to give us a better handle on household consumption than you can get from the retail trade survey. So they are a couple of areas where we are doing new things.

Single touch payroll was obviously a big addition to our labour force statistics, which we introduced from April 2020. It relies on the single touch payroll data from the ATO. It gives us a window into the employment experience of slightly more than 10 million people. So it's very big data. I don't think there are any significant areas where we are looking to not do things. There may be circumstances where we reprioritise things. Therefore, there might be some products that we stop offering because we think there's something that is a higher priority.

Another issue is that we've had an extended period of time where face-to-face interviewing has not been possible. We've gone back into the field now with face-to-face interviewing. With COVID waves, that is something that we keep under constant review. The fact that there have been extended periods when we couldn't put our interviewers in the field has meant that we have been unable to achieve the response rates that we previously thought we could achieve for some of our social surveys.

Senator WALSH: Thank you. You've referred to emerging and new series. There is the payroll jobs series, which has been there for a while based on single touch ATO data. You've referred to new or emerging series around BAS statements and bank transactions. You've talked about them being new series based on big data—other data sets, not your data sets?

Dr Gruen: Yes. Administrative data sets of one sort or another.

Senator WALSH: Why is that trend happening? I used to spend a lot of time in the ABS many years ago when there were big paper books of data collected by the ABS. Many things have changed since then. Is that a trend towards using these other data sets? Why is it happening? Is it happening because there's just this great invaluable data and you can develop protocols and get good insights? Is it also related to changes in the overall capacity of the ABS to collect its own data?

Dr Gruen: I think it's related to the digital revolution. There are all sorts of digital platforms that produce data as a consequence of digital interactions with citizens either with private entities or with the government. Single touch payroll is an innovation that enables the tax office to interact electronically with businesses. As a consequence of that, there is an extremely valuable source of data that is collected. I think the short answer is that the digital revolution has, in its wake, created a data revolution and generated enormous amounts of data, whether we're talking in the private sector or the public sector. We are keen to use that data to generate public value by publishing it. We are cognisant of the fact that it's important that we keep privacy front of mind to make sure that we're not breaching the privacy of the individuals or businesses who supplied that data.

Senator WALSH: How does that trend, given the availability of that data because of the digital revolution that you've described, change the ABS? How does it change your organisational structure and what types of people you have working for you doing different tasks?

Dr Gruen: It's still the case that there's a big role for surveys because the data that you get from these alternative sources is not exactly representative of the population. It has been collected for reasons other than for statistical reasons. You can imagine a world where there's a hybrid. You have information that you get from surveys and you combine it in some way with big data. That gives you a more powerful picture of whatever variable you're interested in. It would be wrong to suggest that the arrival of big data spells the end of surveys. It won't. But you are correct that it broadens the range of skills that people at the ABS have to work on things that are surveys on the one hand. Building the platforms that enable us to get big data and analyse it in a secure way requires a whole set of skills that we are developing.

Senator WALSH: I think I could continue down that path for a while. I see other senators, so I will ask a final, smaller question. I think the last census removed a question on Internet connectivity. How do you now collect data on that? How can we see that data reported?

Dr Gruen: The question that was removed was about Internet connection to the home. It was a lot less relevant this time because people have Internet connection to their phone, not necessarily to their home. Do you want to add anything more about that?

Ms Dickinson: In terms of availability of data on that issue, ACMA now does the publishing on that. That is the Communications Media Authority.

Senator WALSH: How does their collection and reporting of data compare to what you were able to do before? Is it comprehensive?

Ms Dickinson: I don't know the details of their data. My colleagues in the statistical services group might know more.

Senator WALSH: I might ask that on notice, in the interests of time. Could we have a comparison of what questions were asked prior and how the data was collected and reported and how it is, albeit by—

Ms Dickinson: By another agency, yes.

Senator WALSH: By another agency, if that's appropriate. Thank you.

Dr Gruen: Of course, the question was on the census, so it was only asked every five years.

Senator WALSH: Thank you very much.

CHAIR: Senator Roberts, Senator McDonald has kindly ceded her position to you on the question order. That is collegiality amongst Queensland senators. Away you go.

Senator ROBERTS: Thank you, Senator McDonald, and thank you, Chair. Thank you all for being here. My questions have to do with death data, particularly from COVID. It is information gathering. I reference your diagram entitled 'Data flow for doctor certified deaths'. It is off your website.

CHAIR: Do you need a copy of that, Dr Gruen?

Dr Gruen: It is a question of whether it is in this publication or not. A copy would be helpful.

Senator ROBERTS: In summary, it's a really simple work flow. It is the data flow for doctor certified deaths. The work flow is: someone dies, a death event; and a doctor certifies or it goes to a funeral director, but that's only a small percentage. From there, it continues to where the doctor sends a certificate to the state births, deaths and marriages. From there, the state offices send data weekly to the ABS. That is a broad summary.

Dr Gruen: Of course, it doesn't include deaths that go to the coroner. So it's not all deaths.

Senator ROBERTS: Yes, correct. But that's a small number.

Dr Gruen: It is 20 per cent, I think.

Senator ROBERTS: Really? Okay.

Dr Gruen: I believe so.

Senator ROBERTS: They eventually get entered in later.

Dr Gruen: Later.

Senator ROBERTS: When the inquiry is resolved. We've also got the Queensland process here, but that verifies what you are saying. Is that correct?

Dr Gruen: Yes. It came from our website. It's correct.

Senator ROBERTS: And my summary, which is backed up by it?

Dr Gruen: I didn't hear anything in the summary that I would take exception to.

Senator ROBERTS: Thank you. When a doctor certifies a death, they certify a cause of death. If the cause of death is unknown, the matter is referred to the coroner to decide. Between 86 per cent and 89 per cent of deaths are doctor certified, meaning we know the cause of death at the time; we know of the death. How long does the transfer of doctor certified death data from the states to the ABS take? Has this reporting time changed over the last three years?

Dr Gruen: We can take on notice exactly how long it takes. Certainly what we have started to do—we started doing this, I think, in 2020—is publish deaths data purely on the basis of deaths certified by doctors. Before that, we had an annual publication of all deaths, but it was very substantially delayed. The annual publication would come out something like 10 months after the end of the year for which it was reporting. One of the other things that we did as a consequence of COVID was to see whether we could provide useful information on mortality much faster. We instituted a new publication, which is monthly, called *Provisional mortality statistics*. We report on doctor certified deaths that we have collected up to that point in time.

Senator ROBERTS: If they come in later because a doctor is slow or whatever, you add them?

Dr Gruen: Exactly. In other words, if you look at the subsequent month's publication, it will have slightly more certified deaths in the previous month because new ones have been added; that's correct.

Senator ROBERTS: Referencing your website, the causes of death in Australia, the last data release—I think you may have explained this—was September 2021 for the period calendar 2020. That's what you said. It was about nine or 10 months later.

Dr Gruen: Yes.

Senator ROBERTS: Is this the most recent data other than the COVID data released on 15 February, which is this one here—*COVID mortality in Australia*?

Dr Gruen: The annual data is the deaths from both doctor and coroner certified. That's the annual data. As well as that, we are doing a monthly publication of just doctor certified deaths. Those come out monthly.

Senator ROBERTS: So the annual is accurate in that it's got the coroner's?

Dr Gruen: It's complete.

Senator ROBERTS: Complete. Thank you. I hope they're all accurate. COVID-19 mortality in Australia, which you have in front of you, issued 15 February 2022, says:

COVID-19 deaths that occurred by 31 January 2022 that have been registered and received by the ABS.

Here we've got death data and cause of death data that is only two weeks old, not three months old, for a single mortality figure, or 10 months for the cause of death. Could you go through that report on the bottom of the first page, Mr Gruen? It says 2,639 deaths where people died with or from COVID. What do you mean by 'with or from' specifically?

Dr Gruen: That is explained later in the document. The vast majority of them are from. A small number are with. If you look at page 3, it explains it. There were 83 deaths which were COVID-19 related. I'm reading from a dot point in the middle of page 3.

Senator ROBERTS: I've got it.

Dr Gruen: There were 83 deaths that were COVID-19 related. The person died with COVID-19 confirmed or suspected, but it was not the underlying cause of death.

Senator ROBERTS: So COVID was not the underlying cause. It was something else?

Dr Gruen: That's right. Just to be clear, there were 2,704 deaths that were either with or from COVID. Of those, only 83 were with. The rest were from. So the vast majority are from.

Senator ROBERTS: That is the cause of death was COVID?

Dr Gruen: Yes.

Senator ROBERTS: Turn over to page 2. At the top of page 2, you have chronic cardiac symptoms were the most common pre-existing chronic condition for those who had COVID-19—

Dr Gruen: Yes.

Senator ROBERTS: certified as the underlying cause of death.

Dr Gruen: Yes.

Senator ROBERTS: That goes back to the previous page and the second bullet point, which states:
The majority of deaths had an underlying cause.
Where would that fit in? The 83?

Dr Gruen: No. A substantial proportion of the people who died from COVID had pre-existing conditions. The pre-existing condition didn't kill them. COVID was the underlying cause of death. The fact that they had a pre-existing condition was material.

Senator ROBERTS: Is there any percentage of those who died with or from who had chronic cardiac conditions?

Dr Gruen: Yes. It's a good publication.

Senator ROBERTS: Yes, it is.

Dr Gruen: It's worth reading.

Senator ROBERTS: I haven't read it all.

Dr Gruen: No. That's okay. Associated causes and conditions in the causal sequence on page 8 will tell you about the pre-existing conditions. The pre-existing conditions is on page 9. There's a chart on page 10, which shows you what the conditions were and the proportions.

Senator ROBERTS: Thank you. That's percentages, are they?

Dr Gruen: Yes.

Senator ROBERTS: These are a per cent of the 83?

Dr Gruen: No. Pre-existing conditions were reported on death certificates for nearly 70 per cent of the 2,556 deaths due to COVID. That is a sentence at the bottom of page 9. The conditions are that chart.

Senator ROBERTS: The graph?

Dr Gruen: The chart shows you the proportion of chronic conditions that were reported on the death certificate. You can have more than one, cheerfully.

Senator ROBERTS: Cheerfully. I will turn now to birth data. The Australian Bureau of Statistics releases birth data at the end of the year following. This data could influence the debate around the effect of vaccines on reproduction and may provide reassurance to vaccine customers. Why does it take so long to report on a simple metric like births? I understand the delay in the deaths for getting the accurate annual figure, but why does it take so long for births?

Dr Gruen: I don't know the answer to that question.

Ms Wilson: I will take that on notice.

Senator ROBERTS: Thank you.

Dr Gruen: We can certainly take that on notice.

Senator ROBERTS: The Australian Bureau of Statistics budget has grown 18 per cent in the last year from \$497 million in 2019-20 to \$588 million in 2020-21. Is that enough to get your data out in a timely fashion?

Dr Gruen: As you would be aware, the bureau publishes data across a very wide range of topics—economic, social, environmental and demographic. Obviously, timeliness is one of the things that we care about. In answer to Senator Walsh's questions, we talked about some of the new products that we have produced that have been much more timely to help decision-makers in the pandemic. There's no question that there's a limit. The other thing that we care critically about is accuracy and making sure that what we produce is correct. Some of these things do take a substantial amount of time. We are cognisant of that. We do our best to publish them as quickly as we can. It, ultimately, is a function of the resources available to us.

Senator ROBERTS: What you're saying—and I would agree, if this is the case—is that it is better to have accurate data a little delayed than timely data that is not accurate?

Dr Gruen: It depends on the circumstances. In a situation where a pandemic has broken out, we made the judgement that we were happy to produce data that was somewhat less accurate fast. So there are circumstances where you are willing to accept that trade-off.

Senator ROBERTS: Is there any way we can get the birth data more quickly?

Dr Gruen: Let's take that on notice.

Senator ROBERTS: Thank you.

Senator McDONALD: Dr Gruen, I want to give a shout-out to the ABS. I follow your LinkedIn page. I assume the Facebook page is equally fabulous. For anybody who is listening, in the words of the rock great Molly Meldrum, do yourself a favour and follow it, because it's hysterical and you learn all sorts of useful and interesting things.

Dr Gruen: Well, the team that puts that together will be delighted to hear that. I actually follow it on Twitter. It's certainly the case that I learn things too.

Senator McDONALD: And surprising things. I don't know if you heard last night. I was asking questions of the RBA about CPI construction. I've got a particular interest in regional Australia and the 30 per cent of homes outside capital cities. Inflation has moved quickly in North Queensland because of the cost of insurance. Rentals have increased by 25 per cent over the last four years as unit and home owners pass the costs on, if they are renting out. I'm sure there are positive metrics as well. We have no way of measuring CPI in regional places. I understand that about 10 years ago there was a campaign from a Townsville based economist Colin Dwyer to see if we could get a regional CPI index. At the time, he was told there wasn't a budget for it. I would like to get your thoughts. Specifically, we've just introduced legislation on the reinsurance pool for Northern Australia. If there had been a suitable metric, would we have been alerted to this looming crisis earlier? Would it have been easier to convince the rest of Australia that this was something that was required, if we used the data?

Dr Gruen: You are correct that the CPI is a measure of consumer prices in capital cities. That's what it is. Ultimately, it is a question of available resources. One thing I often say to people in the ABS is that we've got more good ideas about data to collect than we've got resources available. However, resources are going to be limited in all feasible circumstances. It would be possible to calculate a CPI for regional Australia. It would be possible, but it would take resources.

Senator McDONALD: As you are saying that, I'm thinking that regional is such a broad topic.

Dr Gruen: Indeed, it is.

Senator McDONALD: Major regional cities, perhaps. That would reduce it somewhat. What you are suggesting to me is that this is a resourcing issue and I should be taking it to the Treasurer and minister and asking for additional resources to do that. I shall do so. Do you see a value in what I am proposing, or do you think I am being a bit too granular?

Dr Gruen: As I say, there is value in collecting lots of things. I think regional CPIs would be interesting, but it wouldn't be cost free. The other consideration is the CPI frequency. We collect the CPI quarterly. Most countries do it monthly. I think we and New Zealand are the only advanced countries that do it quarterly. So there's more than one dimension on which you might expand the CPI.

Senator McDONALD: You don't have the data here. What sort of resources does it require quarterly to collate and prepare?

Dr Gruen: Sure.

Senator McDONALD: What sort of resources do you need?

Dr Gruen: We can certainly take that on notice.

Senator McDONALD: Thank you.

CHAIR: Senator Rennick, thank you for your patience.

Senator RENNICK: I noticed in your provisional mortality statistics from January to October 2021 that you gave a set of numbers that had doctor certified deaths. It excluded coroner referred deaths. Does the ABS have figures on coroner referred deaths now? How does that work?

Dr Gruen: You missed the answers I gave to Senator Roberts. The answer is that we get doctor certified deaths much more quickly than we get coroner certified deaths. One of the judgements we made early in the pandemic was that it would be of considerable value to people to publish the provisional mortality statistics based solely on doctor certified deaths. We have an annual publication that includes both doctor certified and coroner certified deaths. That is a longstanding publication. We have introduced this new publication, which we introduced in 2020, to look at the significant majority of deaths that are doctor certified. A bit over 80 per cent are doctor certified. You have to wait for the annual publication to get the complete picture.

Senator RENNICK: So do you know how far away that will be?

Dr Gruen: Senator Roberts quoted the answer to that. It's about September of the year following the year that you are publishing the results for.

CHAIR: Is that a calendar year?

Dr Gruen: Calendar year.

Senator RENNICK: So it takes about nine months to get the data out. You don't have any provisional coroner death figures?

Dr Gruen: No. We don't have provisional coroner death figures. We publish provisional doctor certified ones.

Senator RENNICK: As a benchmark, it normally runs 80 to 20, does it?

Dr Gruen: I think it's a bit more than 80 per cent are doctor—

Ms Wilson: It's around 86 per cent.

Senator RENNICK: Thanks very much.

CHAIR: I think that finishes questions for the ABS. Thank you very much for joining us. It's greatly appreciated.

Proceedings suspended from 12:08 to 12:19

INDUSTRY, SCIENCE, ENERGY AND RESOURCES PORTFOLIO

In Attendance

Senator Colbeck, Minister for Senior Australians and Aged Care Services, Minister for Sport

Senator Seselja, Minister for International Development and the Pacific

Department of Industry, Science, Energy and Resources Executive

Mr David Fredericks, Secretary

Mr Sean Sullivan, Deputy Secretary

Ms Jo Evans, Deputy Secretary

Ms Luise McCulloch, Deputy Secretary

Mrs Jane Urquhart, Acting Deputy Secretary

Ms Mary Wiley-Smith, Deputy Secretary

Analysis and Insights

Mr Russ Campbell, Head of Division, Chief Economist

Mr Jee Karunaratna, General Manager, Resources and Energy Insights [by video link]

Mr Wayne Calder, General Manager, Economics and Industry Analysis [by video link]

Ms Kayelle Drinkwater, General Manager, Data and Policy Design [by video link]

AusIndustry

Ms Emma Greenwood, Head of Division

Ms Tia Stevens, General Manager, Portfolio Program Delivery [by video link]

Ms Claire Forsyth, General Manager, Business Outreach and Engagement [by video link]

Ms Rebecca Lannen, General Manager, Entrepreneurs' Programme [by video link]

Ms Kirsty Gowans, General Manager, Research and Development Tax Incentive [by video link]

Australian Building Codes Board

Mr Gary Rake, Chief Executive Officer

Mr Rodney Harris, Chief Operating Officer [by video link]

Mr Mark Davis, Group Manager, National Construction Code Projects and Analysis [by video link]

Australian Radioactive Waste Agency

Ms Sam Chard, Acting Head of Division

Australian Space Agency

Mr Enrico Palermo, Agency Head

Mr Paul Trotman, Deputy Head

Mr Christopher De Luis, General Manager, Office of the Space Regulator

Corporate and Digital

Ms Kylie Bryant, Chief Operating Officer [by video link]

Ms Rebecca Lee, Chief Information Officer

Mr Robert Hanlon, Chief Financial Officer

Ms Virginia Dove, Acting General Manager, Communications [by video link]

Ms Deborah Miliszewski, General Counsel [by video link]

Mr Michael Olive, General Manager, Financial Management [by video link]

Critical Minerals and Major Projects

Ms Anthea Long, Head of Division

Mr Matthew Crawshaw, General Manager, Major Projects [by video link]

Mr Andrew Hutchinson, General Manager, Critical Minerals Facilitation Office [by video link]

Industry Growth

Ms Donna Looney, Acting Head of Division

Mr David Luchetti, General Manager, mRNA Vaccines Implementation [by video link]

Mr Mark Weaver, General Manager, Strategic Industry Policy [by video link]

Ms Sabrena King, Acting General Manager, Industry Capability and Participation [by video link]

Ms Judith Blake, Acting General Manager, Industry Settings [by video link]

Manufacturing

Ms Narelle Luchetti, Head of Division

Ms Joanne Mulder, General Manager, Strategy Implementation

Mr Nick Purtell, General Manager, Manufacturing Priorities and Supply Chains [by video link]

National Measurement Institute

Dr Bruce Warrington, Chief Executive Officer and Chief Metrologist

Office of Industry Innovation and Science Australia

Mr Anthony McGregor, Acting Executive Director

Office of the Chief Scientist

Dr Cathy Foley, Chief Scientist

Ms Nicole Henry, Chief of Staff

Offshore Resources and Liquid Fuels

Mr Shane Gaddes, Head of Division

Ms Victoria Bergmann, General Manager, Northern Endeavour [by video link]

Mr Ryan McManus, Acting Principal Adviser, Northern Endeavour [by video link]

Ms Marie Illman, General Manager, Offshore Resources [by video link]

Mr Graeme Waters, General Manager, National Offshore Petroleum Titles Administrator [by video link]

Onshore Resources

Ms Michelle Croker, Head of Division

Mr David Lawrence, General Manager, Commodities and International [by video link]

Mr Dan Quinn, General Manager, Resources Strategy [by video link]

Mr Stuart Richardson, General Manager, Gas Markets [by video link]

Mr Chris Videroni, Acting General Manager, Gas Infrastructure, Planning and Policy [by video link]

Questacon

Professor Graham Durant, Head of Division

Dr Bobby Cerini, General Manager, Science and Learning

Mr Tristan Hoffmeister, Acting General Manager, Operations

Science and Commercialisation

Ms Janean Richards, Head of Division

Ms Steph Gorecki Natic, General Manager, International and Astronomy [by video link]

Ms Michele Graham, General Manager, Science Policy and Governance [by video link]

Ms Shanan Gillies, General Manager, Science Policy and Governance [by video link]

Mr Frank Tonkin, Acting General Manager, Commercialisation [by video link]

Strategic Policy

Ms Helen Bennett, Head of Division

Ms Dana Sutton, General Manager, Ministerial Liaison and Governance [by video link]

Ms Lila Oldmeadow, General Manager, Strategic Policy [by video link]

Ms Alison Drury, General Manager, Trade and International [by video link]

Technology and National Security

Mr Anthony Murfett, Head of Division

Ms Camille de Burgh, General Manager, Technology Growth and International [by video link]

Mr Geoff Mason, Acting General Manager, Technology Policy and Engagement [by video link]

Portfolio Agencies

Australian Institute of Marine Science

Dr Paul Hardisty, Chief Executive Officer

Mr Basil Ahyick, Chief Financial Officer [by video link]

Dr Britta Schaffelke, Research Program Leader [by video link]

Australian Nuclear Science and Technology Organisation

Mr Shaun Jenkinson, Chief Executive Officer [by video link]

Ms Emily Hodgson, Acting Chief Operating Officer [by video link]

Dr Miles Apperley, Head of Research Infrastructure [by video link]

Commonwealth Scientific and Industrial Research Organisation

Dr Larry Marshall, Chief Executive [by video link]

Mr Tom Munyard, Acting Chief Operations Officer

Dr Peter Mayfield, Executive Director, Environment, Energy and Resources [by video link]

Ms Kirsten Rose, Executive Director, Future Industries [by video link]

Geoscience Australia

Dr James Johnson, Chief Executive Officer

Dr Andrew Heap, Chief of Minerals, Energy and Groundwater Division

Mrs Alison Rose, Chief of Place, Space and Communities Division

Mr Trent Rawlings, Chief of Corporate Division

Dr Steve Hill, Chief Scientist

Ms Erika Taturan, General Manager, Enabling Services

Ms Anna Pearce, Acting Chief Information Officer

Mr Michael Koh, Chief Finance Officer

National Offshore Petroleum Safety and Environment Management Authority

Mr Stuart Smith, Chief Executive Officer [by video link]

Mr Cameron Grebe, Head of Division, Environment, Renewables and Decommissioning [by video link]

Mr Derrick O'Keefe, Head of Division, Safety and Integrity [by video link]

CHAIR: We'll reconvene. Before I give some formal introductions to the industry portfolio, for the benefit of those witnesses who thought they were attending, we have some reorganisation. We're actually going to release the Office of Industry Innovation and Science Australia. We're also releasing the Australian Nuclear Science and Technology Organisation. We're also releasing Geoscience Australia. The committee's proceedings today will resume with the industry portfolio, beginning with the Department of Industry, Science, Energy and Resources cross-portfolio and corporate sections. The hearing will then follow the order as set out in the circulated program with the modifications I've just provided. The committee has set 25 February 2022 as the date by which senators are to submit written questions on notice and 25 March 2022 as the date for the return of answers to questions taken on notice.

Department of Industry, Science, Energy and Resources

[12:20]

CHAIR: I now welcome Senator the Hon. Zed Seselja representing the minister for industry and representing the Minister for Science and Technology. I also welcome the Secretary of the Department of Industry, Science, Energy and Resources, Mr David Fredericks, and officers of Industry. Minister, Secretary or officers, would you like to make an opening statement?

Senator Seselja: No thank you, Chair.

Mr Fredericks: No thank you, Chair.

Senator WALSH: Thank you all for being here. I have some questions about rapid antigen test manufacturing. We're obviously coming out of a period of serious supply challenges on rapid antigen tests. It's known now that industry approached government back in October 2020 to talk about support for manufacturing

rapid antigen tests here in Australia. Are you aware of those representations of industry to government? The industry association, for example, Pathology Technology Australia, have reported that they approached government in October 2020, and the company Lumos did in October 2020. Are you aware of those representations? Were you engaged in a response towards the end of 2020 about opportunities for manufacturing these tests here in Australia?

Mrs Urquhart: I'm not aware of the approaches as you describe them. It's certainly the case that the department has obviously taken an interest in manufacturing capability, including in respect of rapid antigen testing. Specifically, that was in the period August through to October, when delta was the dominant variant. In that context, we undertook some work at the request of the Department of Health looking at the use of rapid antigen tests in workplaces. Since December, with the emergence of omicron, we have been particularly looking at the utility of domestic manufacturing. You mentioned Pathology Technology Australia. I will turn to my colleague just in case she's aware of that approach.

Ms Looney: We have been engaging very closely with Pathology Technology Australia over the last couple of months. We have been in very productive discussions with them to understand the current supply chain situation with regard to rapid antigen tests. We've also spoken with Lumos of Planet Innovation since we started looking at that supply chain work in December. We met with them in January. We have been engaged with industry more broadly to understand that supply chain environment.

Senator WALSH: I want to get a bit of a time frame in my head. I have presented information about the end of 2020 which you are not familiar with. That's fine. I don't have any point to make about that.

Ms Looney: In 2020, there were approaches to government. We had our regional network, our AusIndustry network, working with companies. I can't say that I'm aware of the two you mentioned. I do know that we had AusIndustry working with some companies in that space looking at what support might be available at that time.

Senator WALSH: I'm glad you added that to the record. So you are aware that representations were made and government was working with industry on rapid antigen testing in late 2020?

Ms Looney: In the context of seeing what there was available at that time and in that context to support business development in that space at the time.

Senator WALSH: Can you clarify what you mean by that? What were the objectives of those sorts of conversations?

Ms Looney: We have a network of business advisers throughout our EP network. They work closely with firms in all sectors. They worked alongside my division to make industry at that time, as we do, like I said, across all sectors and businesses who reach out for advice, aware of the programs that may have been relevant and available to them at the time. It's then up to those firms to pursue any programs that they may have an interest in or that they may be eligible for.

Mrs Urquhart: I will add to that. We have a network of 100 business advisers. Obviously a lot of interaction is going on between the department on the policy side as well as through networks such as the entrepreneurs program network. Without doubt, there have been interactions with medical product manufacturers around programs available that the government is running. We're sure that there have been interactions where information has been provided in that way. I'm struggling a bit with the specifics of your question. Is there a particular approach that you are referring to?

Senator WALSH: I have media reports of Lumos and Pathology Technology Australia approaching government in October 2020 or around late 2020 to talk about what support was needed specifically to deal with the demand that they foreshadowed for this equipment. I am wondering if you are aware of any special representations outside your network and whether you had any special or specific response to approaches about the need for us to manufacture these things in Australia at that time?

Mrs Urquhart: It's entirely possible that Lumos approached the department some time in 2020. You will recall at that time that PCR testing was the gold testing. Rapid antigen testing at that time was not recognised by the TGA for home use. But it's entirely possible that we were talking to entities such as Lumos. The national manufacturing priority on manufacturing of medical products means that we have a lot of interaction. Another thing I would note is that I think Lumos has been engaged with the Victorian government. There is Victorian government support going to Lumos and its activities. As Ms Looney said, we have more recently this year been talking to Lumos just in terms of looking at domestic manufacturing and deepening our understanding of the supply chain and how it operates.

Senator WALSH: Thank you. Mrs Urquhart, you talked about starting to look into this more closely during the delta outbreak. I've got COVID brain and can't remember which one was when. Being a Victorian, it's all the same. Don't say anything, Senator Seselja.

Senator Seselja: I didn't.

Senator WALSH: You started working on this in a more concentrated way in the middle of last year?

Mrs Urquhart: You will probably recall from previous exchanges with us that since about February or March 2020, this department has undertaken a range of activities on COVID, mostly in support of the Department of Health and mostly on the sources available of different types of PPE, the state of domestic manufacturing and that sort of thing. When I responded to you then, what I have in my mind is that most recently from about August through to October this department was assisting the Department of Health on the utility of rapid antigen testing in workplaces. We were having discussions with industry at that time about their views about the utility of those tests. That came before the omicron variant was declared both as a variant in South Africa and present in Australia. So we were in an environment where I think the caseload in Australia was fairly low. PCR tests were doing very well. Nonetheless, I think industry was very interested in talking about, alongside the national plan, resuming their activities and the utility of different tools in that context. So we were doing some work with industry through the various fora about that. More recently, though—the date in my mind when the presence of omicron was declared in Australia is 27 November—since that time, we've seen a massive rise in infections and a consequent impact on supply chains. Obviously, public health settings matter for the Department of Health. We've continued to try to support Health and Home Affairs just in collecting information and so on from our stakeholders to support that effort.

Senator WALSH: Yes. I appreciate the massive amount of work that you have been doing through this crisis. I am trying to figure out whether at any point you put a concerted effort into considering whether and how to support a domestic RAT manufacturing sector in Australia. Was there ever anything written down—a document or plan—about how we can support domestic RAT manufacturing?

Mrs Urquhart: I would say that particularly in the last six months, because of that tasking around the utility and workplace settings, we've been interested in what exists in the way of domestic manufacturing, the international import sources and that entire picture.

Senator WALSH: Your role has been how we look at all the sources of supply to get them out there. I'm asking these questions in the context of your role of trying to rebuild Australian manufacturing, which we often talk to you about. I think that is the disconnect here. Was there a point in time where you thought, 'Let's make these things here. How are we going to do that?'

Mrs Urquhart: I guess what I'm trying to present is that we've undertaken work, firstly, towards the end of last year around workplace settings. More recently, in terms of the supply chains and the obvious problem around the supply of rapid antigen tests, we have looked at manufacturing. It warrants even further analysis. You'll appreciate that when we look at the opportunity for manufacturing in Australia, we want to be satisfied on a number of criteria. We want to understand the longevity of public health settings and the likelihood of demand being of a sufficient quantity to be able to sustain a domestic manufacturing capability. We want to understand how the supply chain works in terms of international sources of rapid antigen tests and what that broader market looks like that an Australian capability would be competing into. We know that there is at least one assembler of rapid antigen tests in Australia, but it is also reliant on imports of the components. We're aware of other manufacturers that don't have TGA approval for supplying their product in Australia but exhibit the opportunity, I guess, to pursue that. Thirdly, I think, and most interestingly, through our Modern Manufacturing Strategy and our engagement on the national manufacturing priority and through some of the program opportunities, there are some exciting diagnostic technologies developing amongst Australian entities that we're very interested in and that are being supported through government programs that we think also potentially offer the prospect for manufacturing in Australia.

Senator WALSH: I think, Ms Looney, you said before that if you had been approached, you would have referred people to the existing programs in the Modern Manufacturing Strategy. You are nodding. That is the general approach that you would have taken. Mrs Urquhart, in the context of all of the work you have been doing, which has been about supply, not just manufacturing here, it sounds like you did analysis. You asked a lot of questions, which you've just presented here. What was the outcome of that reckoning? Was it that we don't need a dedicated strategy to make RATs in Australia?

Mrs Urquhart: I would say that is an ongoing question that we're investigating and that it's a matter for government. I would also say that, in the broad, our activities would not just be to point people towards existing

opportunities but to also ensure that capabilities or knowledge of capabilities in Australia are brought to the attention of relevant parties in government. That would include not only our own ministers but also departments such as the Department of Health and the Department of Home Affairs running the National Coordination Mechanism.

Senator WALSH: Have any rapid antigen test manufacturers with plant in Australia successfully accessed any of the funds available within the Modern Manufacturing Strategy?

Mrs Urquhart: There are a number of companies offering interesting diagnostic technologies that have taken up opportunities. I think we have a few examples.

Ms Looney: We have various types. I will use one example. It is a WA based firm Alcoliser, which was funded through the Advanced Manufacturing Growth Centre run commercial fund to develop a mass market saliva based antigen test to detect COVID-19 in asymptomatic and symptomatic patients within 10 minutes. That work has been supported through that program and is progressing. That is a specific one. I can also give another example of a New South Wales based company to upscale their production capacity to produce one million COVID-19 or other pathogen tests per month. That is an agreement between that company and the Department of Health. So there are things happening.

Senator WALSH: Given that you've been involved not just in trying to foster manufacturing here but you've also been involved in the broader supply issues throughout COVID, and we've just had a period where both state and federal governments have put massive orders in for millions of these tests, are you able to tell us roughly what the proportion is of those tests which we've imported over a recent period versus those that have been manufactured in Australia?

Mrs Urquhart: I would obviously need to refer you to the Department of Health on their procurement. I would simply say that I think you will find that the bulk are coming from overseas.

Senator WATT: I think all of them are, aren't they?

Mrs Urquhart: I wouldn't be able to say. I'm not looking after the Department of Health's procurement of rapid antigen tests.

Senator WALSH: Right. But you have been involved, from your previous answers, in trying to understand where supply could come from. Broadly, Senator Watt is right: the vast majority, or not quite all—you've referenced a WA facility—of these tests have been imported?

Mrs Urquhart: The examples we've given you are companies that have had support to develop those capabilities. To the extent to which Australian suppliers have been brought into the Health procurement, you would have to ask Health. I really can't say. I would expect that the majority is sourced from overseas.

Senator WALSH: Minister, I might get some of your thoughts on this. Essentially, what I think we're hearing is that companies went to government towards the end of 2020 and said, 'We see that this is going to happen. We'd like to manufacture these things here. We're looking for some indication of government support about how to do that.' I note that those representations were made at exactly the time that government launched the Modern Manufacturing Strategy, which was at the end of October 2020. It made medical manufacturing one of the priority areas. We track forward to January and February 2022 and we've had to rely primarily on imports rather than our domestic manufacturing capability in order to meet this critical supply issue. Isn't it a tremendous failure of government strategy and policy that we have failed to make these things here? We've had to import them instead. It is a tremendous lost opportunity to use this crisis to rebuild Australian manufacturing given that you launched the strategy at the very same time that people were coming to you saying, 'We can make these things here if you will work with us.'

Senator Seselja: The answer to your question is no. I don't accept your characterisation of it. I will address a couple of the different points you've put. You are suggesting that you could foresee what we saw with omicron and how much that changed the need for different types of testing. We had been relying, of course, on PCR testing largely up until that point. Obviously, with the omicron variant, we saw much larger case numbers than had previously been experienced. So you are with 2020 hindsight suggesting that people knew or that you knew or someone else knew that we would be facing what we faced with omicron some time out.

Senator WALSH: The world knew.

Senator Seselja: No. I don't accept that.

Senator WALSH: The world started to order and make these tests at the start of 2021.

Senator Seselja: I would like to finish. Your suggestion is that somehow, once it became apparent that more rapid antigen tests were needed, in such a short space of time, the best way to deal with that supply issue was to

develop an onshore manufacturing capability for it. I don't think that is reasonable. What we've seen is, in fact—in dealing with this crisis and what we saw at the back end of last year and over the summer period with omicron—the need to source significant numbers of rapid antigen tests. The government secured more than 78 million of them. But your assertion that you knew somehow. Even if one had anticipated that, you assume we could easily and simply manufacture them all here. They have to go through a detailed approval process, as you know, with the TGA. The TGA has approved many of these rapid antigen tests. As you say, most of them have been sourced from overseas. The key priority is to make sure that those tests are available. That is what we have been working on.

Mr Fredericks: I want to add to that answer to that last question. The TGA approval process is important, obviously. It is worth noting that at the moment as we speak, my understanding—it's a matter for Health—is that at this stage one Australian company has that approval. There are two or three, I think, Australian based manufacturers that are looking to try to get that approval. I understand that the TGA is working closely with them. It's important just to recognise that TGA approval is a crucial step in the capacity to come into the Australian market.

Senator WALSH: I'm absolutely aware of the TGA approvals and the timeframes. Of course, if government had acted around October 2020, TGA approval timeframes would probably be less of an issue than they are today. I want to go back to the minister's comments. I thought I heard you say in your answer that you are not convinced, even knowing what we know now, that these things would not have been imported. You're okay for them to have been imported and think that is the best way to do it. Would you prefer that we had built domestic manufacturing capacity and created Australian jobs through this process?

Senator Seselja: No. That's not what I said at all. That is a complete verballing of what I said. I said that I don't accept your premise. I didn't hear you a year or more ago suggesting that this was the answer, as we were dealing with a very different phase of COVID. You've applied 2020 hindsight going back to an outbreak that came late last year. That's the first thing.

Senator CHISHOLM: What did other countries order?

Senator Seselja: In the short term of dealing with that, the priority was to get those tests. Of course, if they can be manufactured here, we want to see them manufactured here. But you need to look at the most effective ways of getting those tests. As I say, we've secured 78 million of them.

Senator CHISHOLM: From overseas.

Senator Seselja: Well, the secretary has pointed out the one approval that is there. There is a TGA approval process. It doesn't happen overnight, because we need to have those kind of assurances. I just don't accept the premise of your question. You say it with 2020 hindsight. The situation you refer to in 2020 was very different from what we saw late last year in terms of the solution you are suggesting.

Senator WALSH: I will say again that it's not in question whether industry approached government at the end of 2020 seeking to work with you on a plan to manufacture these things. Hindsight is not required. Industry approached you at the end of 2020. The rest of the world was already manufacturing these and moving on it. We could have had domestic manufacturing capability set up here. Why didn't we? Why did government not act to make these things here? If we had, could we not have avoided the crisis that we've just endured over this summer?

Senator Seselja: I can ask Mrs Urquhart to go into more detail again, as she has for you.

Senator WATT: No. You're the minister.

Senator Seselja: I've answered the question.

CHAIR: Senator Watt, Senator Walsh has the call.

Senator WALSH: I'm happy to share the call with Senator Watt. We're okay.

CHAIR: That's not your call, Senator Walsh. It comes through the chair. Senator Walsh, how many more minutes do you need? You've had the call for nearly half an hour.

Senator WALSH: I'm seeking answers from the minister. I think he was about to give an answer.

Senator Seselja: You will have to remind me of the question. I think you were putting to me again that somehow we were able to perfectly anticipate the number of tests that we would want—

Senator WALSH: The way that you could have known—

Senator Seselja: And that could have then easily—

Senator WALSH: Is that—

CHAIR: Order! For the benefit of everyone in attendance and parliamentary Broadcasting, can we make sure that there's a clear delineation between the question and the answers. Please give the minister the opportunity to finish his answer.

Senator Seselja: I'm probably restating my earlier answer. The government has focused on getting access to as many rapid antigen tests as we can. As I say, we've secured more than 78 million of them. I think there are more approved for use in Australia than there are in many comparable countries. I just don't accept the premise of your question, based on perfect hindsight, when we were dealing with different phases of the outbreak. As we've faced a new situation where rapid antigen testing became more important, we've sought to source them as quickly as we can. You can't simply overnight develop that capacity to produce all of that in Australia.

Senator WALSH: I want one more answer. People have heard over and over again that this government could not have seen things coming. That is why they didn't put measures in place. You've claimed that you would have needed hindsight to put domestic rapid antigen test manufacturing in place. Industry came to you in late 2020 and said, 'This is going to happen. We're going to need this. We can make them here.' You sent them away.

Senator Seselja: That is your assertion. As I say, you are applying perfect 2020 hindsight. I don't recall you saying at that time that the urgent priority was to develop that capacity and that it could be developed in time for the outbreak we faced.

CHAIR: Thank you, Senator Walsh and Minister. Senator McDonald has some follow-up questions in relation to this matter. I will then give the call to Senator Cox and then Senator Patrick. That is to put everyone on notice.

Senator McDONALD: I want to clarify what date the World Health Organization identified the omicron strain of COVID-19.

Ms Looney: I don't have that in front of me.

Mr Fredericks: I think the first case of omicron was identified on 24 November. The first variant in Australia was 28 November, confirmed by the New South Wales Department of Health. I think that's right.

Ms Looney: I would just need to clarify that. You asked specifically about the World Health Organization. We would need to check that date.

Senator McDONALD: Thank you. I want to understand when the TGA started accepting applications for rapid antigen self tests.

Mrs Urquhart: I don't think we can answer that. I think you would need to put it to the health portfolio.

Senator McDONALD: What I'm trying to get to is that we had a new variant appear in the world. It was a variant that needed to have a specific RAT developed for it. I want to understand the sequence of events that would have legally and ethically allowed Australia to start approving or supplying those products.

Ms Looney: I will respond to that. As Mrs Urquhart said, it would be a matter for Health to confirm that. My understanding is that there was a pilot started in August. There was an announcement in September that rapid antigen tests would be considered by the TGA for approval. The TGA in September released some information regarding that and started to take applications in October, with 1 November being the date that they were approved for self-use.

Mrs Urquhart: That's right. For home use.

Senator COX: I am interested to see if I have the right officials in the room to talk about the Beetaloo drilling program.

CHAIR: Is that appropriate under this?

Mr Fredericks: It strictly falls under resources.

CHAIR: Is it possible, Senator Cox, for you to come back when we're looking at resources?

Senator COX: Yes. I can do that. That is in what?

CHAIR: That is in outcome 3.

Senator COX: That's fine. I can do that.

CHAIR: Perhaps the secretary can give Senator Cox a heads-up.

Senator PATRICK: I hope I don't run into the same problem. We'll see how we go. My line of questioning comes from questions I've already asked PM&C and Treasury, which is about the government response to high fuel prices. You guys have been mentioned as having done some work on this, particularly, for example, in

relation to what happens in respect of a conflict between Russia and the Ukraine. How might we respond to potential shortages and, perhaps more generally, energy prices? It's not about drilling per se.

Mr Fredericks: We are in a difficult position, Senator. We're in industry estimates. The relevant people for that are in outcome 3, resources. That is where we would traditionally deal with that. We will be able to deal with it at length for you because it's a good discussion. I think we would be better off doing that in outcome 3 at this point.

Senator PATRICK: I'm happy to take advice on it. I didn't want to press it.

Mr Fredericks: That would help us.

Senator PATRICK: That is the line of questioning I have. You are now forewarned. Later on, I will ask what industry has been doing in respect of those issues.

CHAIR: Do we have any more cross portfolio and corporate questions?

Senator WATT: I want to keep going on the point about the local production of RATs. Minister, you've got to accept, surely, that it is an absurd situation that it is easier to get an Australian made rapid antigen test in the United States than it is in Australia. That is just surely absurd.

Senator Seselja: I'm not aware of exactly what you are saying. I can ask officials to address that point of detail, if you would like.

Senator WATT: Well, Ellume is the manufacturer I'm talking about, which is producing about 500,000 rapid antigen tests a day. They are earning hundreds of millions of dollars exporting RATs to the US, but we can't get a locally made one here.

Senator CHISHOLM: Supported by the government.

Senator WATT: Supported by the government of the US; you're right. It's a government that believes in manufacturing. Lumos have been approved for sale in Canada. AnteoTech sells to at least 14 countries, including the UK, New Zealand, Thailand, Malaysia, Indonesia, Vietnam, Singapore and Myanmar—even Myanmar—Philippines, Turkey, Greece, Cyprus and Romania. How is it that people in all sorts of other countries around the world can pop down to their chemist and buy an Australian made rapid antigen test but Aussies can't do it themselves?

Senator Seselja: I will ask officials to go to some of the detail of that.

Mrs Urquhart: Thank you for that question. In the two examples that you've cited, it's my understanding that they don't have Therapeutic Goods Administration approval for their product. I do wonder if the question might be helpfully answered by the TGA in terms of progress in that respect.

Senator WATT: My understanding is that the TGA has approved at least some of the Australian made rapid antigen tests.

Senator Seselja: Which ones?

Senator WATT: I'll get that detail for you.

Mr Fredericks: Our advice is that they've approved Innovation Scientific, which is an Australian assembler of rapid antigen test kits. I think they are on the market. My understanding is that Ellume is still in discussions with the TGA in order to secure approval.

Senator WATT: What was your department doing, as the department that is supposed to be building up Australian manufacturing, to work with these companies and the TGA to get approval so that we could buy Australian made ones rather than having to rush out and probably pay well over the odds for overseas made rapid antigen tests?

Mr Fredericks: I will ask Mrs Urquhart to provide that answer.

Mrs Urquhart: We have had exchanges with the companies. We have had exchanges with the Therapeutic Goods Administration and Home Affairs, through the National Coordination Mechanism, where this matter of TGA approval for products has been raised.

Senator WATT: What did you do to encourage the TGA and these manufacturers to get it together and ensure that we could have Australian made ones?

Mrs Urquhart: I recall the TGA having quite extensive contact with at least Ellume in respect of their interest in TGA approval for their product. Beyond that, I'm afraid I'm not party to the exchanges on the requirements for TGA approval and so on.

Senator WATT: Minister, it's not just me who thinks it's absurd that we can't get locally made rapid antigen tests when they are being exported. Former Liberal Treasurer Joe Hockey has used exactly that word to describe the situation. The Morrison government's failure to back a locally made rapid antigen test has been slammed as absurd by former Liberal Treasurer Joe Hockey in an article on 21 January this year. Is Joe Hockey wrong?

Senator Seselja: I don't accept the critique.

Senator WATT: So Joe Hockey is wrong?

Senator Seselja: I'm saying I don't accept the critique. You seem to be suggesting that, what, we should overrule the TGA? Or, if the Labor Party were in office, you would not have the TGA processes and you would, therefore, just make the decision outside of those TGA approval processes? I'm trying to understand.

Senator WATT: Well, it is happening now.

Senator Seselja: I'm just trying to understand, because they are going through a TGA process. It's up to the TGA to approve them for use. Are you suggesting that we should step into that process and overrule the TGA's approval processes?

Senator WATT: I haven't said anything of the sort.

Senator Seselja: What is your suggestion?

Senator WATT: My suggestion is that—

CHAIR: My suggestion is that we can keep the questions coming from the senators on the committee.

Senator WATT: I'm happy to pose the question.

CHAIR: That is just to keep it flowing. Senator Watt, do you have further questions?

Senator WATT: I do. I'll pose a question at the end. Minister, other countries around the world were manufacturing rapid antigen tests for at least a year before omicron came along. Numerous Australian manufacturers were pleading with your government to work with them to get Australian made rapid antigen tests. Maybe you could have listened. That is my suggestion. Why didn't you listen? Why didn't you do anything?

CHAIR: Minister, this is an opportunity to answer.

Senator Seselja: That is a political point you are making. I do not accept it.

Senator WATT: Well, what did you do?

CHAIR: Senator Watt, can you please let the minister answer.

Senator Seselja: I think officials have been through what we've done. In relation to the particular companies you're talking about—Ellume, I think you mentioned—I understand that they are going through a TGA process. If you're suggesting that we should shortcut those TGA processes or somehow overrule those TGA processes, you should say so. Otherwise, it's not clear how you would have them approved in Australia independent or separate from our TGA approval processes.

Senator WATT: There's only one problem with that argument, Minister, and that is that Joe Hockey went on to say in this article that it was the 'department of industry, not the health department or the TGA, that wasn't prepared to back the biotech company'. Why wasn't this department prepared to back an Australian manufacturer of rapid antigen tests?

Mr Fredericks: I really don't feel that I can do much more than repeat Mrs Urquhart's evidence. We've given evidence that at the time there was engagement with Ellume. We've given evidence that consideration over a range of months was given to available programs that could be available to support. So there was that level of engagement with them. There was always the understanding at the end of the day that the responsibility would be on them to seek TGA approval. We understood that. I will ask Mrs Urquhart to refer to this. It is worth understanding that, through that October and November period, at that stage omicron had not in fact been declared by the WHO. That didn't happen, as I understand it, until 26 November. Secondly, the health settings determined by the national cabinet were relevant to that issue as well. I will get Mrs Urquhart to remind us of the relevance of the health settings through that October-November period to address the question the senator is asking.

Mrs Urquhart: It was late November when omicron became known and emerged in Australia very quickly. There was then a rapid surge in cases in Australia, as you are aware. It was in that context that public settings changed. I think that followed AHPPC consideration as well as discussion in national cabinet. Prior to that, PCR testing was considered the main testing tool in public settings across jurisdictions. I will take this opportunity to note that it was in that period, I guess, of August through until mid-November that we were in an environment of declining case numbers and where the availability of PCR tests was fine for those issues.

Senator WATT: Sure.

Mrs Urquhart: The only other point I would add is that I want to be clear that the government has given support to companies on the manufacture of diagnostic testing. We gave a couple of examples earlier that relate to rapid antigen testing. I think it's also important to note the support of the Queensland and Victorian governments, which we have monitored closely. We've engaged with state jurisdictions about their activities. We're aware of the Queensland government providing support to Ellume. We're also aware of the Victorian government providing support to Lumos—

Senator WATT: Exactly.

Mrs Urquhart: and kept a watching brief on that. You noted the US support for Ellume and its activities. We have been in discussions through the national coordination mechanism on the TGA approval processes and been absolutely aware of quite a high degree of engagement by the TGA with companies such as Ellume.

Senator WATT: Thank you for that, Mrs Urquhart. Minister, we've heard that the Queensland government was providing support to Ellume. We've heard that the Victorian government was providing support to manufacturers. We've heard the US government is providing support to Ellume. Is there someone missing in this picture? Is it possibly you?

Senator Seselja: No. You've heard Mrs Urquhart refer to the support we've been giving, so, no, I don't accept that.

Senator WATT: Why do you always—

Senator Seselja: And the—

Senator WATT: let it become a crisis before you do something?

CHAIR: Senator Watt, order! Senator Watt, you must give the witness an opportunity to finish the question. You have an opportunity to ask the question. The answer is for the benefit of all of us. There must be a clear delineation between the asking of questions and the giving of answers. Minister, please conclude your answer.

Senator Seselja: Thank you. Mrs Urquhart has given examples of the support that has been provided. In relation to the point you are making about Ellume, the only conclusion one could draw from your suggestions and what you are putting to me and witnesses here is that somehow we should short-circuit the TGA's approval process.

Senator WATT: I have said nothing of the sort.

Senator Seselja: Well, there's no other way to read what you are putting to me. If that is your suggestion, you should be more blunt about it. If it is not your suggestion, it's very unclear what it is.

Senator WATT: Don't verbal me. Don't put words in my mouth. I have suggested nothing of the sort.

Senator Seselja: Well, what are you suggesting?

CHAIR: Senator Watt and Minister, as I said—

Senator WATT: Am I supposed to just sit here and have words put in my mouth?

CHAIR: I understand. How many—

Senator WATT: I have a couple more questions on this.

CHAIR: Please proceed.

Senator WATT: I've heard over the course of the afternoon this suggestion that omicron changed everything, we couldn't have known and it's all good in hindsight. This wasn't only an issue that emerged when omicron came along. Again, there's an article in the *Sydney Morning Herald* of 31 December 2021 that states:

Melbourne-based Lumos Diagnostics executive chairman Sam Lanyon said the company participated in discussions about the local manufacture of RATs in Australia with government representatives in mid-2020, as part of a federal government initiative to improve sovereign manufacturing capabilities. However, the talks ultimately proved fruitless.

If this was about sovereign manufacturing capabilities, I'm guessing that the department of industry was involved in those discussions?

Mr Fredericks: I will take what I'm about to say on notice to make sure I can qualify it. My expectation of those discussions that would have been happening at that point of time in the year, especially in light of your reference to sovereignty, is that they would have been discussions in the context of the Modern Manufacturing Strategy and the Modern Manufacturing Initiative. So at that time, as Mrs Urquhart and Ms Looney both gave evidence, this department generally, and through AusIndustry in particular, was engaging with a vast array of Australian industry regarding those six national manufacturing priorities. It includes medical products. So, as Mrs

Urquhart said at the start, I can readily assume that those sorts of discussions would have been happening because there was a context in which they could happen, which was the government's Modern Manufacturing Initiative. Mrs Urquhart has given you the evidence about firms that have been beneficiaries of that Modern Manufacturing Initiative. That is why we keep raising that. The evidence is that a range of Australian firms in this area have benefitted from funding from the Modern Manufacturing Initiative.

Senator WATT: Minister, this article goes on to say that Mr Lanyon said:

"I guarantee you we would have had manufacturing in Australia already—
if they'd had some assistance from the government. He continues:

We would have been producing tests in Victoria, and we would have been shipping them nationally."

How many Australian manufacturing jobs have been lost as a result of your government not working with industry and the TGA and all of the other parties to get Australian manufacturing of RATs?

Senator Seselja: Well, I don't accept the premise. In terms of—

Senator WATT: I know that's what you say every time.

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

Senator WATT: There, you did it again.

Senator Seselja: Well, if I could—

CHAIR: Well, Senator Watt, the other thing that reoccurs is that you interrupt answers. If you want to maintain the call, please, as I've raised a number of times, let the minister finish his answers or I will give the call to another senator.

Senator Seselja: Thank you, Chair. No, I don't accept your premise. In terms of the detail of it, the secretary has taken it on notice and he will no doubt come back to you with some more information.

Senator WATT: Minister, we've got Ellume begging to work with the government. We've got Lumos Diagnostics begging to work with the government. We've got other companies doing the same thing back to 2020. There is no interest, no support. They start manufacturing and send stuff offshore instead. Why does your government only ever swing into action, whether it's manufacturing or whether it's COVID, when we reach a crisis point, because that's what has happened here, isn't it?

Senator Seselja: No.

Senator WATT: All of a sudden, we want Australian manufacturing, but it's all too late.

Senator Seselja: No. I don't accept that.

Mrs Urquhart: Minister, if you will permit me, I'm led to understand from my colleagues that Lumos has been supported through the entrepreneurs program. Ellume also was a participant in the accelerating commercialisation program. If we take it on notice, I think you will find that we do have information about support that has been provided to both companies.

Senator WATT: For the production of RATs?

Mrs Urquhart: I can't tell you, Senator. This is the indication I have—that there is more information we can provide.

Senator WATT: I would be keen to get it.

CHAIR: Senator Watt, I need to share the call. Do we have any more questions on cross portfolio and corporate? Senator Van, you've got the call.

Senator VAN: In previous estimates, I've put questions to AusIndustry about research and development grants, in particular, with a very innovative Victorian defence company. I want to acknowledge on the record in estimates that I'm incredibly grateful for the work that Ms Wiley-Smith and Ms Greenwood have done in working with that company and resolving the issues that I raised at estimates. This company is incredible. It produces some of the finest products that will protect our defence service people. The ability to get grants or tax relief under the grants scheme is very important to its ongoing contribution to the defence of our nation and our sovereign capability and export capability. I want to put on the record my thanks for working with the company and me to resolve those issues. You should be congratulated. Thank you.

Mr Fredericks: I appreciate that.

Senator VAN: Thank you, Secretary.

Senator Seselja: Senator Van, you've been a tireless advocate for that company as well, so that should be on the record as well.

CHAIR: Thank you very much, Senator Van. I think we are now in outcome 1.

Senator WATT: We have some more cross-portfolio questions.

CHAIR: Who is seeking the call?

Senator WATT: We have some questions about mRNA and consultancies.

Senator WALSH: I have some questions about the Moderna announcement with the Victorian government. How much has the Commonwealth committed for the Moderna mRNA facility in Melbourne?

Mr Luchetti: Could you repeat the question, please? I was just coming into the room.

Senator WALSH: That's okay. How much has the Commonwealth committed for that facility? What is the Commonwealth's contribution for that facility?

Mr Luchetti: That is still being determined. We're currently in negotiations with Moderna and the Victorian government to put into place the arrangements for the manufacturing facility to be up and running. At this stage, we're looking at a range of things. There are costs associated with both the drug substance facility, with fill and finish and the purchase of vaccines both for the treatment of COVID but potentially future purchases of vaccines, be they for another pandemic or for the flu or some other vaccine. That's yet to be determined. We're working through that at the moment with the other two parties.

Senator WALSH: Thank you. What was the first thing you mentioned before a proposed contribution to fill and finish?

Mr Luchetti: A drug substance facility. The actual facility that will make the product.

Senator WALSH: The plant?

Mr Luchetti: Yes. The plant; that's right.

Senator WALSH: So you're in negotiations with Moderna and the Victorian state government?

Mr Luchetti: That's correct, Senator.

Senator WALSH: About what your contribution will be on all of those things?

Mr Luchetti: That's right.

Senator WALSH: The last of those things was ensuring a level of government demand for the product in terms of pre-purchase orders?

Mr Luchetti: That's right. That's a discussion that's going on at the moment.

Senator WALSH: Are you intending to make the result of those discussions public?

Mr Luchetti: I don't believe so. That would be a matter for the Department of Health. The Department of Health hasn't made that information public.

Mrs Urquhart: In terms of the agreements, that would be a matter for government.

Senator WALSH: Yes. Is there a figure on what government has contributed to the process? How much has it cost to not just do the proposal for market and all of that administrative process? Are there any other amounts that government has spent on the process?

Mr Fredericks: We'll have to take that on notice. I suspect we don't have that information here. I would like to be able to come back to you with a response from Health and possibly from Finance. This is an exercise that is being carried forward by ourselves, the Department of Health and the Department of Finance. If you would like, I will come back to you on notice with that information as broadly as I can.

Senator WALSH: Broadly up to this point, the Commonwealth's involvement has been in—my terminology is failing me—putting it out to market, engaging with the companies, assessing the approaches and engaging the consultants that we talked about before. Is there anything else that the Commonwealth has been engaged in up to that point in relation to the decision?

Mr Luchetti: The only thing I would add to that is engaging with the Victorian state government.

Senator WALSH: I have an awareness of the Victorian state government putting up an amount of \$50 million or some such to get the process underway.

Mrs Urquhart: You might be thinking about their investment in mRNA in Victoria.

Senator WALSH: Okay.

Mrs Urquhart: That would be one of the principal entities that we're engaged with.

Senator WALSH: Got it. Thank you.

Mrs Urquhart: I go to Mr Luchetti's set of activities that we have been undertaking. It would be important to also add that we've talked to entities such as the Academy of Science around the ecosystem relevant to mRNA technology to inform the entire process.

Senator WALSH: Can you remind us of the final steps of the process that the Commonwealth engaged in that led to contracting Moderna? You had a panel, didn't you?

Mr Luchetti: That's right. Obviously, it's limited because there was government consideration and it went to cabinet. Very broadly, that's right. There was a process of consideration with the support of an expert advisory panel that provided advice to government. There were iterations where we sought additional advice or clarification from the respondents to the approach to market. That advice was provided to government. In the background, there were discussions with the preferred outcome—Moderna—which then informed the final announcement on 14 December last year.

Mrs Urquhart: I want to be really clear, because you used the term 'contracts'. On 14 December, the Prime Minister announced an in-principle deal that agreement had been reached on that with Victoria and Moderna. Now you find us putting the meat on the bones, if you like, settling the commercial arrangements to underpin that in-principle deal.

Senator WALSH: Do you have a time frame now for when we expect these vaccines to, in effect, roll off the production line from this facility?

Mr Luchetti: We're working to a time frame collectively of 2024. We're not necessarily being—

Senator WALSH: Twelve months in 2024.

Mr Luchetti: There are, Senator, but this is a complex process. Moderna themselves have already been to Australia and visited a number of potential sites. These kinds of things will influence just when in 2024 it will happen. They could potentially use an existing site or they could actually use a brand new site. Obviously, there's additional time required if it's a greenfields site and they've got to take it from scratch and secure equipment and necessary regulatory approvals. It's hard for us to be specific about exactly when the plant will turn on and start producing vaccines.

Senator WALSH: Minister, it was October 2020 when one of the industry ministers of your government, Minister Andrews, said that we would be making mRNA locally within 12 months. It was about 18 months later in May 2021 that the approach to market was actually opened and government began the process of discussions that have been outlined. It is currently February 2022 and we've heard that vaccines will roll off the production line some time in one of the months of 2024. How did your government get up to four years behind in the process of delivering mRNA manufacturing to this country?

CHAIR: Senator Walsh, before the minister answers that question, Minister, to answer the question, do you need the reference that Senator Walsh is quoting from in terms of that statement from Minister Andrews?

Senator Seselja: I suspect I have the quote here.

CHAIR: Over to you, Minister.

Senator Seselja: I assume so. I will ask officials to fill out the answer in terms of the time it has taken in other countries to go from scratch to an mRNA manufacturing capability. I think Singapore, from memory, might be one of the ones that started from scratch and it's taking a few years. The full quote, as I understand it, from the minister, whilst expressing hope that we could get there in that time frame that you reference, was this:

But I think we need to be really conscious that with a vaccine there are a lot of variables in there, so we don't have the vaccine proven at this point in time, we don't know what the base for that vaccine is going to be. So we're trying to prepare across a wide range.

I think you are verballing the minister in that.

Senator WALSH: Pfizer was approved by the TGA two months later.

Senator Seselja: I've given some context for the verballing for the benefit of the committee. I might ask officials to talk about some of the experiences overseas in getting an mRNA manufacturing capability up.

Senator WALSH: I respectfully haven't asked about experience overseas.

CHAIR: Senator Walsh, you've asked a question. The minister has given an answer. The minister has also—

Senator WALSH: I've asked a question that I would like to restate.

CHAIR: Sorry, Senator Walsh.

Senator WALSH: I don't think the minister needs your protection, Chair.

Senator Seselja: I'm answering the question.

CHAIR: No, I'm not, Senator Walsh.

Senator WALSH: It appears that you're running protection for the minister from these questions.

CHAIR: I think that's an unfair comment. The minister has asked an officer to provide some additional comment with respect to the answer.

Senator WALSH: To a question that I didn't ask.

Senator Seselja: No. That's not true.

Senator WALSH: To a question that I didn't ask.

CHAIR: The officer has heard the question. The officer will be in a position to add anything further that you think helps assist the answer.

Mr Luchetti: It is worth looking at the reference to what is happening overseas because it goes to my response about 2024 being the year that the vaccines will start rolling out. We are seeing what is actually occurring in other countries. The minister referenced Singapore. They are expected to have their facility, which isn't a Moderna facility—it is a BioNTech facility—to be up and running some time in 2023. They haven't been specific about that time frame. There are also discussions I'm aware of with other countries about the location of facilities. They are in a roughly similar kind of time frame. So production, as far as I'm aware, is at the moment predominantly based in the US and Europe and has been for the last 12 months. I will respond to your question about Minister Andrews and the comment she made about nine to 12 months. As the minister referenced, that was caveated with an acknowledgement that there are a number of variables, as I mentioned earlier—whether it's a brownfield or greenfield site, the ability to access equipment, whether the raw ingredients are available and going through the necessary regulatory approvals. They are all things that impact the time frame. Until you are actually up and running and underway, it's difficult to be any more specific at this point in time.

Senator WALSH: I seek a response from the minister. You announced a Modern Manufacturing Strategy in October 2020. You prioritised medical manufacturing. You haven't been able to manufacture vaccines in Australia since then. We don't have apparently any hope of manufacturing them for another couple of years. We haven't been able to manufacture rapid antigen tests in Australia during the same period. What a complete failure is your manufacturing strategy when it comes to medical products.

Senator Seselja: One of the points you made in your political attack there is completely wrong. We have manufactured vaccines in Australia. You may or may not be aware that we have seen millions of AstraZeneca vaccines manufactured in Australia. You are saying it hasn't happened.

Senator WALSH: mRNA.

Senator Seselja: That's not what you said. You said we haven't been able to manufacture, and that's wrong. So that is another political attack that doesn't even get the basic facts right. I want to go to your more specific point, which is your suggestion that you can in a very short space of time, in time to deal with the COVID outbreaks we've been experiencing, develop from scratch an mRNA manufacturing capability. Nowhere that I am aware of has been able to do that from scratch in time since the vaccines were approved. So this doesn't happen overnight. We've managed both through our onshore production of AstraZeneca and our overseas procurement to get sufficient vaccines for the Australian population to deal with this crisis. What we are developing is for the medium and the long term to have an mRNA manufacturing capability, something that very few countries have.

Senator WALSH: It's just more promises not delivered, isn't it? The minister did say in October 2020 that mRNA capacity could be built in a period of nine to 12 months. You had manufacturers approach you about making rapid antigen tests here. You turned them away. What can you point to that this government has delivered when it comes to manufacturing the things that we need to deal with this virus here in Australia?

Senator Seselja: Tens of millions of doses of vaccines manufactured right here in Australia.

Senator WALSH: AstraZeneca?

Senator Seselja: Yes. That's happened here in Australia. I don't know if you've noticed. Millions of those doses have been used by Australians. Indeed, millions are being shared in our region, as you would be aware. You point to what is being done. We've developed manufacturing capability, which has protected Australians during this period. We've procured doses from overseas. We are now developing mRNA technology. In order to make your case, you have to say things that are simply not true—that we don't have manufacturing capability for vaccines, when we clearly do. Secondly, you have to completely verbal the minister in order to make your point. This is reflective of the way Labor has engaged in cheap political pointscore during this crisis rather than

actually engaging on the facts and dealing with them. You've had to completely verbal what the minister said on this. You've also had to completely ignore the fact that we are manufacturing vaccines in Australia.

Senator WALSH: We've manufactured AstraZeneca in Australia.

Senator Seselja: Apparently you didn't notice that.

Senator WALSH: It's your great success in the last two years.

CHAIR: Minister and Senator Walsh, we are approaching the lunchtime break. Are you nearly through those questions?

Senator CHISHOLM: We've got one area of corporate that we still need to cover.

CHAIR: How long do you think it will take, Senator Chisholm?

Senator CHISHOLM: If we finally get straight answers, probably 10 minutes.

CHAIR: Okay. Let's try to knock that over, and then we can let the officers go.

Senator CHISHOLM: Thanks, Chair. How many people does DISER directly employ today?

Mr Fredericks: We'll do a change of personnel.

Mr Hanlon: In terms of the employment of actual ASL as at 31 December, it was 3,107. Our current headcount at last pay is 3,214.

Senator CHISHOLM: How would that compare, say, to 2018?

Mr Hanlon: What has happened since 2018 is we had the machinery of government change with environment and energy and small business coming in, so our numbers have increased. I think the better way to answer it, if we look at the current, is that, in the MYEFO process, our ASL cap increased by 149. That's probably the best comparison over the last two years.

Mr Fredericks: I will assist on that. It is difficult because of the MOG changes that happened. It fundamentally changed the numbers. I appreciate what you would like. We can get back to June 2020 as a figure of our headcount. I think in December 2021, our head count was 3,473. In June 2020, our head count was 3,409. Is that right?

Mr Hanlon: Yes. That is correct.

Senator CHISHOLM: Is that the closest you can get to an apples with apples comparison?

Mr Fredericks: I think so.

Senator CHISHOLM: Because of all the changes?

Mr Fredericks: The MOG changes happened in February 2020. As you recall, Senator, they were quite substantial.

Senator CHISHOLM: I don't think we want to start on how many ministers you've had.

Mr Fredericks: Yes. It is the MOG that I'm referring to.

Senator CHISHOLM: Since July last year, 2021, how much has DISER spent on external consultants?

Mr Hanlon: For the current financial year to 31 December, it's \$21.2 million.

Senator CHISHOLM: Based off AusTender, it's up to \$24 million now. Does that sound about right?

Mr Hanlon: That would be the contract value, not the actual expenditure. So contract value is approximately \$34 million.

Senator CHISHOLM: That is contracts. You have awarded contracts but haven't paid out?

Mr Hanlon: Correct. It represents about two per cent of our total appropriation.

Senator CHISHOLM: It has been reported that the Morrison government have contracted consultants who charge taxpayers between \$1,800 and more than \$5,800 per day to work for the APS, which public servants should be able to do for a fraction of the price. Is it a defensible use of taxpayer money that could be better spent on utilising in-house capability?

Mr Hanlon: The consultancies that we do are open tender. The reason that we go for consultancies is expertise. Generally that expertise is beyond the national. It is where we look at international expertise and where we can draw on that.

Mr Fredericks: I want to speak to the contractor issue. I stand to be corrected by my colleagues. I think the majority of our contractors are either in the chief information officer division, which is just a cultural issue. The ICT sector in this country basically is fundamentally a contractor based industry. In many ways, our intersection

with that industry impels us to rely on contractors in the ICT sector. I don't think we're Robinson Crusoe in that. By and large, our contractors, or a large number of them, are in the ICT world.

Mr Hanlon: In contractors, that's correct.

Senator CHISHOLM: What was the spend for the 2020-21 financial year?

Mr Hanlon: On consultancies?

Senator CHISHOLM: Yes.

Mr Hanlon: In terms of actual expenditure last financial year, \$38 million.

Senator CHISHOLM: I would assume, even though we've got a few months to go, you would be on track to spend more than that this year?

Mr Hanlon: Let me work it out. I have it split between the two years. The expenditure would probably be around \$38 million to \$40 million. That is an estimate, though. The value of contracts is \$63 million. What I don't have is how much of that would go into the next financial year, but I could take that on notice.

Senator CHISHOLM: You mentioned the CIO issue. What other barriers are there, Mr Fredericks, to undertaking this work in-house?

Mr Fredericks: I think in our case, Senator, we do our very best to make the best judgements we can about where a particular function or a particular job is best served by use of a contractor. I have given you the example of ICT. I think a lot of our numbers, as I said to you, are in the world of ICT. The other thing we use contractors for is surge capacity. We're very upfront about that, particularly in a department like ours, where we're responsible for the management of a lot of grants that tend to ebb and flow. We frequently find ourselves using contractors in order to be able to deal with a wave of work that is coming through the grants process. Most frequently, that is work of a processing nature anyway. To be really honest with you, we jealously guard our ASL and our public servants for policy work, for program development and all the sort of work that traditionally the Public Service is relied upon. We tend to use contractors where, in a sense, the market requires us to use them or we're dealing with short-term surges where, to be frank, as the manager of the organisation, it makes sense to use an outsource provider for a surge. But what that sits on top of is a contingent of public servants who are there on an enduring basis.

Senator CHISHOLM: I was going to ask about that. DISER awarded to PwC \$1.9 million contract running from 12 January to 30 June for surge capacity and capability uplift.

Mr Fredericks: I will get Ms Wiley-Smith to talk to that. That's one contract I had in mind when we were just having that discussion.

Senator CHISHOLM: I have a specific question on this. I will put that because it's probably easier to respond to, if that sounds alright. In response to an InnovationAus article on 8 February, a spokesperson for the department said this was to, in talking about the contract, support the delivery of grant programs and the government's priorities. What specific activities will PwC be undertaking? What does surge capability entail in this instance? Will PwC be assessing grant applications? If so, which ones?

Ms Wiley-Smith: I am just double checking. Did you want to put that on notice, or would you like me to try and answer it now?

Senator CHISHOLM: Yes.

Ms Wiley-Smith: I think, as the secretary said, sometimes we actually do have an unprecedented surge. That is what has happened in this instance in terms of AusIndustry. Just for context, we've got increasing numbers of grants that need to be worked through and announced. I think the peak is around March this year. At the same time, there's also a backlog of variations to existing contracts, which is quite significant. It has happened during COVID. For a lot of the grants that have been awarded, the businesses are having trouble with their supply chain. They can't actually do the work they are required to do under the contractual agreement that we've got with them. So we've got a bit of a peak for about three to four months.

Before we went out to market, as usual practice, we look to see if we can source people from within the department or across other departments to assist us. In this instance, we were able to get some staff from other areas of the department to come in and assist, but we still needed to go out and get extra support from the market. So the \$1.9 million that you've just mentioned is the upper limit. What is happening at the moment is we're working from fortnight to fortnight with PwC. Depending on the number of staff required, we will actually pay according to that number. So \$1.9 million is the upper limit. I believe that the contract for the surge finishes at the end of April. We think it will be back down into normal operations.

I should mention extra context. You were asking for information on ASL and FTE in the department. In this instance, AusIndustry have significant ASL, but they are actually under ASL. They've got continuous recruitment happening. We want to bring permanent officers on board as quickly as we can, but we are facing a fairly tight labour market. The secretary said that this is quite concentrated in our IT area. We are finding that it is actually more general at the moment. I know that industry is also experiencing the same issue. We plan to bring on extra permanent staff as quickly as we can. For these couple of months, we did need to go to the market because we couldn't get the surge from across other areas of the department.

Senator CHISHOLM: Will those PwC workers be assessing grant applications? If so, for which program?

Ms Wiley-Smith: I will have to take that on notice. I might be able to get one of my colleagues to clarify that first part of your question. Can you repeat the second part, Senator?

Senator CHISHOLM: Will they be assessing grant applications? If so, for which program?

Ms Wiley-Smith: We have a significant number of programs within the area. I think they are doing surge across all of them. From memory, around 250 programs are sitting in that space within AusIndustry. In terms of the assessments, I will get my staff to clarify for me. I believe that most of the programs that we run have independent expert assessment panels. The departmental officers themselves aren't doing the main assessment against the program guidelines, if that makes sense. I will check. I am getting nodding.

Mr Fredericks: We might take that on notice and give you a thorough answer to that as well.

Senator CHISHOLM: What are they doing, then?

Ms Wiley-Smith: This is in the lead-up to the launch of a grant. They are working out the governance. They are going through the program guidelines and helping to develop them. My colleague is coming up to assist, which is Ms Emma Greenwood, who actually manages AusIndustry. I'm sure she is able to provide a bit more clarity than I can.

Ms Greenwood: The additional surge resource from PwC will be working across different teams and be embedded with the existing staff that we have. They will be processing applications. I will check. In some cases, they may be involved in some eligibility checking or under supervision doing some forms of assessment for some grants. They are not doing specific granting programs. They are being managed within those teams; that is my understanding.

Senator CHISHOLM: How many PwC staff are we talking about? Are they getting a daily rate?

Ms Greenwood: We are managing them on a fortnightly basis. We look through our grant pipeline to understand over a fortnight where we might have some peaks. We say we need this number of staff for the next fortnight, whether it goes up or whether it goes down. We only pay for those resources we are using. To go back to Ms Wiley-Smith's earlier comment, we paid about \$105,000 in the last fortnight. That means we had, I think—I'll have to take this on notice or check with a colleague—probably about half a dozen staff assisting at that point. We're also looking at about \$300,000 next fortnight. So it varies. One of the advantages we've got is we can actually really quickly scale up and scale down by using their resources. We will probably scale up over the next six to eight to 12 weeks. Then we'll hit a peak and be able to stop.

Senator CHISHOLM: So six staff earned a hundred grand for 10 days work?

Ms Greenwood: I'd need to check. I am talking about head count. I need to check.

Senator CHISHOLM: So nine grand each a week?

Mr Fredericks: In fairness, we need to take that on notice so that we give you the best possible number for you to use going forward.

Senator CHISHOLM: It is a pretty extraordinary number, though.

Mr Fredericks: You are working that out on the back of an envelope. It doesn't sound like we have that number. We'll make sure we give you a quality number.

Senator CHISHOLM: In fairness, Ms Greenwood sounded pretty confident in that number. I think it was only when you worked out how much it is that you got a bit nervous about it.

Ms Greenwood: No. I said I would have to check. Another thing to remember is that at the same time they are also assisting us with continuous improvement of some systems and capability improvement, which I think was also in the article you're referring to. In that regard, we're also paying for some additional support that comes with that. Whilst our staff are working in and on and managing all of these programs, we can benefit from some additional insights at the same time.

CHAIR: Senator Chisholm, we need to go to lunch. We've gone over 10 minutes. We do need an hour for lunch because of commitments people have.

Senator CHISHOLM: This is my final question. How much would it cost for these activities if they were undertaken inhouse by departmental officials?

Ms Wiley-Smith: We need to take that on notice. We'll come back to you.

Senator CHISHOLM: On 8 February, an InnovationAus article mentioned that the department handed PwC three contracts worth a total of nearly \$3 million for a range of internal work. Was that along a similar set of circumstances?

Ms Wiley-Smith: We'll just get our colleagues to come to the table. They may be able to assist you on those.

Mr Fredericks: I don't think they are in the grant space. I think they are in our corporate area.

CHAIR: We are finishing at 1.50 pm. We will be coming back at 2.50 pm.

Mr Hanlon: We approached the market for two procurements, which is two of the three that you are referring to. They were two separate engagements. For efficiency, we went out as one, but we gave the option for people to come back and apply for either both or one or the other. The first one was to do a review of some of our internal entities as part of the budget process. We put to government an independent view of sustainability of some of our entities to have a look at what that was. That is part of MYEFO. We received some funding. It is also part of a comeback in the 2023-24 budget, so it's still before government at the moment. There's a second contract, which is a contract for the corporate area. It was to look at what our benchmarking is, how we compare to other departments and whether there are any other opportunities we could look at to improve what we do to either streamline our processes, automate or anything else they could find. They are the two separate engagements. Would you like any more detail?

Senator CHISHOLM: No. That's fine. I think what is pretty clear is that taxpayers are forking out millions of dollars to process election promises from the government. It's pretty outrageous that we're paying tens of thousands of dollars to a consultancy firm all to get another pork barrel round for this government ready.

CHAIR: We need to have a question. Mr Fredericks, do you want to respond?

Mr Fredericks: I understand that perspective. From my perspective, I have an obligation, when entering into these contracts, to ensure they represent value for money for the taxpayer. In each of the instances we've described, I am satisfied that they represent value for money for the taxpayer.

CHAIR: Thank you, Mr Fredericks and Senator Chisholm. We'll suspend for lunch. We will come back at 2.50 pm. Thank you, everyone.

Proceedings suspended from 13:49 to 14:50

CHAIR: We'll reconvene. I have a bit of housekeeping. I want to correct the record in one respect. There was a discussion yesterday in relation to a question on notice, SBE-003, about ACT debt refinancing. It was thought that the question on notice was outstanding. I need to correct the record and advise that, in fact, an answer to that question was provided in December 2021. I will put that on the record, if I can.

Mr Fredericks: I have one piece of housekeeping. Can I confirm whether we have formally completed cross portfolio and corporate? I ask that because I have a lot of staff from the corporate area and I would like to excuse them.

CHAIR: My apologies for not making that clear. Yes, we have.

Mr Fredericks: Thank you very much for that. I appreciate it.

[14:51]

CHAIR: We're on outcome 1.1.

Mr Fredericks: Thank you for that.

Senator PRATT: I have some questions related to program 1.1. Are you happy, Mr Fredericks, with how round 2 of the Boosting Female Founders program has gone?

Mr Fredericks: I will bring the relevant officials to the table for you.

Senator PRATT: Thank you. I have heard some controversy and disappointment around the rollout of the Boosting Female Founders program. I guess we can get into some questions about that. Can you tell us if you have been happy with the rollout of the program thus far?

Ms Greenwood: There have been issues with the way in which Boosting Female Founders has been managed. Certainly there was a concern raised, which you may well be aware of, where a large number of applicants who

were successful through the expression of interest first stage were incorrectly notified by the department that they were successful. That was about 1,800 applicants.

Senator PRATT: Is that applicants that happened to or total applicants?

Ms Greenwood: That was the applicants it happened to.

Senator PRATT: What is the total number of applicants?

Ms Greenwood: The total number of applicants for that program is—

Ms Richards: We look after the policy for this program. Ms Greenwood was talking about round 2, which I think is the round that you asked about. The total number of applicants in that round at the initial stage was 2,500, roughly, who applied in April 2021 in response to the request for the expression of interest.

Senator PRATT: They applied then. When was this mistake made in terms of the assessment of their applications?

Ms Greenwood: It is a staged application process. This happened in July. The applicants who had put in an expression of interest who were successful to go through to the next stage, which is the stage at which they are considered for a grant, were notified that they had been successful when they weren't. The department responded very quickly. It contacted all of those applicants. It explained what had happened. It was apologetic. We have been apologetic through the whole process. We are very concerned about the impact on those applicants. We offered to provide them with feedback. We are clear about the issue that happened. We have taken steps within the department to ensure that the same problem doesn't happen again. We've also wound that across all of our programs to ensure that we've got correct probity and process and we don't have the same concerns. Similarly, we sent a well-intended but perhaps poorly worded email to those applicants. We have also apologised for that and changed our internal processes.

Senator PRATT: Thank you. In that context, if you had 1,808 that got that email, does that mean all of the other applications, therefore—about 700 of them—had progressed to the next stage, or was it that some got this incorrect email and others didn't?

Ms Greenwood: Unfortunately, everyone got the email. So 156 applicants were successful for the next stage. That was the competitive merit stage, according to the information I have. But I can check that.

Senator PRATT: There were 2,500 applicants. They all got this email, but only 156 of them should have got it?

Ms Greenwood: Yes. At that stage, none of them were successful for the grant, just to be clear.

Senator PRATT: I understand it was to the next stage. It was an invitation to progress. Do you have an estimation of, I guess, the amount of time it would take to put together one of these applications?

Ms Greenwood: I don't have an estimation of the amount of time, but it does take them time. We are well aware of that.

Senator PRATT: Four or five hours? A couple of days? If you were doing one of these, how long do you think it would take?

Ms Greenwood: It's difficult for me to answer that question. I think some of them have probably spent a couple of days on it. Some of them will have spent significantly longer on it. Some of the applications were more complicated than others. Some of the applicants have more experience than others.

Senator PRATT: So it's 2½ thousand applications.

Mr Fredericks: I want to check. I understood that the number of incorrect outcome notifications was 1,808.

Ms Greenwood: Yes, it was.

Senator PRATT: There are 2½ thousand applications, yet only 156 have gone on to the next stage. Were another 700 knocked out some other way?

Ms Richards: We might need to clarify the figure of the total number of applications received between me and Ms Greenwood. I will just explain the two-stage process. We're talking about the EOI, which is the first stage. We actually undertook a national consultation for the design of this program. We appreciate that women entrepreneurs don't have a lot of time to put into an application process.

Senator PRATT: I am still confused. Did 1,808 get the wrong email or 2½ thousand minus the 156 that went to them who should have got the email got the wrong email?

Ms Greenwood: We're just clarifying that now, so I will give that to you as soon as I have it.

Senator PRATT: Clearly, you are trying to tidy up this and you apologised. I would have thought you would know the answer.

Ms Greenwood: There were 550 applicants ineligible. I think that's the missing number.

Senator PRATT: They were ineligible, but they still got the same email. You mean even applications that were ineligible were told that they had made it to the next round?

Ms Richards: No. We have only just clarified it. The number of applicants who applied for the EOI process who received the incorrect email was 1,808. They were the applicants who had applied that were eligible.

Senator PRATT: I understand. Ms Greenwood had said that everyone got the email.

Ms Greenwood: Everyone who was eligible.

Senator PRATT: Everyone bar those who had been deemed ineligible. About 550 were ineligible. What was the most common reason for that ineligibility?

Ms Greenwood: I'm just getting that information. I might need to come back to you on that. I don't have that information in my notes, but I have someone looking at it.

Senator PRATT: That would be terrific. I'm very grateful. How much funding has been spent on round 2? We've been told on our previous question on notice that it's \$11.6 million. Is that still correct?

Ms Richards: Senator, can you repeat the question? I'm trying to orient myself to the \$11.6 million.

Senator PRATT: We've been advised previously in question on notice S1-61 that the funding for round 2 is \$11.6 million. Is that correct?

Mr Fredericks: My advice is \$11.6 million in grant funding has been awarded under round 2.

Senator PRATT: Can I have an overview of the assessment process?

Ms Greenwood: The applications are assessed for eligibility. Those that are eligible have moved to the next stage, which is the stage 1 EOI process. Those applications are then assessed and rated or ranked.

Senator PRATT: I understand that kind of process. This program has been promoted as support for female-led businesses and companies. How does that relate to the criteria and the significance of that grounds in the assessment of eligibility?

Ms Greenwood: They are assessed by a range of staff, who understand female entrepreneurship. That is the expression of interest stage. They take that information. It goes to an independent committee of experts. That committee looks at each of those applications again. They will make a decision as to which ones they are of the opinion that—

Senator PRATT: I don't mean to interrupt, Ms Greenwood. You are talking about the process. I want more of the detail of the criteria, not the process. What were the criteria and the emphasis the assessment placed on those criteria? You said they should have an understanding of female entrepreneurship. Can you expand on those elements? What is important in female entrepreneurship and support for assessing the viability of the business model, I guess, and importance of the grant to those female-led initiatives?

Ms Greenwood: This is actually in the program guidelines, which I have before me.

Senator PRATT: I have seen them too. In terms of that assessment, in the 550-odd that were knocked out, is it because they were let down in relation to criteria around shareholders, founders and decision-makers? It's supposed to be a women's program. What was the bias, therefore, if there was leadership, for example, and shareholders and ownership coming from men? This is supposed to be a program that gives women a leg-up.

Ms Greenwood: The committee looked across all of those criteria. I would need to take on notice to look at what kind of balance there may have been in the way in which different applications were assessed. We don't have that information in aggregate. I can say that the committee will look for things such as the kind of experience they may have as a leadership team; what the actual project looks like; and where they have addressed markets and what information they have in that sense. It is a highly competitive program. In that sense, all of those elements would generally be considered by the assessors.

Ms Richards: I will speak to the eligibility criteria in terms of the way the program is designed. Only applicants who can demonstrate that they have a start-up that is female founded—that is, a majority woman owned and led applicant—are eligible. That definition was amended between the first and second round of the BFF program. It was built on a pretty strong response to the initiative. This initiative has been really heavily—

Senator PRATT: Why was it amended? So that you didn't have to have female majority owned?

Ms Richards: You do. It was heavily oversubscribed in both rounds. We've had very significant numbers of applications for the round. Part of our review of the first round was making sure it's a bit more targeted. We consulted with the expert assessment panel—the people Ms Greenwood referred to who were involved in assessing the applications. The grant guidelines were amended after round 1 to both streamline the application and assessment process. The definition of 'female founded start-up' was updated. It needed to be a start-up that is at least 51 per cent owned and led by women. That was up from a 50 per cent requirement in round 1.

Senator PRATT: And the requirement for round 2 is higher than that?

Ms Richards: The requirement from round 2 was that the start-up had to be at least 51 per cent owned and led by women.

Senator PRATT: Who assessed the applications?

Ms Greenwood: They were assessed within AusIndustry. We also used—

Senator PRATT: So departmental officials, or did they send them out to consultants?

Ms Greenwood: There were also others. We used some members of the entrepreneurs program network with a background in start-ups and commercialisation.

Senator PRATT: Was each application reviewed by more than one person, or were they vetted?

Ms Greenwood: My understanding—I can check—is that the committee then looked at each of the applications that had been assessed by another assessor. So there was a validation process through the committee for those applications.

Senator PRATT: Was the truthfulness of those applications also assessed?

Ms Greenwood: If you're asking whether we verified whether or not they were female owned and led, yes, that was part of the check that was done.

Senator PRATT: I want—

Ms Richards: There is a very rigorous assessment process around the expression of interest stage for that reason, which is what leads to something like 500 of those EOIs being declared not eligible. Applicants are required to provide a declaration that they meet eligibility around their ownership requirements. They are also assessed by our assessors and third party providers. There's additional information that might be looked at from ASIC. Shareholders and trust deeds are considered for the eligibility checks conducted by departmental officials. Any applicants whose information can't be verified at that stage would receive notification that they have been considered ineligible.

Senator PRATT: As far as I can tell, there are records that show that there are companies that would not meet your criteria. Three companies awarded grants appear to have male CEOs or directors and are not female majority owned.

Ms Greenwood: Without knowing the businesses you are talking about, it would be difficult for me to answer that. We look at a point in time at the applicant. As Ms Richards said, we verify that information. I know that there has been some general comment in the media and on social media about a number of companies where others have complained that they are not female owned.

Senator PRATT: What have you done in terms of assessing that yourself?

Ms Greenwood: We've gone back and checked those that we're aware of. We have established that the information we had was correct, to my knowledge.

Mr Fredericks: We would very happily do that for you for those three companies that you've got there. We can take that on notice and do the same exercise for them, if that would suit you.

Senator PRATT: Okay. To be eligible, you have to be a start-up that is 51 per cent owned and led by women. Where do you check those records to establish that? I am assuming people check the same sources in terms of looking up ASIC websites et cetera. You are verifying it and getting a different answer from the same source?

Ms Greenwood: With respect, it's hard for me to answer that. Declarations are provided. We also generally ask for a range of other information that they provide. We check the veracity of that against the registers that we have available to us.

Senator PRATT: Do you check the sole trader registration and partnership agreements? Do you see the actual documentation for that, or do you just take it at face value when you verify it?

Ms Greenwood: I would need to check. I don't believe we take most information at face value. At the same time, we need to make sure we are verifying things on information that we are provided that is given to us. We don't just take the word of a business. We will look at it and try to establish the information we have to verify that.

Senator PRATT: So you think you've satisfied yourself, but you haven't satisfied yourself using the actual business records?

Ms Greenwood: No. That's not quite what I'm saying. I need to find out in more detail exactly, having not processed them, what information and checks we use. My understanding is that we take information that is provided by businesses. We verify that information. At that stage, we'll establish at that point in time the structure of that business.

Senator PRATT: Of the 550 that weren't eligible because they didn't meet the eligibility criteria, was that because, I am assuming, some of them didn't meet that eligibility but they talked about their company structure? How do you know the extent to which all of the applications are truthful in relation to those attributes?

Ms Richards: As I described earlier, and as Ms Greenwood has been saying, the declarations made by applicants are assessed. Additional ASIC shareholding and trustee checks are conducted on eligible applications by departmental officials. If you would like us to provide some further information about the nature of those checks—

Senator PRATT: That would be terrific.

Ms Richards: we can take it on notice to be a bit more specific for you about how those shareholdings in particular are verified.

Senator PRATT: Do you check director numbers or anything like that?

Ms Richards: We'll take that on notice.

Senator PRATT: In answers provided at last estimates, we were told that there were 38 women founded and owned start-up businesses. Based on the total grant amount, you are aware that there are allegations that three of the five largest grants were awarded to companies with a male CEO. You refute that is the case, but you can't point to the evidence that is the case other than what is in the application itself?

Ms Greenwood: We are aware that there is some social media commentary. I don't know the businesses that you are talking about. As the secretary and Ms Richards have said, we can take that away. We are happy to do those checks and look at them.

Senator PRATT: It is social media commentary. We know that there are three out of the 38 in question. Clearly, someone else has come to the conclusion that 35 of them are women-led. Have you done your own assessment based on those company records as a whole as to whether they are?

Ms Richards: That assessment is conducted as part of the application process that we've described. There have been some suggestions—

Senator PRATT: I'm assuming that on paper they all met the application. I'm not accusing the department of—

Ms Richards: Yes, indeed.

Senator PRATT: approving someone when someone has explicitly lied on their application. If someone has explicitly lied on their application and you've taken that at face value, is it possible that three of the very largest grants given in this program have been awarded to companies with a male CEO?

Mr Fredericks: On that, I think reasonable evidence has been given to you, but not sufficient, on the process and the assessment, particularly on this issue of verification. We will make sure we come back to you on that. Secondly, in terms of the three, as I say, I feel that I now have a responsibility to have those assessed for the reasons you are describing. If I could get that, I will take it on notice and come back to you.

CHAIR: Senator Pratt, are you coming to the end of your line of questioning?

Senator PRATT: Yes, I am. I need to challenge the department in saying you told us today quite explicitly that you are confident that they all meet the criteria. Now you disclose that the assessment of that criteria is based only on the information provided to you through the application process.

Ms Richards: That is not the evidence.

Mr Fredericks: I don't think that was the evidence of Ms Richards. She provided evidence that there is a verification process. I accept that we haven't fully described it to you. We will do that on notice. On behalf of the department, I remain confident in the outcome. But I am always wary and very grateful to receive further advice from you, Senator, which we'll check.

Senator PRATT: I would be very disappointed if, indeed, we have male-led companies trying to get their hands on this money which has been promoted to support women setting up businesses, particularly in what is a very competitive economic environment where women's businesses deserve the support they've been promised.

Mr Fredericks: We are with you on that. We would be too. We will come back to you on that.

CHAIR: Thank you, Senator Pratt. Do we have any more questions on 1.1?

Senator CHISHOLM: I have some questions about industry more broadly, including payment times. I asked some questions last night of Treasury particularly focused on the manufacturing industry, which offer some of the lengthiest payment times. Small business suppliers are receiving average payment terms of 49 days. Are you aware of that?

Ms Luchetti: Could you repeat the question? I was coming up to the table.

Senator CHISHOLM: According to the government's payment times register, big businesses in the manufacturing industry offer some of the lengthiest payment times, with small business suppliers receiving average payment terms of 49 days.

Ms Luchetti: I wasn't aware of that. I did see the questioning last night and reached out to my colleagues in Treasury. We have a roundtable where we meet with manufacturers once a month. This issue was raised by the Small Business Ombudsman probably in the middle of last year. We haven't heard since. Manufacturers haven't raised this issue with us. Following your questioning last night, we—

Senator CHISHOLM: Have you got the big ones there, though?

Ms Luchetti: Sorry?

Senator CHISHOLM: Have you got the big manufacturers there?

Ms Luchetti: We have the big ones.

Senator CHISHOLM: They are probably not going to be the ones that are going to be raising that?

Ms Luchetti: To clarify that, we have the big manufacturers and then we have the industry bodies that represent the smaller manufacturers as well. So there's quite a large roundtable that consists of many manufacturers. We have a meeting coming up in two weeks, so I will raise this with them.

Senator CHISHOLM: So you're not aware whether that has an impact on supply chain issues at the moment and if this late payment is a factor in that?

Ms Luchetti: What I think is happening at the moment is that the supply chains are quite challenged for many of these manufacturers. Depending where they are in that supply chain, many of them are probably placing orders. As we know, supply chains, be it in shipping, transport or whatever it may be, are probably seeing that they are placing those orders. The orders are not arriving in time, but payments are being asked for. That is what I assume is happening, but I would have to clarify that.

Senator CHISHOLM: What about in the construction industry? Is that something you are aware of as well? Payment times, having blown out through COVID-19, are now at record highs, with 12 per cent of building companies more than 60 days behind on debts owed to suppliers and contractors.

Ms Luchetti: I wasn't aware of that either. On this roundtable, we do have many of the construction industry bodies there. This is something that we can follow up.

Senator CHISHOLM: So it's not something the industry itself tracks, to get a sense of what market conditions are like?

Ms Luchetti: It's not something that has been brought to our attention. I'm happy to take it on notice and provide you with a more detailed response.

Senator CHISHOLM: It's not something that the department tracks?

Ms Luchetti: No. The responsibility for payment times sits with the Treasury. I know that the Small Business Ombudsman does track this.

Mrs Urquhart: I want to highlight one of the comments Ms Luchetti made. We maintain this supply chain roundtable precisely to get visibility of these issue as they arise. We really appreciate the question being asked because at the next supply chain roundtable this will be something that we will specifically seek to investigate.

Senator CHISHOLM: Do you think that late payment times across manufacturing and construction holds companies back? Do you think it stops companies' ability to grow smaller businesses?

Ms Luchetti: I would say that it is a challenging time for manufacturers and business with COVID and the challenges in the supply chain issues that they are currently facing. Any barrier does make it difficult for those businesses.

Senator CHISHOLM: The register was set up, which has been supported. I would have thought elements of the government would be paying more attention to it.

Ms Luchetti: The responsibility for that register and the policy does sit with the Treasury. As I said—and I am grateful to you for raising this—we will follow it up and look into it in a bit more detail.

Senator CHISHOLM: They did say that you were the ones best placed to answer questions about it.

Ms Luchetti: This has not been raised. As I said—

Senator CHISHOLM: Treasury last night said it.

Ms Luchetti: I did see their evidence. As I said—

Senator CHISHOLM: You need to switch the agenda and get on board with it.

Ms Luchetti: It hasn't been raised with us. We've got a meeting in two weeks with the roundtable. We will raise this issue.

Mrs Urquhart: I will add. The Treasury probably thought we would have visibility of the issue through forums like the supply chain roundtable. As it happens, we haven't. But we do have the opportunity to ask specific questions to draw that out.

Senator CHISHOLM: Sure. I will finish on manufacturing in particular. Do you think it has an impact on sovereign capability, the fact that these late payments are a problem for small business?

Ms Luchetti: Without having more knowledge, I can't say one way or another. We do know that supply chains are complex. At the moment, many businesses are operating just-in-time supply chains. It is creating problems for many of these manufacturers. I really need to know more.

Senator CHISHOLM: I want to ask about recovery and resilience plans. I think the department of industry had one on securing our economic recovery from COVID-19 and setting up Australia for the future. Is that something that the department was involved with?

Mr Fredericks: I might need a bit more specific information. I suspect that was a whole-of-government overarching framework. We probably sit under it along with some others with some initiatives, I guess.

Senator CHISHOLM: I will add to it. In March 2020, the Prime Minister noted—I am talking about the COVID-19 coordination commission—that it is:

... about mobilising a whole-of-society and whole-of-economy effort so we come through this unprecedented health crisis. The Commission will assist the Government to ensure all resources are marshalled to this vital task in a coordinated and effective manner.

What role did the department of industry play in this? Did the commission itself seek input from the department?

Mr Fredericks: I will hold that question for manufacturing, if that suits you, because that's probably the best way to explain it. I think the manifestation for this department and our ministers out of that work was the Modern Manufacturing Strategy and the \$1.5 million commitment to modern manufacturing. As you know, we have been asked questions about that in the past, particularly from Senator Watt. That was obviously a policy that went through the cabinet process. We, as the relevant department, led the departments on that work. At that time, I do recall that the commission was in place. It was a properly constituted agency, if you like. We certainly worked cooperatively with them, as we did with Treasury and other agencies, in the development of that package. So it was really a traditional process of developing a cabinet submission. That policy came out two budgets ago now. It would definitely have been done cooperatively with the commission and other Commonwealth agencies. Does that help?

Senator CHISHOLM: I will probe a bit more detail. There were five points to the announcement. There was keeping taxes low, cutting red tape to drive investment et cetera. Second was investing in infrastructure and skills development and growing our work performance. Third was delivering the affordable, reliable energy that Australian businesses need, especially in regional economies. Fourth was making Australia a top 10 data and digital economy by 2030. Fifth was securing our sovereign manufacturing capability, unlocking a new generation of high skilled jobs. I would have thought there would be more engagement from the commission than just on that specific program you mentioned, given the breadth of what was announced.

Mr Fredericks: To be fair on that, I can't answer for their engagement across the breadth of that. I was using manufacturing as an example of the engagement that we as a department had with them. I can't talk to the

engagement that the commission might have had in some of those other areas that aren't our portfolio responsibility.

Senator CHISHOLM: Did you have more engagement with the commission than just on the Modern Manufacturing Strategy?

Mr Fredericks: My recollection is that we had engagement with them on the energy priority as well. The reality is, Senator, that there wasn't any mystery to it. They existed. They were an important source of advice to all in government. We liaised with them in the development of our policies across all of our portfolio, as we would have done with Treasury, Finance, PM&C and everybody else. In many ways, they were part of the establishment of government that we engage with, as we always do in cabinet processes.

Senator CHISHOLM: Did you meet with Mr Power?

Mr Fredericks: I certainly met with Mr Power a couple of times. I did.

Senator CHISHOLM: Did the department provide work for, or advice to, the commission?

Mr Fredericks: I don't think you could describe it as providing work or advice to the commission. They are a source. They are a government agency. We interacted with them as we did with Treasury, Finance and any other element of government as we developed proposals.

Senator CHISHOLM: I will try to be more specific. For instance, the gas-led recovery came out of this. Did you provide advice specifically about that?

Mr Fredericks: Do you mean did we provide advice to the commission about that?

Senator CHISHOLM: Yes.

Mr Fredericks: I think the way to describe it is the commission as well as us and other parts of government collectively worked on the proposals about the gas-led recovery that found their way through the cabinet process.

Senator CHISHOLM: What about providing analysis on supply chain constraints and options to mitigate risk? Did you provide any advice on that?

Mr Fredericks: Again, that one I probably know less about. I will ask Mrs Urquhart. I think the same philosophy applies. To be really honest with you, Senator, for us, there's no great mystery here. They were an agency. They had views to offer. It was our responsibility as a department, in developing proposals in everything we do, to consult broadly within government. We consulted broadly within government, including with them. So it would be my expectation that we would do that. Just on supply chains?

Mrs Urquhart: I might first, Secretary, make a few comments. I led different iterations of the COVID taskforces during 2020. During that time, we did get questions for information from the NCCC. We also played a supporting role to the Home Affairs-led National Coordination Mechanism that prepared some advice for government at different times around relief and recovery. We obviously liaised with entities such as Safe Work Australia and others in providing that advice into that sort of planning that then informed national cabinet. As the secretary has indicated, out of that work and advice from the NCCC to government, there was tasking from government to different departments at different times to bring forward proposals in the cabinet process that then progressed. In terms of supply chains specifically, our work on supply chains hasn't just been in that conversation through the National Coordination Mechanism. We obviously are responsible for the delivery of the Supply Chain Resilience Initiative. In that context, we have undertaken phases of analysis of supply chain vulnerabilities to inform successful rounds of the Supply Chain Resilience Initiative. We also continue to work with the Office of the Supply Chain Resilience in Prime Minister and cabinet until today, and I've no doubt in coming months, around supply chain issues. We mentioned before the supply chain roundtable that our department runs at regular intervals to try to keep visibility of quickly emerging issues. There's a number of issues that we've talked about already today where we've experienced some of the stresses and strains and needed to lean in and work with industry to assist them to address them. My colleague Ms Luchetti can paint a bit more detail around the Supply Chain Resilience Initiative for you.

Ms Luchetti: Thanks very much, Senator. The Supply Chain Resilience Initiative was part of the Modern Manufacturing Strategy, which was announced in October 2020. Predominantly the first tranche looked at medical products, PPE and agricultural production chemicals. That was a grant round that was announced and closed in the middle of last year. There is a second round out at the moment in relation to semiconductors and water treatment chemicals. We also got analysis around telecommunications equipment, but we found that there was no need for us to open a grant round in that area. That is currently under assessment.

Senator CHISHOLM: I will come back to the commission. Mr Fredericks, you say you met with Mr Power. Was that something you did frequently or one on one? I'm trying to get a sense of your engagement. Was it you and other departmental secretaries around a table?

Mr Fredericks: I certainly met with Mr Power a couple of times. It would have been in the context of preparing budget proposals. In my world, I'd have to check, but I would have had some officials with me and he would have had some of his staff with him as well. It's worth remembering that the NCCC was well staffed by public servants as well. At a departmental level, they were our interlocutors. For me as a secretary and Mr Power as the head of the agency, I have the same relationship I have on the policy development process as I would have with any other secretary or agency head.

Australian Space Agency

[15:31]

Senator CHISHOLM: I want to ask some questions about the Australian Space Agency.

Mr Fredericks: I think we can take that now.

Senator CHISHOLM: They are more about funding. The 2021-22 MYEFO notes that funding for the Space Agency will be partially met from within existing resources. I want to get a sense of how that works.

Mr Palermo: You are referring to the statement in the MYEFO? I don't have a copy, unfortunately, of that statement in front of me.

CHAIR: Could we get you a copy? It might make it easier. What page is it, Senator Chisholm?

Mrs Urquhart: Were you referencing a specific measure? Could you give us the name of the specific measure that you were referencing?

Senator CHISHOLM: My understanding is that the budget measure for the Space Agency will be partially met from within existing resources.

Mr Palermo: Senator, unfortunately I'm not familiar with that language.

Senator CHISHOLM: I might clean that up and come back to it in the next session, if you want.

CHAIR: I have it.

Mr Palermo: Unfortunately, I will need to take that question on notice. I don't have the answer to your question.

Senator CHISHOLM: Does that mean that something is being cut to fund this program?

Mr Palermo: No. Nothing has been cut within the agency's budget to fund these important initiatives, which relate to our Inspire pillar, in particular for the operation of the Space Discovery Centre. The extension of the Moon to Mars Initiative, I think, is a rephrasing of the later years, if I'm not mistaken.

Senator CHISHOLM: So there's more money in the budget?

Mr Palermo: There is as part of MYEFO. There was additional money to support the operation of the Australian Space Discovery Centre as well as other technical resources within the agency—ASL within the agency.

Senator CHISHOLM: Can you give us a sense of the level of funding allocated for the Australian Space Agency? How would it sit with other comparable nations? Do you think we're on par in our funding, or do you think we would be behind?

Mr Palermo: Look at what the government has done since the formation of the agency. Over \$800 million has been invested by the government into the civil space sector. We're also a priority for government across the Modern Manufacturing Strategy, the critical blueprint technology and the recently announced commercialisation realisation plant. We are delivering on an ambitious agenda and are certainly gracious for the money we have received in our programs. Any self-respecting agency head will always tell you they could do with more resources. It's really a matter for government to determine our level of funding. Comparisons have been made of our funding to other jurisdictions. Increasingly, space is a priority for government across the whole of government.

Senator CHISHOLM: Thanks for that. I have some final questions probably for the Chief Economist, if that's alright. Have you modelled any impact of border closures on Australian industries?

Mr Campbell: No. Not on the industry.

Senator CHISHOLM: Would you have done any work on what industries have been most impacted by border closures?

Mr Campbell: We haven't done specific independent research on that. We work very closely with Treasury and the central agencies as part of understanding the economic outlook. We work very closely with them around the broader implications of the shutdowns in the various states and territories, but we don't have specific work ourselves, no.

Senator CHISHOLM: Any work on policy steps that could be taken to help mitigate these impacts?

Mr Campbell: We may have colleagues in our COVID division that would be working closely with Treasury on some of the steps that can be undertaken. If you are referring specifically to particular measures to support business, there is a body of work that is going on across government.

Senator CHISHOLM: That was going to be my next step. What impact has that input had on policy making?

Mr Campbell: Mrs Urquhart may correct me on this. My understanding is that a lot of that work is now largely led from Treasury. We feed into a lot of the business liaison processes as part of that work with Treasury to understand where some of the impacts are most pronounced, as do a number of other agencies across town for various responsibilities. Obviously, we have something to say about manufacturing and the building sector in particular. Others will have something to say around the health and education portfolio as well.

Mrs Urquhart: It depends when we are talking about. It is about the nature of border closures at different times. Obviously, border closures are not such a significant issue now, although we still have Western Australia with its particular jurisdictional situation. Throughout 2020 and into 2021, when jurisdictions were maintaining closed borders, there was significant work undertaken in the department. We raised where industry activities were hindered by people not being able to cross borders. Essential services needed to be delivered through to the community. For example, I seem to recall that we had at different times maintenance technicians needing to move across borders to assist hospitals to have machinery running that was imperative to the COVID response. That is an example. Our department certainly, again through the National Coordination Mechanism and our constant engagement with industry in the last 2½ years, played a pretty strong role in alerting our colleagues to where those challenges were arising. We sought to follow through for industry with answers where they were facing those sorts of barriers.

My colleague mentioned that we have been doing a body of work with Treasury. Certainly you would appreciate how much strain supply chains came under with the combination of the floods across road and rail over Christmas. Treasury certainly led a whole sweep of departments in seeking to troubleshoot issues around that. Particularly with the help of colleagues in infrastructure, access to transport and so on managed to get back online pretty quickly. There was also a lot of engagement among departments to connect industry up to shipping opportunities and to find other modes or routes. I also recall just over the Christmas period there being, for example, a very swift adjustment of regulation to allow trucks to take alternative routes into the Northern Territory, for example. That was to really shore up essential supply. That all goes to the supply to the consumer.

I think your question came from the point of view of the impact on industry. I can certainly say that border closures impacted industry. Any business that isn't operating in an immediate community that is seeking to develop product for sale nationally or internationally has, by definition, been impacted by border closures within Australia and by the challenge of the global scene.

Mr Fredericks: I will add one thing to assist. Mrs Urquhart mentioned the role of the department in industry. We are here in industry estimates. We play the same role in relation to the resources sector and the same role in relation to the energy sector. We did see it as a real responsibility of ours for the various sectors. This department is responsible for engaging with, and understanding, the impact of border closures. It would go to the National Coordination Mechanism led by Home Affairs if there were tactical or operational issues raised that they could fix. For the medium to long-term policy, that would go off into Home Affairs in some instances. Home Affairs's responsibilities were visas. It would go to Treasury for some of those broader macroeconomic policies. That is kind of how the system worked.

Senator CHISHOLM: I am specifically chasing how that impacted decisions about government support for businesses.

Mr Fredericks: As you know, Senator, those policies about government support for business were largely a Treasury responsibility. Everything that Mrs Urquhart and I have described as intelligence gathering on behalf of industries was all being fed into Treasury. Of course, they had their own sources of intelligence. They have a business liaison unit. That was to ensure that government generally had the best possible understanding of what those real impacts were that you are describing as they developed those measures.

Senator CHISHOLM: Very good. This is a separate but related issue. I will start with Mr Campbell. Did you assess the impact of skills shortages over the last year and what industries were most impacted by that?

Mr Campbell: Most of the work on skills and implications is usually addressed by the National Skills Commission in the department of employment. We obviously feed into cross government work again. There are a lot of sectors for which we have a lot of intelligence and insights. We wouldn't independently have undertaken some skills analysis.

Senator CHISHOLM: What about specifically on skills shortages impacting the industry and manufacturing?

Mr Campbell: Not in a formal modelling sense. Through our intelligence networks, including in resources and energy, we have very good intelligence around some of the key areas of shortages and some of the implications from access to a lack of skills in being able to transport across borders both internationally and domestically.

Mrs Urquhart: I will add to that to say that our employment colleagues have led whole-of-government work around workforce and the sorts of skills issues that you point to. In addition, we are working on a manufacturing workforce strategy to try to develop further analysis of where the challenges are in recovery for manufacturing.

Senator CHISHOLM: Thanks.

CHAIR: I think we are moving to outcome 1.2.

Senator McDONALD: I would like to ask a question about the Australian Building Codes Board.

Australian Building Codes Board

[15:46]

Senator McDONALD: I would like to get an understanding of how you interact with the Queensland, Northern Territory and Western Australian building authorities.

Mr Rake: We have a role coordinating a national position that tries to influence construction standards across the country. In preparing our national construction code, we look to jurisdictions, including each of those you named, to reflect that in their own legislative base. They then have a responsibility to implement that in their own jurisdictions, so they have the compliance role, if you wish. We have a representative from each of those jurisdictions on our board. I personally would liaise with those representatives and then any other of their industry members that might be useful to help in our consultation role.

Senator McDONALD: The Insurance Council of Australia has raised with me that the reason for higher insurance premiums in Northern Australia is building codes, particularly in Queensland, and, I guess, across Northern Australia. Is that something that comes up in your board meetings? Is that something you have discussed particularly—how building codes intersect with insurance premiums?

Mr Rake: This is week five for me. I haven't yet been through a board meeting. When we look at the extent of our regulation, we see that cost-benefit analysis is a really important part of our work. In all of our regulation, we're looking to make sure that the regulation addresses a key problem, particularly for the community and the sector. Where the regulation has the ability to produce a net benefit, we would look to make changes in that direction. The cost of insurance and all of those oncosts are elements that we consider when we do our regulatory impact assessments.

Senator McDONALD: Perhaps I will put a question on notice. Let me know if that has been a topic of board meetings or consideration recently. If not, I hope it will go to board meetings in the future. Certainly if the insurance council is saying it's a reason why they perceive the risk being higher in the north, it would be good to understand what could be done differently in that space.

Mr Rake: Thank you. Will do.

Senator McDONALD: Mr Fredericks, while the chair has noticed that I'm still asking questions, I want to ask one on growing competitive businesses, industries and regions. At the end of last year, we had an inquiry into the government's drought response. The Public Service union came and gave evidence about how we could pin jobs that were currently working remotely during COVID, particularly in the regions. I was really interested in that concept. A white collar job in the regions brings a lot more multipliers than it does, I believe, in cities. Does your department have a policy on allowing a continuation of remote working? How do you see the department engaging specifically in growing the regions?

Mr Fredericks: Thank you for that. The lived experience of how departments like mine and across the Public Service have managed lockdowns has been that we as a department both collectively and all the individuals within it now have a much stronger capacity to work and to manage the business of the department with staff working remotely. I am very proud that our IT system allows us to be able to facilitate that remote work. The reality is that I, as the leader of this organisation, believe that remote work will remain a feature of the employment landscape not just for the public sector but for the private sector as well. We will make sure that, of

course, we bring to that a sensible balance between allowing people an opportunity to work remotely whilst, of course, at all times ensuring that the productivity of the organisation is maintained. That is going to be a feature for the future. It does mean that there are potential regional benefits. This department, as you know, Senator, already has a very strong external to Canberra footprint. We have AusIndustry offices in a range of capital cities and regional centres. We already have a physical footprint, if you like. The reality for us as a department is that we now have a capacity to allow remote working.

Understanding how it works means that we will have a capacity going forward to have more of our workforce outside Canberra and living in other parts of Australia, including in regional and remote Australia. If I can be really honest with you, I think that is a really good thing. From my perspective, my desire is that this department draws from all of Australia and can sustain employment opportunities for all Australians. Traditionally, that has meant packing up and coming to Canberra. Over time, we will be able to develop working models where we can employ people in Brisbane or in a regional area because we now have a more mature capacity to manage the department with staff working remotely. My own view is that this represents an opportunity for the department to draw from all of the strength of Australia and what the workforce market presents. It brings more views into public policy making from all of Australia. We will essentially have more capacity to influence in other parts of Australia as well. You can probably hear from my tone that I think it creates real opportunities for the Public Service to really have a stronger footprint in the rest of Australia. We need it.

Senator McDONALD: Jo Palmer, who was the 2019 AgriFutures winner, states that we need to mobilise or harness the regional workforce, including the partner of the one who has gone into the region. In my home town, we've had an engineer, a doctor, a couple of nurses and an accountant all move into the region recently but unable to find work in their professions because they are living remotely. Jo estimates that it's worth \$1 billion a year to Australia to harness those latent skills. That's terrific.

Mr Fredericks: That wouldn't surprise me. It's interesting you raise that. We know those examples exist in real life. For various reasons, one party to the marriage moves to a regional area. That person is a tremendous asset to the department, and I probably don't want to lose the partner. We are open to looking at ways of making that work. As I say, we're always going to have to keep in balance the capacity to facilitate remote work for all the reasons that you and I agree whilst simultaneously ensuring that we can maintain the productivity of the department. My lived experience during COVID, including at times where large parts of my organisation were working remotely, is that we didn't skip a beat. I'm quietly confident that we need to push in and push out to all of Australia and do that by maximising remote working.

Senator McDONALD: A terrific answer. Thank you.

CHAIR: Mr Fredericks, I want to explore that a bit further. To be frank, I'm really impressed by your passion in that regard. We talk about the diversity of workforces. Regional diversity is potentially an element of that. How do you convert that concept, that idea, that vision into reality? Are you going to develop some sort of a plan with key performance indicators to try to track how successful that is? What is your concept? Obviously you've given this a lot of thought and reflection.

Mr Fredericks: I have.

CHAIR: I am interested in your view of how we get from here to wherever you think is the optimal potential outcome.

Mr Fredericks: I am genuinely glad you asked that question. Everybody behind me is cringing because I could speak for the next two hours. I will take Brisbane as the example.

Senator WATT: You can take it on notice.

Mr Fredericks: I will come back with a 1,500-word essay. I will take Brisbane as an example. Our Brisbane office is growing. That is a good thing. We should have a decent sized office in Brisbane. What we have discovered is that the Brisbane office originally was an office of AusIndustry, which, as you know, is the division within this department that has the responsibility to be out in the community engaging with business. They are very strong and important in the Australian government. By and large, the office of AusIndustry sat there in order to facilitate that work. The Brisbane office of my department now pretty well has some people from every other division of my department. If I go and visit—I come back and tell the crew here—the Brisbane office and I do a walk around the floor, essentially I'm talking to a bunch of people from AusIndustry. At the next couple of tables, it will be someone from the energy group. Next I will be talking to someone from the National Measurement Institute. I will then be on to a climate change couple. I will walk around the corner and there will be people working for resources. That has extraordinary benefits. In a sense, I end up getting a microcosm of the department sitting in an important city and drawing all the relevant information that we need to know from that city. I'm also

able to draw good people from Brisbane to work there who might not otherwise work for the Commonwealth government. They'll work for the Queensland government. I need them working in the Commonwealth government. Of course, they maintain very strong connections back to their home division. The staff in Brisbane get a great advantage because they sit there and they are working remotely with their energy colleagues. They are part of a defined vision. They are in a reporting chain. They have the strength of being in a division.

CHAIR: And they are living in the best state in Australia.

Mr Fredericks: That is Senate representation.

CHAIR: Absolutely.

Senator McDONALD: Quality.

CHAIR: Too hot for my liking.

Mr Fredericks: They also get the benefit of sitting next to colleagues in other parts of the department and drawing from them as well. So they kind of have two homes. You get great strength from that.

CHAIR: How do you translate that? Do you set KPIs in that regard? How do you go on the journey?

Mr Fredericks: It's interesting because essentially they get managed these days as surely as the person who is sitting next door in a Canberra office gets managed. They are part of a small work group. They will have a manager whose responsibility is going to be to look after and manage three people in Canberra, one in Brisbane and one in Melbourne. Of course, we keep an eye on productivity issues. We have to. The connectivity is so strong that the Canberra based manager understands the work value contribution and productivity of that person in Brisbane. There is also a Brisbane management structure. We have a senior person in Brisbane who also can keep an eye on that as well. It's something we've got to keep an eye on.

CHAIR: Just to be clear, I was thinking about doing more of that and setting goals to achieve more of that regional diversity because you're therefore tapping into a larger employment and talent pool. That is the side of it I'm coming from.

Mr Fredericks: I can give you the understanding. Of course we're going to sensibly plan for that. In many ways, I'm the secretary of the organisation. I am giving a very strong signal that I want to make sure that we look for opportunities to increase our footprint and to draw remotely. That will start to influence our, for example, advertisements. I want to be pushing and finding opportunities to advertise outside Canberra. I want to advertise in South Australia and Queensland. That is what we should be doing. In many ways, of course we've got to strategically plan it. We have to think about things like floor space. Of course we have to think about some additional costs for working remotely et cetera. So we need to plan it and think about it. What matters most is not the plan. What matters most is the commitment to try to do it and to understand that there is benefit for all from it.

CHAIR: Okay, excellent. Thank you, Secretary. Senator Patrick, you have two areas of questions. One is in relation to Australian building codes?

Senator PATRICK: Yes. I was going to do the Space Agency first, if that is okay.

CHAIR: You can do the Space Agency first. We have the building codes people here as well.

Senator PATRICK: I am waiting for a piece of paper to come from my office.

CHAIR: That's interesting. We will ask the Space Agency representatives to come back.

Australian Space Agency

[16:01]

Senator PATRICK: Welcome again to estimates. I want to talk to you very briefly about an inquiry that was run in the other place. It tabled a report that contained 38 recommendations. You are familiar with that, are you?

Mr Palermo: Yes, I am aware of the report and the recommendations.

Senator PATRICK: In relation to those recommendations, are you assisting government in any way in responding to them?

Mr Palermo: Yes. The agency is currently reviewing the report and preparing advice to government to inform a formal response.

Senator PATRICK: When might you expect your advice to go to government?

Mr Palermo: That analysis is ongoing right now. There is obviously a lot of recommendations. In practice, the agency is actually executing on a lot of the recommendations, which is great. It was a well-considered report with, I think, as you know, 89 responses. I don't have a date to confirm to you right now. We have to work with the minister to agree a date they want to provide a formal response.

Senator PATRICK: Sure. But in some sense driven by you. We have worked on this in the past. Not an exact date. Are we talking three months, six months or 12 months?

Mr Palermo: Within three months.

Senator PATRICK: That is all I was after. That report stated, and I will quote:

... launch service providers could contribute up to \$2 billion of direct, indirect and induced value in the coming decade and beyond. Growth in this part of the sector is considered likely to contribute to between 10 - 20 per cent of the 20,000 new jobs by 2030.

It would seem to me that is a pretty obvious area to look for some gains. Are you in some way raising the priority on that particular work?

Mr Palermo: Yes. Probably in three areas. Obviously, as you know, we're the regulator. We've recently this year added more resources so we can support the industry to get through applications and get—

Senator PATRICK: I think I might have helped with that, actually, before you arrived complaining about things. I'm glad to see that is working out.

Mr Palermo: A second area I have mentioned is access to space, of which launch is one of the seven key priority areas in the civil space strategy. So it is prioritised into our mandate. Our CTO team is working across government, research and industry right now on that roadmap. That roadmap will inform the 10-year aspirational vision for launch. The third thing, I summarise, to signal the importance we are placing on launch is the technology safeguards agreement with the United States. There are certainly domestic suppliers looking to develop technologies. From our colleagues in Austrade, we know that there is potentially an opportunity for Australia for get inbound investment from US launchers. As a result, we are also prioritising the negotiation of the technology safeguards agreement. There are at least three areas, I think, that demonstrate that we are pursuing that economic and prosperity opportunity. The launch is one part of space that really opens up the full value chain of space activities.

Senator PATRICK: I think in the last estimates I might have accused you of not answering a question. It turned out I was wrong. It had been answered. It was about market comparisons. Have you done anything beyond those market comparisons perhaps in more detail or more formally?

Mr Palermo: No additional work. We've done the formal work. We understand how we compare internationally on our regulations front, for example. I will elaborate a bit here on work we're doing. We are looking at areas where we can reduce the burden on applicants but maintain the rigour we want in approving our facility launch, licence and permits. I can bring up a few examples or ask one of my colleagues to walk you through that. We have commenced a set of activities, as I said, removing unnecessary regulatory barriers. That came through the House of Representatives inquiry that I mentioned. I will introduce Mr Christopher De Luis. Mr De Luis started with the agency as the new general manager for the Office of the Space Regulator in October. He is really looking at, and has done some good work already, on how we can really move our operating model for the regulator office into the future. I will ask Mr De Luis to walk you through some of that.

Senator PATRICK: Can you tell me a bit about yourself? Where have you come from?

Mr De Luis: I am an aerospace engineer. I worked in CASA in the last six or seven years and Defence prior to that, mostly in safety assurance and safety regulatory roles.

Senator PATRICK: Thank you.

Mr De Luis: As Mr Palermo just highlighted, we're really pushing forward in some areas of the regulatory space for improvements. I would like to acknowledge the work that the space regulator team has done to date. Since July 2018, we've issued 22 authorisations under the legislation, including two launch facility permits. There are currently another 13 in progress.

Senator PATRICK: There are two licences—a launch facility and a launch activity?

Mr De Luis: There's actually five. Yes, those two plus three more.

Senator PATRICK: When you said the 17?

Mr De Luis: No, 22 have been issued in total and there are 13 currently underway of all the things that we do, effectively.

Senator PATRICK: Of the 13, which are launch activities and which are launch facilities? That is to get a feel.

Mr De Luis: In progress, there are six launch facility licences, three Australian launch permits, one high powered rocket and three overseas payload permits.

Senator PATRICK: Were the launch permits the ones for South Australia for Southern Launch?

Mr De Luis: Of the ones in progress, no. Not all of the three.

Senator PATRICK: I am talking about the ones that have actually been issued.

Mr Palermo: Correct. The launch permit is in South Australia.

Senator PATRICK: They are South Australian ones, okay.

Mr De Luis: To answer your question specifically about the improvements we're looking at, we're in a very good space now to, I guess, learn from the past four years. There's plenty of really good feedback through the House of Representatives report and other feedback that we are now packaging up in a number of activities over the next 12 months that will really improve the regulatory environment.

Senator PATRICK: I talk to lots of the space agency people. It turns out that if you question the Space Agency a lot, space people call you. This is not a fault directed at you. When they are actually conducting a launch, they've got to deal with six or seven different government entities. Is there any way that can be streamlined? You could imagine the difficulties that can place on people trying to operate commercially.

Mr Palermo: Yes. We are definitely aware of that feedback. Maybe Mr De Luis can expand on the new operating model for the agency.

Mr De Luis: Mr Palermo mentioned the operating model for the Office of the Space Regulator. One new feature of that is really a regulatory engagement team, which we haven't had. It will really push out through us, I suppose—it won't change the regulations per se—but do as much as it can within the regulatory environment to assist applicants, particularly prior to the assessment process. One thing we're looking at is the concept of the case manager, who could push out into various state and other Commonwealth regulatory authorities to see if there is an ability to streamline some of the work there. We have heard that feedback and are looking to act on it.

Senator PATRICK: That's good news. Thank you for that. The inquiry recommended that you consider separating the agency industry engagement and the regulatory function. Is that something you are considering?

Mr Palermo: We are aware of that recommendation. It said to give careful consideration to that matter. Our view is, today, obviously we're in the process we talked about earlier of giving advice to government reviewing that. The agency was really founded from the expert reference group study in March 2018. It concluded that if we want to really provide certainty for industry, minimise regulatory burdens and assist in the growth of the agency, the agency should be responsible for regulating Australian space activities, which is the set-up we have today. We appropriately have the necessary firewalls within the agencies. Mr De Luis has a separate branch that has its own independent reporting line through me. The structure is working. What we also need to monitor is that this is a nascent industry. We're not dealing with thousands of regulatory approvals per year. Right now, it's certainly my submission that it's fit for purpose. But we treat the segregation of duties very seriously. We have boosted the regulatory expertise in the team recently to help with that as well.

Senator PATRICK: I think they've done it in the UK; they've split the functions just recently. Is that right?

Mr Palermo: That's right. The UK Space Agency started out like the Australian Space Agency in having them together. They decided after a longer period than we have existed to segregate those duties. We've had calls with the UK Space Agency about that. What is interesting is we've actually had more activity than them. It's certainly a decision of the UK government to do that.

Senator PATRICK: I won't get any pushback from the committee members here. You are a new agency. I look to your former role. This is not a reflection on you. For example, most people external to CASA would view them as an agency that has sought to kill industry. If they haven't sought to kill industry, they've managed to do it very effectively without that being their goal. I say that as a contrast. I wonder as you move forward how you might avoid the circumstance where we end up being overly regulated?

Mr Palermo: One advantage we have is that, by having the regulatory function in the office, we have very open and transparent communication. We can have feedback amongst our teams. I think that makes us a stronger regulator as a result. Our mandate is to triple the size of the sector, but it's also to do it responsibly. I think those things need to go hand in hand if we're going to develop this sector.

Senator PATRICK: I will move quickly to roadmaps before I finish. You've got three of seven roadmaps issued. You have four roadmaps to go. I think they are supposed to be finished by the end of this year. Will you hit that target?

Mr Palermo: We will. The earth observation roadmap was released in November. The robotics and automation in space roadmap was released in January. We have four to go. We anticipate two more will be

released before the middle of the year and the remaining two by the end of the year. The reason I'm confident in that is the first one always takes you the longest going through the process.

Senator PATRICK: Sure. I get it.

CHAIR: Senator Patrick, I need to share the call shortly.

Senator PATRICK: I'm on the last couple of questions, thank you. You said that Australia's robotic roadmap was issued. What departments other than the Space Agency were involved in that roadmap?

Mr Palermo: We consulted across government. The CSIRO played an integral role in the development of that roadmap. We worked with colleagues. CSIRO was the main one. There was the Department of Defence as well. We have liaison officers in our team. I can certainly take that on notice and get you the full list.

Senator PATRICK: If you wouldn't mind. I think Defence identified the need for a similar onshore sovereign capability focusing on autonomy. Is that something you are going to collaborate on?

Mr Palermo: Absolutely, across all our priority areas. In particular, in four of them, there's a strong tie between ourselves and Defence. We have embedded Defence liaison members in our team. In fact, two of the three roadmaps published were led by Defence secondees. That extends to all business areas. As we look at autonomy in robotics and automation in space, what we're really looking at is how we spin Australia's world-class expertise in operating remote mine sites and remote oil platforms to operate in remote space stations and things on the moon. That is our focus on autonomy. We have real strengths in the interoperability of humans with machines and the interoperability of different machines by different vendors. That is the premise behind Moon to Mars and the roadmap.

Senator PATRICK: You've just fuelled the conspiracy people who think that landing on the moon took place on a mine site. Finally, in terms of the robotic roadmap, have you mapped out the onshore capability in this area so you know what we have?

Mr Palermo: Yes. The roadmap process we follow is a process established by Cambridge University. One of the tasks in the roadmap process is to evaluate state of the art. Evaluating state of the art is about what is state of the art in the Australian economy across businesses, research and academia.

Senator PATRICK: That's it. Thank you very much, Chair. Thank you very much.

Mr Palermo: Thank you, Senator.

Senator McDONALD: When I thought of the Space Agency, for ages I assumed it was something to do with looking at space and getting AMSA to decide who is going to collect any things that fall to earth and building rockets. But I've been reading about Astreia, founded by an Australian woman who went to the same university as me—the University of Queensland. She is in America building shelters for the first astronauts to go to Mars. What other sort of technology is there? Is there a range of space related technology you are trying to encourage? How big is the funnel?

Mr Palermo: Thank you for the questions, Senator. Absolutely there's a very diverse industry forming in Australia. Launches is one of the priority areas we discuss, but it's only one of the seven priority areas. I will quickly touch on the other six areas and how they apply to Australia and the benefits we see from them. Earth observation is not looking out to space. It's looking from satellites down to earth. It is essential to agriculture and weather forecasting. Many of our industries across mining and others are remote sensing earth observations. You are probably very familiar with that. There is communications. We use satellites to communicate. We have a wide geography in Australia and remote communities. The availability of satellite communications is very important to regions as back-ups. In fact, with the Tonga earthquake recently, that was the only way to communicate with Tonga—using communication satellites and satellite phones. The third area we mentioned is robotics and automation. That is about how we spin our expertise in. The fourth is precision navigation and timing. It's a bit of jargon. This is using satellite technology really to enhance the precision at which you can show where something is. That is going to have very important applications in agriculture, so you can do precision agriculture, and in autonomous cars and other technologies.

Senator McDONALD: Are you working with Geoscience Australia on that?

Mr Palermo: With the SBAS program, exactly, yes. The last one is what we call leapfrog R&D. Actually, there are two more. We are focused on space medicine and life sciences. This one was very surprising coming into Australia. We actually have great strengths in the medicine that applies to space travel. Look at what we do to support Antarctica or remote communities and remote medicine as well as other technologies, such as dissymmetry and others. That's also a strength. The final one is space situational awareness. This is really about protecting our critical assets in space. You've probably heard about space debris and other things. Space weather

events have been in the news recently. That is an opportunity. Crisis brings opportunity for Australian businesses to do things in that space. It's a really diverse and interesting industry that really touches every portfolio of government.

Senator PATRICK: I'm sure you can advise the discovery centre in Adelaide.

Mr Palermo: You're very welcome to come.

CHAIR: This is my supplementary question. There is a great Queensland company called PFi. I don't know if you have heard of them. They produce hybrid all-inclusive learning instruments. Basically, it's a mini rocket that they can provide to high school students. They can learn all about the different sciences that are incorporated in terms of launching a rocket. It builds critical thinking, problem solving and teamwork but really promotes the STEM disciplines to both male and female students. It has been extraordinarily successful. I've seen it first-hand. Have you come across that project? Are you interested in coming to Queensland and learning more about it, Mr Palermo?

Mr Palermo: I am very interested. I am 80 per cent sure I have met the company virtually. It's a little hybrid rocket motor. The beauty about rocket science in many respects is that it covers all technical disciplines. You've got thermodynamics, structural engineering, avionics and programming. We have an incredible opportunity to inspire the youth of the nation with space.

CHAIR: Absolutely.

Department of Industry, Science, Energy and Resources

[16:21]

CHAIR: I'm going to Senator Watt. He has a bracket of questions that hopefully are about 15 minutes. Then we will take a break at 4.35 pm, if we can.

Senator WATT: Thanks, Chair. I think this is the right section to do Modern Manufacturing Initiative. This is something we tend to talk about each estimates session. I'm keen to get a bit of an update on the Modern Manufacturing Initiative. Just to recap, this was announced on 1 October 2020. It was a \$1.5 billion Modern Manufacturing Strategy that includes a few different components, which we've talked about each time. I think I'm gradually understanding them. Out of that \$1.5 billion Modern Manufacturing Strategy, are you able to give us an update on how much has been spent from that to date broken down by initiative?

Ms Luchetti: Certainly. As at 14 February, we have committed through executed agreements \$292.4 million. Under that is \$186.6 million under the translation integration round 1.

Senator WATT: It is \$186.6 million for translation integration round 1?

Ms Luchetti: That's correct. And \$24.4 million under supply chain resilience initiative round 1.

Senator WATT: It is \$24.4 million?

Ms Luchetti: Yes. That's correct. And \$53 million under the modern manufacturing fund round 2 and \$28.4 million under the Advanced Manufacturing Growth Centre commercialisation fund.

Senator WATT: Advanced manufacturing?

Ms Luchetti: Advanced Manufacturing Growth Centre commercialisation fund.

Senator WATT: If I add them all together, that gets me to \$292.4 million, does it?

Ms Luchetti: That's correct, yes.

Senator WATT: Advanced Manufacturing Growth Centre collaboration fund?

Ms Luchetti: Commercialisation fund.

Senator WATT: I think we've discussed before that MMF round 1 preceded the Modern Manufacturing Strategy, didn't it?

Ms Luchetti: That's right, yes.

Senator WATT: Do you have a figure for how much was spent for that? It's alright.

Mr Fredericks: The value of executed grants is \$40.2 million.

Senator WATT: For round 1?

Mr Fredericks: For round 1, yes.

Senator WATT: Again, that was not part of the Modern Manufacturing Strategy?

Ms Luchetti: That's right.

Senator WATT: I will go back to the \$292.4 million that has been committed. How much of that has been released?

Ms Luchetti: That is executed grant agreements. That is what I have just given you. That is when we have entered into the grant agreement with those companies. In terms of money actually paid to business, for round 1, translation integration, it is \$60.5 million. The Supply Chain Resilience Initiative round 1 is \$3.2 million. For the MMF round 2, it is \$16.4 million. It is \$5.1 million under the Advanced Manufacturing Growth Centre commercialisation fund.

Senator WATT: So that is \$85.2 million all up, I make it.

Ms Luchetti: Would it help if I give you the number of recipients for each of those?

Senator WATT: Sure.

Ms Luchetti: For translation integration, it was 34 recipients. For supply chain—

Senator WATT: When you say recipients, this is the people with whom you have signed an agreement?

Ms Luchetti: That's right. That's correct, yes.

Senator WATT: This isn't the number that have necessarily received funds yet but they have an agreement with the department?

Ms Luchetti: That's exactly right.

Senator WATT: Could you give me that figure again, sorry?

Ms Luchetti: So 34 recipients.

Senator WATT: For translation and integration?

Ms Luchetti: Yes. That's right. It is 27 for supply chain; and 86 for the modern manufacturing fund.

Senator WATT: Round 2?

Ms Luchetti: Round 2. And 55 under the Advanced Manufacturing Growth Centre commercialisation fund.

Senator WATT: So at this point in time, from the \$1.5 million committed for the strategy in October 2020, there's \$84.2 million, which has got to companies?

Ms Luchetti: That is the amount of money that has actually been paid to business. Remember that they are milestones for business. The grants that have been executed is the figure, because that is actually my colleagues in AusIndustry working with those companies to finalise and execute those grants we are entering into. That figure is the \$292.4 million.

Senator WATT: Can you remind me what was budgeted in portfolio budget statements for the \$1.5 billion? Obviously a lot of that was going to be outside the forward estimates, or am I wrong about that?

Ms Luchetti: No. It's within the forward estimates.

Senator WATT: What was budgeted to be spent in 2020-21?

Ms Luchetti: I will ask my colleague to assist you there.

Ms Mulder: The current budget at the moment as represented in pays is \$420 million for this financial year.

Senator WATT: For 2021-22?

Ms Mulder: That's correct.

Senator WATT: It is \$420 million?

Ms Mulder: It is \$420 million. That is for the Modern Manufacturing Initiative specifically.

Senator WATT: Which is only part of the overall strategy, isn't it?

Ms Mulder: That's right. It's \$1.3 billion of the \$1.5 billion.

Senator WATT: Before we get to the others, the figures that Ms Luchetti gave me are across the whole strategy, aren't they? They're not just MMI?

Ms Luchetti: That's right. Supply chain resilience is across the Modern Manufacturing Strategy. It's not part of the MMI. That's right.

Senator WATT: Ms Mulder, for 2021-22, \$420 million was budgeted for MMI?

Ms Mulder: That's correct.

Senator WATT: What about the other components of the strategy?

Ms Mulder: There is \$10 million in supply chain resilience. I'm still talking about 2021-22. There's \$37.07 million for the manufacturing modernisation fund round 2. There's \$30 million for the commercialisation fund, which is delivered through AMGC.

Senator WATT: Is that \$35 million?

Ms Mulder: It is \$30 million.

Senator WATT: For?

Ms Mulder: The commercialisation fund delivered through the Advanced Manufacturing Growth Centre. That's all that covers now.

Senator WATT: And all of those things are under the umbrella of the Modern Manufacturing Strategy?

Ms Mulder: That's correct, yes.

Senator WATT: Do you have any figures for what was budgeted for financial year 2020-21?

Ms Mulder: If we recall, I think it was \$72 million originally budgeted in 2020-21, \$40 million of which was for the Modern Manufacturing Initiative.

Senator WATT: What did you say? There was \$40 million for the Modern Manufacturing Initiative in 2020-21.

Ms Mulder: That's correct.

Senator WATT: What did you say in the lead-up to that?

Ms Mulder: There was \$72 million for all of the initiatives under the Modern Manufacturing Strategy for 2020-21.

Senator WATT: So, across 2020-21 and 2021-22, it was expected that we would see about \$570 million spent on the Modern Manufacturing Initiative?

Ms Mulder: That's what's budgeted in the profile. I think that's right. You've done the additions.

Senator WATT: But on 17 February, with four months to go, it's been \$85.2 million?

Ms Luchetti: Senator, it's good to recognise that we've still got two rounds open. The collaboration stream, which is the centrepiece of the Modern Manufacturing Initiative, is an \$800 million stream. That is currently under assessment. There is also round 2 of the translation integration stream; that's \$280 million. That's currently under assessment. And there is a supply chain resilience initiative round 2, which is \$50 million. That's currently under assessment.

Senator WATT: Yes. But, if they're still under assessment and decisions haven't been taken, we're hardly going to see funds provided to industry by the end of this financial year. You've still got to make a decision, then sign an agreement, and they've got to hit milestones before they receive any money. So we're not going to get anywhere near the \$570 million, or whatever it was that I said that was budgeted, by the end of this financial year, are we?

Ms Luchetti: As far as we're concerned, we're still on track to deliver that, and we intend to work very closely with businesses once those decisions and announcements are made.

Senator WATT: Do you really think you're going to get there?

Ms Luchetti: We'll do everything we can.

Senator WATT: I hope you can. It does sound like there are quite a few steps before any of these businesses will receive funding. For starters, a decision's got to be made and announced. And, at this point in time, it's close to \$500 million short compared to what was budgeted for the two financial years.

Ms Mulder: The only other comment that I would make to that is that, for the collaboration stream, grants were from \$20 million to \$200 million, so we are talking a significant number of grants and potentially only a small number of grants for a large volume [inaudible].

Senator WATT: I recognise that there's a lot of money out there that's been announced, and applications called for, but it's a question of when that money actually hits the ground. That is a theme that I tend to pursue across a range of committees, because this government has a habit of making big announcements and making big promises, but you have to wait a long time before you actually see the money. I'm not having a crack at officials; I'm having a crack at the government.

Mr Fredericks: Just on that, I should endorse what Ms Luchetti said. From this department's point of view, we will drive to ensure that as much of that funding that's been committed in the forward estimates is out the door this year.

Senator WATT: Yes.

Mr Fredericks: And you're always very good about this, to be fair—the importance of milestone payments—and understanding that of course it's not in government's interests and it's not in taxpayers' interests to push all of this money out without having a properly considered milestone process to make sure that there's accountability in what the businesses are delivering, and so that necessarily means that the funding is expended across years. But you've always accepted that, I think.

Senator WATT: I do. And, as I say, you can only work within the constraints that you are set by ministers, who often determine the timing of these things. You've made the point that the collaboration stream has about \$800 million available?

Ms Mulder: That's correct.

Senator WATT: And you've called for applications for \$800 million.

Ms Mulder: Yes.

Senator WATT: I think, in answer to a question on notice, you advised that the department had received 86 applications under the MMI collaboration stream?

Ms Luchetti: Yes, that's right.

Senator WATT: How many applications were successful?

Ms Luchetti: That's currently under assessment. Eighty-one are eligible, and that is currently under assessment.

Senator WATT: So no decision's been made yet?

Ms Luchetti: No decisions have been made yet.

Senator WATT: When did applications for that close?

Ms Luchetti: I think it might be 9 September.

Ms Mulder: Yes, 9 September 2021.

Senator WATT: 9 September last year?

Ms Mulder: Correct.

Senator WATT: But no decision's been made?

Ms Mulder: Not at this stage, no.

Senator WATT: My information is that applications opened on 11 August last year and closed on 9 September last year, which meant that industry was only given 29 days to make their applications. But the department has had these applications since 9 September, and we're still waiting for decisions to be made. Is there any reason it's taking so long?

Ms Mulder: I will just clarify. The program was actually launched on 30 June 2021, with the guidelines being released. Applications, yes, then did open. We opened for applications on 11 August and, as you said, we closed on 9 September.

Senator WATT: It's a pretty short window for people to put together a complicated application, but that's by the by; nothing can be done about that. I think those businesses who went to the trouble of putting in an application in such a short window might have expected they would have heard something and have been able to create some jobs. What's the hold up?

Ms Mulder: I would suspect, though, that for a grant size of \$20 million to \$200 million—you are right, these are significant, complex projects—it is reasonable for the department to ensure that there's a robust assessment process, which is currently ongoing.

Senator WATT: No businesses have received funding yet under the collaboration stream.

Ms Mulder: That's correct, because it hasn't been finalised.

Senator WATT: Very briefly, can you tell me the assessment process for these applications? There's an independent panel—

Ms Luchetti: That's correct.

Senator WATT: We've gone over this before, I think. There's an independent panel of experts who've been tasked with making recommendations; they've reviewed the applications—

Ms Mulder: Yes that's right.

Senator WATT: That has happened? They have done that?

Ms Mulder: Yes.

Senator WATT: Did they score each application, or rank order them, or something like that?

Ms Mulder: The assessment process involved around 40 committee members—40 independent experts across the—

Mr Fredericks: Fourteen?

Ms Mulder: Forty independent experts across the National Manufacturing Priorities and across the expertise that's required around manufacturing. Sorry, what was your question, again?

Senator WATT: Before I remind you, on notice, would you be able to tell us who was on the independent panel of experts?

Ms Mulder: I'm certainly happy to do that, preferably, for probity reasons, once the decision has been made.

Senator WATT: Was there no departmental representation on that panel of experts?

Ms Mulder: On the collaboration committee? No, there wasn't.

Senator WATT: No representation from any department of government?

Ms Mulder: There was a non-voting member. She's the program delegate.

Senator WATT: From which department?

Ms Mulder: This department.

Senator WATT: This department, okay. Who's that?

Ms Mulder: That would be me.

Senator WATT: So you're across what's happened even though you didn't have a vote?

Ms Mulder: Correct.

Senator WATT: My question was whether the independent panel ranked or ordered them, or scored them or something like that?

Ms Mulder: That's right. They gave scores in terms of the assessment, more to determine where they felt the applications rated.

Senator WATT: Very briefly, what were the criteria for determining a score?

Ms Mulder: The merit criteria are outlined in the guidelines. There are four criteria; I recall they are of equal ranking—

Senator WATT: I can refer to them, if they're publicly available.

Ms Mulder: They are publicly available.

Senator WATT: They were the only criteria applied?

Ms Mulder: Yes.

Senator WATT: So the panel has now scored all of those applications—

Ms Mulder: They've assessed the applications.

Senator WATT: Have they formally provided that information to the department?

Ms Mulder: That part of the process is effectively closed, and that's with the department.

Senator WATT: My understanding is that the decisions on this are being made by the Prime Minister—

Ms Mulder: That's correct.

Senator WATT: Is he the only minister who's making decisions on this.

Ms Mulder: He's the decision-maker, yes.

Senator WATT: Has any advice been provided to the Prime Minister at this point about who the successful applicants should be?

Ms Mulder: It's still going through the assessment process.

Ms Luchetti: I'll just jump in there, Senator. Like everything in the Modern Manufacturing Strategy, Industry Innovation and Science Australia has a role in and provide strategic oversight for the Modern Manufacturing Initiative. So once the assessment committee went through their process, the IISA provided its strategic advice. It would have gone through that process too. So that was another layer, another area of due diligence that we were

doing to really try to make sure that they're transformational and meet the objectives of the Modern Manufacturing Strategy.

Senator WATT: What I'm trying to get to, I suppose, is where we are up to in this process. The panel have effectively made their decisions, or what they think the order should be. That's been provided to the department. We've had that external advice that you just talked about. Is it sitting with the department at the moment, or has it been provided to a minister, or another department like PM&C?

Ms Mulder: Part of the process, which is outlined in the guidelines, is seeking additional advice from relevant portfolios. Prior to that, there was also a step around cross-portfolio review as part of the assessment process.

Senator WATT: Who's leading that; is it PM&C?

Ms Mulder: No, it's this department.

Senator WATT: Whose desk is it on? I suppose that's one simple way of putting it.

Ms Luchetti: I think it's fair to say that it's still with the department to bring all those channels of advice together before the next steps occur.

Senator WATT: Have there been any discussions with ministers or ministers' offices about the recommendations of the independent panel at this point?

Ms Luchetti: If it helps Ms Mulder can talk about that cross-portfolio review that we have been undertaking.

Senator WATT: What I am particularly interested in is any interaction with ministers' offices at this point?

Ms Mulder: Going back a step, the cross-portfolio review was a review that took place across relevant Commonwealth agencies in order to get views on the policy alignment of the particular projects, so that has occurred as well and is one form of advice that will be taken on board by the decision-maker. In terms of the next stages of the process, as I said, one of those steps is to receive advice from relevant portfolio ministers. We're still in the midst of bringing that altogether.

Senator WATT: Have those sorts of discussions with portfolio ministers begun?

Ms Mulder: The interaction has begun, yes.

Senator WATT: I acknowledge that in some cases these are big grants, but what I'm trying to understand is why grants which closed on 9 September last year have still have not been decided or announced, because, obviously, it's not until they announced that you can go and sign an agreement. We're not going to see any jobs come from this for quite some time. The longer that this process goes on the more delay there is in seeing these jobs that we were promised would happen.

Mr Fredericks: I think the fair answer to that question is: we have tried to strike a balance between speed and thoroughness of process and diligence of process.

Senator WATT: Have any ministers, or ministers' offices, indicated that they would like to slow this process down or hold off decisions for any period of time?

Ms Mulder: Not to my knowledge.

Senator WATT: I am conscious we are getting pretty close to an election and governments like to have things to announce during election campaigns, but there has been no suggestion from ministers' offices that that can be put on the backburner so they've got some nice announcements to make through a campaign?

Ms Mulder: We have a schedule that we have been working through and that we're still working towards.

CHAIR: We are going to break for 10 minutes now. When we come back Senator Patrick has some questions on the building code issue, so if we could be ready for that.

Proceedings suspended from 16:42 to 16:54

CHAIR: I said before the break that Senator Patrick was going to commence the questioning in relation to building codes. However, Senator Patrick has had to go to the defence committee, where he needs to ask a tranche of questions. We have some further questions in relation to the Modern Manufacturing Initiative, as I understand it. Senator Watt is going to continue with those questions until Senator Patrick comes back to ask his questions in relation to the building codes.

Senator WATT: Thank you, Chair. Ms Mulder, can I just come back to something you said before the break? I was asking about what interaction ministers or ministers' offices have had in this process so far. I can't remember your exact words, but you were saying that there's been some engagement or interaction—whatever the words were. Can you just talk to us about exactly what role ministers' office or ministers have played so far?

Ms Mulder: As per the guidelines, the decision-maker takes into consideration advice from relevant portfolio ministers. Therefore, as part of the process, relevant portfolio ministers will be interacted with, and their advice will be sought based on the outcomes of the assessment committee. All of that information will come together to support Minister Taylor to make recommendations to the Prime Minister, who, as you mentioned before, is the decision-maker.

Senator WATT: Okay. So the process so far is that applications closed.

Ms Mulder: Yes.

Senator WATT: An independent panel was established to assess the applications.

Ms Mulder: The merit of the application.

Senator WATT: The merit of applications.

Ms Mulder: Eligibility assessment was a prior step.

Senator WATT: Sure. So they've determined who's eligible. There are 81 left. An independent panel assesses them.

Ms Mulder: Yes.

Senator WATT: I have forgotten the organisation, Ms Luchetti.

Ms Luchetti: IISA.

Senator WATT: IISA. They have their say.

Ms Mulder: They provide strategic advice.

Senator WATT: They provide strategic advice. All of that is jumbled together to essentially establish a rank order or scores?

Ms Mulder: To provide advice. The assessment committee is the only part of that process that actually gives a score against the four merit criteria that are in the guidelines.

Senator WATT: Okay. At what point did ministers' offices or ministers get involved?

Ms Mulder: As per the guidelines—and there's a flowchart in the guidelines—the advice from relevant portfolio ministers is one of the last steps. It is the final piece of advice that comes together to make the whole bundle of advice that is considered.

Senator WATT: Yes.

Ms Luchetti: It might be useful to clarify that what we're looking for in that advice is an extra layer of due diligence. So it sits with those portfolio ministers as to whether they have had companies who are making their way through or whether they've had similar grants for similar projects. It's just an extra layer of probity and due diligence that we do on those companies.

Ms Mulder: Yes. So there's not a reassessment.

Senator WATT: No. Which ministers are consulted in that way? Obviously Minister Taylor.

Ms Mulder: Yes, Minister Taylor, and relevant portfolio ministers. I am happy to take that on notice.

Senator WATT: I've forgotten the streams, but if it's health and medical manufacturing it would be Minister Hunt and so forth?

Ms Mulder: Exactly. That's correct.

Senator WATT: I just want to come back, Ms Mulder, to what interaction—or whatever the word that you used was—with ministers' offices has occurred to date. I understand that they come in late in the process.

Ms Mulder: Yes.

Senator WATT: But it sounded like there had been some discussion with ministers' offices about the assessment process and where it got to.

Ms Mulder: As per the guidelines—we are obviously sticking to the process in the guidelines—relevant portfolio ministers have been asked, as Ms Luchetti said, more about due diligence: questions such as it whether it aligns with their portfolio objectives or any government strategies that they have responsibility for. So it's an additional piece of advice.

Senator WATT: Has that started?

Ms Mulder: It has commenced, yes.

Senator WATT: Is it ministers' offices or ministers?

Ms Mulder: Ministers, as per the guidelines.

Senator WATT: Okay. So that engagement has begun with ministers?

Ms Mulder: Yes.

Senator WATT: Does that mean that ministers are now aware of what the assessment panel has had to say about the applications?

Ms Mulder: I think it's fair to say that that's the case, yes. We are still partway through that process.

Senator WATT: Sure; it's begun.

Ms Mulder: I can't talk to others, but it's begun.

Senator WATT: Has written advice been provided to ministers about that?

Ms Luchetti: Yes, that's correct, Senator. Minister Taylor writes to his portfolio colleagues to package the information around those who were involved in the collaboration stream.

Senator WATT: And Minister Taylor has done that?

Ms Luchetti: Yes, correct.

Senator WATT: So, he is aware of what the assessment panel had to say, obviously, and he has communicated that to other relevant ministers? Some have replied and some of them haven't?

Ms Mulder: We're partway through that process.

Senator WATT: So, if there are any businesses out there who are still waiting for a decision to be made—ministers do know what applications have been recommended, so ministers could expedite the process if they wanted to?

Ms Mulder: So, if it's okay, I might just clarify that. Ministers know which applications were supported for funding through their assessment process, not necessarily what will be recommended.

Ms Luchetti: It's worth clarifying that ministers only know what is relevant to their portfolios. They don't know the whole; just what is relevant to them.

Senator WATT: But Minister Taylor knows about all of them.

Ms Mulder: Correct.

Ms Luchetti: And Minister Taylor provides that advice to the Prime Minister, remembering the Prime Minister is the decision-maker, not Minister Taylor.

Senator WATT: Has Minister Taylor communicated with the Prime Minister about this?

Ms Mulder: That's a further step.

Senator WATT: That comes later. Minister, what are you going to do to get these applications decided and get the money out the door so people can start creating the jobs that you promised Australians we would see?

Senator Seselja: The process that's been outlined is being followed. So, what we're going to do is make sure that process is thorough and complete. For an \$800 million program, it is important that we get it right. I'm sure, once it's been through those relevant processes and completed, a decision will be made.

Senator WATT: Are ministers holding onto this so that they can make announcements through the election campaign?

Senator Seselja: Not to my knowledge, no.

Senator WATT: Because that would be a pretty terrible thing, wouldn't it, if Australian businesses were having to wait for election campaigns and election commitments before they find out what money they're going to get.

Senator Seselja: What's important is that we get the process right, and that's what everyone is endeavouring to do.

Senator WATT: Can we just come to the jobs that have been created so far? Again, I know that this is something that we talk about each time. This where we get Mr Campbell—and I'm sure you know what I'm going to ask. What's my first question, Mr Campbell? My first question is: what's my second question?

Mr Campbell: I wouldn't hesitate to guess!

CHAIR: A good answer, Mr Campbell!

Senator WATT: Can you please tell me—and I know when we've done this before you've also given me round one job numbers, which I probably don't need because I'm focusing on the Modern Manufacturing Strategy.

What we know is that \$85.2 million has been paid out to businesses under the Modern Manufacturing Strategy to date and we also know that \$292.4 million has been executed in contracts. What I would like to know is: how many jobs directly attributable to the Modern Manufacturing Strategy have been created so far?

Mr Campbell: As I think we've said on many occasions, there are a number of elements to the Modern Manufacturing Strategy. The first pillar is probably the most significant in terms of its funding, which is the broader economic support provided from the government during the pandemic as well as the continuing funding. As I've said at the last estimates, it's very hard to unpack from general figures in the manufacturing data that comes out, so what I've been able to do in previous estimates is take you to completed jobs reports. We only have completed jobs reports for round 1, and that's still not complete because we get the updates on the jobs figures when the completion reports are submitted. I can give you an update—

Senator WATT: Why don't you give me the round 1 job figures?

Mr Campbell: Of the 172 successful projects, we now have 99 project-complete reports, and that has now moved their jobs number for that particular package up to 997 jobs. That means there are still a further 73 projects to submit completion reports. As they come in, we'll be able to update for those. But, because the other packages have only just commenced, we don't have any job completion reports at this stage. So I can't give you a number from the specific spending line item.

Senator WATT: So, from the Modern Manufacturing Strategy so far, we can't say that any jobs have been created, because we haven't yet got the completed project reports.

Mr Campbell: No, I will take you back again to the start of my testimony. The Modern Manufacturing Strategy includes the first pillar, which is lifting all of manufacturing by providing taxation support. As I said, we can't give you a specific estimated number from that, but we know it's significant, as part of the overall trend in manufacturing.

Senator WATT: I understand that, and we've had this conversation before. I acknowledge there probably are some indirect jobs that have come out of this. But I really want to focus on the direct jobs that we say are attributable to the Modern Manufacturing Strategy, and, at this point in time, it's not possible to give a number for how many direct jobs have been created?

Mr Campbell: Not a specific figure at this stage. As you know, there was an estimate provided for a 10-year projection. That was the 80,000 figure. And we will be making progress over the 10 years towards that estimate, as each of the packages are rolled out. But, as I say, the most substantial amount of support is coming through the first pillar, which is the tax regime and the job support provided through expenditure more broadly. That goes to manufacturing as well as to other industries, obviously, but the manufacturing sector benefits and will get jobs from that.

Senator WATT: Minister, I know we have talked about this before, but when the strategy was announced in October 2020, the Prime Minister claimed that it would create 80,000 direct jobs and 300,000 jobs in total. How many jobs do you say have been created so far?

Senator Seselja: Mr Campbell has pointed out the fact that when you look at the entire strategy, which includes getting the economic conditions right for business, you can't blink, exactly, those jobs. But what we see is that, at a whole-of-economy level—we saw the jobs figures out today, the jobs being created across the economy. What we intend to continue to do is to pursue those strategies. So, whether it's getting the economic conditions right for business, and that includes things like tax cuts and tax incentives, whether it is making science and technology work for industry and for jobs, focussing on the areas of advantage, building the national resilience—those policies are about supporting jobs. Mr Campbell in previous estimates and at this estimates has pointed out that, over time, we expect there will be direct jobs that will be attributable as they—

Senator WATT: When? Because we can't [inaudible]

Senator Seselja: But that's a 10 year-strategy. Again, what we have put in place are the conditions that see large manufacturers making large investments on the back of them. When you've got BlueScope and others saying that the conditions for manufacturing are the best they've seen, in relation to the policies of this government, then those investments are being made. Mr Campbell can take you through some of those indicators in relation to the response of manufacturing businesses to those policies, but what we are seeing at a whole-of-economy level, as I say, is unemployment down to 4.2 per cent. And that is something that I think is very positive. It is something that stands in stark contrast to your record when you were in government, and those are the kinds of policies we will continue to pursue. But, in terms of the specific elements of each part of the strategy and the Modern Manufacturing Initiative, Mr Campbell can talk you through that in more detail, as he has already.

Senator WATT: What I would like to know, Mr Campbell, is whether the department has updated modelling on the anticipated direct job creation to come from the Modern Manufacturing Strategy.

Mr Campbell: We haven't updated an estimate for that. The only thing I would point to, though, as the minister has said, is the strength of the economy and the growth that we saw coming out of the base of the recession. That was stronger than I think most people had expected. There have been some temporary factors more recently around the delta shutdowns in New South Wales and Victoria, and to some degree some of the impacts from omicron. But as we look through some of those temporary factors, that strong growth path is projected to continue, and manufacturing will follow with that. We've seen very strong forecasts from both the Reserve Bank and the government itself in the MYEFO. So, the outlook is strong, but we do have some headwinds at the moment from the new variants. But, as I guess everyone in this committee would be expecting, we'd hope to see that end fairly shortly.

Senator WATT: Are you aware that, according to the latest Single Touch Payroll data, manufacturing jobs have decreased by 3.6 per cent since the announcement of the Modern Manufacturing Strategy in October 2020?

Mr Campbell: I don't have those figures in front of me. I can talk to the ABS figures. We've seen three quarters of incredibly positive growth—in February, in May and in August. That was prior to some of the most recent lockdowns. But there was a very strong return to growth in employment in manufacturing, which has been a very positive outcome for the sector. And we're now starting to see some of the positive sentiment in the National Australia Bank survey around confidence. Some of the conditions are still a bit patchy, but, again, as some of the restrictions unwind, we'd expect that confidence to build in the coming months.

Senator WATT: This is probably a question for you, Ms Luchetti. When do you expect the \$800 million that's been set aside for the collaboration stream to be spent in full?

Ms Luchetti: As I said to you, Senator, it's currently under an assessment process, and we're expecting a decision from government very shortly, and we're working on it as quickly as we can.

Senator WATT: Sure, but—sorry: my question wasn't, 'When will a decision be made?' When do you expect that the funds will be spent, as in all gone to business?

Ms Luchetti: We intend to spend the money the way it has been profiled. But naturally these things come down to conversations with those businesses, too. As we've found with translation integration, some businesses were deciding they didn't want to take up the money until 1 July this financial year rather than last financial year. So, it just depends on our negotiations with each of those businesses and their circumstances.

Senator WATT: You talked about the spending profile for this. Is that across the forward estimates?

Ms Luchetti: Yes, that's right.

Senator WATT: So, it will be four years since the strategy was announced before the money will be fully spent?

Ms Luchetti: It all depends on the milestone payments in terms of what actually goes into those contracts when we're negotiating with those businesses.

Senator WATT: It could be later in some cases?

Ms Luchetti: No. The profile is the profile, and the grant guidelines explain when the funding streams finish in terms of 2023-24—those types of things. I'd have to go back to the guidelines to double-check.

Senator WATT: Okay.

CHAIR: Senator Watt, sorry to interrupt, but Senator Mirabella has some questions in relation to hydrogen. Mr Fredericks, I'm just trying to get a guide as to whether your officers who deal with that subject matter are available during this block.

Mr Fredericks: Unfortunately they're not available at all, because hydrogen is the responsibility of Minister Taylor. That's where the work around the hydrogen hubs et cetera is being done, so we always deal with that in energy and emissions reduction estimates on Monday in the environment committee.

CHAIR: Okay.

Mr Fredericks: But, to be fair to the Senate, we can at least have a listen and perhaps take questions on notice or see what we can do.

CHAIR: Let's do that. Senator Watt, I just wanted to flush that out. Please continue.

Senator WATT: The DISER portfolio additional estimates statement shows that MMI was underspent to the tune of \$35 million. I'm presuming that was last financial year. Why was that money not provided to Australian businesses as it was budgeted to do?

Ms Luchetti: I think that's just a profiling in terms of the conversations and negotiations that we're having with business, but Ms Mulder will be able to assist.

Ms Mulder: Senator, you were referring to?

Senator WATT: The additional estimates statement for the portfolio shows that MMI was underspent to the tune of \$35 million.

Ms Mulder: That's correct, yes.

Senator WATT: Why did that money not get out the door to business, as was budgeted for?

Ms Mulder: The original budget for 2020-21 was \$40 million for the Modern Manufacturing Initiative, and, as you can see, \$5.91 million was the actual expense for 2020-21. Last estimates, we spoke about the amount that had been accrued for the last financial year, which was \$5.91 million. So that \$5.91 million represents the three contracts that had been executed at that point in time and their first milestone payments. Other businesses had been successful in receiving grants at that point but were in negotiations with the department. And, of course, as you can appreciate, with the environment at that time, including COVID, we worked with businesses to suit their time frames rather than our time frames. With the remainder of that \$40 million funding, there was a movement of funds, so that has been moved over to further financial years.

Senator WATT: The same statement projects \$420 million in MMI expenditure this financial year. You have given me some figures so far about the strategy as a whole and the money that has been spent. Can you just remind me which of those are for MMI as opposed to the overall MMS?

Ms Mulder: The \$420 million was for the Modern Manufacturing Initiative, the MMI.

Senator WATT: And the figures you gave me before were for translation and integration round 1—that's MMI?

Ms Mulder: That is MMI.

Senator WATT: Supply chain resilience is not?

Ms Mulder: No.

Senator WATT: MMF round 2 is not?

Ms Mulder: No.

Senator WATT: And Advanced Manufacturing Growth Centre commercialisation—

Ms Mulder: Is not. It's the collaboration scheme.

Senator WATT: So far, of the \$420 million allocated for MMI this financial year, \$60.5 million has been spent, being translation and integration round 1?

Ms Mulder: Certainly, the funds that have been spent to this point in time are from integration and translation round 1, that is correct.

Senator WATT: Okay. Thanks, Chair.

CHAIR: Thank you, Senator Watt. Senator Mirabella has some questions in relation to hydrogen.

Senator MIRABELLA: Mr Fredericks, I understand you will be taking these on notice.

Mr Fredericks: Yes, if that suits you.

Senator MIRABELLA: But I'm moved to ask these questions because I did question Snowy Hydro the other day on this, and the CEO was very upfront that they are not experts in hydrogen. This is in relation to the Kurri Kurri plant.

Mr Fredericks: If you're comfortable, Senator, we will take them on notice, because I do want to help, and we will get back to you as quickly as we can.

Senator MIRABELLA: Okay. I'm moved to ask these questions and raise this issue in light of today's announcement by Origin about another coal plant being closed a number of years early. That is, obviously, of great concern going forward for the stability of generation, stability of the grid. It is proposed that the Kurri Kurri plant will eventually be hydrogen capable. My questions relate to the reality, the feasibility and the cost of that. The head of Snowy Hydro told us that, for example, the decision being made on some of the equipment, Mitsubishi turbines, has been made because those turbines are hydrogen capable, although I also understand they are potentially hydrogen capable. So I would like to know what that is going to cost over what time period. But, more importantly, a whole bunch of infrastructure would have to come with that eventually, and the start of that has got to be some hydrogen production. So I am curious as to what sort of feasibility is being done on that.

By my reckoning, the hydrogen will be produced from coal gasification in the Hunter. That is one option. Steam methane reforming—that is going to require a carbon capture and storage system. What's all of that going to cost? The existing gas pipeline is not capable of taking more than, I think, about 10 per cent hydrogen. If they're going to run at 30 per cent hydrogen mix or something, there's a new pipeline. What's that going to cost? And, in the alternative, or as well as, I know there is a lot of talk about very large-scale hydrogen production from electrolysis. Well, I am really interested to see the feasibility of that anywhere near the Hunter Valley—what that would look like, what the footprint of that would be and, ultimately, what the cost of the gas would be. So there are a whole lot of questions.

Coming down to it, what I would like to see is some broad modelling on some of those options—the cost of upgrading the eventual plant to run on a certain mix of hydrogen. I know that, in theory, those Mitsubishi turbines are supposed to be able to run on 100 per cent hydrogen. But what sort of conversion cost is that going to be? And I would like to know the cost of all those other options, the cost of the hydrogen as best as we can estimate it now. I think these are very important sums to do today.

Mr Fredericks: They are very valid questions, and we will be in a position to be able to give you quite a deal of detail on that. Just a couple of things for you to note: when it comes to the sorts of questions that are about the costings to Snowy Hydro for the project itself, we would most likely go to Snowy Hydro to ask that, for that information. We'd work with them on that, because it's their responsibility and their accountability. All of the questions you've got around connection, the hydrogen issues, are our responsibility, and we will be able to come back to you with a bit of detail on that.

Senator MIRABELLA: Thank you.

CHAIR: Thank you, Mr Fredericks; we appreciate that. Senator Patrick, you have some additional questions in relation to building codes. I hope you had a successful period in your previous committee before you joined us.

Senator PATRICK: Yes, I did. I will try and expedite this if I can.

CHAIR: Thank you, Senator Patrick. You have the call.

Senator PATRICK: Mr Rake, I think you're new to the job?

Mr Rake: I am; this is week 5.

Senator PATRICK: First estimates?

Mr Rake: In this capacity, yes, but I have appeared at other committees over the years.

Senator McDONALD: He's already answered questions today, Senator Patrick. You should have been here earlier!

Senator PATRICK: There you go. Does that mean I can be hard on you—is that how this works?

Mr Rake: I have spent the last four weeks and three days studying very hard.

Senator PATRICK: That's good. I just want to go to the issue of cladding. You may have seen my past interactions with the former CEO and concerns that I have raised. Some of that centred on a product called K15, which is Kooltherm, a product that was found to have been not compliant in the Grenfell fires. We did some tracing back through to look at how that was being handled here. Another example has come across my desk. I don't know how we want to handle this, Chair, and Mr Rake. I've got a report on the East Maitland aged-care facility. It's a fire engineering report.

CHAIR: Where is it located, Senator Patrick?

Senator PATRICK: It's in Maitland in New South Wales. It's an example—

CHAIR: Sure.

Senator PATRICK: This report is dated May 2020. I don't know how to do this, Chair. Maybe I will just give it to the witness. I am just a little bit reluctant to table it, because I don't know whether it is commercially sensitive or not.

CHAIR: Okay. Let's reflect on that.

Mr Rake: Ask a question and then—

CHAIR: Does the witness need to refer to—

Senator PATRICK: If he wants to see it, maybe there's a way. I don't want to put him at a disadvantage—

CHAIR: No. Let's see how we go.

Senator PATRICK: Maybe take this at face value. This fire report for this residential aged-care facility says a BCA type A fire-resisting construction applied to this development, in line with specification C1.1 of the building

code of Australia 2019, amendment 1. Later in the document it refers to the cladding. The cladding relies on Kooltherm K15. It relies on a test certificate that says: 'This BS 8414-2 report of Kooltherm K15, a product made of the same phenyl foam core as part of the Rainscreen system, proves that Kooltherm does not pose an additional flame-spread risk.' So the engineer has done their job. They've looked up the certificate. A short time later, Kooltherm had then withdrawn the certificate—and I'm happy to table this letter. Basically it says:

In October 2020 Kingspan Insulation withdrew the following three BS 8414 cladding tests as the K15 that they incorporated did not sufficiently represent the product currently on sale.

So there was a difference between what was tested and what was actually being sold. This leaves us with a dilemma, where you've got an aged-care facility that now has cladding—and everyone has tried to do the right thing, but a certificate has been withdrawn because of concerns related back to the Grenfell fire. How do we handle this? I know there are state jurisdictional issues here, but how do we handle this?

CHAIR: Senator Patrick, before the witness responds, have you got all the information you need to give a full answer?

Mr Rake: I'm comfortable that I can respond at a reasonable level of specificity and I'm happy to take some—

Mr Fredericks: Could I say one thing. I think it's right for Mr Rake to do his best to answer that at a high level, but I think, given the detail around this, it is incumbent on us to work with you outside of estimates to understand the issue. I'm just conscious of sensitivities around these sorts of issues.

Senator PATRICK: Sure.

Mr Fredericks: So if you're comfortable with a general answer—and that's fair; the senator deserves that. But I think what you need is a bit of work—

Senator PATRICK: I'm using this as an example of what could be a systemic issue and trying to understand how you address this sort of issue.

Mr Fredericks: Understood. If you're comfortable for us to give you a generic answer—

Senator PATRICK: Yes, and I'm happy to assist offline.

Mr Fredericks: and then I think we'll hoof out of here and look at it in detail.

Mr Rake: Senator, as you identified, I think you already understand that, at the very building compliance level, that would fall back to the certifying jurisdiction, whether that's a state or local government authority. But, in terms of dealing with a certificate that's been withdrawn, as this matter has progressed over the last couple of years there have been some improvements to the way the CodeMark register deals with these. Previously the register showed active and suspended certificates. I understand the register, through our efforts negotiating with JAS-ANZ, now includes withdrawn and expired certificates available for members of the public to view. So, in terms of the information available to the certifiers, to the operators of the facility, they would have access to that information now which might not have been as easily obtained previously.

Senator PATRICK: This report is dated after it was withdrawn, which makes me think that maybe the engineer went to the database, looked at the certificate and went, 'Everything's good' and then certified it as compliant.

Mr Rake: Did you say that that report was dated after the withdrawal?

Senator PATRICK: Yes. This was dated 10 May 2021, and, in relation to the certificate, Kingspan has said, 'In October 2020 Kingspan Insulation withdrew the following three BS 8414 cladding tests'. Sorry, I perhaps miscategorised it at the start. I mistakenly went off the date of the letter.

Mr Rake: With your permission, Senator, that would be a good one for us to take and work through the order of those dates and the information that was available at the time of each of those assessments, and we can come back to you.

Mr Fredericks: As I see it there are two things out of that. The first one is that we'll take notice the systemic issue, if there is one. That's the basis on which you raised that issue. That's sensible. Also, given Mr Rake's comments about the certifying jurisdictions' responsibilities, we'd want to make sure that, on the specifics, we engage with the certifying jurisdiction as well. So we'll take it on notice on both those bases.

Senator PATRICK: I will lead to my next line of questioning, which you have sort of touched on in the past. I have had a real issue—and Senator McLachlan joined me at one stage—with the idea that the database only contained current certificates. If you wanted to go back and look to see whether the product that your house was actually built with several years ago was compliant, you could not do that. I will just refer to 22B of the CodeMark Certification Scheme rules; I have version 2016.2. The rules of the scheme say the scheme

administrator is responsible for creating and maintaining the register of certification bodies and the register of certificates of conformity, which must be accessible by scheme participants and the general public through the scheme administrator's website—that is, presumably, the database. The way I read that and the way anyone who looked at this from a common-sense perspective who wanted to go and check their product is certified is that all of the certificates would be there—the current, the suspended, the withdrawn—and you could go back through the history of those. I have had a private briefing from your organisation and I have not breached that private briefing, so I know there is progress here. I would like you to put on the record what you are doing in that space—what has been done and what you are doing.

Mr Rake: In consultation, they have extended the register to make expired and withdrawn certificates also available. So active certificates, suspended certificates, expired certificates and withdrawn certificates are all available on the register.

Senator PATRICK: Is that online? If I wanted to search this particular product, could I trace the history of this product over time?

Mr Rake: The advice I have from the manager of the certifying scheme is that all those four categories are there. So if that certificate falls into one of those four categories, it should be on the register.

Mr Fredericks: Using common sense, I suspect there will be a question about how far back the system has been able to reach for 'now expired'. I don't know anything about it but I have a suspicion that that would be an outcome moving forward.

Senator PATRICK: My role in life is to make life better day by day, so if we make it better, we have achieved an outcome here.

Mr Fredericks: We will look at that particular issue and take that on notice.

Senator PATRICK: I will actually go and do the same, and we can meet again in May.

CHAIR: Thank you for making our committee better hour by hour, Senator Patrick.

Senator McLACHLAN: A constituent has given me some correspondence from the ABCB, which I will table, which means I don't really expect you to answer the questions on this letter today. I would just like you to take it on notice. It is a letter to Mr [inaudible] and concerns a response to a client complaint with regards to codemark certificate cm20029. It is signed [inaudible], chief executive officer, 26 June 2020. Like my colleague Senator Patrick, I am just interested in the processes following a response to a complaint. Because in this complaint, many aspects are upheld. I am not seeking to challenge but I am interested. It concludes that some of the claims in a particular certificate of conformity were not clear and goes through the arrangements of a new certificate being issued. I am interested, if you are in the industry, if your building had that cladding or whatever, how you would be informed the certificate had been withdrawn and a new one issued?

Mr Rake: I've received the correspondence, and I'm happy to take that and come back to you.

Senator McLACHLAN: I don't even necessarily need a complete breakdown of the complaint itself. It's more the processes around how the parties all move forward. In particular, I'm interested in the section regarding the thermal break, because that's where there's quite a bit of scientific analysis. In effect, it indicates that there was not effective guidance in relation to the previous certificate, which therefore allowed the issuing of a new certificate. I'm struggling with the utility of all that. If in fact there are some deficiencies or a lack of clarity around issuing a certificate, and you issue a new one, it undermines the validity of the scheme, which is to inform architects and builders that a product can do a certain thing. It's similar to the theme of my questioning on the last occasion.

Like Senator Patrick, I'm interested in the information that's provided in response to the complaint. How does another member of the public get access to this? It's not necessarily about the complaint itself or the structure of the complaint but about the technical aspects coming out of the complaint. The complaint has findings relevant to the individual who's made the complaint, but there are also a series of implications for those in the industry. How are they communicated—where they are communicated—around the issue of a new certificate or a narrative around that? To summarise: a complaint is made, certain aspects are upheld and a new certificate is issued. I'm interested in how a certificate of nonconformity could have occurred—it's a little technical for me—and the process, going forward, with the information that's been delivered to that one individual. That's fine for the individual, but how does that get communicated to a broader public audience and therefore ensure building safety? Is that clear?

Mr Rake: Yes, Senator. I understand the question you're asking, and I'm more than happy to go through it and come back to you and describe that in that process sense.

Senator McLACHLAN: If there's more to enquire about, I'll do so in the next estimates.

Mr Rake: Of course.

CHAIR: Thank you, Senator MacLachlan. It's good to see you working hand in glove with Senator Patrick for the good people of South Australia.

Senator PATRICK: And for the nation.

Senator McLACHLAN: But for South Australia first!

CHAIR: Senator Chisholm has some questions in relation to dumping reforms.

Senator CHISHOLM: Yes—or, more precisely, antidumping reforms.

CHAIR: Depending upon your perspective!

Senator CHISHOLM: The additional \$5 million over the forward estimates that was in the 2021-22 budget included \$800,000 for this financial year. I want to get a sense of what the purpose was of that \$800,000 being provided for this financial year.

Ms Bennet: Let me look through my notes to see if I can find that for you.

Ms McCulloch: I think we'll have to take that on notice.

Ms Bennet: Apologies; I'm new in this particular role, and I don't have that level of detail in my notes. I'm very happy to take it on notice.

Senator CHISHOLM: Okay. Do these reforms include a legislative component?

Ms Bennet: Yes, they will.

Senator CHISHOLM: Is that component essentially the reforms that the department of industry have been consulting on since 2017?

Ms Bennet: Yes, that's correct.

Senator CHISHOLM: That includes proposals which came out of the International Trade Remedies Forum subcommittee, I think, in 2016?

Ms Bennet: Yes, that's correct.

Senator CHISHOLM: When did these reforms first go to cabinet? I understand from previous responses to questions in estimates that it was when Minister Cash was the minister responsible?

Mr Fredericks: I'll do the right thing and take it on notice. I think we're going to have to not be able to answer that, as it's cabinet-in-confidence, but we'll take it on notice.

Senator CHISHOLM: Okay. According to the ITR Forum's published minutes from 5 July last year, the department advised that it is 'drafting legislation to implement the reforms as soon as possible' and 'DISER will seek stakeholder feedback around October 2021 if it obtains approval to release an exposure draft'. Who provides approval to release an exposure draft?

Ms McCulloch: When an exposure draft is released is a matter for government.

Senator CHISHOLM: So it would be the minister?

Ms McCulloch: It is the minister, but there is actually a process through the Office of Parliamentary Counsel and with the Prime Minister and Cabinet around legislation and availability of drafting resources.

Senator CHISHOLM: So is there a timetable on when we can expect the exposure draft to be released?

Ms McCulloch: It hasn't yet been listed on the parliamentary calendar, and at this stage we don't have a timetable.

Senator CHISHOLM: There was a change in ministerial arrangements in September when Mr Porter ceased to be the minister and Minister Taylor was subsequently appointed. Has this been part of the delay for the exposure draft being released?

Ms McCulloch: I'd have to take the detail on notice, but in general, as I said, the drafting of legislation is dependent on parliamentary availability of drafters, and that has been a significant part of the delay.

Senator CHISHOLM: The published ITRF minutes from December last year state that the department 'advised that the department was working closely with the commission, the Office of Parliamentary Counsel and other government departments to implement the reforms'. Ms Drury I think is the general manager of trade.

Ms McCulloch: Yes, she is.

Senator CHISHOLM: The minutes state:

Ms Drury advised that drafting has been delayed due to a number of factors including complexities that had arisen in drafting the legislation for some of the reforms.

Is that correct?

Ms McCulloch: That's right.

Senator CHISHOLM: It continues:

Should approval for an Exposure Draft be obtained, the department would be seeking feedback from stakeholders, including ITRF members in January 2022. It was expected that members would be given 2 weeks to review the proposed legislation before it was introduced in the Autumn seating of parliament.

That was what that contained. I take it that that's not likely to be the case.

Ms McCulloch: That was the expectation at that time, but the bill is not ready.

Senator CHISHOLM: So no exposure draft has been provided to industry nor has any legislation been foreshadowed for the autumn sittings. So there's no proposed introduction on the horizon at all?

Ms McCulloch: I would have to just double-check my facts, but it is not listed for the autumn sittings.

Senator CHISHOLM: Thanks.

CHAIR: I think we've now finished outcome 1.2, so we're in a position to move to CSIRO. I thank very much the officers who were in attendance for outcome 1.2.

Commonwealth Scientific and Industrial Research Organisation

[17:44]

CHAIR: I welcome the witnesses. Does CSIRO have an opening statement to make, or could we go straight to questions?

Dr Marshall: I do have one, if there's time.

CHAIR: If it's not too long.

Dr Marshall: Thank you. Team CSIRO has been busy collaborating across the system to turn Australian science into solutions that benefit all Australians: we have been creating Australia's most advanced model for predicting and beating bushfires in collaboration with the Rural Fire Service; we have been collaborating across the agricultural system to deliver new strains of drought-resistant wheat; and we have released a landmark study in partnership with the Centre for Invasive Species Solutions on preserving Australia's biodiversity. We're working broadly across sectors to catalyse innovation and to deliver an impact.

Our vision is to create a better future for all Australians and to help all parts of our world-class research sector to better connect with industry so that we can get more brilliant inventions out of the lab and into our lives. For production work with every major Australian university and to manage national labs to help supercharge Australia's research, we recently added a new lunar test bed to help researchers and businesses preparing to head to the moon. We look forward to working with universities to access our test bed facilities as part of the Trailblazer program.

We also work with thousands of businesses across every sector to drive sustainable innovation and growth. For example, together with the Commonwealth Bank, we're combining climate and financial data to help boost resilience to climate risk in the financial sector. And under a new five-year arrangement with Boeing, we're collaborating to create a more sustainable aviation industry. Our purpose is to solve Australia's greatest challenges, and so we're always looking ahead to capture opportunities for the nation. With the establishment of the NASA AI centre, we're laying the foundations for an Australian AI digital ecosystem. Thank you, Chair.

CHAIR: Thank you. Senator Cox.

Senator COX: My first questions are in relation to GM cotton and the Fitzroy River catchment. How long has CSIRO been working on developing GM cotton?

Dr Marshall: I think that's a question for Kirsten Rose, actually.

Ms Rose: I don't have that data at hand. If you could give me a little more detail about what you're looking for then perhaps I can take it on notice.

Senator COX: How long has CSIRO been working on the development of genetically modified cotton? That was the question.

Dr Marshall: Sorry, I didn't realise you were talking about GMO cotton.

Senator COX: Yes.

Dr Marshall: We can answer about our breeding programs. We've been doing cotton breeding for probably more than 50 years. We breed different kinds of cotton, but I'm not sure that that's what you're asking. You're asking about genetic modification, which—

Senator COX: Is there a time frame that you've been working on it?

Dr Marshall: I'm not able to answer that. I'm not aware of it, so I'll have to take that on notice. I would probably know about it if it were significant.

Senator COX: How many variants of GM cotton are there which have been developed by CSIRO?

Dr Marshall: Again, Senator, if you're asking about genetic modification I'll have to take it on notice. There are many varieties of cotton that we breed—and wheat and many other crops. Basically, we breed them to reduce the impact of drought. For example, wheat today has a 30 per cent higher yield than it would have otherwise, due to the effects of climate change. That's because we've bred new strains, but that wheat is not genetically modified. It's bred genetically, if that makes sense?

I just want to be clear: you aren't talking about changing the genetics of the material through breeding, you're talking about interfering with the genetics—changing them through some mechanism other than breeding. Is that what you're saying?

Senator COX: Yes.

Dr Marshall: Okay. I'll have to take those questions on notice.

Senator COX: It would be great if you could provide that. I also want to know if CSIRO gets a royalty from GM cotton. If you could get back to me about that on notice, that would be great.

Dr Marshall: Yes.

Senator COX: My next questions are in relation to the Gas Industry Social and Environmental Research Alliance.

Dr Marshall: That's GISERA. Dr Mayfield is in the best position to answer that.

Dr Mayfield: I'm happy to answer your questions.

Senator COX: In relation to the progress report on the groundwater baseline study for the Canning Basin, can you tell me which oil and gas companies are currently part of the alliance?

Dr Mayfield: Is that GISERA you're asking about?

Senator COX: Yes, that's right.

Dr Mayfield: We have Origin, Santos, Queensland Gas Corporation and APPEA. I think that's everyone.

Senator COX: How much money has each oil and gas company invested in the alliance over the past five years?

Dr Mayfield: In terms of the past five years, I'd have to take that on notice. In terms of the whole GISERA program, it's been going for some time now, and it's had about \$54-odd million worth of investment to date. The majority of that comes from governments, whether they're federal or state governments, and a smaller proportion of that comes from companies.

Senator COX: I understand that the research alliance recently published a groundwater baseline study of the Canning Basin, which CSIRO undertook. Do they believe the involvement of oil and gas companies, particularly ones like Theia Energy, is a conflict of interest in developing scientific research on groundwater?

Dr Mayfield: If it's done through GISERA—I just want to make sure we're talking about the same study, because there's also work that has been done under the Geological and Bioregional Assessment Program, and that work is fully government funded.

Senator COX: No, I'm talking about the scientific framework that's being developed in relation to the baseline study for groundwater in the Canning Basin. Within this report, Theia Energy are part of your actual development group of that framework. I have a significant concern when we've got a fracking company like Theia Energy, who will operate in the Edgar Ranges in the Kimberley, who will determine the cultural places and the aquifers and talk about the scientific research that formulates that in order for them to go in and frack country.

Dr Mayfield: In terms of the research that gets done through GISERA, the projects are put forward by researchers, community members and other relevant stakeholders. And there are regional advisory committees, so the governance structure is quite clear around how those projects are selected. Those advisory committees all have independent members on them who have the balance of the vote. So the selection of the projects is independent. The actual execution of the research is also done independently by CSIRO. Companies don't

participate in the research. They get to see the outcomes of the research, but it's done independently with the right level of scientific rigour.

Senator COX: I'm not talking about the independent research; I'm talking about the development of the framework—the framework that actually governs the data collection and the task outputs and deliverables of that framework. In your progress report on this, you actually highlight the different areas of baseline characterisations of those, which continue to be an issue when we're talking about water resources in regional development, because they become open slather for energy and fracking companies like Theia Energy. They're sitting at the table, developing the scientific basis on which to do this, all the while crafting it along the way to be able to get access to it.

Dr Mayfield: I can only talk about the work that gets done by CSIRO, and that's done to ensure that we use scientific rigour and take the right approach to baselining and whatever research that gets done.

Senator COX: Thank you for your answer. My only other set of questions is in relation to the Murujuga rock art. Has CSIRO undertaken any independent assessments of the impact of the industrial emissions from industry on the Murujuga rock art?

Dr Mayfield: Can you say that name again, for the rock art?

Senator COX: Murujuga. It's on the Burrup Peninsula in the Pilbara region.

Dr Mayfield: There was some work done on that some time ago. It would probably have been around 2015 or 2016, I believe.

Senator COX: Can you provide any details in relation to the findings and recommendations of that work?

Dr Mayfield: I'd have to take that on notice. It's something that I haven't looked at for a long time.

Senator COX: I note that there was a 2017 Senate inquiry which uncovered some evidence regarding the incorrect use of flawed studies on the impact of industrial emissions that are actually still up on a WA government department's website. Do you have any concerns with those?

Dr Mayfield: The work that was done at the time was peer reviewed. We've gone through a long exercise around the body of the work, and we're very comfortable with the position that we ended up in in terms of what work was done to understand the scientific rigour behind it. That was done back then and we're quite comfortable for it to stay there.

Senator COX: Will there be any further work?

Dr Mayfield: There hasn't been any activity in that space for a number of years. At this point in time, I'm not aware of any intention to do any more work.

Senator COX: Given the changes to legislation in the state of WA, particularly around protection of cultural heritage, but also given the Juukan Gorge inquiry and the *A way forward* report, I thought there might be. That's it for me, Chair.

CHAIR: Senator Rennick has to catch a plane and has asked for some indulgence to ask a quick question.

Senator WALSH: That's okay.

CHAIR: Senator Rennick.

Senator RENNICK: Larry, last time in estimates, you said there were 40 different climate models. I'm curious as to which model the government will be using to determine net zero emissions.

Dr Marshall: Are you talking about the model to actually predict the climate or are you talking about the model to map the pathway to net zero?

Senator RENNICK: Presumably you'd have to use some of those climate models to come up with a set of rules to map a pathway to net zero, wouldn't you? They'd depend on each other, wouldn't they? The way to net zero would also have to link to one of those 40 models?

Dr Marshall: I might be missing the question, but the pathway to get to net zero—for us, at least—has been about what scientific interventions we need to make. There are things like FutureFeed to reduce the emissions in the cattle industry or hydrogen to reduce the emissions in energy. What kinds of things do we need to create so that Australia—

Senator RENNICK: Clearly there's got to be a correlation between a reduction in carbon dioxide and a reduction in temperature, because the whole idea of reducing carbon dioxide emissions is to reduce the temperature. At some point you've got to take the model that's used to calculate reducing carbon emissions and

apply that to the model that says, 'This is how the temperature and this is how carbon dioxide fits into the climate model for the temperature.'

Dr Marshall: If you're asking how long it will take to see an impact from reducing carbon emissions, we—

Senator RENNICK: That's a part of the argument, isn't it, that we've got to keep carbon levels at certain levels to reduce, or at least control or limit, the temperature increase?

Dr Marshall: That's right. I think Dr Mayfield has that information.

Dr Mayfield: There are the two different types of models. The IPCC work is using an ensemble of the 40-plus models and looking at trying to get the right understanding of what the climate trajectories are. You'd be aware that there are the RCP pathways that they look at. That sets a range of different pathways between CO₂ and temperature rise that are understood through the IPCC work. That's then driving the net zero by 2050 targets that we've seen through the COP process.

To do the net zero work in Australia requires a different sort of modelling because it's all about which technologies are available to us to produce energy or to do industrial activity that has lower emissions—the uptake of those, the relative advantages and disadvantages for those various businesses. So it's a different sort of model that you use to then work out what steps you take to get to net zero in the Australian context. But the IPCC work provides that guidance as to, if we get these emissions to these levels globally, this is what we will expect to see in the climate temperature-wise.

Senator RENNICK: And you will be able to map that?

Dr Mayfield: They are already mapped, and one thing the models show us is that there's a lot of carbon already in the atmosphere, and in the oceans for that matter, which locks us into a trajectory where we are heading for 1.5 to two degrees already. That's assuming that there's some sort of level of reduction in the emissions.

Senator RENNICK: Can you send me that algorithm or model so I can have a look at it myself?

Dr Mayfield: I don't think it's something you can look at yourself. It's very complex.

Senator RENNICK: I am quite capable of solving complex problems, so I'd be fascinated by it. I must admit that I'm intrigued. I would have thought that, if the science was settled, there would be only one model and not 40. But I'll leave that as a comment. Thanks, guys.

Dr Mayfield: The models are produced by different countries.

CHAIR: Thank you, Senator Roberts, for being patient. I do need to give Senator Walsh the call and then we do have to break for dinner at 6.30. I am keen, to the extent we can, to get through the next little session as quickly as possible. If everyone could assist us on that basis. Senator Walsh, you have the call.

Senator WALSH: Dr Marshall, I thank you and all your colleagues for being there for us today. I have a couple of questions on trends in your staffing levels, so your direct CSIRO employees. Are you able to tell me how many full-time equivalent staff you had at 30 June 2021 and what the equivalent figure would be for as close as today as possible?

Dr Marshall: Mr Munyard will give you that information. I want to make sure I give you the right answer. You're not looking at all the people CSIRO employ; you're just looking at those in direct employment on our payroll in FTE, full-time equivalent?

Senator WALSH: That is right; your actual direct employees.

Mr Munyard: Our full-time equivalent as at 30 June 2021 was 4,949.

Senator WALSH: And as at today?

Mr Munyard: As at 31 December 2021 it is 5,032.

Senator WALSH: Was there a change to your ASL cap? Was your cap lifted during the pandemic?

Mr Munyard: Our ASL estimate in 2021 was 5,351 and for the 2021-22 year it is 5,414.

Senator WALSH: So as at today you're about 400 below your ASL cap for your direct CSIRO employees?

Mr Munyard: That's correct.

Senator WALSH: Dr Marshall, can you give us some insights into why that would be the case—why you'd be significantly under your cap in terms of direct employment?

Dr Marshall: I can. There are a number of modes of employment at CSIRO, and not all of them are direct and on payroll. We have affiliates and other mechanisms. We tend to shape the organisation with the skills that we need to suit whatever challenges we think Australia is going to face and get the scientific expertise that we need. We've been going through a number of shifts, for example, around the Modern Manufacturing Strategy or around

AI. You may have seen we have a number of recruiting campaigns going on at the moment to recruit new talent. Of course, recruiting has been incredibly difficult during COVID, so we're probably a little bit behind where we would otherwise be. We don't try to get to the maximum of our ASL; we try to choose the talent that we need for the problems that we need to solve.

Senator WALSH: When I asked the question about your direct actual FTE employees, you mentioned the concept of another number which might include all the people working for you in various modes. I assume that includes independent contractors and labour hire and so on. Is that where you were going with that?

Dr Marshall: I was actually going a little bit broader. We also have a lot of students and postdocs who are employed through the university but work on our site with us. We can do postdocs either way: we can employ directly or we can employ them through a university. It = depends on what's best for them and for us and for the university. When you add those numbers, it gets a little bit larger depending on how you define it.

Senator WALSH: Without taking our time to go through all of that, what's the headline number that you have in mind when you're including all those people?

Dr Marshall: Tom, you might have to help me out here.

Mr Munyard: Senator, if you're talking about all of our affiliates, it is somewhere between 2,000 and 3,000 people.

Senator WALSH: An additional 2,000 to 3,000 people?

Mr Munyard: Yes.

Senator WALSH: We may come back with some questions on notice based on that. But I won't go through it now. Your answer to why you might be 400 under the ASL cap is partly in relation to recruitment challenges and the current environment and partly because you may choose to do it a different way depending on what your priorities are?

Mr Munyard: That's correct, Senator.

Dr Marshall: Yes, Senator.

Senator WALSH: I have a question around the number of projects that you've done in COVID. You've had a special role in relation to providing advice during the pandemic. How many reports have you published in that special role that you've had during COVID?

Dr Marshall: There are a range of them; that's why I'm hesitating. We did reports on economic recovery. I think we even delivered a hydrogen report for aviation during that time. So there are a number of them that relate to recovery from the pandemic. But that's probably not answering the question you are asking.

Senator WALSH: That's okay. That gives us a little bit more insight into how you do things that we could put on notice. Would you normally expect that the government would formally respond to those reports you have done—for example, on economic recovery—and did they respond?

Dr Marshall: We generally engage with our department on these things if they relate to things that the government would be needing or wanting to look at.

Senator WALSH: On an informal basis? You might be in a meeting about something and engaging rather than getting a formal response?

Dr Marshall: It depends on what it is. We far more frequently engage with the department directly, since we are in that department.

Senator WALSH: That gives us a little bit to go on in terms of some possible further questions on notice. You've got \$150 million for the CSIRO Innovation Fund, which is managed by Main Sequence Ventures as part of your broader commercialisation program. CSIRO is also renowned for having done some very pure research which has led to the different sorts of inventions that you proudly have on your website, starting with the technology underpinning, for example wi-fi, which I take to have come out of a pure research model rather than an industry linked applied model. How important is foundational discovery research to driving ongoing innovation and commercialisation in the long term?

Dr Marshall: It's very important. One of the things that we do to balance that at CSIRO—well, there are two things, really. We've increased our collaboration with the university sector because there are 39 great unis and they do terrific horizon 3, blue sky foundation research. So we've deepened the collaboration there. In our act, it does specify that our purpose is to help ensure translation of all Australian science, not just what CSIRO does, so that's the reason for that. And, in terms of the second one, we've invested a lot recently in what we call our future

science platforms—the deep discovery research, the blue sky research. Tom will correct me if I'm wrong, but I think it's \$150 million over the forwards, isn't it, Tom?

Mr Munyard: I think so. That sounds in the ballpark—yes.

Senator WALSH: For what you just described as the blue sky research?

Dr Marshall: We call them our future science platforms. Hydrogen, in part, came out of a future science platform—our hydrogen cracker. We're looking at carbon locking—a way to lock in carbon for better sequestration. We're looking at quantum. So these are right on the cutting edge. I should say that they're all done in collaboration with a pretty big cohort of students and post docs, who often work in universities and we're all partnered up with many of the unis on this work, again, to deepen that collaboration.

Mr Munyard: Senator, just to correct that figure, it's slightly above \$150 million. It's just over \$40 million per annum for the four years.

Senator WALSH: How does that compare, then, to the \$150 million for the CSIRO Innovation Fund? Is that over the same period or was that just a one-off?

Dr Marshall: The fund is a 10-year fund, and that fund is not for investing in CSIRO research, although it can, but it's investing in—

Senator WALSH: Commercialisation?

Dr Marshall: all of the research across the whole system.

Senator WALSH: Can I just get your general perspective, Dr Marshall, on what the appropriate balance is for our country in investing in blue sky research, as you described it, versus investing in research that is linked to industry partners even before the commercialisation phase? What do you think the appropriate balance is? Are we striking it?

Dr Marshall: I probably can't answer for the system, Senator, but I can tell you how we think about it for CSIRO. That \$40 million is, as a ballpark or rough number, about 10 per cent of what we invest. I'm just pulling the number out of the air. Tom might need to check it later, but I think that would be fairly close to the right percentage. We're an industrial research agency, so our purpose is, of course, to translate and assist with Australian science. If you look at a company, they might invest four per cent or even only two per cent in cutting-edge research. So, based on that projection, you might say that a university would probably be something more than what we are, given that we're in the middle between industry and academia—if that helps you.

CHAIR: Senator Walsh—

Senator WALSH: I'll wrap up quickly, Chair.

CHAIR: Thank you.

Senator WALSH: Late last year, the government issued new directions for the awarding of research grants by the Australian Research Council, aligning those grants with the Modern Manufacturing Initiative. Do you have a perspective on what the implications of that sort of shift are for the scientific community?

Dr Marshall: Insofar as the priority areas in the Modern Manufacturing Strategy, we shared a lot of our information with the department on what we were seeing in terms of areas of strength in Australia and areas that Australia might need, so those priority areas do align fairly well with what we think the priorities will be for the need of industry. Given that, universities should find it a bit easier to commercialise their discoveries in those spaces because they will have a bit more interest and a bit more pull from industry to support them.

CHAIR: I don't have any questions for the Office of the Chief Scientist or the Australian Institute of Marine Science. Senator Walsh, do you have any questions for them?

Senator WALSH: I have a few questions for the Office of the Chief Scientist but not the Institute of Marine Science.

CHAIR: Senator Roberts, you've have been terribly patient. Please be as quick as you can.

Senator ROBERTS: My questions are going to be initially to the minister and then, if there's time, to the chief executive of CSIRO. Minister, referring to the government's change in its 2050 net zero policy, in the 2019 election the government's opposition on the UN's 2050 net zero carbon dioxide policy gained you many votes and a lot of political traction, and you used Labor's adoption of the policy to really smash then opposition leader Bill Shorten. Just two years later, after emphatically, repeatedly and thoroughly criticising Labor and the Greens, there was an unexplained reversal last year and the government adopted the UN's 2050 net zero carbon dioxide policy. What is the specific change in climate science on which the government's change of policy is based?

Senator Seselja: I think to answer that question in detail, it would probably be best directed to the environment minister. But I would simply say that I don't accept the premise of all of what you've said in terms of—

Senator ROBERTS: What do you disagree with?

Senator Seselja: You said 'unexplained', but obviously we went through quite a detailed process. The Prime Minister spoke on a number of occasions about his desire to get to a net zero position if it could be done in a way that protects Australian jobs and continues to see industries thrive. That's what Minister Taylor is working on now. We're obviously not in the space where we have detail in terms of those portfolios, but it was explained over a period of time. The government made the decision and obviously it played out publicly. There was a conversation with the Australian people, and there was a live debate you were aware of that the coalition went through, and the government came to a conclusion.

Senator ROBERTS: It wasn't explained in terms of some change in science. There were no references, there was no document. No publications were referred to, no specific page numbers of the change in the data or the cause, so there was nothing to change the policy.

Senator Seselja: As I said, the government was not prepared to commit to such a policy without being able to do the work as to how we would get there and how we would do so in a responsible way. That was the job that Minister Taylor in particular was tasked with and that was the work that fed into the government decision. In terms of the detail of the various portfolio parts of that, I think that's probably for another part of estimates. I think that summarises the government's position.

Senator ROBERTS: Let's go back a step further. What's the basis of the government's climate policy and the consequent policies that stumble on from that on energy, agriculture, manufacturing, social policy and other aspects that the UN's climate and associated policies impact? What's the overall basis?

Senator Seselja: It's a fairly broad question—

Senator ROBERTS: It is.

Senator Seselja: and I might ask officials if they can assist.

Ms Evans: Very quickly, the basis is really the globally agreed science on climate change which is articulated through the international panel on climate change reports.

Senator ROBERTS: The Intergovernmental Panel on Climate Change?

Ms Evans: That's the one, yes.

Senator ROBERTS: That was nice and quick. Back to the minister. Cutting human carbon dioxide output has had huge costly impacts across our society, especially on fundamentals for productivity and prosperity—for example, energy. Surely the only sound basis for a policy with such economic consequences is the specific effect of changing human carbon dioxide output.

For example, of a specified change in human output of carbon dioxide, what specific impact would it have on climate factors such as temperature, rainfall, drought or wind? When the effect is quantified, only then can we do a cost-benefit analysis—of the costs of doing that and the benefits that come from that. Significantly, we can't do any measurement of progress as we implement the policy unless we've got that specific impact of carbon dioxide. What is that specific impact of carbon dioxide on various climate factors?

Senator Seselja: I'm happy for officials to elaborate. In terms of what the government's approach has been, it has been to be part of the Paris Agreement, part of collective action across the world, where we are doing our part, and we've been doing that with our emissions reductions to date, which have been tracking ahead of many comparable OECD nations and many comparable resource-rich nations, such as Canada—

Senator ROBERTS: What would be the extra impact of—

Senator Seselja: If I can also go to your question and the pre-ambule to your question, you talked about other economic impacts or impacts in relation to higher energy prices and the like. What we've seen, under our government, in the last few years is energy prices coming down, year on year, and coming down quarter on quarter. We as a government never look at these issues in isolation. We look at it as part of that collective response and taking our responsibilities to the environment seriously but never taking our eye off the ball, in terms of the need for affordable and reliable energy, for instance. That's something we've been delivering and that's been our track record.

Senator ROBERTS: Essentially, what you're saying, Senator Seselja, is that your answer is the same as the one Senator Cormann gave me repeatedly when I asked questions in the Senate and wrote in letters—that is, we've got to do our part of global agreements.

Senator Seselja: I'm not aware of exactly what former Minister Cormann—

Senator ROBERTS: That's the gist.

Senator Seselja: I'll take your word for that.

Senator ROBERTS: I can show you his letters.

Senator Seselja: Sure. I'm not disputing it. All I'm saying is I'm not aware of exactly what Minister Cormann told you. My evidence is the evidence I've just given.

Senator ROBERTS: Assuming what I've said to you of Senator Cormann's responses, you're agreeing with it.

Senator Seselja: It's a difficult question to answer without seeing all the detail of what you've said. I think my evidence speaks for itself.

Senator ROBERTS: Bob Hawke's Labor government first introduced the climate topic in the eighties. In 1996 the Howard-Anderson Liberal-National government first made it policy. On what specific quantified effect did they base that policy, do you know?

Senator Seselja: You're talking about history of before I was in this place. Without having been involved in those discussions, I would prefer not to—I don't feel qualified to give you a detailed answer.

Senator ROBERTS: I understand, okay. Are you aware that the Howard-Anderson Liberal-National government implemented the renewable energy target that is gutting electricity and industry generally, that they stole farmers' property rights to use their land, and they did that deceitfully going around the Constitution—section 51(xxxi)—and that John Howard was the first leader of a large party to adopt an emissions trading scheme, which Tony Abbott rightly called a carbon dioxide tax? Are you aware of those major policies that are now still in play, and John Howard said that the renewable energy target has gone too far now?

Senator Seselja: I certainly wouldn't accept your characterisation of some of those policies and the way you framed them, and in relation to those fine leaders of our nation, that you've characterised their policies in a certain way. So, no, I wouldn't agree with that.

Senator ROBERTS: I've just got one thing to follow up.

CHAIR: It's got to be very quick.

Senator ROBERTS: It will be. Are you aware that, in 2013, six years after being booted from office in 2007, John Howard admitted at a global warming sceptics annual address in London that on climate science he was agnostic, yet he introduced these policies?

Senator Seselja: No, I wasn't aware of that.

CHAIR: Thank you to our representatives from CSIRO for joining us today. I should also say the Australian Institute of Marine Science won't be required, so you are released; thank you very much for your patience.

Office of the Chief Scientist

[18:25]

CHAIR: We'll go quickly to the Office of the Chief Scientist. It is a long wait for five minutes, Dr Foley, but it's Senator Walsh, so we know it's going to be a quality five minutes.

Senator WALSH: Thank you so much for being here, Dr Foley. It's going to be really difficult to ask what I would like to ask in five minutes, so we certainly might put some things on notice. Last time you were in front of the committee, we were talking about the exciting opportunities for mRNA manufacturing in Australia and some of the things that need to be in place to support links between science and advanced manufacturing. Given that, at the end of 2021, Moderna's was announced as the successful bid for delivering mRNA in Australia, could you give us, in a couple of minutes, your reflections on how significant it is that Victoria had invested for some time in R&D, in manufacturing and in creating an ecosystem to support that bid? Broadly, how important is it that we continue to support our higher education sector nationally to make these linkages with industry as well?

Dr Foley: Okay! It is quite complex, seeing as I've got two minutes. The first thing you've got to remember is that mRNA is a very new way of making therapeutics or vaccines, and it's something that the pandemic gave a chance to really rise and shine. We've also got to remember that Australia, at this stage, has not got its own developed mRNA vaccines of any sort that have actually got to a point where they're reaching the market. One of the complexities of the whole process of seeing the adoption of manufacturing in Australia of mRNA vaccines is

actually that getting IP has been difficult. We've been able to attract a company like Moderna—which is a startup; it came out of Harvard University. Many people have got Moderna vaccinations; I think my booster is a Moderna one as well. That's shown an example of research that's come out of a university startup company, in this case from the USA, which has gone gangbusters and is now going to be manufactured around the world, which is a good business model to operate.

When you look at the Australian context, there's nothing like bringing a company in to be able to set up manufacturing here; it is a little bit like a honeypot to bees. You actually start creating an ecosystem which allows a path to market, because mRNA is not just for COVID vaccines; it's got the potential for a range of different vaccines and therapeutics for different medical conditions. We've got a lot of fantastic research, particularly around the Parkville and Monash regions in Victoria. They've got very extensive biomedical research; it's absolutely super-duper—world class. We should be very proud of that. We also have that in New South Wales, through the New South Wales government's focus on having a precinct in Westmead; that's really growing. They're looking to also set up mRNA manufacture of some sort, which I think is more of a plan to have a pilot place where you can go and do that first scaling up, so you can go through the steps to be able to have what is needed to deliver the clinical trials, because manufacturing of anything to do with human health products requires you to go through these rigorous trials, which means you've got to have different stages of volume until you get to a point where you have mass use. Then in Queensland, of course, we've also got amazing medical research—that's where Gardasil came from—the University of Queensland being a good example.

Australia has invested a lot in health and medical research, and what we're seeing now is that maturity. We're going away from just the discovery side, where we've absolutely nailed it, to seeing that translation. What we're also seeing is the need to have industry, both startups and multinationals; governments, both state and Commonwealth; as well as the publicly funded agencies such as the TGA, CSIRO, Australian Centre for Disease Preparedness and other places like that all coming together so that they're able to work together. What I'm seeing is a real spearheading of that during the pandemic. It can be frustrating. I know that there was a lot of desire to see us be able to set up manufacturing of mRNA vaccine locally. I won't say it was a stopgap, because at the time AstraZeneca was seen as being the way forward, and setting that up and manufacturing it was absolutely critical to delivery of the first round of vaccines. I know I had AstraZeneca for the first two vaccinations I received. That's life saving for many, many Australians and people overseas as well, where we've taken that product internationally.

We've now got to a point, in a pandemic such as the coronavirus is, where something is changing, and we don't even know what the next variants will be like. I don't want to scare people, but we don't know if they will be variants that are of concern and that the current vaccines are not able to manage. There are a whole range of unknowns, so, when you're looking at what to prepare for the future, you've got to marshal lots of troops and be able to make sure we're prepared for anything. That's a challenge.

Senator WALSH: You've expressed quite a lot of excitement there, and did last time, about translation of research and all of the infrastructure that's required for that. You talked last time as well about opportunities for scientists to have a different way of how success is measured, not just in papers but—

Dr Foley: Yes, the metrics and things like that.

Senator WALSH: All of that stuff. There's a lot of interest and excitement around that, which I share. At the same time, I was wondering if you had any comments about how important it is to also maintain the ability for researchers to do curiosity driven research and how important that is to achieving the same goal, of ultimately fuelling our own innovation pipeline.

CHAIR: And if you could be very quick.

Dr Foley: I'll be very quick. Senator, thank you for asking that question, because it's one which I think is really important. Research is humanity's superpower. We wouldn't be here today with everything we've got without our fundamental research, whether it's radio astronomy, which led to us understanding the electronics that led to wi-fi—and thank goodness we had that for the pandemic—or, believe it or not, fundamental particle physics, which led to the World Wide Web as well as understanding the human genome, which goes to health and wellbeing in many ways. It's absolutely critical to have curiosity driven fundamental research. We've also got to remember that the definition of fundamental research is very much in the eye of the beholder. It's not like it's in two buckets. One person's fundamental research is another person's applied research. That makes it very hard to say something is in A bucket or B bucket, but one of the things we have to recognise is that it is a judgement call, and it's a judgement call of those making the decisions of where we're going to place our dollars. Because research is so important to the world and to all of us, of course you want to have the investment that will give you as much as possible, but you've also got to work within the budget that you've got. So, from my perspective, we

have to look at making sure that we do a couple of things. One is that we incite the curiosity of people so that they do want to be researchers, that we feed that as something that young people aspire to so that they work hard. It's not easy to become a researcher. There's a lot of work involved, and it's probably not as financially rewarding as other careers. So you've got to make sure that we support them and support them in their careers, and I think we've got work to do there. That's one thing—the supply chain of people to do the work. The other is also making sure we get that balance right, and it's something which is really for our society and for our decision-makers to make that judgement call.

Senator WALSH: Thank you so much for all of those insights in such a short period of time.

CHAIR: Short time: big impact. Thank you, Dr Foley.

Dr Foley: It was my pleasure.

CHAIR: Thank you for joining us today and all the great work you do. Thank you, Minister, for joining us today.

CHAIR: We will resume. Welcome, Minister Colbeck. We're moving to program 1.3—Supporting a strong resources sector. Good to see you, Mr Sullivan. I have some homework I've got to catch up on. There was a document referred to by Senator McLachlan earlier today when we were having our discussion in relation to building codes. I want to make sure it's clear for the record that that document has been formally tabled. It's the letter which was addressed to Mr Bullock, dated 26 June 2020, from the ABCB. We'll take that as formally tabled. Senator Walsh has the call.

Senator WALSH: Thank you to officers for being here. I have some questions, initially, about iron ore prices. In MYEFO there were some assumptions about iron ore prices which have proved to be fairly drastically off. I think MYEFO in December assumed that the iron ore price would be back to \$55 a tonne by the end of the financial year. As at December, it was around \$110 a tonne, and since then it has risen to around \$150 a tonne, I understand. I think you also, in previous estimates rounds, have given us some projections that iron ore prices would stabilise. It may not have been you, but I think that's what we had from DISER. Can you give us any insight into the different assumptions about iron ore pricing from Treasury in MYEFO and from DISER?

Mr Karunarathna: It wouldn't surprise you that DISER and Treasury consult with each other on their assumptions about what's going on in the iron ore market. In our December *Resources and energy quarterly* we both were expecting prices to come down. Treasury's forecast for the purpose of constructing MYEFO was \$55 a tonne by the end of the June quarter. We also forecast that the iron ore price would fall from our high levels. Our forecast was \$81 a tonne by the June quarter. We both had similar views on what the drivers were, which was that we expected some moderation in Chinese steel production and we also expected some recovery in Brazilian iron ore supply. In the past couple of months we have seen iron ore prices go a bit higher. I think most recently iron ore prices were around \$120. They rose to about \$137 before and have come down a little bit. That's because the Chinese market has been a bit stronger than we expected, fundamentally. That's despite the fact that there was additional output coming from us. In December, we forecast that volumes would grow from 867 megatons in 2020-21 to 920 megatons in 2022-23 as some new mines in Western Australia opened.

Senator WALSH: Is there a way that you could explain why you think, first of all, there was a reasonably significant difference between your own projections and those of Treasury?

Mr Karunarathna: Our assumptions were very similar. It is not unusual for forecasters to take assumptions and have a different view on what the output of those would be in terms of a price. We compared our forecasts to work done by Consensus Economics which compared a range of different forecasts, including our own, versus what is in the market. We tend to be in the middle. We are on the conservative side. We and Treasury forecasted prices to come off. Treasury's was more a bit more conservative than ours, but that reflects Treasury's prudent approach to their forecasting for the purposes of budget.

Senator WALSH: What level of confidence do you have in the forecasts up to the end of this financial year?

Mr Karunarathna: Let me see if I can answer it this way. When we did our forecast in December, we were looking at weaker demand from the Chinese market. That demand, we have seen, has been a bit better. That's because there are signs from China that they are willing to use both fiscal and monetary policy measures to support their infrastructure and property sectors. Their infrastructure and property sector accounts for about 50 to 60 per cent of Chinese steel demand. So they're big drivers of the future price.

On the infrastructure side, we're seeing the Chinese government willing to front-load a lot of infrastructure investments—102 infrastructure megaprojects in 2022. They've cut the bank reserve ratio requirement and they've also cut the benchmark mortgage rate, both of which will provide more ability to borrow to undertake investment. But, on the other side of that, we do still expect risks in the Chinese property market. So we saw major developers

like Evergrande and Shimaos default on some of their offshore debt, and they've been offloading some housing stock to meet interest payments. The Chinese government appears to be taking some steps to stabilise the property sector. So they've had state-owned businesses being willing to purchase distressed assets and purchasing land, and they've loosened their 'three red lines' policy, which will also help to make their property sector more willing to borrow.

Senator WALSH: What does that analysis of that stimulus in the Chinese economy and the ongoing, stable demand do to your forecasts for the next six to 12 months from the very high water mark that we are at now?

Mr Karunaratna: We go through this process—it's a very involved process—to produce our three-monthly forecasts, our quarterly projections. We are, right now, analysing all the different resource sector markets and gathering a lot of data on how these factors are playing out. We go through this process and we consult quite widely throughout government, and then ultimately we produce our next quarterly results in April. So, in between those, I can't offer you a view—

Senator WALSH: You don't want to sort of pre-empt the forecast—

Mr Karunaratna: Yes, I can't offer you a view—

Senator WALSH: It would be meaningless for you to try to do so. I've got similar questions on coal price forecasting; it sounds like that would be you as well?

Mr Karunaratna: Yes.

Senator WALSH: Then I've just got a couple of questions on markets and efforts to expand markets; I'm not sure whether that is also you or someone else, so I'll go to the coal questions, which are, essentially, the same.

CHAIR: Senator Walsh, can I just ask a question about iron ore before you move on to coal?

Senator WALSH: Yes, sure.

CHAIR: It's also true, isn't it, that there's just incredible volatility in the iron ore price at the moment. It seems to have been a hallmark of the market over the last 12 months. Is that a fair comment?

Mr Karunaratna: Yes. I've outlined what I think are the biggest factors, but there are other factors which have meant that some volumes just recently have not been able to be exported. For example, in Australia, if we have a COVID case and workers can't turn up to mine, then that can impact output, which the mining companies have talked about.

CHAIR: I have just one more follow-up question on iron ore. You talk about where producers are on the cost curve, and you want to be in the first quartile, in terms of the producers, in terms of having the lowest costs, so that means you're insulated more if there's a fall in the iron ore price. Where are Australia's major iron ore producers in terms of the cost curve, do you know?

Mr Karunaratna: I can talk about this in generalities. We do have cost curves internally. But the big majors—like the established mines—are fairly low down on the cost curve and they were producing when iron ore prices were in their 60s and 80s quite reasonably. As to the new entrants that saw the very attractive prices and got in, they would be sitting higher on those cost curves and they are a bit more exposed.

CHAIR: Okay. Thank you. Now to coal, Senator Walsh.

Senator WALSH: I have the same questions with a different set of numbers, really, on coal, as you could imagine. At MYEFO, the forecast was for coal to drop from US\$170 a tonne to US\$130, but instead we have had this significant improvement in the price, especially beyond the Treasury forecasts, to almost US\$200 a tonne. Why do you think those forecasts were so far off? Is it for similar reasons but different sorts of sectors?

Mr Karunaratna: Yes. Both Treasury and ourselves expected the price to fall. They assumed that the price would decline to US\$130 by the June quarter and then hold. We assumed the price would decline to—

CHAIR: This is met coal?

Mr Karunaratna: Sorry, met coal, I should say, yes. We forecast the price would fall down to US\$183 by the 2023 year, so a less steep decline, but still a decline. Similarly, on thermal coal, we expected prices to come off their highs. The assumption that we had—and our numbers were again within the range of consensus economics forecasts—was that the disruptions that we saw, the weather events that caused the high demand for coal in the Northern Hemisphere, would dissipate a little bit, but more importantly, in Australia, some of the weather events that have disrupted supply would dissipate. What has happened in recent months is that prices have sustained themselves, as you have rightly pointed out. We have seen demand be sustained much higher than we thought would be the case. China has sought to maintain their inventories during the winter Olympics to make sure they don't have blackouts during that time. We did see a ban from Indonesia on coal exports, but that was just

a month, and it seems like the market did factor that in. If you look at the prices, they just continued on that upward trend over the month of January. But then, on the supply side, we had COVID cases disrupting supply in Australia, people being unable to turn up at mine sites, and the market still thinking about the potential for rainfalls in the second quarter of this year.

Senator WALSH: I will follow up with you on both of those issues. Of course, there are lots of factors. The Chair used the word 'volatility', and you need to be reviewing your data all the time—as you do. These forecasts have such a huge impact on the government's financial position. I wonder how you work with Treasury to try to improve those forecasts so that we do have more accurate budgets and accounts.

Mr Karunarathna: As I explained, we do work very closely with Treasury, and we both had similar views on the direction of the prices. It's a matter of opinion about the speed at which prices change. Our forecasts erred slightly on the conservative side. We prefer to err slightly on the conservative side when we forecast what Australia's revenue could be from the resources sector. As a government publication, I think that's the right tenor to take.

CHAIR: I have a question that is a bit rhetorical. We should emphasise that this upside risk, if I can put it that way, is of huge benefit in terms of the budgetary outcomes for Australia in terms of GDP. For example, the MYEFO, in table 5.1, says that, for every increase of US\$10 a tonne FOB, there's a positive impact of around \$3.9 billion in nominal GDP. It's a huge positive. That's correct, isn't it?

Mr Karunarathna: Yes. That's the sensitivity analysis that Treasury referred to in MYEFO.

CHAIR: So the upside risk occurring in terms of the iron ore price, the met coal price, the thermal coal price, gold and copper—copper is at \$4-something a pound. All of those upside risks which have eventuated are a positive thing in terms of GDP and the budgetary outcomes. Is that correct?

Mr Karunarathna: Yes. I outlined the prudential approach that Treasury takes. It effectively speaks to wanting to skew to upside risk rather than downside risk in your forecasts.

Senator PATRICK: They use \$50 a tonne for iron ore in the budget, don't they?

Mr Karunarathna: \$55.

Mr Sullivan: It's really important that that upside risk is in terms of the conservative view that Treasury takes, and we are still on the conservative side with that. That upside is much better than trying to forecast—

Senator WALSH: It's better when the goes up than when it goes down.

Mr Sullivan: It's essentially downside risk.

CHAIR: And it's prudent to take a conservative view with respect to assumptions in terms of revenue.

Mr Sullivan: Particularly given the importance of the resources sector and the role it is played through the pandemic in terms of its contribution in an ongoing way.

CHAIR: Putting it in a sober way, the Australian people are going to benefit from the tidal wave of cash generated by our wonderful resources industry. Is that right, Mr Sullivan?

Senator PATRICK: Except for oil and gas.

CHAIR: Your opportunity will come, Senator Patrick. Senator Cox.

Senator COX: My questions pertain to the cancelling of the Empire Energy contract and the Beetaloo drilling program. Firstly, was it someone within the department who was responsible for the very hasty decision to enter into contracts with Imperial, or was it Minister Pitt or Minister Taylor?

Mr Fredericks: At the end of the day, the court found that it was the department's responsibility and we were the ones that made the legal error. To give you a little bit of background: These were proceedings the Environmental Centre NT brought to ultimately declare invalid the grant that was made by the Commonwealth to Imperial Oil and Gas under the Beetaloo program. The Environmental Centre had asked for three things. They asked to have set aside the power that the minister exercises under regulation to do the grant. The court found in favour of the government on that one—that the reg is valid. The applicants asked to set aside the minister's decision to approve the grant. The court found in favour of the minister on that. The applicants also asked to set aside the department's execution of the contract to provide the funding, and they asked for that to be declared on the basis that we the department had entered into that contract legally unreasonably. The court found in favour of the applicant on that one. The short explanation is that we, the department, have the responsibility for executing that contract. At the time we executed, there were legal proceedings on foot. What the court found was that when we executed a contract we didn't give sufficient notice to the applicant that we were going to do that, and thereby deprived them of a reasonable opportunity to bring an injunction against our actions.

The judge's legal conclusion was that we had acted unreasonably, and as a consequence the contract should be voided. To give you an explanation of why we acted unreasonably—we are very apologetic, and we said to the court that we regretted it and certainly didn't mean any disrespect to the court or to the applicants—it was just one of those situations where we had a process flaw within the department. That arose because in our department AusIndustry, which you've heard about, is a separate division within the department. It's responsible for managing the implementation of all our contracts. At the same time, in a different part of the department, we have the policy group responsible for the policy. They were, effectively, the instructors on this. What did not happen was that, at a time when the policy group were working with our legal branch to decide whether it was the right thing to do to enter into this contract—we were seeking legal advice as to whether we could sign the contract—AusIndustry was in the process of getting the contract executed. So AusIndustry entered into the contract without realising that another part of the department was saying to itself, 'We'd better see whether we're allowed to enter into this contract,' and was seeking legal advice. The legal advice was with AGS, and by the time it came back with the legal advice, the contract had already been executed. It's very unfortunate, but the department was at fault here.

Senator COX: Just to be clear, there was no direction from the minister?

Mr Fredericks: The minister had made a decision, knowing that the legal proceedings were on foot, that the process should continue. We were the ones that made the mistake, as the court found, of not giving sufficient notice to the applicants of our action in entering into contracts. We were very frank about that in court proceedings—our counsel apologised for it. We voluntarily identified it as a breach of the legal services direction, so we reported that to the Office of Legal Services Coordination at AGD to say that we believed we'd breached the legal services direction. It has been a good learning curve for us because we exposed a want of communication between two important parts of the department. Most importantly for all of us, we've now instituted some training from AGS to make sure that all of the department is aware or alive to the necessity to think about giving proper notice in a situation like this again.

Senator COX: I thank you for that explanation. Have Imperial Oil or Empire reapplied under the program? Did they receive any special fast-track in the reapproval process?

Mr Fredericks: Because the court positively affirmed the minister's power, and because the court positively affirmed the minister's approval of the grant, we the department are now in the process of executing the contract with Imperial Oil, and doing this legally. We're able to do that because the appeal period for the proceedings has now finished. The legal proceedings are completely finished; there are no legal proceedings left, so we're back in a world where, as a department, we need to get on with the business of implementing a minister's decision.

Senator COX: Right. Thank you for clarifying that. Has the federal government made any commitments or undertaking similar to the Northern Territory government that they would honour and implement all the recommendations of the Pepper inquiry into fracking in the Northern Territory?

Ms Croker: The department is currently working with the Northern Territory on considering those recommendations that have come out of the inquiry.

Senator COX: Just to clarify, in their entirety—all the recommendations or only part of those recommendations?

Ms Croker: My understanding is that it's all of the recommendations.

Senator COX: Have there been any more applicants other than Imperial, Sweetpea, Tamboran, Santos or Origin under the Beetaloo drilling program?

Ms Croker: Yes, there have been other applications made. Under the Beetaloo Cooperative Drilling Program, we have had 10 applications made, of which the three that we spoke about, Imperial Oil and Gas, have been approved.

Senator COX: Is that process now closed to new applicants?

Ms Croker: Let me check with my colleague Dan Quinn, who is online.

Mr Quinn: The program is open until 30 June for new applications, and the work has to be completed in this calendar year.

Senator COX: Just to note, Empire Energy was fined \$37,000 for significant oil spills in Cairns in 2019. Was the department aware of this as part of their track record at any point through the application process?

Mr Quinn: Relating to that one, the department relies on regulatory processes that are conducted by other governments as well. So, in terms of the environmental permitting of activities in the Beetaloo, that's a Northern Territory government responsibility. We accept that they have done those checks.

Senator COX: What is the kind of information that the department uses to determine allocating public money to fracking on First Nations land in the Northern Territory, and what's the process?

Mr Quinn: The process for doing that is outlined in the cooperative drilling program guidelines. Essentially, there are a range of eligibility criteria for the activities and then there are, essentially, three assessment criteria that look at: Is the activity being brought forward? Is the activity going to increase our understanding of the Beetaloo basin? And, is the company in a financial position to carry out those activities and to provide its 75 per cent share of funding of those grants?

Senator COX: Thank you.

Senator PATRICK: I'm going to ask questions about energy prices and remedies. I did foreshadow this. These questions follow similar questions I have asked of PM&C and Treasury who've indicated that your department is involved in some of the work the government's been doing. Some of this line of questioning is invoked because of the potential conflict between Russia and the Ukraine but also, more generally, noting that the fuel prices have been steadily rising over the last year or so—I think that's accurate to say. The first question is: what assessment has industry undertaken with regard to the current sharp rise in energy prices, petroleum and gas that is being exacerbated by international crisis over the Ukraine in the low value of the Australian dollar?

Ms Croker: The department, as a matter of course, does a lot of analysis on the energy market, both domestically and globally, on what's going on, and we provide regular briefings on that both internally and to ministers.

Senator PATRICK: I've asked what assessments are done. I guess you've answered that question. So what has that assessment been?

Ms Croker: I suppose what we look at is, basically, supply and demand within the markets, what's going on globally and what the potential impact might be on our domestic prices. It's very generic economic market analysis that we're doing, looking at the gas and energy sector as a whole.

Senator PATRICK: Let's go to the detail of Ukraine. If Russia were to go to war with Ukraine—and we hope that doesn't happen, but, if they were—there'll be disruption of gas from Russia into Europe, and I think some of that may have started already. Obviously we're the largest exporter of gas in the world. What effect do you think a conflict would have on the Australian gas supplies and prices?

Ms Croker: That kind of tension would likely contribute, possibly, to upward pressure on global oil and gas prices, which is already experiencing high prices across Europe and Asia, and my colleagues from the Office of the Chief Economist can talk about that situation. But, while we're seeing those high global prices, we're not experiencing those same prices in Australia, and, certainly at the moment the domestic east coast spot price, the gas spot price, is around \$9 a gigajoule. It's significantly lower than some of the prices that we're seeing in Europe—around 70 per cent below those benchmarks. The ACCC's gas market inquiry report, which was released on Wednesday, noted that the east coast contract prices are between \$6.70 and \$9.60 a gigajoule.

Senator PATRICK: We talked with Mr Sims today, and he indicated that without any conflict it might, over the next year or two, go to \$10 or maybe just slightly north of \$10.

Mr Sullivan: To your question around what does a potential conflict do in terms of prices outlook: obviously Europe, and I think we traversed this at last estimates, there's been an enormous tightening with respect to supply and we've had demand issues across Europe. That's had a domino effect not only in Europe but has spread eastwards. That price issue was not due just to the Russian supply, but that was part of it, but it was also to do with COVID maintenance. We, all, across the energy sector and across the world, have had to deal with that, and because of the pandemic some maintenance has been put off—so scheduling that. We had a tightening of the electricity market in our autumn, and that was, in part, because of those maintenance issues. At the same time there were weather events in Europe. So what you had was not necessarily a perfect storm, because that's simplifying it a bit too much, but you had multiple factors affecting the price. If there's continuing pressure with respect to supply, particularly coming through Russian gas pipelines, then we're sure to have that price issue following through. That has onward price impacts with respect to gas products as well. We're seeing that in the price of urea and a whole range of other products. We're monitoring that really carefully, but, in terms of the Australian price outcome and how we're travelling, we're travelling a lot better.

Senator PATRICK: I understand that, and Mr Sims made that pretty clear today in his evidence. But, again, this line of questioning comes initially from a discussion with PM&C, who said that DFAT had set up an intergovernmental group that were looking at what happens in the event that Russia does invade the Ukraine, and they mentioned that you guys were involved in that group. Have you done any analysis to look at what might

happen? I might indicate that US President Biden indicated publicly that he was seeking to ensure adequate gas supply to Europe, and he mentioned Australia as a possible remedy.

Mr Sullivan: We're working really closely with the US. Part of that has been through the process of the International Energy Agency ministerial meeting. That will take place in Paris in late March—on 22 and 23 March.

Senator PATRICK: So you're saying there are conversations going on in the lead-up to that meeting. Is that right?

Mr Sullivan: That ministerial is being chaired by the US's Secretary Granholm, and Australia is a vice chair of that, through Minister Taylor, with his Belgian and Danish colleagues. That group has been looking at energy security more broadly. Where I think President Biden was going there was, in part, to the outreach from Secretary Granholm in the US, reaching out to Minister Taylor to say, 'Let's actually use the IEA ministerial meeting to bring together the countries who are members of the IEA, as well as association countries, to look at energy security.' That is the role of the International Energy Agency, but it's also an opportunity to look at gas security, which has been an issue that the IEA has pushed around the plate a little bit, in terms of its vegetables, rather than eating them. This is a chance to actually look at gas security as being just as important as oil security. As you'd understand, the origins of the IEA were very much in oil security.

Senator PATRICK: Have we made any undertakings to the US government about how we might support supplies in Europe in the event that there is a conflict?

Mr Sullivan: No, there haven't been undertakings, but, as you said quite rightly, Australia, Qatar and the US are the three largest gas exporters. As the ACCC report showed, we've also got a tightening in our own market, and we've also got to think about not only our friends and allies but also our significant contracts and honouring those long-term contracts, particularly in North Asia.

Senator PATRICK: I have a view about whether, in the circumstance where it's against the national interest, we support commercial interests above the national interest, but I'm not going to get into a debate about that.

Mr Sullivan: I understand why you don't want to get into a debate, but it's important to recognise that the stockpiling of gas in particular is not something that a lot of our North Asian trading colleagues do. Their margin is two to three weeks. So, really, it's about the export potential of Qatar, the US and Australia combined. How can that influence world trade?

Senator PATRICK: I want to check this. I was actually fundamentally involved in the ADGSM being brought into existence, when I was an adviser to Nick Xenophon. Some people have been saying we've got to pull the trigger on that. I want to confirm: my understanding of the ADGSM is that that is a very rigid process where you start midway through the year examining future supply estimates and the trigger gets pulled in January. Is that right? There's no flexibility?

Mr Fredericks: Someone will correct this for me, but my recollection is that you're basically right. The process starts in the middle of the year, ahead of the following calendar year. My recollection is that the intention to 'pull the trigger', to use your language, needs to be done by the end of October. That then gives a month's worth of consultation, consideration et cetera, and then the deadline for making the decision is the end of November. Sorry; I've got my beginnings and ends wrong. The intention needs to be done by 1 October, and the decision needs to be by 1 November.

Senator PATRICK: Thank you. I'll just depart from gas for the moment. Thank you very much for helping me out there. Just in general the price at the bowser is now getting close to \$2 a litre. That's harmful to most workers, most Australians and, indeed, a lot of businesses. One part of the price of fuel is of course fuel excise. I think 40c or 45c of the current petrol price is the excise. Is that right?

Mr Gaddes: It's roughly 44c. It's indexed, so it changes each year.

Senator PATRICK: Noting the current situation, which I can't see abating—you might say I'm wrong, but I've been watching the fuel price steadily climbing—has there been any consideration, discussion or brainstorming within the department with a view to looking at John Howard's policy back in I think 2001 of putting a pause on the indexing or indeed in some way reducing that excise to give relief to Australian businesses and consumers? Has there been any discussion around that?

Mr Fredericks: To be really honest with you, that is absolutely a matter for Treasury because excise is about revenue. At the end of the day I would be much more comfortable with a Treasury response—

Senator PATRICK: I did ask Treasury the same question.

Mr Fredericks: And I can guarantee you that they didn't say it was a matter for us.

Senator PATRICK: No, they didn't say it was a matter for you, but, as I said, you got roped into the discussion because you're experts in this field. They might like the revenue, but you understand the things that drive the price. They wouldn't go to budget measures, but the sense was that they weren't talking about taking that to the budget as a proposition. That doesn't mean I can't ask you whether you're talking about that and whether someone has walked around the department and said: 'Gee whiz. We're getting to a point where petrol prices are affecting people. Let's prepare some options in case government asks us for some options.'

Mr Gaddes: If I could add some context: as the secretary quite rightly pointed out, it's not our responsibility. Australia already enjoys some of the lowest taxation in terms of fuels in the OECD. Our fuels are roughly 25 per cent lower than the OECD average. Most of that is because we pay lower tax than most OECD countries, so we are already at the lower end of the taxation threshold.

Senator PATRICK: Sure.

Mr Sullivan: Another way of looking at it is that bowser prices are largely determined by the level of government taxation because of the world oil price being pretty persuasive in terms of price setting. Particularly with Australia as a net importer we're much more subject to world oil prices.

Senator PATRICK: I'll just finish as I often do by making a statement. I am concerned about fuel prices and the effect they are having on families and businesses.

CHAIR: Thank you, Senator Patrick.

Senator WALSH: I have some questions about PEP-11 for NOPTA.

Mr Sullivan: I'm happy to take questions with respect to PEP-11.

Senator WALSH: Or I can do five minutes of something else before that, if you'd like.

Mr Sullivan: NOPTA is on the line, but in terms of some of the process issues with PEP-11—

Senator WALSH: Yes, that's both of you.

Mr Sullivan: Yes. We'll work it out as we go.

Senator WALSH: Sorry, you made a face then. What did you say?

Mr Sullivan: I said we'll work it out as we go. I was just apologising to you in advance.

Senator WALSH: It is the last night of estimates.

Senator McDONALD: Not for everyone. We're back tomorrow.

Senator WALSH: I said 'last night'.

CHAIR: Well done, Senator. Senator Walsh, you have the call.

Senator WALSH: The Prime Minister announced that he had advised NOPTA of the Commonwealth's intention to refuse the PEP-11 application. He did that in a media release of 16 December. Has that decision now formally been made and concluded?

Mr Sullivan: The addition to that story is that there was an additional media release from the Prime Minister today, which is the next step to formally reject the application for PEP-11. This is coming at the very end of the process, and I'm happy to go back and walk through the chronology. At the end of that, the Prime Minister has written to the other member of the joint authority in New South Wales, who's the Deputy Premier. That matter now rests with the other member of the joint authority, and I think they have 30 days in which to respond. And at that time the decision will be finalised.

Senator WALSH: I might just go over that again, partly because I couldn't hear all of it. So the Prime Minister made the announcement on 16 December, but that announcement didn't have the appropriate effect at the time? He's made another announcement today on the—

Mr Sullivan: I'll walk through the chronology. This goes back to an application by Asset Energy with respect to the permit conditions of PEP-11. The state member of the joint authority made an initial decision in February of last year. On 16 December, the day of the press release you're referring to, the Commonwealth member of the joint authority then made a decision to refuse the applications. And then NOPTA—of which Mr Waters, who's online, is the titles administrator—issued a notice of intention to refuse the applications. That then was given—

Senator WALSH: When did NOPTA issue the notice?

Mr Sullivan: That was made on 16 December. Asset Energy, the permit holder, had 30 days in which to respond. That's just a basic procedural fairness step. Asset was then provided with some additional time to respond, in part because of the time of the year, and after that the titles administrator provided advice to the joint authority on 31 January.

Based on that, the Prime Minister, as the Commonwealth member of the joint authority, issued a media release today stating that he had written to the Deputy Premier advising of his intended decision to refuse the application. That's where we're up to. It now rests with the New South Wales member of the joint authority, and they have 30 days in which to come back.

Senator WALSH: What's the joint authority called?

Mr Sullivan: It's called the 'joint authority'.

Senator WALSH: It's just called the 'joint authority'?

Ms Illman: It's got a full proper name, which is the Commonwealth-New South Wales Offshore Petroleum Joint Authority. It's called the 'joint authority' for short.

Senator WALSH: Okay. Is the Prime Minister on that?

Mr Sullivan: The Prime Minister was the Commonwealth decision-maker for the purpose of this decision.

Senator WALSH: Right. Is the joint authority the relevant state decision-maker and the relevant Commonwealth decision-maker, and that's it?

Ms Illman: Correct.

Senator WALSH: So there's just this sort of process tracking through, where NOPTA put into effect the decision of the Commonwealth decision-maker at the time, the Commonwealth announced the decision on 16 December, and then there was a 30-day period for Asset to respond. Then I've lost track, but we'll review the transcript. Is there a further 30-day period that is required, where the New South Wales decision-maker—

Mr Sullivan: I think it's up to 30 days.

Ms Illman: Yes, to respond.

Senator WALSH: So you're waiting on the New South Wales decision-maker to say, 'We're okay with this'?

Ms Illman: Correct.

Mr Sullivan: That's correct.

Senator WALSH: Have they made any public statements about their position?

Mr Sullivan: Not that I'm aware of.

Senator WALSH: What happens if they're not okay with it?

Ms Illman: There's a provision in the legislation for the Commonwealth minister to decide the matter.

Senator WALSH: The Prime Minister is the designated Commonwealth person on the joint authority. Is the person who can decide it in the end Minister Pitt or the Prime Minister, as the person on the authority?

Ms Illman: It's the Prime Minister on this matter.

Senator WALSH: It's the Prime Minister. So he made the announcement, there's a long decision and ultimately at the end he can decide it?

Mr Sullivan: That's correct.

Ms Illman: That's correct.

Senator WALSH: What was Minister Pitt's role in this decision?

Mr Sullivan: When you talk about this decision, with respect to the decisions taken by the Prime Minister as advised on 16 December, and today in terms of 17 February, the Prime Minister was the decision-maker, and Minister Pitt didn't have a role with respect to those decisions.

Senator WALSH: When we spoke about this in the October estimates, there was a little bit of confusion because there was a second application that we were talking about. I think NOPTA said at the time that they were awaiting a decision on the first application before they could provide advice on the second application. Now that we're in this process around the first application being refused, what is the status of the second application?

Mr Waters: That situation has not altered. I am still waiting for the decision of the joint authority, and once I've had that we will then submit our advice on the second application.

Senator WALSH: Who has made the second application?

Senator WATERS: The titleholder.

Ms Illman: Asset Energy.

Senator WALSH: It's basically the same application again to do this seismic testing, is it?

Ms Illman: It's an application for a suspension and extension. The first application we're talking about is a suspension, extension and variation of the permit conditions. They're very similar.

Mr Fredericks: Yes.

Senator WALSH: I might be asking you to speculate, and I guess you'll tell me that, but in layperson's terms would it be understood that there's not a lot of point in continuing with the second application if a similar first application has been refused?

Mr Fredericks: We'd probably have to be a little bit careful in giving any view on that for fear that it might pre-empt a decision that's going to be made by the joint authority. I understand why you're asking this.

Senator WALSH: Is it alive? Is this issue still alive?

Mr Fredericks: Are you able to, in layman's terms, explain the nature of the difference between the two applications?

Ms Illman: Certainly. The second application is a request for a suspension of the work program conditions and an extension of the permit term, very similar to the first one. The first application, however, was to remove the seismic survey obligation. The second one has been made in order to essentially provide more time to complete the work program. The applicant is still waiting on the resolution of the first decision—that is, the decision to remove the seismic obligation. They have made a second application just in case they need additional time to continue the work.

Senator WALSH: The work that's been refused?

Mr Sullivan: Following on from where Mr Fredericks was headed, I'd prefer to take it on notice. When we've got resolution of the first matter, I'd be much more comfortable to then provide advice on notice.

Mr Fredericks: Obviously we are nervous given that the first application is still alive because it's still waiting for a decision from the New South Wales member of the joint authority. We've got to be careful there. With the second one, the application is in, so it's technically alive. That's why we're being hesitant.

Senator WALSH: I understand how you're trying to assist. Is it not possible for the Prime Minister, as the decision-maker on the joint authority, to make a decision about the second application until the first one is finalised? Or would it be possible?

Mr Sullivan: That's a complete hypothetical. I think what we need to do is cross the bridge with the first application. Once that's resolved, we can try to bring the second one to some sort of finalisation.

Ms Illman: That's right. I will explain why that is. The first application sought to change the time frame in which the permit obligations, or the work program, were to be delivered. If it were approved, that would change the time frame by which commitments had to be done. That is why the second application is contingent upon the first one being resolved. Of course, if it is refused it is up to the applicant to consider whether they wish to amend that second application.

Mr Fredericks: It's not easy to explain, Senator, but the gist is that our advice is that the second application is contingent on the outcomes of the first. I think that's the proper answer to your question.

Senator WALSH: Okay. I think I've taken that line of questioning as far as I can. Thank you very much. Mr Sullivan will be really pleased to know that I have questions on the Extractive Industries Transparency Initiative! However, I have reviewed the transcript of our interactions on this last time, which I understand repeated a similar line of questioning on a previous occasion. And I think I understand that, in general, the government's position has been that it doesn't wish to enter into this transparency initiative because of concerns about being able to influence what the requirements may be, as they may change in the future. That was the last piece of advice you gave us. Has anything changed since we last spoke on our interest in making good on the commitment five years ago to join this transparency initiative?

Mr Sullivan: The short answer is that nothing has changed. We're still waiting for a response on the Board of Taxation's review of the Tax Transparency Code. Again, we haven't changed that since we last gave evidence.

Senator WALSH: The government hasn't changed its concerns about signing up to that—

Mr Sullivan: No.

Senator WALSH: and still wishes to follow domestic laws?

Mr Sullivan: And, as I think we've traversed before, the Board of Taxation review of the Tax Transparency Code is a matter for Treasury and that hasn't changed—unless my colleagues know something.

Senator WALSH: Do you still have people in the department broadly assigned to work in monitoring?

Mr Sullivan: That's right.

Senator WALSH: The Critical Minerals Facilitation Office was established in January 2020, so I'm after some updates on progress since then. How many people are working in the office now—both by headcount and in FTE?

Ms Long: The CMFO comprises 12.6 staff.

Senator WALSH: Is that 12.6 staff in FTE?

Ms Long: Yes. It's 13 by headcount.

Senator WALSH: What's the nature of the employment? Are they permanent direct employees?

Ms Long: That's correct.

Senator WALSH: Are there any unfilled roles at the moment—any vacancies?

Mr Hutchinson: No.

Senator WALSH: Can you tell me a bit about what you do. It will help me with my next question. What are you working on at the moment?

Mr Hutchinson: I can make some comments about that, but in addition the department reports against our activities in its annual report, which is a good source of information. Effectively, we're a small policy unit that sits at the centre of government and works across a range of agencies to help grow the sector. Our objectives align with the Critical Minerals Strategy of 2019 and with the Resources Technology and Critical Minerals Processing road map of 2021. In shorthand, we're trying to grow the sector, create more jobs and investment, and stand up more mines and processing. We're trying to capture more of the value chain for each of these critical minerals, moving further downstream rather than just a dig-and-ship model. We want to see more of that value and job creation happen onshore, and we want Australia to realise its position underpinning supply chains that are crucial to new and emerging markets, particularly for allies and the like-minded. From an economic perspective, critical minerals are absolutely crucial to a range of technologies that are becoming increasingly important, particularly around electronics and electrification. We want to see Australia maximise its position and leverage its natural asset base.

Senator WALSH: Do you provide loans to industry participants?

Mr Hutchinson: The Australian government does. The Critical Minerals Facilitation Office does not provide loans—it provides policy advice across government. We work closely with agencies like Export Finance Australia, the Northern Australia Infrastructure Facility and the Clean Energy Finance Corporation. We work in lockstep with them to help them determine loan matters.

Senator WALSH: Are you involved in the assessment of applications?

Mr Hutchinson: Each of those agencies has its own particular process. I believe we covered a little bit of this last time. Whether it's a hard requirement or a matter of practice, we work very closely with each of those agencies to provide policy advice to them in considering their loans and in helping government to consider the loans. But we're not technically responsible for deciding who gets the loans.

Senator WALSH: You're not responsible and you don't put out requests for proposals? You don't assess them and you don't give out money? Other agencies do that?

Mr Hutchinson: We have no authority or responsibility for administering loans but we certainly work closely with the agencies that do, to provide them with advice.

Senator WALSH: The term 'facilitation' in your title refers to the work you do with industry, with government and with stakeholders to try to create opportunities to grow the industry in general?

Mr Hutchinson: Absolutely.

Senator WALSH: Perhaps there is some confusion about the title.

Mr Hutchinson: Sorry about that. I'm happy to expand on that if you'd like. I can give you some examples of the type of work we do that cover the range a little bit. That might be useful. Firstly, we work closely with industry. There are 60 or more companies that we are in regular contact with. We help them to understand their projects—what status the project is at, where they are going next and how we can help. That can be, as you have already mentioned, by connecting them to financing and loan opportunities or grant programs. It can be run-of-the-mill stuff as well, in terms of connecting them with good scientific expertise through CSIRO, ANSTO and Geoscience Australia. We liaise closely with the states and territories as well and work closely with our major projects facilitation office to help those companies put their best foot forward and achieve things like environmental and planning approvals. We also work really closely with the Department of Foreign Affairs and

Trade and with Austrade and our embassies overseas to assist with trade facilitation. So we talk to a lot of domestic and international companies who are interested in Australian projects. We try to link them up. We like to highlight projects with really interesting aspects, while being appropriate and ensuring that that facilitation process is available to all companies. So we really cover the field. But we also provide, as I said, policy development and policy advice services within government using that industry expertise.

Senator WALSH: You obviously do stakeholder work—and a lot of it. Do you have a formal stakeholder advisory group?

Mr Hutchinson: That's an excellent question. We don't have a standing stakeholder advisory group. Do you mean a group of industry representatives to advise us on our work?

Senator WALSH: Yes.

Mr Hutchinson: That's a really good question. We don't have such a thing. What I would note as an example is that, in pulling together the Resources Technology and Critical Minerals Processing road map, there was an industry advisory panel. I might have the technical name of that panel slightly incorrect; I'm happy to clarify that. But a group that consisted of several high-profile critical minerals industry leaders was brought in to provide specific advice to government on that particular task. We would look to do similar things if there are future policy development opportunities. We find the most appropriate way of working with and contacting industry in addition to our existing formal and informal networks.

Senator WALSH: Following on from that theme, your annual report says that you work closely with state and territory governments on ethical certification of minerals. What do you mean by 'ethical' in relation to critical minerals? Are you talking about environmental responsibility? Are you talking about people's working conditions? Are you talking about First Nations ownership of land and those matters? What do you mean by 'ethical certification'?

Mr Hutchinson: I'm happy to expand on that. Thank you for your question. It's really all of those things. I guess the common term within the industry, domestically and globally, is ESG—environmental, social and governance.

Mr Hutchinson: I'm happy to expand on that. Thank you for your question. It's really all of those things. I guess the common term within the industry domestically and globally is ESG: environmental, social and governance. Thinking about it in those three parameters, 'environmental', as you said, obviously covers off things like: Is there is a rigorous legislative regime in place to ensure that the impacts have been assessed and any considerations taken into account? What happens with the waste product? What sort of technology is used? How is that treated? It's those sorts of things. 'Social' goes to some of the labour issues that you mentioned. Are people being employed under fair conditions? Is there transparency and oversight of those arrangements? All of those sorts of things. 'Governance' really goes to corruption or the lack thereof. Is there accountability and transparency? Is this a clear and open regime?

Australia is incredibly fortunate here, in that we can both hold these minerals and leverage our existing systems around environmental protection, around labour protection, around governance and transparency, to provide a really strong offering to the market that our competitors just can't do, whether that's from a lack of transparency or something else. For example, most cobalt, an important mineral for producing lithium-ion batteries, is produced in the Democratic Republic of the Congo. It is well documented that there are a range of labour and governance concerns as well as environmental ones there that can go to quite harrowing issues around child labour, sex trafficking and the dispossession of entire communities. It's really quite challenging. Australia is very fortunate in that we have quite large cobalt reserves both as primary reserves and co-occurring with nickel, and we would really like to produce those and bring them online. In doing so we can offer the market a higher environmental credibility option. The work we're doing with states and territories, particularly with the Future Battery Industries Cooperative Research Centre, is really around pulling that market offering together and explaining why countries like Australia are a better bet than some of the less transparent countries and supply chains.

Senator WALSH: We talked about the stakeholders that you liaise with and what structures are around that. Do you liaise with First Nations representatives about cultural heritage and sacred sites issues and how that interacts with critical minerals mining?

Mr Hutchinson: I'll be completely honest: in the about one year that I've had this job, I personally have not. I would quite like to do a lot more of that. I think if I was to explain why that has not been a major focus of my office in the last 12 months, it's largely because that interaction often happens under the rubric of a state managed environmental or cultural land-use planning process. The companies do a lot of that interaction as do the state

regulators, whereas we kind of float atop and look at the settings more generally. However, I think it's a good point, and we should definitely consider those perspectives more.

Senator WALSH: Thank you very much.

CHAIR: Senator Patrick, you have the call.

Senator PATRICK: I was after the Northern Endeavour taskforce. Mr Gaddes, you must have taken on an extra job as well, have you?

Mr Gaddes: No rest for the wicked, Senator.

Senator PATRICK: There you go. I've asked this question in the past, but I'm not satisfied that I got an answer. How many commercial proposals did the department receive to take on the tenement and continue extractions? I'm not talking about decommissioning. This goes back a little bit.

Mr Gaddes: It does go back a little bit. Off the top of my head—and I'll come back to you on that if I've got it wrong—my understanding is that there were two unsolicited commercial restart proposals.

Senator PATRICK: Have you received any commercial proposals regarding the decommissioning? Obviously, we've passed legislation now that allows you to move forward and decommission. I presume you'll go to contract for that, but I wonder if someone has come in with the proposition.

Mr Gaddes: As you're aware, we've both run an expression of interest and down-selected through a request for proposal as part of the tender process—a global, open procurement process for the decommissioning. On 29 July the government received an unsolicited proposal from a consortium of industry companies, with another proposal, outside of that process, to decommission—

Senator PATRICK: How does an unsolicited proposal interact under the circumstances where you have a request for proposal, an RFT?

Mr Gaddes: We did an expression of interest and then downselected to a preferred subset of those tenderers. We went out with that, and they put in a request for proposal; they sent those back in on 9 November, I think. We've now gone through that process and are at offer definition and improvement activities with those downselected proponents. We're hoping, in the next month or so, to enter contract negotiations and then enter an agreement. Coming to the unsolicited proposal—

Senator PATRICK: Yes. How did you treat the other proposal?

Mr Gaddes: The other proposal was treated as an unsolicited proposal. They wrote to the minister, the minister asked the department to investigate the merits of the proposal, we provided advice to the minister on how we would do that if there were policy authority and so the minister wrote to the Prime Minister to seek policy authority for us to investigate the proposal. We then established—do you want me to keep going? I can go through that process.

Senator PATRICK: No, no. That's good. So I presume you got some approval to do this. And then what happened?

Mr Gaddes: Then we set up a separate team. We sought probity advice—

Senator PATRICK: A Chinese wall?

Mr Gaddes: A Chinese wall, yes. It was a separate team, to make sure that we could assess the two side by side and then come back to government at a point in the future to determine which was the best approach to take for the Commonwealth.

Senator PATRICK: And the answer to that will come at some point in time?

Mr Gaddes: We've already reached a conclusion to the unsolicited proposal. We've determined that it doesn't meet the Commonwealth procurement requirements or the government's policy requirements. It won't proceed any further.

Senator PATRICK: So you're now back to the short-listed group. That's very helpful. I've got two questions here, and I think they're interrelated: what's the current status of the legal action in relation to the *Northern Endeavour*, and has there been an agreement reached with respect to the rights? I think you're at the point where there had been a pause in the litigation, everyone had backed off and everyone was chatting. Have you reach some sort of consent position?

Mr Gaddes: Last time we spoke we had reached the terms of settlement and were going through and looking to agree on the more finite details of the terms of the deed of release of settlement. We're still in that process.

Senator PATRICK: So it's unlikely that you'll get a judgement from the court; it's going to be something hopefully by consent, by way of—

Mr Gaddes: I couldn't give you a probability, but we are working towards that outcome.

Senator PATRICK: Sure. That's all I needed to know. Does the task force have any role regarding the title and the tenement? Or is it just disconnecting, and that's your—

Mr Gaddes: This part of my division looks after just the decommissioning of the FPSO. The title aspects would sit with NOPTA.

Senator PATRICK: Okay. Thank you. I'll move on to NOPSEMA, if they're around.

Mr Fredericks: Senator, I think the chair might need to make an assessment about to whether program 1.3 is finished and you're moving to NOPSEMA. I'm co-chairing!

CHAIR: You're doing a very good job, Mr Fredericks!

Mr Fredericks: Senator Patrick is interested in NOPSEMA.

CHAIR: What are you doing, Senator Patrick? I was distracted.

Senator PATRICK: I was very efficiently asking—

Senator COX: He's got some aspirations, Rex.

Senator PATRICK: You don't want to be on this side of the desk. The pay's not very good. Chair, I've just asked about five minutes worth of questions about *Northern Endeavour*. I've also got some on NOPSEMA. I think that requires a jump to the next—

CHAIR: Yes. It would require the chair to decide that we're ready to go to NOPSEMA.

Senator PATRICK: That's why the secretary was just—

CHAIR: Do we have any more questions on 1.3?

Senator WALSH: Yes, but I could put them on notice.

CHAIR: Okay. Thank you Senator Walsh. Senator Cox, you could put them on notice as well?

Senator COX: Yes.

CHAIR: Okay. We'll now move to NOPSEMA. We'll thank all the officers who have provided evidence in relation to program 1.3. Thank you, Mr Sullivan, and thank you to all of your colleagues.

National Offshore Petroleum Safety and Environmental Management Authority

[20:54]

CHAIR: NOPSEMA, do you have an opening statement, or are you ready to go straight to questions?

Mr Smith: We're happy to go straight to questions.

CHAIR: Okay, that's a very good answer; we appreciate that! Senator Cox, you have the call.

Senator COX: Thank you. I'm trying to get an update on the Scarborough-Pluto project. Can you provide an update on the approvals process for the Scarborough-Pluto gas project?

Mr Smith: I'll get Mr Grebe to answer that.

Mr Grebe: Thank you for the question. Currently, we have an environment plan under assessment for the Scarborough project. It relates to the development drilling activity. The environment plan has been returned to the proponent, obviously to be modified and read through. We expect them to resubmit the environment plan this month, at which point we will continue the assessment.

Senator COX: Excellent, thank you. I understand that Woodside have not disclosed the amount of money that it would cost to decommission the Scarborough and Pluto Train 2 project. As you are the regulator, I'm interested to know why you're allowing projects to go ahead when the company can't tell you how much it's going to cost to undertake the decommissioning?

Mr Grebe: The Pluto project actually doesn't fall within NOPSEMA's jurisdiction. That part of the project is on state land and falls in the jurisdiction of Western Australia. We're responsible for the offshore petroleum activity components—that's the facilities and pipelines that relate to Scarborough and Pluto, but offshore.

Senator COX: What's required then from a legislative or regulatory perspective so that NOPSEMA can assure that the company—basically, on the parts that you govern, what assurances or what processes are in place to make sure that they do decommission or do have the appropriate money to cover the cost of decommissioning that component?

Mr Grebe: NOPSEMA has a responsibility for the decommissioning planning and compliance with the requirements to plan and manage activities towards full removal at the end of operations when property and equipment are not in use, and also to make decisions under regulations regarding deviating from that requirement, which the act provides for. That doesn't extend to the matters that I think you mentioned there in relation to the financial capacity to carry that out. That's not NOPSEMA's responsibility currently.

Senator COX: Thank you. I'm interested in understanding more about the risks of leaving offshore infrastructure in situ from a research perspective. I'm not sure if you can answer this: how are you currently assessing requests from oil and gas companies to leave offshore infrastructure in situ as part of that decommissioning process?

Mr Grebe: The requirements under the law are that the titleholder has to demonstrate under the environment regulations, like other stages of the petroleum activity, that the impacts would be at acceptable levels. That includes and extends to justifying leaving property and equipment in situ. NOPSEMA has to have regard to a range of other factors, including, for facilities, the safety of people under the safety regulations and, in relation to wells, that wells are properly plugged and abandoned. There are also other guidelines, principles and legislation that apply to the leaving of property and equipment, which we don't necessarily administer but which we ensure are covered through the environmental approval process. There's the sea dumping act, but we also have regard to the relevant EPBC—Environmental Protection and Biodiversity Conservation Act—requirements and the international conventions that Australia is a signatory to, which we apply.

Senator COX: Do you believe that we have enough information to make some evidence based decisions around the environmental risks of leaving some of that offshore infrastructure in situ?

Mr Grebe: That's a case-by-case decision-making process. Where there is sufficient evidence, we would make a decision, but, where there isn't sufficient information and there's substantial uncertainty as to whether it can be demonstrated to be an acceptable outcome, then the regulations actually prevent us from making an approval decision to allow that. The obligation to make that demonstration and provide the evidence falls to the titleholder in the legislative arrangements for offshore petroleum. It's really a matter for an individual case for a proponent to carry out research should there be gaps regarding evidence on whether the impacts and risks are acceptable.

Senator COX: Do you believe that more could be done to improve the quality and quantity of research that we have around environmental impact for offshore oil and gas infrastructure?

Mr Grebe: Certainly, Senator. All researchers would identify that more research is needed. NOPSEMA has been very active in this space in engaging with the industry, encouraging research, and identifying areas where there is a greater need, particularly the implications of leaving property equipment in situ in perpetuity and the fate and effects of materials that are left. We've been doing that engagement through not just the industry association bodies but also a national decommissioning research initiative established under the National Energy Research Australia, or NERA, which is part funded by the federal government. They are carrying out a range of research programs on topics such as those that I mentioned as well as other decommissioning research priorities. I'd also point out that Australia's relatively new to decommissioning at a larger scale, so we are aware of and engaged in research that's already been carried out, and is relevant here, particularly in the Gulf of Mexico, in the United States and offshore California, and in the North Sea.

Senator COX: That's great. Thank you very much for that.

CHAIR: I have one or maybe two supplementary questions on this. Just thinking this through, presumably, if it were possible to leave some of the subsea infrastructure there without causing environmental damage, that could result in quite substantial cost savings—which could lead to extra revenue for the government because it takes away decommissioning costs—it really is dependent upon it being able to be done in an environmentally appropriate way. Is that a fair comment?

Mr Grebe: Correct, Senator. Also, the term 'environment' is quite broad under the regulations, so impact on one of the marine users is a key consideration, and that also comes from international conventions. So hazards to other marine users are a factor, so your suggestion there is entirely the case. We see that happening in other jurisdictions in Europe, with steel pipelines that are decontaminated, for example, on the seabed. But, in the case of steel jacket platforms that obviously protrude through the water column, that's something that international conventions essentially don't permit.

CHAIR: Sure. Understood.

Mr Smith: To explain a little further: the legislation requires full removal and restoration of the site back to its original state, but the regulations provide for NOPSEMA to be able to approve circumstances that might deviate

from that where the impact on the environment is acceptable and the risks reduced to as low as reasonably practical.

CHAIR: The burden of proof reflects the precautionary principle. Is that a fair comment?

Mr Smith: Correct.

CHAIR: Senator Patrick, you have the call.

Senator PATRICK: I'm not sure whether you tuned in last night when I was talking to AMSA about SOLAS certificates.

CHAIR: What else would you be doing last night?

Senator COX: Give us a synopsis now.

Senator PATRICK: And, in Western Australia, it would have been early; you wouldn't have been tired.

Senator COX: Come on, Rex!

Senator PATRICK: It just would have helped, that's all. Information that you've provided the committee about the warrant that was executed and the reports that have flowed from that, which I thank you for—I'm not sure if I have the reports with me; I had them last night with AMSA—indicated that there were some real issues onboard Nganhurra. Is that how I say that vessel's name?

Mr Smith: That's close enough, Senator.

Senator PATRICK: It had a number of SOLAS related issues. There were fire system cylinders that were rusted and so forth. The documentation showed that you initially emailed AMSA and both you, Mr Smith, and the CEO of AMSA met at some stage. AMSA said that on an FPSO the SOLAS requirements fall outside the Navigation Act. If it's in your control, they don't look to it; only were it disconnected, would they have some authority about that. That leaves us in a 'legal lacuna', he called it, in that you have Safety of Life at Sea equipment that is not covered by you guys, and AMSA doesn't look at it.

One of the reasons, I understand, a SOLAS certification is needed is that you may have to disconnect and FPSO—with a cyclone coming or whatever—so you really do need to have a SOLAS certificate in place. Can you talk to me about that lacuna and tell me about it from your perspective?

Mr Smith: I might get Mr O'Keefe to elaborate, because I didn't hear you last night. Unfortunately, I was doing other things and not listening in to this.

Senator PATRICK: Next estimates you'll know to do differently.

Mr Smith: I'm not quite sure of the angle that you're coming from on this, so I'm not quite sure of what the lacuna is that is being referred to.

Senator PATRICK: It's not a common word. It means hole, like a big gap.

Mr Smith: I appreciate that, I'm just not sure what the issue was that was being raised last night. Mr O'Keefe may be able to explain a bit more about what we do, in regard to SOLAS requirements, which might help answer that question.

Mr O'Keefe: The specific issue there relates to an inspection that we did on the Nganhurra and the fire protection system, the engine system, clearly had defects. The operator had failed to maintain it and it had a number of defects associated with it. They were tending to be supported by external certification as a means of demonstrating the equipment was fit for purpose. It was evident to us that the equipment was not fit for purpose. We did an enforcement because of the risk presented by the equipment not working. They could use any type of certification that they wish, particularly a case where equipment is defective and they need to go and address that problem.

Senator PATRICK: What I hear you saying, and the audio was a bit scratchy, is you're indicating that when it's at sea, under NOPSEMA's control, you have a requirement for the fire safety equipment or fire retardant, in this case, to be properly certified in some way but it's not a SOLAS certification.

Mr O'Keefe: We require, under the safety case, all of the risks to be managed to a risk as low as is reasonably practicable. The operator can choose the way that they demonstrate that that has been done. In this particular case, there were certain requirements they were going to adhere to. In any case, the equipment was defective and could not function as intended. So we raised an improvement notice for that.

Senator PATRICK: I'm still trying to get to the point—the moment that the vessel detaches from its anchors, detaches from its site to maybe go to a port in an emergency, is the point where the SOLAS requirement kicks in. But we seem to have a situation where AMSA, who are responsible for the SOLAS requirement and require a

certification, if they're looking at the vessel while it's under your charge, have no jurisdiction. Indeed, I would suggest, if there's not a SOLAS certificate it creates a huge problem if they do disconnect, because now they're in breach. I would have thought the act would have a requirement in there for SOLAS such that, if they do have to disconnect in an emergency, that's covered off.

Mr O'Keefe: Again, the standards that the operator was intending to operate to were against particular certification. That was clearly not conforming with the certification, and the equipment did not function as intended. So we looked at it from a risk perspective. If the equipment had met that requirement and had been functional, when it passed into the other jurisdiction, under AMSA, my guess is that that would have met their expectations. But that's when it moves from our jurisdiction to theirs. We looked at it from the perspective of the risk presented at the time and, irrespective of what we should do next, it was [inaudible].

Senator PATRICK: Let's forget about the specific vessel. What I'm concerned about is that it's clear that, once the vessel disconnects, it has to have a SOLAS certification. That would tell me that, for a vessel that is under your charge that is disconnectable, it would be proper that there be a SOLAS requirement placed on the vessel itself. What I understand from the evidence from AMSA last night is that you might have a certification requirement but it's not SOLAS certified.

Mr O'Keefe: I think it should be quite clear to the owner or the operator of the vessel that if they are operating under the NOPSEMA regime they have to meet the requirements of that and that, if they change that and move into the AMSA regime, they need to meet the requirements of that. They may choose to do that by using the same level of certification to demonstrate that they've met the minimum requirements in both cases. Therefore, by maintaining that certification in place, as they indicated to us they were going to do, they would have made it. So I think it's actually one and the same thing. But they need to manage the risk at all times. They're fully aware of what it's like to be under NOPSEMA and they're fully aware of what it's like to be under AMSA. They've got an obligation to meet the expectations of whichever [inaudible] they are at.

CHAIR: I will just help to tease this out, Senator Patrick. You're saying there should be a way for the operator to manage this issue so that they're compliant at all times, when they're connected and when they're disconnected, and they should be able to manage the cutover between one safety legislative regime and another safety regime which is triggered by the disconnection. Is that the general view that you have?

Senator PATRICK: That's the nub of the problem. I understand that you can have a regime where, when it's connected, it's covered off by a certain certification. But, noting that the need might come in an emergency, it would seem to me that you would always have to have a SOLAS certification. You can't ring up AMSA when the emergency comes and say, 'Jeez, I need one of these certifications.'

CHAIR: In that particular scenario, let's assume that it's connected and it has all its certifications—

Senator PATRICK: It's got its NOPSEMA certifications.

CHAIR: Its NOPSEMA certifications. If an emergency occurs and they need to disconnect, at that point in time they move to the other jurisdiction.

Senator PATRICK: SOLAS.

CHAIR: How do they ensure they meet the safety requirements under AMSA when they have disconnected in an emergency?

Senator PATRICK: In essence, I'm saying that I think the answer is that you have to place the SOLAS requirement on the vessel when it's anchored. Otherwise, you have these two regimes and AMSA can't look into see if the system is okay from their perspective, because they have no jurisdiction, even though they might be meeting NOPSEMA's regime.

CHAIR: The jurisdiction changes at a moment in time. That moment in time could be in the context of an emergency. How does that work in practice to make sure there is no period where there is gap, maybe as a practical result of circumstances where you disconnect in an emergency? How do they manage that transition from the NOPSEMA regime to the AMSA regime? Do you understand the conundrum Senator Patrick's raising?

Mr O'Keefe: I suggest it may be more fundamental than that. [Inaudible] had a performance standard that said the equipment will be tested, certified and maintained occurred to a certain standard, which happen to be the AMSA MO part 15 and so on. They've clearly failed to do that. They claimed it failed to meet expectations—

CHAIR: Sorry to interrupt, but I think Senator Patrick is trying to lift the discussion to a general policy perspective, so it's not even the particulars. From a general policy perspective, how do you manage this transition between the two regulatory safety regimes where disconnection could occur in an emergency and, at the point in

time when the disconnection occurs, the NOPSEMA jurisdiction ends and you move to the AMSA safety jurisdiction. How do you deal with that?

Senator PATRICK: One of the problems is that AMSA can't look into the vessel until such time as it's disconnected, so it can't impose the SOLAS requirement. It seems to me that you ought to have that SOLAS requirement embedded on your side of the fence so that there's a continuum.

CHAIR: But it could be a legislative regime issue as well.

Senator PATRICK: AMSA indicated it was; they thought it was a legislative problem.

Mr O'Keefe: The danger is that you don't want a situation where you have two overlapping safety regimes. That creates its own issues. At the moment, they are not overlapping. When the facility is under our jurisdiction, we're responsible for it. When it goes to AMSA, they're responsible. I think I understand the issue that Senator Patrick is raising. If AMSA had concerns that a facility wasn't compliant with SOLAS and they thought it should be, there's no reason why we can't be working with them through measures such as how, as part of our inspections, we can authorise AMSA officers as NOPSEMA inspectors and so on. Rather than trying to have a duplication of regulatory regimes that could create problems because they may not be identical, you are better to work with the current arrangements, where there is no gap between the two legislative regimes, and have the two agencies working together if there are any concerns from either regulator.

Senator PATRICK: Why would a SOLAS requirement not meet a NOPSA requirement? I'm saying that, effectively, you could still have the different jurisdictions but the same standard.

Mr Grebe: That is what happens. I think that is the confusion here is that that is the situation. I think there are two different things at play, and they are separate. One is about who has the jurisdiction authority. The other is the requirements under the two different jurisdictions. All disconnectable FPSOs maintain the ability to be vessels and comply under the requirements for vessels under the Navigation Act. There's no gap there.

CHAIR: I need to share the call.

Senator PATRICK: I'm okay with that. AMSA are going to come back with a question on notice, and I'll compare the two to see if I'm satisfied.

CHAIR: Do you want NOPSEMA to take anything on notice to flesh out the details?

Senator PATRICK: No, I'm happy with what you provided me with. Last night I was less happy because AMSA just said, 'Whilst it's tied up, we have no jurisdiction,' and that left me completely concerned. But let me see what the answer is, and I reserve my right to come back and ask next time.

CHAIR: It certainly made sense to me what NOPSEMA was saying in terms of how there are practical ways to deal with—

Mr Sullivan: Because this is a policy issue as well and I think a legitimate issue that you raise, we will work with AMSA as well, to make sure that we are joined up. The issue you are pointing out is one where we should make sure that we don't have that gap and an unintended consequence. But, as Mr Smith said, there are ways and means within the current regulatory setup in which we can actually deal with this. It's making sure we have got that sense of protocol in place.

CHAIR: That would be ideal to do under the current regime. Senator what, you have questions for NOPSEMA?

Senator WATT: I do—not too many. You might recall that, at the last estimates, I asked NOPSEMA some questions about whether you had received complaints about sexual harassment, sexual assault, what sort of policies you had in place—that kind of thing. I wanted to follow up on that. I think you came back on notice and said that you had not received any reports of sexual harassment or sexual assault on regulated sites in the last five years. Is that correct?

Mr Smith: That's correct.

Senator WATT: And there have been no complaints since the time you answered that question?

Mr Smith: That's correct.

Senator WATT: I wanted to follow-up on this because, as you have probably seen since those questions, there have been some pretty disturbing reports, reviews and inquiries around bullying, harassment and sexual assault in parliament and in mining sites. Obviously, there was the recent release of Rio Tinto's pretty damning report into its workplace culture and other incidents of sexual harassment and sexual assault at mining camps. I think you said to us last time that NOPSEMA didn't see any need to issue a guidance note or advice to regulated

entities on dealing with these forms of workplace harm. Have any of the events of the last few months made you reconsider that position?

Mr Smith: I don't think that was quite what we said. I think the position was that we haven't issued any guidance rather than that we don't see value in it, if that's what you're suggesting. Since your questions, we have pursued this matter further anyway. I've had discussions with some of the CEOs from companies in the industry that work both offshore and onshore and asked them—some of the companies, in fact, that appeared before the inquiry—and they reported that they had dismissed staff over sexual harassment situations. The advice I received from those companies was that, although they have onshore and offshore interests, none of the incidents have occurred offshore. They have all been onshore. Typically, they have occurred outside of hours and typically alcohol has been involved. I note that in offshore facilities there is no alcohol permitted, so that's one factor. Nonetheless, we have been looking at whether or not it's appropriate for us to issue a guidance note anyway.

We've also pursued things like the opportunity for training for our inspectors with the state government department that has the onshore responsibilities. We've also published information in the regulator magazine which goes to industry workers. We also meet with the HSRs when we have inspections. We've been raising this issue on occasions as well. So your questions of us last time prompted us to actually act, and, yes, we think we've made some substantial progress. We remain interested and concerned about any possibility of sexual harassment or assault offshore. We'd like to think we're vigilant to that. I can still say we have not yet received any complaints or allegations of such activities in offshore facilities.

Senator WATT: Thank you. It's really pleasing to hear about those actions that you've taken, so congratulations for doing that. I take it, then, that you acknowledge that one of the reasons you might not be receiving reports of sexual harassment or assault is that people don't know that they can report that kind of thing to NOPSEMA. In the guidance notes and other measures you've taken, has one of the priorities been to make sure that people know that they can report these kinds of things to NOPSEMA?

Mr Smith: Yes, that is certainly a consideration. Some of the forums we have such as the meetings with the HSRs are conducted without management present. We also have the opportunity for people to give us anonymous tip-offs, referrals and so on. I note that, whilst we haven't had any complaints with regard to sexual assault, harassment or bullying, we have over the years had some allegations with regard to harassment and bullying that aren't of a sexual nature. We have investigated those and taken action where appropriate. So people are willing to refer matters to us of a bullying and harassment nature, but we just haven't received any in regard to sexual assault or harassment.

Senator WATT: How many of the general bullying-and-harassment-type complaints has NOPSEMA received over, say, the last five years?

Mr Smith: I don't know the numbers off the top of my head, but I can tell you that we have taken enforcement action in the last few years in regard to bullying—

Senator WATT: You have taken enforcement action?

Mr Smith: Yes, we have.

Senator WATT: What kind of enforcement action have you taken?

Mr Smith: Well, one example that's public is against Teekay. I'll get Mr O'Keefe to give you a quick run-down on that, if you'd would like.

Senator WATT: Sure.

Mr O'Keefe: That related to an individual who had been subject to bullying offshore. They came back onshore to recover their health, and, when they went back offshore again, it appeared that the circumstances hadn't changed. We investigated. We found out the company did not have appropriate return-to-work mechanisms in place, which would have addressed the cause of or the potential for bullying. They didn't have systems in place, and we required them to put those systems in place. So we looked at their overall system, not just for that individual but, overall, for the company, as to how they could maintain a safe place to work. One of those was to ensure that their people were free to go about their business unharassed.

Senator WATT: And you were satisfied with the action the company took in response?

Mr O'Keefe: We were, yes. We closed out that. We reviewed the work they'd done. I think they felt better for it, actually. Sometimes things work out that way—that they recognise they're going to have to improve their systems—and I think they're appreciative of it.

Senator WATT: That's good to hear. Can I just encourage you to keep up that work? It's obviously really important from a workplace safety perspective.

Mr O'Keefe: Thanks. One of the key things—

Senator WATT: I'll put our remaining questions for NOPSEMA on notice.

CHAIR: Mr O'Keefe, you had one final comment you wanted to add?

Mr O'Keefe: It was only to say that the measure of the workplace is actually critical. Every time we go to offshore facilities we meet with the health and safety representatives. That's one of the key things we're looking for, particularly at this time of pressures from COVID—what the temperature of the workforce is in relation to how they can live their lives and do their work.

CHAIR: I agree with Senator Watt. This is an extremely important area, and I commend you all for all the great work you're doing. Thank you, Mr Smith and your team. Thank you for joining us this evening. I know it's a late hour. We really do appreciate the input you've provided during this estimates hearing. It was very useful. We will now move on to the Northern Australia Infrastructure Facility.

Senator WATT: You're back, Zed?

Senator Seselja: Happy to be here, mate.

Senator WATT: You look like it!

CHAIR: Welcome back, Minister.

Senator Seselja: Thank you.

Senator WATT: We're just getting started! No-one else saw the humour in that.

CHAIR: I smiled. A smile twitched the corner of my mouth, Senator Watt.

Senator WATT: You groaned!

CHAIR: I should say that it's good that Senator Chisholm got you to substitute for him. The only substitute for a Queenslander is another Queenslander.

Senator WATT: Absolutely! Did he actually sub me?

CHAIR: He did. I checked.

Senator WATT: Otherwise you could have called quorum or something.

CHAIR: The thought never occurred to me!

Senator WATT: You wouldn't do that for Northern Australia, Susan, would you?

Senator McDONALD: Absolutely not!

CHAIR: She talked me out of it!

INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND COMMUNICATIONS PORTFOLIO

In Attendance

Senator Seselja, Minister for International Development and the Pacific

Department of Infrastructure, Transport, Regional Development and Communications Executive

Ms Marisa Purvis-Smith, Deputy Secretary

Northern Australia Infrastructure Facility

Ms Amanda Copping, Acting Chief Executive Officer

Office of Northern Australia

Ms Linda Lee, General Manager

Department of Infrastructure, Transport, Regional Development and Communications

Northern Australia Infrastructure Facility

[21:28]

CHAIR: I welcome back Senator the Hon. Zed Seselja, representing the Minister for Agriculture and Northern Australia. I also welcome the deputy secretary and officers from the Department of Infrastructure, Transport, Regional Development and Communications. Minister, Deputy Secretary or officers, would you like to make an opening statement?

Senator Seselja: No.

Ms Purvis-Smith: No, thank you.

CHAIR: I also welcome our friends from the Northern Australia Infrastructure Facility. Would you like to make an opening statement at this stage?

Ms Copping: Yes, I would like to provide an update on the activities of the NAIF. The total value of NAIF's investment commitments currently stands at \$3.4 billion. Importantly, these projects are forecast to generate \$25 billion of public benefit to the northern Australian economy. That's a multiplier of 7.3 for every NAIF dollar that's committed, and generates 12,500 jobs. The investment decisions have been split by jurisdiction, with \$1.25 billion committed for Queensland, \$760 million for the Territory and \$1.4 billion for Western Australian projects. We have now reached contractual close on \$2.2 billion of finance. I'm happy to take questions.

CHAIR: I hope it's been going well for you since we gave you our best wishes in your acting role when you last appeared before us at estimates. I'll now give the call to Senator Watt.

Senator WATT: I will definitely have some questions for the NAIF, but I'll start with the department. I'm after a brief update on the Northern Australia Development Program and the Northern Australia Business and Community Growth Program. I'll start with the Northern Australia Development Program. You have opened applications for these grants, but they haven't yet closed?

Ms Purvis-Smith: How about we give you a bit of an overview, and we can cover off opening and closing and where everything is up to. Does that work?

Senator WATT: Yes. That'd be great.

Ms Purvis-Smith: I'll ask my colleague Ms Lee to provide you with that.

Senator WATT: Will you cover off both of those programs, Ms Lee?

Ms Lee: Yes, I can. The Northern Australia Development Program offers an opportunity for matched grants for businesses to grow and diversify. The objective of the program is really about creating new jobs and strengthening business capability and resilience. There are two streams to the development program or the NADP. The first stream is business development grants, which are open to small to medium businesses with up to 199 employees. They offer \$50,000 to \$2 million for a range of activities focused on scaling up and diversifying business. To be eligible for that program you need to have an ABN and be a trading business, and your project needs to be located in northern Australia or to benefit northern Australia. The activities that are eligible under that grant program are quite broad ranging, including buying, constructing and installing plant and equipment; constructing or refitting infrastructure; skills and training; feasibility studies; and marketing activities.

The second stream in that program is the industry transformation grants. These are larger grants open to medium to large businesses. The grants range from \$3 million to \$10 million and they're really about establishing a new industry or significantly growing an existing industry. The Northern Australia Business and Community

Growth Program extends the eligibility of the NADP to a broader range of organisations, including sole traders, community organisations, Aboriginal and Torres Strait Islander corporations, and other entities. The BCGP supports the provision of economic and social infrastructure where it has benefits for community, liveability and social amenity. So those matched grants are available and range from \$50,000 to \$2 million. That's the basis of the program. I'm happy to give a bit more detail where required.

Senator WATT: I've just forgotten—there are so many different grants programs. Have applications opened for both streams 1 and 2?

Ms Lee: That is correct. For the NADP, which has the two streams, they opened on 4 November and the first round closed on 10 December. For the BCGP, they opened on 6 December and the first round closed on 13 January.

Senator WATT: How many applications were received through each of those programs?

Ms Lee: I'll start with the totals, perhaps. For both programs, for Northern Australia Development Program, two streams, and the Northern Australia Business and Community Growth Program, it's a total of 196 applications. That's broken down to 187 for the Northern Australia Development Program and nine for the Northern Australia Business and Community Growth Program.

Senator WATT: That's 187 for Northern Australia Development Program?

Ms Lee: Yes. Within that, the two streams, the business development stream is 143 and the industry transformation grants is 44.

Senator WATT: Were you a little surprised by how few applications you got for the Northern Australia Business and Community Growth Program?

Ms Lee: Yes, there weren't as many applications as the Northern Australia Development Program.

Senator WATT: Just remind me, what's the major difference between them? Why would someone choose to apply for the Northern Australia Development Program and not the Northern Australia Business and Community Growth Program?

Ms Lee: The major difference is who they're targeted at. The NADP is largely targeted at trading corporations, businesses; whereas the BCGP is targeted at other entities that aren't trading corporations, so to speak.

Senator WATT: More like an NGOs.

Ms Lee: Correct.

Senator WATT: But there would be some private sector people eligible, sole traders and partnerships?

Ms Lee: Yes, sole traders are an example.

Senator WATT: Do you think it just reflected that, maybe—given that they have to chip in 50 per cent of the funding as well—it was beyond sole traders and partnerships, in the way that trading corporations could do?

Ms Lee: I'm not really sure. I'm not sure how to answer the aspirations of each potential applicant. But you are correct, it wasn't as well serviced as the NADP.

Senator WATT: Do you have figures on the total funding that's been sought under each of those programs?

Ms Lee: Yes. I will start with the NADP. For the first stream, the business development program, it's \$127.5 million. For the industry transformation grant it's \$341.3 million. For the BCGP, it's \$7.7 million.

Senator WATT: Where are we up to with the assessment process if the applications closed in December or January?

Ms Lee: The applications are being assessed by the business grants hub, and they're testing applications for eligibility.

Senator WATT: Once they assess the eligibility they will make a decision about who's successful?

Ms Lee: No, then it will go to an independent assessment committee, and they'll assess the applications against the criteria for the respective programs.

Senator WATT: So, as we sit here today, it's the grants hub that's assessing eligibility. Those who are eligible will go through to the next stage, which is the independent panel.

Ms Lee: That's correct.

Senator WATT: Who's on the independent panel?

Ms Lee: There are six members of the assessment committee. It's chaired by Glenys Schuntner. The other members are Scott Anderson, Jeff Gooding, Chris Rees, Angela [inaudible] and Emma White.

Senator WATT: But they haven't begun their work yet?

Ms Lee: They have started considering eligible applications.

Senator WATT: Are there criteria that they will assess those grants against?

Ms Lee: Yes. The criteria relate to the program objectives. In the order of the two streams and then the BCGP, it's about the ability to create new jobs and to scale up and diversify. For industry transformation it's about the ability to grow new industries or significantly change the existing industries. For the BCGP it's about the ability to improve social and economic infrastructure and, in addition, the capacity, capability and resources to undertake the work.

Senator WATT: Okay. If it's convenient, perhaps you could table what the criteria are if you've got them there?

Ms Lee: Of course.

Senator WATT: So the independent panel will assess all of the eligible applications against those criteria. The panel will make recommendations to the minister. What role will the department have in all of that?

Ms Lee: The department will package the recommendations, the eligibility assessment from the BGH and the recommendations from the assessment committee and provide that to the minister.

Senator WATT: But the department won't really have any role in assessing the merits of the applications?

Ms Lee: No.

Senator WATT: What's the approximate time frame for providing a list to the minister?

Ms Lee: We are expecting it to be with the minister in February. Because of the volume of applications, that's likely to be later than February, given the date.

Senator WATT: So February/March?

Ms Lee: Yes.

Senator WATT: We're well into February, aren't we? The Minister for Agriculture and Northern Australia is the sole decision-maker?

Ms Lee: That's correct.

Senator WATT: Has the Northern Australia Indigenous Reference Group been consulted about the list of applications or any of the projects? Have they had any role at all in this?

Ms Lee: No, not as yet. The IRG, as you know, has been refreshed and is yet to meet formally. That will be next week.

Senator WATT: I know that there was work going on about refreshing it, but I've missed this. Have new members been appointed?

Ms Lee: That's correct.

Senator WATT: I've missed that, sorry. Can you just tell us who they are?

Ms Lee: There are eight members. It's chaired by Mr Colin Saltmere, and the other members are Ms Gina Castelain, Ms Tara Craigie, Mr Jerome Cubillo, Mr Troy Fraser, Mr Peter Jeffries, Ms Gillian Mailman, and Ms Cara Peek.

Senator WATT: Was that announced by the minister? That must've slipped by me.

Ms Lee: Yes, it was. There were two separate announcements. The first six members were announced on 13 December, and an additional two members on 24 December.

Senator WATT: I'll go back and have a look. But they're not playing any role in looking at these applications?

Ms Lee: No, that's right.

Senator WATT: The reason I ask, I suppose, is that I noticed Indigenous businesses are a group named as being eligible for the Northern Australia Development Program grants, and Indigenous organisations are named as potential applicants for the Northern Australia Business and Community Growth Program. Given there have been some issues about the engagement of First Nations people with the northern Australia agenda, would it not be a good idea to involve the reference group in helping select projects as well?

Ms Lee: The terms of reference for the IRG are being formulated and are yet to be agreed. Certainly one of the things that we think the IRG could provide advice on is the application process from an Indigenous perspective and helping us to improve the process rather than looking at the grants themselves.

Senator WATT: Were you referring to the grants that are underway as round 1?

Ms Lee: That's correct.

Senator WATT: For both the Northern Australia Development Program and the Northern Australia Business and Community Growth Program?

Ms Lee: That's correct.

Senator WATT: Do you have any idea when round 2 will be opened?

Ms Lee: Round 2 will be subject to the funding available following the completion of the assessment of grants through round 1.

Senator WATT: Can you remind me how much is available for budgeting?

Ms Lee: Both programs share an envelope of \$80 million.

Senator WATT: And you've had about \$450 million to \$500 million worth of applications?

Ms Lee: \$476 million.

Senator WATT: So it's conceivable that all \$80 million could be spent in round 1?

Ms Lee: That's correct.

Senator WATT: In which case there wouldn't be a round 2 unless government decided to provide more funding?

Ms Lee: Government would need to make that decision, yes.

Senator WATT: Has there been any coordination or any interaction with the NAIF about these grants?

Ms Lee: Only in talking about how the grants could support proponents to get into the NAIF pipeline. For example, feasibility studies are one way that we can assist smaller proponents enter into a NAIF pipeline. We've had officer-level conversations about that.

Senator WATT: The reason I ask is that—and I don't think I'm telling any secrets to say—two of the criticisms of the NAIF have been that it hasn't provided grants and that it hasn't focused sufficiently on smaller projects, and these grants are grants, for starters, and they're geared towards smaller projects, so I wondered if in some way this might be filling the gap that's been identified in the NAIF?

Ms Lee: I guess that will be in the assessment of the program to look at whether it is being used as the bridge into NAIF and if that is the core of the challenge for those smaller businesses.

Senator COX: My focus is on the Perdaman processing plant at Karratha. Who first approached NAIF in regard to supporting finance for this project?

Ms Copping: NAIF is financing the two key components of the critical infrastructure, so the NAIF financing is going to Pilbara Ports Authority for the development of the critical infrastructure to support the urea plant—a multiuser port at Dampier—and then the other component is a \$95 million loan to expand the Burrup seawater supply and brine disposal scheme. Both of those pieces of infrastructure will then be used by the Perdaman plant itself.

Senator COX: For clarity, because you dropped out there at the start, they're both on behalf of the WA government—is that right?

Ms Copping: Yes, they're both to the government trading enterprises that are owned by the Western Australian government—one to Pilbara Ports Authority and the other one to [inaudible].

Senator COX: Was the minister for northern Australia or the minister's office aware of the request and provided support for the finance?

Ms Copping: I think that's a question best answered by the department.

Ms Purvis-Smith: I'd have to take the detail of that on notice for you. The process around NAIF approvals is that the NAIF go through the due diligence and get through to the investment-decision stage. The department is involved in terms of gathering information from other Commonwealth departments to make sure that there's nothing that the NAIF need to be aware of in terms of making their decisions. Rather than, for example, ticking off every proposal, the minister has a veto right. So proposals, once the NAIF has made its decision, then go to the minister—whether the minister would like to use the veto right. There are particular reasons and processes about how that is used.

Senator COX: Can you expand on that at all?

Ms Purvis-Smith: Let me see whether I've got any more. I can probably get some more detail for you on notice if you would like.

Senator COX: Yes. If you're happy to provide that, that would be great.

Ms Purvis-Smith: There are particular processes by which the minister can use the veto right. It does have to be tabled in parliament with a list of reasons, so, if a veto right is used, then it's quite transparent. I might have something here for you actually. It's quite detailed, so it might be worthwhile if I can provide it to you quickly at a later stage—just afterwards, if you like.

Senator COX: That's fine. You can provide it on notice if you like. I'm also keen to know whether there are other ministerial offices such as Science and Technology that might have provided support as well. That's probably a question for the minister: are Science and Technology supporting that application for Perdaman?

Senator Seselja: My apologies. The question was?

Senator COX: Was there a request for support for the NAIF application for Perdaman through the minister's office for Science and Technology?

Senator Seselja: I'd have to take that question on notice.

Senator COX: Thank you. Did Woodside ever contact NAIF in relation to requesting support for Perdaman?

Ms Copping: I'd have to take that question on notice. I'm not aware myself, but I will check.

Senator COX: Thank you. Were there any government ministers' members of staff that were ever urged for NAIF to meet with representatives of Woodside to discuss Perdaman?

Ms Copping: NAIF continue to talk to a number of proponents in Western Australia, including Woodside, to talk about a number of opportunities.

Senator COX: When did the NAIF board actually formally endorse supporting finance for Perdaman?

Ms Copping: I'll give you the date, but my understanding is that that investment decision was made at the December board meeting.

Senator COX: I was just noting your opening statement that it was after 28 October last year.

Ms Copping: That's my understanding, yes.

Senator COX: Has Woodside ever requested support from NAIF—in particular, for this project?

Ms Copping: Again, I will take that on notice. Obviously the two NAIF loans are to Pilbara Ports Authority and to Water Corp.

Senator COX: Did NAIF ever consider that, if the Perdaman project didn't go ahead, the Woodside Scarborough project wouldn't proceed as well, without finance? Was that a deciding factor?

Ms Copping: We consider each project on a case-by-case basis. Looking at the loans for Pilbara ports and Water Corp focused on the Perdaman transaction itself.

Senator COX: Minister, I'll direct my other questions to you, if I can, and come back to Ms Copping. Is it fair to say that extending this facility at Perdaman, as per the minister for northern Australia's statement, supports Aussie farmers?

Senator Seselja: I'm just trying to understand your question, sorry.

CHAIR: Minister, do you have a copy of the media statement that Senator Cox is referring to?

Senator COX: I will provide him with one. I will just quote the area that I was inquiring about:

The NAIF's investment will provide farmers' access to locally manufactured fertiliser, securing our agricultural production ... Yet Perdaman are on the record, including on their website, clearly stating that this product is actually for export. Two point three million tonnes per year is going to be exported. It's not going to be for local production. It's not going to be for Aussie farmers. It's actually going to go straight to the Pilbara port and out, for export, according to the minister.

Senator Seselja: Are you suggesting that it's a bad thing that things are produced for export?

Senator COX: Sorry?

Senator Seselja: Are you suggesting that it's a negative to be exporting Australian-produced goods.

Senator COX: That's exactly what it says. It actually states that the NAIF investment will provide this access to locally manufactured fertiliser for the benefit of and to support Australian farmers. How does it benefit Australian farmers if it's all going onto a ship and being exported overseas? It's not actually going to Australian farmers for its production.

Senator Seselja: With the level of detail there, I'd probably just have to take that on notice.

Senator COX: I'm not sure how the minister can make a statement like that, basically misleading the Australian public and Australian farmers, saying that the Perdaman investment in the Pilbara will actually benefit our Australian farmers with locally produced fertiliser that will benefit our economy, when in fact it's actually for export and trade.

Senator Seselja: Again, I would probably have to take the detail of that on notice.

Senator COX: Happy for you to take that on notice. My other questions are to Ms Copping. Is NAIF aware that Perdaman's chemical processing plant will be built right next to millions of Aboriginal rock carvings, some of which are more than 40,000 years old?

Ms Copping: Yes, we're aware of the location of the plant itself. For every transaction investment we consider, we undertake detailed due diligence in relation to the project. That includes environmental due diligence and ensuring strong Indigenous outcomes.

Senator COX: In addition to this: that rock art is also the subject of a World Heritage listing application, due next year. The federal government and the Western Australian government are providing funding towards that submission. Yet NAIF is providing funding to destroy it. It is an application on a significant piece of rock art on country in Murujuga. This essentially will destroy that and has been objected to by the traditional owners and elders, who don't want this project to go ahead. Has NAIF even spoken to those traditional owners?

Ms Copping: Yes, it has. As I mentioned, for every project NAIF does we require an Indigenous engagement strategy from the proponents. As part of undertaking due diligence on those Indigenous engagement strategies, the NAIF team go and speak to the traditional owners of the country where the project sits.

Senator COX: In that Indigenous engagement strategy, can you point me to the section in the policy where it says that it deals with the destruction of Aboriginal sacred sites? I can't find it.

Ms Copping: In terms of the proponents' Indigenous engagement strategy?

Senator COX: It's your Indigenous engagement strategy. It says it's all about employment opportunities for First Nations peoples near this project, yet I can't find the section of the policy that talks about the destruction of sacred sites. That is exactly what is happening in real time from industrial emissions to the Murujuga rock art at the Perdaman site. I'm just curious.

Ms Copping: A couple of points to make there. As I said, the Indigenous engagement strategy is the strategy of the proponent. NAIF undertakes due diligence and reviews that strategy. Secondly, every project we finance has to have in place all the necessary approvals required for that project to proceed, and that includes environmental approvals.

Senator COX: I just want to clarify this: the NAIF, as an Australian government agency, isn't formally concerned with protecting Aboriginal sacred sites and history in this country. Is that right?

Ms Copping: No. What I said is that NAIF undertakes due diligence on the Indigenous engagement strategy for every project—in particular for this project. Also, we don't provide funding unless the project has achieved environmental approval.

Senator COX: It's also accurate to say that NAIF is more concerned with trying to find ways to buy off Aboriginal people with jobs and contracts, because they're the real jobs on country, and the economic filter here, that NAIF is concerned with. You talk about the environmental factor, but it's not being considered when we talk about the cultural tourism of the oldest rock art in the world. Murujuga contains rock art that's not found anywhere else in the world.

Ms Copping: Achieving strong Indigenous outcomes is a key part of what NAIF does. Yes, it includes jobs and it includes procurement. It also includes cultural awareness and understanding. It is a key part of every investment we make.

Senator COX: Hypothetically, if NAIF had provided financial facility to Rio Tinto for work that supported the destruction of Juukan Gorge, how would NAIF have protected the sacred sites of the 40,000-year-old rock caves in that location?

Ms Copping: Senator, I can't comment on a hypothetical.

Senator COX: It's a comparison. Basically, it's the same thing.

CHAIR: I think it is a hypothetical, Senator Cox, to be fair.

Senator COX: That's fine for Ms Copping not to answer that. Just to wrap up, I just want to make sure that I have understood that what you've said is: NAIF doesn't understand the significance of Murujuga and the rock art,

it hasn't listened to the traditional owners, and it actually doesn't care about the impact of this project and is willing to finance Juukan Gorge 2.0. That's exactly what's happened—

Senator McDonald interjecting—

CHAIR: I'm sorry, Senator Cox—on a point of order, Senator McDonald?

Senator McDONALD: Chair, this is a NAIF official. Senator Cox is extrapolating words that Ms Copping has not said. This is unreasonable and unfair.

CHAIR: Senator Cox, I understand you're passionate about this issue, and I recognise that—

Senator COX: Absolutely. I've been there to visit. I've also spoken to the traditional owners. I'm trying to understand why a government department is trying to destroy something which is sacred to Aboriginal people! I know you don't understand that, Senator McDonald. That can be your point of order, but we are passionate about protecting country.

CHAIR: I don't think that's fair, Senator Cox. Do you have another question?

Senator COX: No, I don't, that's it. Thank you very much, Chair.

CHAIR: Thank you, Senator Cox. Minister, can I place on notice for you to check the issue about the percentage that's going on export. I'm not sure if I've located the particular media release—I was just looking for it on my phone. There is a question, I think, about whether or not this is a major export project but also a question about whether it is providing domestic supply. If you could just clarify, perhaps in the answer to the question that you took on notice from Senator Cox. Could you just make sure that answer deals with any domestic supply?

Senator COX: I'm not sure the minister understood that question, so thank you for clarifying, Chair.

CHAIR: I'm happy to be of service, Senator Cox.

Senator Seselja: I'm advised that they'll be supplying both domestic and international supplies.

Senator WATT: Ms Copping, I'm sure you're glad you had a bit more time to prepare for this hearing than you did for the last one! Again, thank you for stepping in at the last minute at our last hearing.

CHAIR: I should say that we have tabled your entire opening statement, Ms Copping. You were very kind to read only part of it, but we have tabled all of it. I have read it all and it was very useful so thank you very much.

Senator WATT: Ms Copping, hopefully you got my letter from a couple of days ago just flagging some of the information I was going to be seeking. The reason I sent that was that I knew we'd be doing this at 10 o'clock at night and I thought it might save us some time. Do you have that information that I sought?

Ms Copping: Yes, Senator, and we were going to table it as well.

Senator WATT: I think that is just going to be tabled now. While that is happening, I might just get the headline figure from you. What is the total amount of funding that is now being drawn down from the NAIF?

Ms Copping: As at 31 January, the total amount drawn down was \$585.2 million. That is split across the three jurisdictions: \$263.6 million in Queensland, \$216.8 million in Western Australia and \$104.9 million in the Territory.

Senator WATT: So we've just cracked the 10 per cent mark of the five billion that the NAIF has at its disposal, and it's now seven years since the NAIF was created. Looking at that \$5 billion that the NAIF already had, prior to the recent announcement, what's the rough time line for when you expect that that five billion will be fully drawn down?

Ms Copping: Firstly, NAIF has made \$3.4 billion of investment decisions, and \$2.2 billion of that have reached contractual close. The timing of drawdown is at the borrower's request. They draw on the lines as they need the funds and, as the funds are for construction, they're not drawn in a single tranche but rather as required by the project's design and construction timetable, and it's that that determines when those committed funds—those \$2.2 billion of contractual-close funds—are drawn.

Senator WATT: I'm just going through this information that you provided. You've given the total amount of drawdown broken down by state. One of the things I asked for was the amount of funding drawn down by project. Do you have that information at all?

Ms Copping: Yes, we do track that—absolutely we do. But given it's commercial-in-confidence in relation to the proponents and their overall financing package—it's not just NAIF; it includes other financing—we're not able to disclose drawdown by individual proponents at the time.

Senator WATT: I might be wrong about this, but I thought that previously we've been able to get a project-by-project breakdown of funds drawn down. Would you mind taking that on notice?

Ms Copping: I'd be happy to take that on notice.

Senator WATT: I might be wrong about that, but if that information had been provided before, I'd ask you to reconsider and provide it to us this time as well. The next thing I asked you for was the total number of projects that have had loans approved by the NAIF broken down by state. We have nine for the Northern Territory, 14 for Queensland, 16 for Western Australia, and I see that you have a note here that the number of projects includes eight projects approved by the NAIF board that are not proceeding such as Agripower. Can you list the eight projects that were approved but aren't proceeding?

Ms Copping: I'll have to come back to you on that one and take that on notice. But I can give a couple of examples of loans that are not proceeding. One is where we provided a loan to a proponent who was subsequently taken over and advised that they didn't require the NAIF financing. Another was Agripower, which advised after the NAIF investment decision that they were able to secure private sector financing. We're conscious of not crowding out the private sector, so they went with the private sector financing. For the first example I didn't provide the name, but that organisation has been taken over. They were acquired and as a result they advised they didn't require the NAIF financing. Those are two examples.

Senator WATT: Is there any reason you can't give us that name?

Ms Copping: My understanding is that that name remains commercial-in-confidence, but I'm happy to take that on notice.

Senator WATT: I've had a look at the NAIF website, the case studies, and I see that Agripower Australia is still up there. Are there other projects that are listed on the NAIF website as having been approved for a loan that are not proceeding?

Ms Copping: I would have to check the NAIF website and go through the case studies case-by-case again. I'm happy to take that on notice and confirm to you.

Senator WATT: Do you have a state-by-state breakdown of the eight projects that aren't proceeding?

Ms Copping: Not to hand, but, again, happy to take that on notice and provide it to you.

Senator WATT: Just so we're clear about our language, what I asked for was the number of projects that have had loans approved by the NAIF, and that total's 39 minus the eight that are not proceeding, so 31.

Ms Copping: That's correct.

Senator WATT: Do we mean the same thing in loans approved? Are they the \$3.4 billion in commitments that you've made? Are those the 31 loans?

Ms Copping: The 31 in the investment decision commitments, yes.

Senator WATT: So there have been 39 investment decisions of which eight aren't proceeding and the total value of the remaining is \$3.4 billion?

Ms Copping: Yes.

Senator WATT: What was the contractual-close figure again?

Ms Copping: It was \$2.2 billion.

Senator WATT: So for those 31 projects, \$2.2 billion worth of them have reached contractual close and \$585.2 million of those funds have been drawn down?

Ms Copping: Yes.

Senator WATT: So the \$3.4 billion figure and the \$2.2 billion contractual-close figure don't include any of those eight projects which are not proceeding?

Ms Copping: That's correct.

Senator WATT: Obviously, some of the amendments that were made to the NAIF legislation last year in a bipartisan manner approved a change to allow the NAIF to provide equity finance. Have any projects now been approved for equity finance?

Ms Copping: We're very mindful of our role and of investing taxpayer money. As a first step, we have been looking to put in place the corporate governance and processes that will govern any investment that we make. We have not made any investment decisions to date for equity investments; however, a number of projects have proceeded through the strategic assessment phase and are now into diligence. We hope to be able to make some investment decisions in the not-too-distant future.

Senator WATT: There were other financial tools approved, such as derivatives and other things that NAIF previously couldn't provide. Are there applications now before the NAIF for those other forms beyond equity finance?

Ms Copping: We haven't made any decisions in relation to derivatives. As to other changes that we've made, we've announced the first of our on-lending partnerships. That's a \$50 million loan to the Northern Territory Local Jobs Fund. That was made possible by the NAIF reforms. That is designed to expand support for small and medium businesses. In addition, another one of the reforms was the ability for NAIF to provide financing directly to proponents and not via the jurisdiction. To date, NAIF has made investment decisions for three projects for direct financing: one in Queensland, one in WA and one in the NT. The ALPA transaction, the Indigenous food storage and warehousing facility in the NT, is direct. Alliance Airlines's maintenance facility in Rockhampton will be via direct financing, and there's the Kimberley cotton gin in WA.

Senator WATT: I might come back to that point. Before I leave equity finance and derivatives—no equity finance has been provided at this point, but there are assessments underway?

Ms Copping: Correct.

Senator WATT: How many projects have formally applied for equity finance?

Ms Copping: There are a number of projects in the preliminary stages and in the pre-strategic-assessment phase. As you are aware, given that some of those discussions are still relatively preliminary and given that, unlike a grant process, it's not a formal lodgement of a form at a particular date, it would be premature for me to talk about those opportunities.

Senator WATT: I'm curious: without revealing any of the applicants, is it possible to describe the types of organisations or the types of activities that are seeking equity funding as opposed to loan funding?

Ms Copping: Under the terms of the mandate, NAIF can consider making equity investments of between \$15 million and \$50 million. That influences and impacts the types of potential investments that NAIF can make. Typically, for equity investments, it is the case that they are further along the risk spectrum than debt. An equity investment involves a higher risk than providing a loan but also a higher return. That's true for all the applicants that have approached NAIF.

Senator WATT: Is it possible to generalise and explain what it is that makes these projects riskier and, therefore, looking for equity finance rather than loans?

Ms Copping: There are a number of reasons why they would look for equity, and they're not ready for debt. For a lot of them it's the stage of development that they are at: they're ready for equity; they're not quite ready for debt. If I had to generalise, I'd say it's around revenue certainty. When you take out a mortgage to buy a house, you need to have a level of comfort around the ability to service that loan, and that's no different to a NAIF loan.

Senator WATT: You've been in the acting CEO role for a few months now. Is there anything you've observed that identifies real gaps the NAIF is increasingly being asked to fill, from a financing perspective? That might be industries, regions or types of organisations. Where are you finding that the NAIF is particularly getting interest?

Ms Copping: It's fair to say that we are seeing interest across sectors and across the regions. We have identified five sectors within the investment team, and we're seeing interest and appetite across each of those sectors—be it resources, projects, transport, social infrastructure, energy, and [inaudible] water. There are opportunities looking for NAIF financing across each of those sectors.

Senator WATT: I want to go back to the point about projects where finance will be provided directly to the proponents rather than through a state or territory. You gave us the three where that's occurring. Are there any applicants who are still seeking for funding to be provided via states and territories?

Ms Copping: Going forward, we expect that there will be a mix of projects—some will go directly to the proponent and in others we will work with our jurisdictional partners to provide the finance. Earlier this evening we spoke of the two loans to Water Corporation and Pilbara Ports Authority. Given the nature of those entities, it makes sense for us to provide the financing through Western Australia.

Senator WATT: Is that because they're owned by the state government?

Ms Copping: Yes; and, because of the critical role of the Western Australian government in those projects, it makes sense to go through them. But, for other projects, we will go direct. It really depends on the nature of the project, as we determine it, whether it will go direct.

Senator WATT: Could you table for us a current organisational chart of the NAIF?

Ms Copping: Yes, I can do that.

Senator WATT: Thanks. That leads me to where we're up to with the search for a new CEO. Can you just give us a quick update on that.

Ms Copping: CEO recruitment is a matter for the board and is perhaps best answered by the department. But, before I hand over to them, I will say that the chair advised NAIF staff on 4 February that the search for the CEO is well progressed. They advertised in December and January, and the chair advised that they have an excellent field of candidates. But it would be best if I hand it over to the department.

Senator WATT: Could I ask the department to give a quick update please.

Ms Purvis-Smith: The NAIF has engaged a recruitment firm to assist them with the search; they have shortlisted, and interviews are being undertaken.

Senator WATT: Have they started?

Ms Purvis-Smith: Yes, they have started interviews, and they're in the middle of the assessment process.

Senator WATT: So the recruitment agency is doing those interviews?

Ms Purvis-Smith: No, they are being led by the chair.

Senator WATT: So who's on the selection panel?

Ms Purvis-Smith: Can I get the detail of that for you?

Senator WATT: That would be great, thanks. Is there a rough time frame for when it's expected there'll be an announcement or a decision on this?

Ms Purvis-Smith: I think the chair is keen to fill the position as soon as she can, so she's going through the relevant processes to do so. It will also need to go through cabinet, so it will be a cabinet appointment.

Senator WATT: Do you have some figures there about the cost of the recruitment agency?

Ms Purvis-Smith: No I don't, but I'm sure I can get that for you. I'll take it on notice.

Senator WATT: The cost, when they were engaged, who they are, how long they've been engaged for—those sorts of basic details would be good, thanks.

Ms Purvis-Smith: Yes.

Senator WATT: What role has the minister's office played in the recruitment process?

Ms Purvis-Smith: I'm not aware. I would have to take that on notice. I'm not aware that they have played any role, but I can check and get back to you.

Senator WATT: Could you, on notice, advise whether the minister or his office have discussed the recruitment process with the chair of the NAIF, and, if so, what the nature of those discussions have been and specifically whether the minister or his office have made any suggestions to the chair or to the recruitment agency as to possible CEOs.

Ms Purvis-Smith: I'd have to take that on notice.

Senator WATT: Thanks. Also, could you take on notice whether the chair made any suggestions about possible CEOs to the recruitment firm.

Ms Purvis-Smith: Yes, I can take that on notice as well.

Senator WATT: You said that there's a shortlist. Has that shortlist been provided to the minister or his office?

Ms Purvis-Smith: I am not aware. I'd have to take that on notice.

Senator WATT: But I assume the list has been provided to the chair, if she's on the selection panel.

Ms Purvis-Smith: Yes, indeed.

Senator WATT: Has any decision been made about whether the new CEO will be required to live in northern Australia?

Ms Purvis-Smith: That's a matter for the chair, and it depends on the candidate that they get. I can take on notice anything that the chair may wish to say.

Senator WATT: Ms Copping, I don't want to dwell on this, but you didn't receive any sort of handover from your predecessor when you suddenly became the CEO, did you?

Ms Copping: No. As you are aware, there was an email advising me and the NAIF team that the former CEO had resigned.

Senator WATT: I'll try and rip through my remaining questions as quickly as I possibly can.

CHAIR: You don't need to seek my consent to do that!

Senator WATT: I know. All of us have had a long week. You came back to us after the last estimates with some answers on notice about staffing in the NAIF. One of the questions on notice informed us that, as of 31 October 2021, the NAIF had 35 staff members and 13 unfilled positions. Can you give us the same sort of breakdown either for now or as at 31 January or something like that?

Ms Copping: NAIF currently has 37.2 FTEs, or 38 employees, in total.

Senator WATT: How many unfilled?

Ms Copping: I'll have to get back to you and confirm the number of unfilled at the moment.

Senator WATT: Can you give us an update on the number of NAIF staff, including management, who are based in northern Australia? We talked about this last time and the fact that there are more NAIF staff in Sydney than in all of northern Australia. Has that changed?

Ms Copping: Currently there are 17.6 FTEs in northern Australia, split between Cairns, Darwin and Townsville. That also includes Perth.

Senator WATT: Did you say 17?

Ms Copping: Yes, that's correct. That is an increase from 18 months ago, when we had six in the north. And we have two in Brisbane and 17.6 in Sydney.

Senator WATT: So 17 in northern Australia. That was split across Darwin, Cairns—

Ms Copping: Townsville, and that does include Perth, which I understand is not north, but that's in WA.

Senator WATT: How many are in Perth?

Ms Copping: There are 2.8.

Senator WATT: Again on notice, could you give us the breakdown of the number of staff for each of those locations?

Ms Copping: Sure.

Senator WATT: And when were those figures as of?

Ms Copping: They are as at end of January.

Senator WATT: I know you don't know the number of unfilled positions, but last time around there were about 13. Based on your knowledge of the organisation, do you believe that it's significantly less than that now or about the same, or do you not really know?

Ms Copping: We have had 30 new employees since January 2020, split between 21 new roles and nine new hires, due to resignations. We continue to see strong appetite and interest in working at NAIF.

Senator WATT: One of the other questions on notice from last time revealed pretty high turnover levels in the NAIF prior to your appointment. For instance, there were 18 staff who left between January 2020 and October 2021—a pretty high proportion of the staff. Have you done any work to identify reasons for high levels of turnover, and are you trying to turn that around?

Ms Copping: Firstly, people's reasons for resignations really depend on each individual. We have seen that it differs between individuals. But, obviously, we are focused on ensuring that we have the staff that we need to implement the mandate.

Senator WATT: In exit interviews that were undertaken with those staff, were there any common themes about why so many people were leaving?

Ms Copping: I haven't seen the exit interviews for most of those members, given that they resigned before I was in the acting CEO role, so I wouldn't be in a position to comment on those.

Senator WATT: I have talked before at estimates with NAIF about bullying allegations and investigations that were underway into that. Are there any bullying allegations still being investigated within the NAIF?

Ms Copping: I am not aware of any.

Senator WATT: Again, if you could take that on notice for me, please. I think that brings it to an end.

CHAIR: Excellent. Thank you, Senator Watt. Can I just say, Ms Copping—and I'm sure I can say this for all of us—how impressed we have been with you, having been put in the position of acting CEO in very difficult circumstances. I think we've all been very impressed with how you have gotten across your brief and with the service you've provided. Wherever you go, you will take with you the great experiences of having participated in the Senate estimates process. So I do wish you all the very best.

Senator McDONALD: I think she could consider herself an honorary north Australian.

Ms Copping: Absolutely!

CHAIR: Thank you very much, Ms Copping. There being no further questions at this time, the committee's consideration of the 2021-22 additional budget estimates will conclude. I thank Minister Seselja and officers of the Department of Infrastructure, Transport, Regional Development and Communications who have given evidence to the committee today. Thank you also to Hansard, Broadcasting and the committee secretariat, and also the cleaners who have assisted to keep us safe. I now declare the hearing adjourned.

Committee adjourned at 22:28