



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public)

THURSDAY, 15 FEBRUARY 2024

CANBERRA

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ECONOMICS LEGISLATION COMMITTEE

Thursday, 15 February 2024

Members in attendance: Senators Allman-Payne, Bragg, Canavan, Colbeck, Cox, Hughes, McDonald, McGrath, McKim, O'Neill, Barbara Pocock, David Pocock, Rennick, Reynolds, Roberts, Dean Smith, Stewart, Walsh and Whish-Wilson

TREASURY PORTFOLIO

In Attendance

Senator Gallagher, Minister for Finance, Minister for the Public Service, Minister for Women

Reserve Bank of Australia

Ms Michele Bullock, Governor

Dr Christopher Kent, Assistant Governor, Financial Markets

Australian Financial Complaints Authority

Dr June Smith, Deputy Chief Ombudsman [by audio link]

Mr Justin Untersteiner, Chief Operating Officer [by audio link]

Department of the Treasury

Dr Steven Kennedy, Secretary

Macroeconomic Group

Mr Luke Yeaman, Deputy Secretary

Dr Adam Cagliarini, First Assistant Secretary, Macroeconomic Conditions Division

Dr Shane Johnson, First Assistant Secretary, Macroeconomic Analysis and Policy Division

Dr Alex Heath, First Assistant Secretary, Climate and Energy Division

Ms Ineke Redmond, Assistant Secretary, Macroeconomy Branch

Mr Patrick D'Arcy, Assistant Secretary, Domestic Demand, International and Trade Branch

Ms Eleanor Williams, Assistant Secretary, Australian Centre for Evaluation

Ms Rebecca Cassells, Assistant Secretary, Climate and Industry Modelling Branch

Mr Matthew Maloney, Assistant Secretary, Climate and Energy Policy Branch

Ms Rebecca McCallum, Acting Assistant Secretary, Sustainable Finance Branch

International and Foreign Investment Group

Ms Roxanne Kelley, Deputy Secretary

Mr Chris Tinning, First Assistant Secretary, Foreign Investment Division

Ms Isobel Sloan, Assistant Secretary, Frameworks Branch

Ms Katrina Di Marco, First Assistant Secretary, International Economics and Security Division

Ms Steph Gorecki Natic, Assistant Secretary, Geoeconomics Branch

Mr Paul Cotterill, Assistant Secretary, International Engagement Branch

Mr Hector Thompson, Deputy Commissioner, International, Support and Programs, Australian Taxation Office

Markets Group

Mr Brenton Philp, Deputy Secretary

Ms Nghi Luu, Acting First Assistant Secretary, Financial System Division

Mr Robb Preston, Assistant Secretary, Banking, Credit and Insurance Branch

Mr Tim Baird, Assistant Secretary, Payments System and Financial Innovation Branch

Ms Khanh Hoang, Assistant Secretary, Regulators and Capital Markets Branch

Mr James Kelly, First Assistant Secretary, Market Conduct and Digital Division

Mr Tom Dickson, Assistant Secretary, Corporations Branch

Mr Tony McDonald, Assistant Secretary, Registry Data and Digital Branch

Mr Jason McDonald, First Assistant Secretary, Competition Taskforce Division

Mr Marcus Bezzi, Chief Adviser, Competition Taskforce Division

Mr Owen Freestone, Assistant Secretary, Competition Taskforce Division

Ms Joanna Abhayaratna, Assistant Secretary, Competition Taskforce Division

Ms Lynn Kelly, First Assistant Secretary, Retirement, Advice and Investment Division

Dr Andre Moore, Assistant Secretary, Advice and Investment Branch

Mr Luke Spear, Assistant Secretary, Member Outcomes and Governance Branch

Mr Adam Hawkins, Assistant Secretary, Tax and Transfers Branch

Fiscal Group

Ms Sam Reinhardt, Deputy Secretary

Ms Philippa Brown, First Assistant Secretary, Budget Policy Division

Ms Neena Pai, Assistant Secretary, Budget Policy Division

Mr Oliver Richards, Assistant Secretary, Budget Policy Division

Ms Nat Horvat, First Assistant Secretary, Commonwealth-State and Population Division

Mr Nick Latimer, Assistant Secretary, Commonwealth-State and Population Division

Mr Matthew Burston, Acting Assistant Secretary, Commonwealth-State Relations Branch

Mr Ray Harris, Former Director, Migration Modelling and Analysis Unit

Ms Mohita Zaheed, First Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Mr Brendan McKenna, Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Mr Damian Mullaly, Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Ms Anthea Long, First Assistant Secretary, Social Policy Division

Ms Marg Thomas, Assistant Secretary, Social Policy Division

Ms Kristen Baker, Assistant Secretary, Social Policy Division

Small Business, Housing, Corporate and Law Group

Ms Victoria Anderson, Deputy Secretary

Mr Anthony Seebach, First Assistant Secretary, Small and Family Business Division

Ms Mary Jeffries, Assistant Secretary, Small and Family Business Division

Ms Kerren Crosthwaite, First Assistant Secretary, Housing Division

Mr Christian Vallence, Assistant Secretary, Housing Division

Mr Nicholas Dowie, Assistant Secretary, Housing Division

Dr Angela Barrett, Chief Operating Officer, Corporate Division

Ms Tarnya Gersbach, Chief Finance Officer, Corporate Division

Ms Erin Wells, First Assistant Secretary, Law Division

Mr Christopher Leggett, Assistant Secretary, Law Division

Revenue Group

Ms Diane Brown, Deputy Secretary

Mr Damien White, First Assistant Secretary, Tax Analysis Division

Ms Laura Berger-Thomson, First Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Marty Robinson, First Assistant Secretary, Corporate and International Tax Division

Ms Susan Bultitude, Assistant Secretary, Corporate and International Tax Division

Mr Yi Yong Cai, Assistant Secretary, Tax Analysis Division

Mr Darren Kennedy, Assistant Secretary, Tax Analysis Division

Ms Louise Rawlings, Assistant Secretary, Tax Analysis Division

Ms Emma Baudinette, Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Richard Maher, Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Bede Fraser, Assistant Secretary, Personal and Indirect Tax and Charities Division

Australian Taxation Office including Australian Business Registry Services

Mr Chris Jordan AO, Commissioner of Taxation

Ms Jacqui Curtis, Chief Operating Officer, Enterprise Strategy and Corporate Operations

Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group

Ms Kirsten Fish, Second Commissioner, Law Design and Practice

Mr Ramez Katf, Chief Information Officer, Enterprise Solutions and Technology
Mr David Allen, Acting Chief Service Delivery Officer Service Delivery
Ms Janine Bristow, Chief Finance Officer, ATO Finance
Mr Bradley Chapman, Deputy Commissioner, Enterprise Strategy and Design
Mr Hector Thompson, Deputy Commissioner, International, Support and Programs
Ms Clare Gunning, Deputy Commissioner, ATO Corporate
Ms Emma Rosenzweig, Deputy Commissioner, Superannuation and Employer Obligations
Mr Nicholas Shizas, Assistant Commissioner, ATO General Counsel
Ms Rebecca Saint, Deputy Commissioner, Public Groups (Client Experience)
Ms Alison Stott, Deputy Commissioner, ATO People—Workplace Relations and Strategy
Mr Matthew Hay, Deputy Commissioner, Strategy and Architecture
Ms Louise Clarke, Deputy Commissioner, Private Wealth (Client Experience)

Tax Practitioners Board

Mr Michael O'Neill, Chief Executive Officer and Secretary
Ms Janette Luu, Assistant Secretary

Australian Charities and Not-for-profits Commission

Ms Sue Woodward AM, Commissioner
Ms Anne Smyth, Assistant Commissioner General Counsel
Ms Sallyann Stonier, Assistant Commissioner

Australian Prudential Regulation Authority

Mr John Lonsdale, Chair
Ms Margaret Cole, Deputy Chair
Ms Therese McCarthy Hockey, Executive Board Member
Ms Suzanne Smith, Executive Board Member
Ms Carmen Beverley-Smith, Executive Director, Superannuation Division
Ms Lucinda McCann, General Counsel

Australian Competition and Consumer Commission

Ms Gina Cass-Gottlieb, Chair
Mr Scott Gregson, Chief Executive Officer
Ms Tracey Walker, Acting Chief Financial Officer
Mr Tom Leuner, Executive General Manager, Mergers, Exemptions and Digital
Mr Rami Greiss, Executive General Manager, Consumer and Fair Trading
Ms Sarah Proudfoot, Executive General Manager, Infrastructure Regulation
Mr Richard Fleming, General Manager, Competition Division
Ms Kathie Standen, Executive General Manager, Consumer Data Right Division
Ms Heidi Snell, Acting Executive General Manager National Anti-Scam Centre
Mr Richard Home, Executive General Manager, Digital Transformation and Chief Risk Officer

Housing Australia

Mr Nathan Dal Bon, Chief Executive Officer
Mr Stuart Neilson, Chief Financial Officer and Chief Operating Officer
Ms Robyn Briese, General Counsel, Government
Ms Lisa Marigliano, Major Programs Director

Australian Reinsurance Pool Corporation

Dr Christopher Wallace, Chief Executive
Mr Jason Flanagan, Chief Claims Officer

Ms Samantha Lawrence, Chief Governance Officer

Productivity Commission

Ms Danielle Wood, Chair

Professor Alexander Robson, Deputy Chair

Dr Lisa Studdert, Head of Office

Ms Rosalyn Bell, First Assistant Commissioner

Ms Natalie Siegel-Brown, Commissioner

Australian Bureau of Statistics

Dr David Gruen AO, Australian Statistician

Ms Jenet Connell, Deputy Australian Statistician

Ms Teresa Dickinson, Deputy Australian Statistician

Mr Brenton Goldsworthy, Deputy Australian Statistician

Mr Duncan Young, General Manager, Census and Population

Australian Accounting Standards Board and Auditing and Assurance Standards Board

Dr Keith Kendall, Chair and Chief Executive Officer, Office of the Australian Accounting Standards Board

Mr Doug Niven, Chair and Chief Executive Officer, Office of the Auditing and Assurance Standards Board

Mr Justin Williams, Managing Director, Australian Accounting Standards Board and Auditing and Assurance Standards Board

Australian Securities and Investments Commission

Mr Joseph Longo, Chair

Ms Sarah Court, Deputy Chair

Ms Kate O'Rourke, Commissioner

Mr Alan Kirkland, Commissioner

Ms Simone Constant, Commissioner

Mr Warren Day, Chief Executive Officer

Mr Chris Savundra, Executive Director and General Counsel, Legal Services

Mr Greg Yanco, Executive Director, Regulation and Supervision

Committee met at 09:01

CHAIR (Senator Walsh): I declare open this hearing of the Senate Economics Legislation Committee into the 2023-24 additional budget estimates. I begin by acknowledging the traditional custodians of the land on which we meet today and pay my respects to their elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

The committee has set 23 February 2024 as the date by which senators should submit written questions on notice and 5 April 2024 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the Reserve Bank. 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, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence.

The Senate has 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 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 the discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has also resolved 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 does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Witnesses are reminded of the Senate

order specifying the process by which a claim of public interest immunity should be raised. I incorporate the public immunity statement into 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: I remind all senators that, as we continue our work implementing the *Set the standard* report, as chair, I will ensure that proceedings are conducted in an orderly, respectful and courteous way. The committee has agreed to authorising all media outlets to record the proceedings, subject to the broadcasting resolutions in the standing orders and the following conditions: media entry is subject to not exceeding the maximum capacity of the hearing room, and social distancing must be observed. The committee or a witness may object to being recorded at any time, and the committee may require that recording cease at any time. Recording must not occur from behind the committee or between the committee and witnesses and must not otherwise interfere in the proceedings. Computer screens and documents belonging to senators, members and witnesses must not be recorded, and flashes must not be used. The direction of the committee secretariat must be followed at all times.

Reserve Bank of Australia

[09:04]

CHAIR: The committee welcomes the Reserve Bank of Australia and its representatives, Governor Michele Bullock and Assistant Governor Christopher Kent. Welcome, Governor. Welcome, Assistant Governor. In welcoming the RBA, the committee recognises the central bank's independence under the Reserve Bank Act 1959, particularly in regard to monetary policy settings. The committee is cognisant that while the RBA does not receive annual appropriations it does provide the parliament with opportunities to discuss its insights and performance, which the committee greatly welcomes. As such, no government minister will be in attendance with the committee while representatives of the RBA are present. Good morning again, Governor. Do you have an opening statement that you'd like to give?

Ms Bullock: No, I don't.

CHAIR: You're happy to proceed straight to questions?

Ms Bullock: Yes.

CHAIR: I'll go to Senator Smith.

Senator DEAN SMITH: Thank you very much, Chair. Welcome to the governor and Dr Kent to today's proceedings. I would like to start by commending the RBA on your work to increase the transparency around the forecasts that you provide publicly, and we'll come to some questions around forecasts if time allows. But I just want to turn back to the matter of the government's stage 3 tax redesign. For the sake of this committee, could you detail for us what the RBA were specifically asked to undertake on the stage 3 tax redesign, either from the Secretary of the Treasury or from the Treasurer himself?

Ms Bullock: Senator, we weren't actually asked to undertake any specific tasks. The background to this is that I had a conversation with Steven Kennedy on the phone. My understanding is this was prior to anything going to cabinet. Steven talked me through what Treasury's analysis was and their conclusions. He provided me with a document which set out Treasury's analysis, which a small group of myself and two or three others internally looked at, just to look at Treasury's analysis and Treasury's conclusion that there wouldn't be implications for inflation from the reworking of the stage 3 tax cuts. Steven asked me to have a look at that and give our opinion on that.

Senator DEAN SMITH: In regard to that, it was yourself and which other RBA officials?

Ms Bullock: The people that I shared the information with were the Acting Assistant Governor, Economic, Marion Kohler, and the Acting Head, Economic Analysis Department, Tom Rosewall. I also believe it was shared with Mr Tom Williams, who is involved in the forecasting for inflation in the bank. So it was a tight group. The purpose of involving them was to get their views on what it would imply for our forecasts if this legislation were to go through.

Senator DEAN SMITH: That discussion with yourself and those RBA officials, given it was during the summer, was a formal meeting, in person, with the four of you, or was it done by email?

Ms Bullock: No, no. I discussed it with them in my office.

Senator DEAN SMITH: So it was a single meeting with four RBA officials, including yourself?

Ms Bullock: Only three. There was me and Dr Kohler and Mr Rosewall. The three of us discussed it.

Senator DEAN SMITH: So a total of three RBA officials, including yourself?

Ms Bullock: Discussed it, yes.

Senator DEAN SMITH: Was the document that you were asked to review a cabinet-in-confidence document?

Ms Bullock: It was Treasury's analysis. I didn't see a cabinet paper. I saw Treasury's analysis. I believe it's the piece that was subsequently published on the website.

Senator DEAN SMITH: And that was conveyed to you by the Secretary of the Treasury by email?

Ms Bullock: No, it was brought to my office by one of his Treasury officers—who is now our chief economist, in fact—who was involved in that process.

Senator DEAN SMITH: Just explain that to me again, sorry.

Ms Bullock: There is a Treasury office in Sydney.

Senator DEAN SMITH: Yes.

Ms Bullock: And Dr Sarah Hunter, who was working for Treasury at the time, who is now working for us, brought a copy of the analysis up to the office with her.

Senator DEAN SMITH: Physically brought the document—

Ms Bullock: Physically brought the document.

Senator DEAN SMITH: to the RBA building in Martin Place?

Ms Bullock: Yes.

Senator DEAN SMITH: The Secretary of the Treasury has described the task as a peer review. Is that how it was put to you?

Ms Bullock: He didn't use the words 'peer review' to me; he just talked me through what the analysis was and asked me to give a view on whether or not I felt it was going to have implications for our inflation forecasts.

Senator DEAN SMITH: And he was quite specific in terms of the matter that you were asked to consider—that is, the inflationary impact?

Ms Bullock: The only matter of relevance for us is inflation. We're obviously not involved in taxation policy. It's just inflation which is obviously on our radar.

Senator DEAN SMITH: Did you privately—yourself and the two other officials—discuss or review the distributional impact?

Ms Bullock: No, we did not—and we don't in our forecasts currently. What we had is the current legislated stage 3 tax cuts. The way we fold them into our forecasts is in an aggregate sense; we don't look at specific distributional issues. But since the proposed stage 3 changes are within the same fiscal envelope, we judged they didn't have implications for our forecasts.

Senator DEAN SMITH: I thought that the Secretary of the Treasury had noted that the RBA had identified some of the distributional concerns?

Ms Bullock: I'm not sure what that's referring to, Senator.

Senator DEAN SMITH: The secretary said that he was undertaking the work, given his role as a member of the RBA board. Is that how you understood his involvement?

Ms Bullock: No, I don't believe that is what—well, I don't know what the secretary said, but the work he was undertaking on the stage 3 tax cuts had nothing to do with the Reserve Bank Board.

Senator DEAN SMITH: Turning to conversations with the Treasurer, Dr Chalmers, can you for this committee detail when those conversations began, how frequent they were, and what was discussed.

Ms Bullock: My memory is that I spoke to the Treasurer after I had spoken to Steven, and Steven had taken me through the analysis, and I discussed—

Senator DEAN SMITH: Do you recall what date it was that you spoke to the Secretary of the Treasury?

Ms Bullock: Can I take that on notice, please, Senator?

Senator DEAN SMITH: The specific date—

Ms Bullock: The specific date—can I take that on notice?

Senator DEAN SMITH: You can, yes.

Can you continue to share with us—taking on notice specific dates and times, if they're not available to you—the full range of conversations you had with the Treasurer, Dr Chalmers?

Ms Bullock: I believe I had one phone call with the Treasurer, Dr Chalmers, after I had had a conversation with the Secretary to the Treasury and after I had had that discussion internally with my team.

Senator DEAN SMITH: What was the nature of the conversation with Dr Chalmers?

Ms Bullock: The nature of the conversation was about what we had assessed would be the potential implications of the stage 3 tax cuts for our inflation forecasts.

Senator DEAN SMITH: And you don't recall what date that was—the conversation with Dr Chalmers?

Ms Bullock: It was after I'd had the conversation with Dr Kennedy. I'd have to come back to you, on notice, with the specific date.

Senator DEAN SMITH: And before the cabinet deliberations?

Ms Bullock: Yes, I believe it was.

Senator DEAN SMITH: Were any other options discussed with you by Dr Kennedy?

Ms Bullock: No. I only saw this one piece of work.

Senator DEAN SMITH: Document, yes. In the House Economics Committee on Friday you said that you had been consulted by Dr Kennedy a few days before the decision on stage 3 tax cuts went to cabinet. Can you

provide further details around when this consultation occurred? We know that the Prime Minister made his public statement or declaration in January at the National Press Club. We know that that came after a meeting of the caucus on Wednesday leading into the Australia Day long weekend and that that caucus meeting was preceded by a meeting of the cabinet and the Expenditure Review Committee. Was your conversation with the Treasurer on the weekend or on a weekday?

Ms Bullock: It was on a weekday.

Senator DEAN SMITH: So perhaps late in the week preceding the Prime Minister's National Press Club address?

Ms Bullock: Yes, I think so, but can I take it on notice, please?

Senator DEAN SMITH: Of course.

Ms Bullock: I'm not sure of the specific date.

Senator DEAN SMITH: I want to just turn to the statement of monetary policy. Do the forecasts that are contained in the most recent statement of monetary policy reflect the stage 3 tax redesign?

Ms Bullock: No, they don't. The way we do our forecasts we only include legislated changes. So they don't have the new ones; they just have the previous stage 3 tax cuts.

Senator DEAN SMITH: Will the stage 3 tax redesign, if passed in the government's intended form, appear in the next statement of monetary policy?

Ms Bullock: If it's legislated when we next do our forecast round then, yes, that will be in those forecasts.

Senator DEAN SMITH: Just turning to matters of forecasts, the RBA has advised that it expects inflation to decline to be within the RBA's target range of two to three per cent in December of 2025 and to reach the mid-point of 2½ per cent in 2026, whereas the Treasury's forecasts indicate a return to target prior to June 2025. Can you just share with the committee the reasons or the justifications for those disparities and how that gets discussed or shared between yourself and the Treasury?

Ms Bullock: I think the first thing to point out is that, as the forecasts go out, the uncertainty increases. We've got our central forecasts, they've got their central forecasts and 0.1 or 0.2 difference in these contexts, which is what you're talking about, isn't actually that much compared with the bands of uncertainty as you go further out. That's the first point I'd make. The specifics of why perhaps their central forecast looks a little weaker than ours I'm not 100 per cent sure about at the moment, but it's not unusual for us to be 0.1 or 0.2 different on some occasions. As I said, that's not a huge difference in the scheme of things. But there's a lot of contact between our teams. We share information at working level on the forecasts. They obviously do theirs independently from us and we can have slight differences of opinions on occasion, but there's a lot of contact at working level between the teams.

Senator DEAN SMITH: After those discussions and consultations, you and the Treasurer get a clearer sense about why there might be differences of analysis. Does that then get shared up through the RBA to discussions between, or reports to, board members? Is that sort of information shared at that level?

Ms Bullock: No. Well, it can be. It can come up in presentations to the board and by Dr Kennedy at the board himself. If he has something to say on that, he can add that. So, yes, it can find its way up to the board. But there's no formal sense in which we report: 'This is our forecast and this is Treasury's forecasts.' But that information can filter up.

Senator DEAN SMITH: So, at this particular point, the difference in forecasts between the RBA and the Treasury are material or not really material?

Ms Bullock: I personally don't think they're material. I've said this before. If you look at the forecast error bands as you move out into 2025 and 2026, ultimately, the bands of error are very large. So, when we're talking about 0.1 and 0.2 on the central forecasts, those are well within bounds of error.

Senator DEAN SMITH: Just turning to the speech that Ms Marion Kohler gave in Sydney on 13 February. I've got a copy right here, and it's easily accessible on the rba.gov.au website if anyone wants to quickly have a look. It's been widely reported in the newspapers. But I just want to go to one comment of Ms Kohler's. She says: In Australia, high inflation, higher tax payments and higher interest rates have, together, significantly reduced household incomes. And many households have responded to this by cutting back on their spending or making other adjustments to their finances ...

Has the RBA been able to calculate, or can the RBA calculate, by how much real household disposable income has fallen?

Ms Bullock: There are graphs on that at an aggregate level. I think she probably has it in that—

Senator DEAN SMITH: She does. It's a very, very compelling graph. But, if I shared it with my parents, I don't think they would be able to make much sense of it. I was just curious to know if it can be represented in dollar figures, for example.

Ms Bullock: I guess we could. We've got the numbers. But the point of that graph really was to demonstrate that for real household disposable income the very big hit is from inflation. Taxation is part of it as well, but the biggest chunk is, in fact, inflation.

Senator DEAN SMITH: On notice, can you translate the graph into language that ordinary Australians might be able to understand? So, in terms of a quantum, how much has real disposable income fallen over the recent period in dollar figures, if that's possible?

Ms Bullock: Which graph are you referring to in the speech?

Senator DEAN SMITH: Graph 5, 'Household Consumption and Income'. The paragraph I quoted from immediately precedes that graph.

Ms Bullock: Okay. There's a graph in the *Statement on monetary policy* which actually addresses this issue. It's in terms of growth rates. It's graph 2.9 in the *Statement on monetary policy*. It very clearly sets out growth rates in real disposable income and where the various impacts are coming from—inflation, taxes, interest rates et cetera.

Senator DEAN SMITH: I hope to come to the *Statement on monetary policy* in a moment. On your forecasts, how many years would it take for incomes to return to the level seen pre COVID?

Ms Bullock: I would have to take that on notice. I know that it will start to turn around in the middle of next year. Real disposable income will start to grow in the middle of next year. How long it will take to get back to pre-COVID levels I'd have to take on notice.

Senator DEAN SMITH: That would be much appreciated.

Senator McKIM: Good morning. Thanks for coming in this morning. Ms Bullock, last week you were asked if the interest rate hike in November was a mistake and you said quite clearly that you thought that it wasn't a mistake and that it was the appropriate move. Isn't it too early for such a high degree of certainty?

Ms Bullock: It is very difficult making policy under conditions of uncertainty. The interest rate hike in November was undertaken in response to what we regarded as a shift in the risks of upward-side risks, and it was a marginal adjustment. You will recall we had been on hold for a number of months and, in response to the upwards shift in risks, what we did was a marginal adjustment. I think it's fair to say that, all the time, you're dealing with what you've got at the moment. Hindsight is very wonderful, as we all know, but at the moment I think it's fair to say we judged that the risks had moved and we did a marginal adjustment to address those risks.

Senator McKIM: I understand your point around making a decision based on the circumstances at the time, but when you were asked this question last week you did have the benefit of some hindsight and yet you definitively stated that it wasn't a mistake to raise interest rates in November. I'm asking you, given the significant lag in RBA interest rate decisions flowing through into people's spending patterns and into the economy more broadly, don't you think it was too early for such a high degree of certainty?

Ms Bullock: No, I don't. I think, under the circumstances, we still can say that it wasn't a mistake to raise interest rates at that point. We were acting on information we had available and that was an appropriate response.

Senator McKIM: Dr Kennedy yesterday told the committee that household consumption is flat in the latest quarter, household saving rate is at its lowest point since the last quarter of 2007 and that this is the weakest period in per capita consumption since the GFC. We've got unemployment going up. Are you prepared to concede that it was a mistake in November to put up interest rates and further smash mortgage holders and, ultimately, renters after a record series of interest rate rises from the RBA?

Ms Bullock: I think we need to make a distinction here between levels of demand and growth rates of demand. If you go to the *Statement on monetary policy*, with our new approach we've put a lot more information in there on what we think spare capacity is doing—where we are relative to potential output. While it's true that demand is slowing, and for all the reasons you've talked about, our judgement on a number of bases is that demand still exceeds the ability of the economy to supply goods. There's a levels-versus-growth-rates thing. What monetary policy is doing is trying to slow demand so that, as supply continues to recover, gradually they will come back more into balance. Our judgement at the moment is that that's happening. Yes, growth rates are slowing, but aggregate demand is still above aggregate supply, and that's what's generating inflationary pressures.

Senator McKIM: How did the RBA engage with the review panel in relation to the review process that was undergone and, ultimately, now we've got legislation before the parliament to give effect to some of the recommendations of that review? Did the RBA put a formal submission to the panel?

Ms Bullock: I think we did. Can I take that on notice?

Senator McKIM: Yes, of course you can. Did you have conversations?

Ms Bullock: Yes, we did.

Senator McKIM: I'll put on the record that I had a conversation with the panel. They were good enough to invite me in to discuss my submission.

Ms Bullock: Yes. I was Deputy Governor at the time. They spoke with me, they spoke with Chris and they spoke to lots of people.

Senator McKIM: Did you at any stage suggest to the panel that the section 11 powers should be removed from the act?

Ms Bullock: I personally did not. I can't speak for anyone else, but I personally did not have that conversation with the panel.

Senator McKIM: Dr Kent?

Dr Kent: No, I didn't.

Senator McKIM: Could you take on notice whether, to the best of your capacity given your data sets or notes from meetings and so forth, you could come back to the committee with a response as to whether or not any part of the RBA—and I acknowledge you weren't the governor at the time, Ms Bullock—I don't think—

Ms Bullock: I wasn't, no.

Senator McKIM: It was Dr Lowe, right? Can you take on notice whether there are any records of Dr Lowe or anyone else at the RBA making such a suggestion? The reason I ask is that, of all the submissions that have been made public from that process none of them suggested removing the section 11 powers, yet it was the first recommendation that the panel made.

The RBA doesn't have full statutory independence from government, Ms Bullock, does it?

Ms Bullock: What do you mean by 'full statutory independence'?

Senator McKIM: Section 11 provides that in the event of a difference of opinion between the board and the treasurer of the day and if that difference of opinion is unable to be reconciled, the treasurer's opinion can carry the day over the opinion of the RBA board, and therefore the RBA board is obliged under the act to give effect to the treasurer's opinion, even if it is contrary to the opinion of the board. Is that correct?

Ms Bullock: Yes. There's a process that needs to be gone through with transparency and the issues aired.

Senator McKIM: Yes, but ultimately the Treasurer wins over the board if there's a difference of opinion.

Ms Bullock: Ultimately, if there is a firm difference of opinion, then section 11 allows for the parliament or the government to have the final say.

Senator McKIM: That's right. And the board is obliged to give the effect to the opinion of the Treasurer as opposed to the opinion of the board?

Ms Bullock: Yes.

Senator McKIM: That's my point. You don't have full statutory independence if you can be overridden by the Treasurer, do you?

Ms Bullock: Yes, that's true, but it's a section that's never been used. So, in effect, the decisions of the board during the span of the Reserve Bank's existence have carried.

Senator McKIM: Are you aware of Mr Keating's comments in relation to this power and his public statements around a conversation that he had with the then governor of the board?

Ms Bullock: I'm aware of them being reported. I was a fairly junior staffer at the time, but I recall media reports.

Senator McKIM: The point that Mr Keating is making is that the fact of those powers existing actually means something, regardless of the fact of whether or not they're formally ever used. Would you agree with that proposition?

Ms Bullock: No. I would say, from my perspective—and I can't speak for the past—but as far as I have been engaged with the board, the board takes its decisions independently of government.

Senator McKIM: That's not the basis of my question. Leaving that aside because of the time constraints we're operating under, does the RBA have a view as to whether or not the section 11 powers should be removed from the act?

Ms Bullock: I think I'm reasonably agnostic about it, because I personally don't think that it's ever really had—it was in there; it's never been used. I don't believe it does impact on the way the board operates. It was recommended by the review, and I think the reason it was recommended by the review panel was that it was somewhat unusual internationally. But I think I'm reasonably agnostic.

Senator McKIM: There was an inquiry into the financial system in 1981, the Campbell inquiry, and that explicitly dismissed the idea that the RBA should be given absolute statutory independence, as that committee described it. It argued:

... proposals to make the Bank fully independent of government would ... amount to the substitution of bureaucratic for political discretion which would be inconsistent with the processes of democratic government.

Do you have any reflections on that?

Ms Bullock: No.

Senator McKIM: I'll just turn now to another recommendation on section 36 powers. Section 36 of the Banking Act provides the head of power for the RBA to direct the lending activities of private banks. Bizarrely, in my view, the panel recommended that they be removed and, even more bizarrely, a Labor Treasurer is proposing to remove them. Do you have an opinion on whether or not those powers should be removed?

Ms Bullock: Those powers relate to a different era when the financial system was very different. It was a regulated financial system. Interest rates were regulated. There was a philosophical approach, which was that you could direct lending to different areas of the economy. We don't operate like that anymore. The financial system is deregulated.

Senator McKIM: Unfortunately, that is the case.

Ms Bullock: Unfortunately, or fortunately. I think the bottom line is that if you look back at those days when there was much more directed lending, people were very credit constrained. Credit couldn't get to the areas of the economy where it was needed. We live in a much more deregulated environment now. There are still regulations on the banks, obviously, because they're very important. But we don't use those powers. We will never use those powers, and I see no reason why they should remain in the Banking Act.

Senator McKIM: Let me put this to you. We spoke about this a couple of estimates sessions ago. The RBA engaged in massive QE during the pandemic through various mechanisms. It effectively printed about \$400 billion. That pump-primed the housing market in this country significantly. Don't you think you could've chosen to use your section 36 powers to ensure that at least some of that money was put into productive sectors of the economy, rather than into pump-priming housing prices, which have had a range of flow-through societal effects? Ultimately, housing in Australia is now just a fluke of whether or not your parents have wealth and property, rather than how hard you work. It's one of the big societal changes I've seen in my lifetime. Don't you think that the section 36 powers could've been used to ensure that the massive QE that you engaged in during that time didn't have such an impact on housing prices?

Ms Bullock: I don't believe that the Reserve Bank is in a position to decide where to direct credit, so the answer is no.

Senator McKIM: Your most recent *Statement on monetary policy* indicates that grocery prices are considerably higher than they were a few years ago. You made the point that they've increased by 20 per cent since early 2020, compared with an increase of eight per cent over the prior decade. Obviously, the Senate's having a look at this, and I understand the ACCC is having a look at this. There are a number of inquiries underway. You have now publicly raised the prospect that a rise in the profit margins of firms may be a causal factor in the increase in inflation, if firms facing limited competition have taken advantage of higher inflation to raise their mark-up over input costs. Given that you've put that out into the public domain, I do think it's reasonable to ask you again: do you think that some firms or some sectors are using the cover of a significant rise in inflation and a lack of competition to boost their profits over and above what would be required to meet increases in their input costs?

Ms Bullock: I think that, yes, there probably are firms that are using the circumstances of lack of competition, strong demand and, as you mentioned, the cover of higher inflation. This is the point about trying to get inflation back to the band. If you've got inflation back at around two to three per cent and it's in the background, it's much more difficult, I think, for firms to use high inflation as cover for putting up their prices. To the extent that there are competition issues here, I think it's very relevant that the ACCC is engaged and involved. In the past, we've

typically talked in aggregate. If you just look at the non-mining sector in aggregate, there's not evidence of a wholesale increase in margins across the board. But, yes, absolutely, within that there are going to be different experiences, and I think there are probably examples where some firms are doing that.

Senator McKIM: That behaviour of raising prices over and above what they need to do, which you've agreed is happening in some firms—in broad terms that would constitute price gouging, right?

Ms Bullock: I think that's what people are using to define price gouging, if I read the report from Professor Fels.

Senator McKIM: Thanks for referring to Professor Fels. He also concluded that business pricing has added significantly to inflation. Last question on this topic: is that kind of behaviour easier for corporations or firms to engage in when they are in sectors where there is low competitive pressure?

Ms Bullock: Yes.

Senator McKIM: Would you agree that the supermarket sector is a sector where there is low competitive pressure?

Ms Bullock: I wouldn't like to—

Senator McKIM: Well, two companies have two-thirds of the market share.

Ms Bullock: I wouldn't like to express a view on that. The ACCC is the appropriate organisation to do that.

Senator McKIM: I spoke to them about that last night.

CHAIR: I understand you've got another block.

Senator McKIM: Yes, but I'm happy to wait.

CHAIR: I'll come back to you. I'll now go to Senator Stewart.

Senator STEWART: Lovely to see you again. I've got some questions about how you see the recent outcomes, globally, have compared with previous expectations?

Ms Bullock: Do you mean outcomes in the global economy recently?

Senator STEWART: Yes.

Ms Bullock: I think it's probably fair to say that the global economy has held up much better than people were initially expecting. I think if you went back a year ago, maybe, there was even talk of hard landings and recessions in some economies. And gradually, as time's gone on, that has been dispelled. It's true that Europe is experiencing a slowdown, but certainly in the UK and the US, where much more slowdown was expected, that hasn't eventuated. In fact, the United States has held up very strongly.

On the China side, which is of particular relevance for us, as China came out of lockdown I think there was an expectation that it would grow very strongly. I think more recently there has been concern that growth prospects in China have been downgraded somewhat. So, there's been a bit of a mix. On one hand, the major advanced economies have done better. China's looked a little bit more soggy than expected, say, a year ago. So, it's sort of horses for courses.

Senator STEWART: What are the flow-on effects for here?

Ms Bullock: China is of particular importance for us because of our strong commodity exports. They're very important for us. Iron ore and metallurgical coal in particular are very important there. Growth in China therefore creates demand for our iron ore and our coal, and that's good for the prices of those goods, so that ultimately is good for Australia's national income, while ever China is still demanding these goods and growing. The situation in China at the moment is that the consumer isn't spending a lot. Consumer demand is slowing. But manufacturing and public infrastructure are growing quite strongly. That's supporting demand for our iron ore and our coal. They're really important for our national income because of their importance in our exports.

Senator STEWART: Is there anything else that you keep an eye on that impacts Australia? What are the other global impacts?

Dr Kent: I think the other thing that is happening is that in the last six months or more inflation has probably come down a bit further in most advanced economies than people would have thought. That's welcome, and in some cases it has brought inflation in some parts of the world, including in the US, much closer to their inflation targets. There are two things to think about in terms of its effect for us. One is that we import quite a lot of goods from offshore, and for goods prices globally inflation has been weakening, and in some cases the prices of those goods are coming down. That's helpful. That's coming through our inflation numbers as well.

The other thing is that people are thinking about when the central banks of some advanced economies that raise rates a lot might be getting closer to cutting rates. That's very uncertain, but the markets are predicting that it's coming a little bit closer, because inflation has been better than people had hoped for. That tends to have some effects on the Australian dollar. So, when they're expected to be cutting rates, maybe ahead of when the market thinks we will be cutting rates, that helps push the Aussie dollar up, and that not's unhelpful when we're trying to bring inflation down.

Ms Bullock: I'd add only one other thing to what Chris said, and that is that inflation is coming down overseas, and that's very welcome, but it's goods prices in particular that are coming down. We're observing overseas, as we're observing here, that services inflation is remaining elevated. What we're seeing overseas is what we're observing here. So, we're watching quite closely what's going on over there, because it may have implications for us.

Senator STEWART: I suppose my next question goes to how we are placed to manage all the things that are happening globally. And I suppose a continuation of that is, what have we done to set ourselves up to be well placed to manage those things globally?

Ms Bullock: Chris talked about the fact that we have a floating exchange rate. That gives us the ability, to some extent, to decide what sort of financial conditions are appropriate for our circumstances relative to overseas. It does mean that we have to be prepared to let the exchange rate move, depending on where we set interest rates. You would know that we haven't raised interest rates quite as much as some other countries overseas. They've gone higher than we have. We've made a judgement that that's the appropriate balance for us in terms of getting the inflation outcome and the employment outcome we're looking for. But that does have implications for the exchange rate. As Chris talked about in his previous answer, if things slow quite markedly overseas and interest rates start declining there, that will have implications, potentially, for where we set our interest rates and our exchange rate. That's sort of how we need to think about it.

Senator STEWART: But you would see that we're well placed to manage—

Ms Bullock: Yes. We think we're in a good position. We think we're in a good position to get inflation down in a reasonable amount of time while still keeping employment growing. We think we're in a good position there. We think we're well positioned to manage what happens overseas as well, and we're taking some signals from what's happening overseas.

One thing that we don't know is potentially what shocks are going to come. You'll recall that we had the pandemic and then we had Russia-Ukraine and then we had the Middle East. These sorts of things come; they're typically on the supply side of the economy; they impact the world, typically. We can't know what necessarily is coming out of left field, but, at the moment, given what we know is going overseas and given what we know about here, we think we're well positioned.

Senator STEWART: Notwithstanding all the things that you might not be able to predict, we're pretty well placed to manage anything that might come at us again!

Ms Bullock: All we can do is observe what's going on in the data—we can observe what's going on overseas and what's going on here—and set policy accordingly. It's an uncertain process, and if circumstances change we will have to change.

CHAIR: Thank you, Senator Stewart. I'll go to Senator Bragg.

Senator BRAGG: Good morning, Governor. I want to ask you about forward guidance and the RBA review. Is it right to say that the RBA was not issuing forward guidance back in 2019, and that it was first implemented during COVID, around March 2020?

Ms Bullock: The very explicit forward guidance that was issued during the pandemic was a first for us, I think it would be fair to say.

Senator BRAGG: So is it a correct characterisation of the board's future guidance from 2020 to 2021 that the board was saying under no circumstances would interest rates increase for years?

Ms Bullock: I can't remember the specific words, but my memory of what the governor was saying on behalf of the board was that interest rates wouldn't increase until inflation was sustainably back in the band, and he didn't expect that would be until 2024. That's my memory of the general statement.

Senator BRAGG: The RBA review I think says that calendar based forward guidance was abandoned in November 2021. Does that sound right to you?

Ms Bullock: No, I think it was later than that.

Dr Kent: I think a year later.

Senator BRAGG: So 2022? When was the last time there was forward guidance given in that way?

Ms Bullock: I'd have to specifically take that on notice. I don't know when the last time that sort of 2024 date was actually spoken.

Senator BRAGG: It sounds like it was some time in 2022.

Dr Kent: Yes—late 2022, I believe.

Ms Bullock: No, it would have been late 2021.

Dr Kent: Sorry. Late 2021—you are right.

Ms Bullock: We started increasing interest rates in May 2022, so it would have been prior to that.

Dr Kent: Yes, we got those dates incorrect. When you said the review said late 2021, I think that actually was accurate.

Ms Bullock: Yes.

Senator BRAGG: Okay. So you could provide that on notice?

Ms Bullock: Yes, we could provide that on notice.

Senator BRAGG: Given the issues with forward guidance that were canvassed in the review, and by your predecessor at this committee, I think a number of people have misinterpreted forward guidance and, obviously, have made judgements based on that information. Do you think generalisations about forward guidance without caveats was a mistake or a misjudgement?

Ms Bullock: I would argue that the forward guidance was given with caveats. It was never given definitively. It was never promised. There was never a promise that interest rates would not go up until 2024. It was always caveated.

Senator BRAGG: Your view is that it was conditional forward guidance.

Ms Bullock: Yes. It was always conditional. It was always caveated by inflation being sustainably back in the band.

Senator BRAGG: But, as you say, you'd need to be perhaps more of an insider to be following that information.

Ms Bullock: No. I think the statements were extremely clear.

Dr Kent: I've got it here in November 2021: 'The board will not increase the cash rate until actual inflation is sustainably within the two per cent to three per cent target range.'

Ms Bullock: In my view it was very, very clear.

Senator BRAGG: Obviously, politicians will look at what the RBA governor says and will quote that. The Prime Minister did that on 6 February. He said:

You remember at the time, the then Reserve Bank Governor was saying that interest rates would stay at 0.1 per cent.

Similar statements were made at the Press Club address around late January. Politicians often won't provide the caveats. Does this give rise to a concerning misrepresentation of RBA forward guidance, or is this inevitable?

Ms Bullock: In that particular circumstance, all we did was provide the forward guidance which we felt was necessary given the dire circumstances of the Australian economy and the world economy at the time. That was the context in which that caveated advice was provided. Unfortunately, we can't control what others say. Obviously, it would have been better if, when this forward guidance had been issued—with its caveats—people had carried the caveats.

Senator BRAGG: Just for the record, what do you think the main caveat was?

Ms Bullock: The caveat was that interest rates wouldn't increase until inflation was sustainably back in the band, and we didn't expect that, on current forecasts, to be until 2024. The caveat was that, if inflation was sustainably back in the band before that, then the implication was that there would be room for interest rates to go back up. Remember, they were at emergency low levels.

Senator BRAGG: If someone says, 'You remember at the time that the Reserve Bank governor was saying that interest rates would stay at 0.1 per cent,' that is a statement without caveats, isn't it?

Ms Bullock: If you say that it stays at 0.1 per cent until a particular date—if that's the statement, that doesn't have caveats. But that's not what the governor of the time said.

Senator BRAGG: That is unhelpful, isn't it?

Ms Bullock: If the media or whoever doesn't put the caveats on it, then that is unhelpful.

Senator BRAGG: Did the April 2022 and May 2022 cash rate decisions make it clear that inflation was a concern?

Ms Bullock: You'll recall that May 2022 was the first interest rate increase, and by that stage, yes, it was becoming a concern. It was becoming a concern overseas as well. In fact, some countries had already started to increase interest rates.

Senator BRAGG: Did the May 2022 statement by Governor Lowe make it clear that the expectation was the earliest inflation would return to band was mid-2024?

Dr Kent: Was this the May 2022 statement?

Senator BRAGG: I might be testing your memory there a bit.

Dr Kent: We are just having a look.

Ms Bullock: Inflation has—

Dr Kent: It is expected to decline back towards the target by mid-2024, headline and underlying inflation are forecast to have moderated to around three per cent. It noted it was above target at the time, and it was expected to come down gradually and be around the top of the range by mid-2024.

Senator BRAGG: Would it be reasonable to say that the RBA was not flagging or forecasting future rate cuts back in May 2022?

Ms Bullock: In May 2022 we—

Dr Kent: No, we're saying the opposite. This will require a further lift in interest rates over the period ahead.

Ms Bullock: If you recall, that was the first one, and there were another four percentage points to come.

Senator BRAGG: The policy now is that there is no more future guidance, as has been given in the past, isn't it?

Ms Bullock: Forward guidance was given in very dire economic circumstances. We did a review of the forward guidance, along with a number of our unconventional monetary policies. Our view is that state based forward guidance is an exception for very extreme circumstances, effectively. At the moment, no, we are not giving state based forward guidance.

Senator BRAGG: If you did in future, your hope would be that people would take any future guidance with the caveats and presented in full?

Ms Bullock: Yes. But, secondly, the hurdle to give date based forward guidance is very high. In the current circumstances it's always going to be state based forward guidance rather than putting on dates. That's what, effectively, most central banks do around the world.

CHAIR: Before I share the call, there has been some discussion around communication coming out of the Reserve Bank. Certainly Dr Lowe came here and made statements about, as I recall, improving communication. It was part of the review, and the statement on the conduct of monetary policy goes to some of those improvements around communication. Where do you see that sitting now? Do you think that communication around some of the issues that the deputy chair has raised could have been improved? Do you see the RBA engaging with communication now as a result of the review and at the statement on conduct? Are you engaging differently now?

Ms Bullock: It's a journey. We've taken some steps already. You will recall that I did a media conference after the decision. I will do one now after every decision. That will be eight times a year. That's one step. We changed the *Statement on monetary policy* quite significantly to make the themes much clearer upfront, which will hopefully be easier for people to drill down into it. Those who want to just hear the main messages in a simple way can engage with it on the website. Others who want more detail can dig down. I think that's positive as well. There's more transparency in forecasts, as has already been pointed out, which I think also goes to communication. There's more we can do. We are in the process of setting up a communications department now, with more senior staff involved. We are looking at ways to more proactively engage with the media, rather than reactively. There are still more things to go, but I think our aim is to try be clearer in our communication, to be making sure that we are engaging not just with a narrow group in our communication but that we've got different ways we can engage with different parts of the community. It's a journey, and we're still working on it.

CHAIR: Thank you, Governor. I've got a number of senators on my list, with half an hour to go. I will call the last question at five minutes and go to Senator Smith.

Senator DEAN SMITH: I want to go to the point of inflationary expectations. Before I do, did the Treasurer or the Prime Minister's office advise you that they were going to use the confirmation and the exchange of information that you had provided to them in regard to the expected inflationary impact of the stage 3 tax cuts

redesign in their public statements? The Prime Minister referred to it in his National Press Club statement, and the Treasurer, Dr Chalmers, has used it in various opinion pieces since. Did they give you any indication that they would use that in a public way?

Ms Bullock: I didn't have any contact with the Prime Minister's office. That's the first point. On the second point, when I spoke to the Treasurer and told him what our view was, he didn't explicitly tell me that, but my assumption was that, when I had given him the view of the bank, he might use it.

Senator DEAN SMITH: Did you ask for an assurance on whether he would or wouldn't, or your advice to him was—

Ms Bullock: No, I did not. I basically gave him our view, and I made the assumption that he might use it.

Senator O'NEILL: You didn't think he's got to keep it a secret, Ms Bullock, did you?

Senator DEAN SMITH: In conversations you have with the Treasurer, Dr Chalmers, your working assumption is that those conversations could be publicly disclosed?

Ms Bullock: No. It depends on what I'm talking to him about. On that particular issue, I knew he was going to take something to cabinet, so I assumed that he would say something to cabinet about what I had said. I also assumed that he would probably also say something publicly.

Senator DEAN SMITH: Has the RBA been asked to comment or do an assessment on other significant policy issues for the government—for example, the \$23 billion cost-of-living relief package, which has inflationary implications?

Ms Bullock: Since I've been governor I haven't been asked, no.

Senator DEAN SMITH: Dr Kent, are you familiar with whether or not the RBA has been asked to comment or provide assurances on other significant policy matters of the government?

Dr Kent: No, I'm not aware.

Senator DEAN SMITH: So, even though the \$23 billion cost-of-living relief package has inflationary considerations—

Dr Kent: Can I just note: as the governor mentioned before, Steven Kennedy, in his capacity as a board member, on occasion sometimes raises issues of importance if he feels they're relevant to inflation. That might cover those sorts of issues.

Senator DEAN SMITH: But what we saw here in the stage 3 tax redesign process was very separate from or distant from—

Ms Bullock: My experience with this is the only experience I personally have had with Treasury approaching us directly to show the analysis and get a view on what we thought it would mean for our forecasts.

Senator DEAN SMITH: Do you expect that this might become a more common feature of the RBA's relationship with this government?

Ms Bullock: I don't know, but what I would observe is that one of the things the review mentioned was that monetary and fiscal policy need to—not coordinate so much, but there needs to be an understanding of how they are working together. We only have our tool, and we use our tool to address our particular mandates. The government has fiscal policy. They are both independent, but the review highlighted that we need to make sure that we're aware of what's going on in each other's patches.

Senator DEAN SMITH: If the government did come to the RBA in the near future or over the term of this government with other policy propositions, is this the best way to deal with it: someone walking up a document from the Treasury and telephone conversations—a high degree of informality? Is that the right way to approach this if the government is intending to seek the RBA's assurances on other significant policy matters?

Ms Bullock: I'm not sure what other significant policy matters there would be. The government has to deal with a lot of issues. It's got to balance a lot of issues in terms of its fiscal policy—its revenues and its expenditures. I don't expect that they're going to be running every single thing past the Reserve Bank. Obviously, we need to make sure that we're all on the inflation case. We're doing what we can, and the government, at least from what I hear the Treasurer talk about, is also concerned about the inflation issues.

Senator DEAN SMITH: But with respect, Governor, the government's preparing for a federal budget. Inflationary considerations are going to be top of mind. I think the Prime Minister and Treasurer have said it's a top priority for them. So why this matter but not other matters?

Ms Bullock: Basically, the Treasury secretary had some analysis. They asked me and the team to have a look at it. We did. We gave our view on what we thought it meant for our inflation forecasts. I have no idea—and I wouldn't expect, necessarily, that we are going to be consulted on the budget.

CHAIR: Last question.

Senator DEAN SMITH: Turning to inflationary expectations, previous statements on monetary policy have talked about the risk of inflationary expectations—these are my words—sort of setting in or cementing themselves. We saw some commentary out of the United States in regard to inflationary figures. Do you have any comments on the ongoing risk that inflationary expectations might sort of cement themselves in the psyche of Australian consumers, particularly when we think about inflation and the persistent stickiness of services inflation—so that relationship to it?

Ms Bullock: At the moment, we think that inflation expectations are well anchored around the middle of the band, so that's good. I spoke earlier about the risks, and we talk about it also in the *Statement on monetary policy*. The longer inflation remains outside the band, and the longer people are experiencing inflation of above three per cent, the riskier it is that, in fact, they will adjust their inflation expectations—both workers and firms. At the moment, we're not seeing any movement in that, and our central forecasts are predicated on that. We will see inflation come back to the band, but one of the risks that we remain alert to is that they may become unanchored.

CHAIR: I'll share the call with Senator Canavan.

Senator CANAVAN: Ms Bullock, you told the House of Representatives economics committee last week that we need to kickstart productivity. I'm not sure if you said 'pay the price', but you were reported as saying we'd have to pay the price. I presume that means higher inflation. Obviously, our productivity performance has not been great in recent years. I didn't get a chance to read the full transcript of the House of Reps committee hearing, but have you got any suggestions for us about how we could improve our productivity performance?

Ms Bullock: No, it's not my central area of expertise. The Productivity Commission have myriads of suggestions that could be helpful to improve productivity.

I want to take a step back, though, and just highlight some things I said also at the media conference the other week: everyone's rightly focused on productivity, but measured productivity at the moment is suffering quite a lot from the pandemic issues. It's been all over the place—up, down. I wouldn't focus too much on the quarterly moves. I think what's important is that we get productivity back towards the sorts of rates at which it was growing—its long-run rates—prior to the pandemic and prior to all of that. Again, among the sorts of things the Productivity Commission point to—I'm no expert in this—education is an obvious one. Technology is another obvious one. There are lots of specific suggestions from the Productivity Commission on that, but I don't have any particular expertise in specifics.

Senator CANAVAN: I suppose, to the extent the pandemic is an issue, it's almost a global issue, or it's certainly an issue in other like countries. I noticed in the US, though, their labour productivity has grown almost 10 per cent in the past year. I know the bank did do a paper on productivity just a few months ago. Has anyone looked at what's happening in the US? They're coming out of the pandemic and were probably impacted by the pandemic much more than us. They're coming out of that, but they've had this very significant productivity rebound that is not evident here yet.

Ms Bullock: They're the outlier. Everyone else is like us.

Senator CANAVAN: So what's the difference there?

Ms Bullock: I don't think we know specifically what the difference is. One thing I would observe is that the growth in our labour force has been much stronger than the US. So, almost mechanically, we've had a big increase in hours worked, we've had a big increase in participation, and we've had a big increase in the labour force. Their experience with participation, in fact, was quite poor. A lot of people dropped out of the labour force. So it's almost mechanically.

Senator CANAVAN: One thing that we seem to ignore—you didn't really pick much of it up or come back to it in the RBA paper—is that energy prices in the US have massively gone down. They hit a record last year for production of oil per day. Their natural gas prices are about half what they were in the pandemic. That seems to be the outlier. Everywhere else in the Western world, energy prices are elevated. Has the bank looked at how energy would play a role in delivering productivity outcomes?

Ms Bullock: I don't think we've specifically looked at the role of energy in productivity, no.

Senator CANAVAN: There's this quite lengthy paper here, produced last year, and there's barely a mention of—

Ms Bullock: Sorry, Senator; which paper are you referring to?

Senator CANAVAN: This is *Recent trends in Australian productivity* by Angelina Bruno, Jessica Dunphy and Fiona Georgiakakis. It's on your website. I know you say you're not an expert, but the RBA staffers here, at least, do propose a few issues to look at. They look at the slowdown in global trade, knowledge spillovers and climate change. And there is talk of the energy transition, but it's very vague. It's only a paragraph, and it doesn't really drill down into this issue of how we seem to be denying ourselves the use of our natural resources, unlike the US, who are using their oil and gas. Whatever their national administration says, they're producing record amounts of gas, doubling their LNG capacity in the next five years. That's leading to significant productivity improvements, but there seems to be a complete blindness in our policymaking scheme to even look at our energy situation and energy prices and what impact it's having on the economy.

Ms Bullock: Again, yes, we do look at productivity, but we are not the experts in productivity. Those are matters appropriately for the Productivity Commission. We are interested in it because it has implications for unit labour costs, but we're not the experts.

Senator CANAVAN: Turning back from, I suppose, more normative questions to what's actually happening, given how important productivity is, then, to your outlook, to inflation outlook and presumably to interest rate settings, do you see anything we in the parliament or the government is doing as helping the productivity outlook in the next few years? If so, what are we doing right?

Ms Bullock: Again, I'd go back to the fact that we're not the productivity experts here. But anything that addresses issues like education, such as improving education, educational outcomes and upskilling workers, is positive, and the extent to which government can get behind those sorts of things is positive. Technology, obviously, is important. I think I've said before that I'm a bit of an optimist on productivity in some sense, because I think technology has proven over time that ultimately it does lead to productivity improvements. It can take a while. So the government needs to make sure that it has appropriate regulatory arrangements around technology that don't confine it, but at the same time it needs to make sure that it's meeting the needs of the Australian people.

Senator CANAVAN: They're all very generic points. I fear that, in fact, almost everything we're doing right now is adding to business costs, at least, such as industrial relations changes and the energy situation in Victoria this week. We've had businesses there complain about the costs of gas restrictions. The bigger issue is that regulation red tape on businesses doesn't seem to be reducing. Are you at all concerned then that this extra government involvement in business is not going to deliver a better productivity outcome for Australians?

Ms Bullock: I do not feel qualified to speak on that.

CHAIR: Senator Rennick.

Senator RENNICK: I want to raise the issue of RBA independence. I know that the Labor Party is trying to remove any oversight of you guys whatsoever. I am concerned about that. I know you're probably not allowed to make a comment on that, but I have spoken to you previously about some of the disclosure and transparency issues I have with the RBA—notably, the fact that you refused to disclose minutes of the Bank for International Settlements and that you wouldn't disclose the findings of the 2013 audit report of our gold holdings in England. I have the serial numbers of our gold bars, and many of them were refined post 2015. You had a subsidiary many years ago that was involved in paying bribes, I believe, in foreign countries. And, of course, we've got the issue around the fact that you were more than happy to print \$188 billion and lend it to private banks at 0.15 per cent, while the punters don't have that. I noted your comments just then that monetary policy and fiscal policy should work together. My concern is that I believe that ultimately you're here to serve the people, rather than serve the interests of foreign banks, and you've clearly put the interests of foreign banks ahead of the interests of the people, in my view, because you won't disclose the minutes of the—

CHAIR: Is there a question, Senator Rennick?

Senator RENNICK: Yes. My question is: do you think that the RBA should be completely removed from any oversight by the parliament?

CHAIR: I'll go to the governor, but this question was asked earlier.

Senator RENNICK: Yes, but I just wanted to put some context around their lack of transparency and their lack of ethical behaviour.

CHAIR: You got a bit of context on the *Hansard* there.

Ms Bullock: If you're talking about the proposal to remove section 11, I commented earlier to Senator McKim that I'm agnostic on that. It's never been used in the past, but I think in effect we have as much independence as we need to do our job. If section 11 isn't removed and there's some oversight by parliament, I can live with that.

Senator RENNICK: There's probably a lack of oversight by the parliament, really. You've got to wonder why we didn't do something like remove one of the RBA governors when it was found out that your subsidiary was actually bribing foreign countries—or even these. I note that you've got here, when you have disclosed these, that these serial numbers aren't for public disclosure. I'm curious to know why you think the fact that many of the gold bars have been refined since 2015, despite the fact that Guy Debelle, former deputy governor of the RBA, said our gold bars had never moved. Yet here they are being refined, completely new again, in 2015 up until as late as 2020. Why do you think that the public shouldn't be made aware of this and see these serial numbers for themselves? These serial numbers going public would actually put more pressure on the Bank of England from being able to actually lend these gold bars out if they turned up in another vault somewhere. They'd quickly be identified as belonging to the people of Australia.

Ms Bullock: Do you want to try and address it?

Dr Kent: I can try and address that as best as I can. We do lend out gold from our stocks. Typically what happens—not in every case—for the Bank of England is that it's a change in who owns that gold on a ledger, and the gold doesn't actually move its physical location within the Bank of England. When a bank lends a customer some cash, they don't ask for exactly the same serial number to be paid back on that note when they receive it back from the customer when they're repaying their loan. They'll receive money of a different form. The same thing happens with the gold bars.

Senator RENNICK: But the serial numbers of our gold bars should not change; otherwise you cannot audit. What you will get is an oversale of gold bars.

Dr Kent: That's what I just explained. We lend out a gold bar with one serial number. What we want back is the same quantity and value of gold, but it may be a different bar with a different serial number. It's just like when a bank lends out a customer a sum of money they might withdraw in cash—the bank doesn't say, 'We want exactly the same notes back physically.'

Senator RENNICK: Okay.

Ms Bullock: The international standard around gold is that gold is fungible. One gold bar is—

Senator RENNICK: If you don't mind, I'm familiar with international accounting standards. I've got good experience in this. It is incredibly important that these gold bars' serial numbers do not change. If you can change the serial numbers of gold bars, then you cannot trace the gold bars. That's the whole point. Are you saying that these serial numbers change?

Dr Kent: Yes.

Senator RENNICK: Okay, well, that's not proper accounting policy.

Ms Bullock: Gold is fungible.

Dr Kent: The value of our gold holdings does not change.

Senator RENNICK: No, that's not right. This is exactly why this needs to be disclosed. You are engaging in market manipulation.

CHAIR: Thank you, Senator Rennick. We're on five-minute blocks, and you got one there.

Senator McKIM: I have a couple of questions on work that the RBA is doing around rents and any projections you might have. The growth in prices across the economy is coming down, except that inflation is still above the target band. Rents look like they're staying quite stubbornly high at the moment. Do you project your expected changes in rents, and, if you do, what's your projection over the next 12 and 24 months? When do you expect rental CPI to peak?

Ms Bullock: We think our rental CPI is peaking around 10 per cent-ish. We're thinking that's going to happen in the next quarter or two, roughly. What's driving that is evidence that we're observing on what's happening with advertised rents. Advertised rents feed with a lag into it. We've got a graph here. Is this in the—

Dr Kent: It's from the *Statement on monetary policy*.

Ms Bullock: The *Statement on monetary policy* graph 2.24 gives you a bit of a flavour for what rents have been doing. There is an indication that advertised rent growth has peaked, and we would expect that to flow through to the CPI.

Senator McKIM: Thank you. You've obviously got a business liaison program. You regularly engage with the corporate community to understand their concerns and to heed their views. I've raised this before, but how do you get the perspectives of people renting? I understand a few of them might drop you a letter from time to time,

but my assumption would be that most or all of the board are homeowners and/or property investors. How do you get the perspectives of the third of the population of Australia who aren't property owners?

Ms Bullock: There are a number of ways that we get it. I get lots of letters from both homeowners and renters. The other way we get it is that the business liaison program doesn't only speak with businesses; it also speaks with organisations like ACOSS and Beyond Blue, for example, about the sorts of messages that they're getting from the people that they deal with. The business liaison program does that. I also meet with the heads of those sorts of organisations personally, so we get a bit of a perspective from them. They're the main mechanisms through which we get that intelligence.

Senator McKIM: Alright. Thanks. The corporate community and other organisations get access, whereas it is fair to say that ordinary Australians don't get that level of access to the RBA. Do people like ACOSS and other groups who represent—I hope—sections of the community raise with you rental stress that people are under?

Ms Bullock: Yes, they do.

Senator McKIM: And do you acknowledge that, when you put up interest rates, ultimately that is one of the factors that leads to upward pressure on rents?

Ms Bullock: It can, but the fundamental issue with rents at the moment is supply and demand. That's the first-order issue.

Senator McKIM: Yes. Just on that: Saul Eslake said once that anything which allows people to spend more on housing than they otherwise would has one effect, and one effect only, which is that people spend more money on housing than they otherwise would. Do you agree with that?

Ms Bullock: It's a rather odd way of putting it. I would say that Australians, as a group, value housing. People are willing to put money into housing and, obviously, the banks are very, very focused on housing. That is their business model.

Senator McKIM: At the moment we have government policy settings like negative gearing, the capital gains tax discount and the help-to-buy lottery scheme that's currently before parliament; would you accept that they all add to aggregate demand in the housing sector and therefore put upward pressure on house prices?

Ms Bullock: If you're talking in a cyclical sense about the moment then I think those settings are not changing, so they aren't doing anything in a cyclical sense at the moment. Whether or not—

Senator McKIM: Sorry, help to buy will be a change—if it's legislated, which is uncertain at the moment.

Ms Bullock: One of the things that has often been said about a lot of programs in housing is that if you give people more money then you will bid up the price if supply doesn't respond. You have to have a response from supply. If you just simply add to demand by giving people more money to spend on housing and supply doesn't respond then, by definition, the prices will go up with demand.

CHAIR: Last question, Senator McKim.

Senator McKIM: I understand your response in terms of the cyclical nature of these things, but perhaps I'll put the question in another way. If we didn't have the negative gearing tax policy setting that we do and if we didn't have the capital gains tax concessions that we do currently, and if help to buy doesn't happen, then all of those things would actually act to reduce demand and therefore cool off housing prices, wouldn't they?

Ms Bullock: I actually don't know the answer to that, because I think it's much more complex than that. The first order issue is supply versus demand. And we know that we don't—

Senator McKIM: But that's the context of my question—

Ms Bullock: have supply.

Senator McKIM: I understand that—

Senator O'NEILL: That was hypothetical—

CHAIR: Senator Smith.

Senator DEAN SMITH: The Australian Consumer and Competition Commission attended before this committee last night, and questions were asked of the ACCC about progress in regard to the Armaguard cash distribution issue. I understand the RBA has been involved with that centrally, but I'll come to that in a moment. The RBA did foreshadow in its original submission to the ACCC in October 2022 some risks that could arise if we had a single issuer and financial viability concerns became apparent. That's true, isn't it?

Ms Bullock: In the submission which we made back when the ACCC was looking at the Armaguard-Prosegur merger, we highlighted that the economics of cash distribution were coming under pressure because of the decline in the use of cash in transactions—

Senator DEAN SMITH: In the economy generally.

Ms Bullock: Well, cash on issue actually continues to rise; it's just being held in different ways. It isn't being used in transactions. That's why the cash distribution system is under pressure. What we were highlighting in that was that one reason, perhaps, to consider a merger was if we didn't then there was a risk of a disorderly exit of one or both Prosegur and Armaguard. It highlighted that particular issue.

Senator DEAN SMITH: Can you provide us with an update on that—I think you've been engaged with the banks and others—in terms of what role the RBA has been playing and its level of consultations with industry stakeholders?

Ms Bullock: So, the role of the bank in this is a facilitator. We print the banknotes and then it's the banks, the banking system which buy the banknotes from us and then distributes them to their customers through their ATMs and branches and so on. Retailers also get their cash from banks and so on. We don't actually have a role in distributing cash around the country.

Senator DEAN SMITH: No, but?

Ms Bullock: What we've done is facilitate a discussion, under an interim authorisation by the ACCC—

Senator DEAN SMITH: Yes; which was discussed last night.

Ms Bullock: amongst the banks. We'll also be engaging with some of the big cash retailers, including the big grocery stores, because they have a lot of cash, Coles and Woolworths. We're bringing them together, along with Armaguard, to look at the cash distribution system. I talked about this in a speech at the end of last year. We're looking at what are some sustainable models that we could have for cash distribution that would mean that people continue to get access to cash, because that's obviously very important. We think it's very important. We personally don't do the distribution, but we felt it was an important role that we could play by facilitating a discussion amongst the players that can impact this.

Senator DEAN SMITH: At the moment the disruption is being characterised as a temporary disruption.

Ms Bullock: Which disruption are you referring to, sorry?

Senator DEAN SMITH: This is the distribution of cash and the questions that have been raised by Armaguard and others in the ACCC undertaking and authorisation process, which the chairman of the ACCC provided some information about to the committee last night. What are the various solutions that could be adopted if this issue became more acute?

Ms Bullock: At the moment cash is still being distributed. I don't think we have any particular models in mind. One model—it's only one; there might well be others—is some sort of utility where there's joint ownership by the major banks perhaps, maybe some others, of cash distribution arrangements—that might be one model. But there might be other models where maybe they have a company that does this and then they subsidise it. I don't know what the models are, but there are some other models around the world.

Senator DEAN SMITH: Finally, to what extent do you think the RBA would be involved in identifying a suitable alternative model?

Ms Bullock: That is going to rest with the banks and Armaguard and the various other players. We won't be selecting the model ourselves. It's not going to be our job to do that. Our job at the moment is to facilitate discussions so that others can figure out how they want to do it because it's their business, it's not ours.

CHAIR: Thank you, Governor. We are at time, but the deputy chair just has one final question, if we may.

Senator BRAGG: I just wanted to ask you about the CBA's comments about persistently high inflation, whether you have any response to that?

Ms Bullock: Only that I'm not sure exactly—are you talking about Matt Comyn's comments yesterday?

Senator BRAGG: Yes.

Ms Bullock: Everyone has an opinion. Our view is that inflation is being persistent, particularly in the services category of inflation, and that's reflected in our central forecasts. But we are seeing it come down. And as I said, we see it back in the band in 2025, and back to the mid-point by 2026. But persistence in services inflation is what's driving that particular outcome.

Senator BRAGG: Thank you very much. Thanks, Chair.

CHAIR: Thank you very much, Ms Bullock and Dr Kent, as always, for sharing your time with the committee and answering all our questions. We appreciate it and you go with our thanks. Thank you.

Ms Bullock: Thank you.

Dr Kent: Thank you.

Proceedings suspended from 10:34 to 10:52

Australian Financial Complaints Authority

CHAIR: The committee will resume. We welcome officials from the Australian Financial Complaints Authority. With us online we have Dr June Smith and Mr Justin Untersteiner. Dr Smith, do you have a brief opening statement, or are you happy to proceed straight to questions?

Dr Smith: I have some brief introductory remarks. As the committee may be aware, the Australian Financial Complaints Authority is the industry ombudsman service for the financial services sector. It is a not-for-profit organisation that is fully funded by members. In the calendar year to 31 December 2023, AFCA received approximately 130,000 complaints, returning \$304 million to Australian consumers. In five years of operation, AFCA has received over 420,000 complaints and has returned \$1.3 billion in compensation and refunds to consumers. At the five-year mark of AFCA's operations and the five-year mark of the royal commission into banking, it is as important as ever that we have strong consumer protection frameworks in place.

AFCA is not a government agency and would not ordinarily appear at Senate estimates; however, we understand we fulfil an important role in the sector and we believe in transparency and accountability. Mr Untersteiner and I are very happy to take questions.

CHAIR: Thank you very much, Dr Smith, for those opening remarks. I'll go now to the deputy chair.

Senator BRAGG: How many Dixon Advisory matters are you handling?

Dr Smith: Mr Untersteiner will answer that question.

Mr Untersteiner: At the moment we have 1,948 Dixon Advisory complaints that we've received. The consumer claims amount to \$374 million. When I say 'consumer claim', I just want to clarify that and say that we're yet to review those 1,948 complaints. That is just the claim amount that a consumer has placed into the complaint; it hasn't been verified or validated.

Senator BRAGG: What is going to happen to these claims?

Mr Untersteiner: With the passing of the CSLR bills and the legislation coming into force, the role that AFCA now has is to undertake a high-level review of those complaints and make a determination about whether we think they are complaints that fall within scope of the CSLR. Our view at the moment is that the vast majority are likely to fall within scope of the CSLR. As a result, we've started undertaking our investigations into those complaints. In fact, just this morning we published our first determination of a Dixon complaint. We found in favour of the consumer in that particular instance. We will now continue to work through those complaints and issue determinations.

Senator BRAGG: Do you think it's peculiar that we're at this point where you're now seeking to use a compensation scheme because the regulator wasn't prepared to enforce the law and seek civil and criminal penalties?

Mr Untersteiner: I think that's really a question for ASIC and possibly Treasury. AFCA doesn't hold a view on that. I would just highlight that the role that ASIC plays in enforcing compliance with the law is a very different role to that which AFCA plays in terms of dealing with individual consumer matters. Really, the role that we play is to ensure that we are undertaking our role in the system, and that's what we're focused on doing.

Senator BRAGG: The question is, though: What happens in the future when there are claims made to AFCA? Is there a risk that we will end up having a situation where, rather than law enforcement, there are bailouts from the taxpayer?

Mr Untersteiner: Again, it's really, I think, a policy question, and a question for ASIC, rather than a clever answer from—

Senator BRAGG: So you don't have a view.

Mr Untersteiner: No, we don't.

Senator BRAGG: Fine. What's happening with all these reports that we're reading about? Are you receiving a lot of complaints at the moment—apparently, in some cases, by more than 100 per cent—in relation to Cbus, AustralianSuper, Hostplus, Aware, UniSuper and Australian Retirement Trust?

Dr Smith: We have seen across the last calendar year an increase in superannuation complaints to AFCA. Some of them have been associated with delays in claims handling. Many others are associated with delays in complaint handling as well. We have active conversations with superannuation funds and their insurers across the year and we have reported matters to the Australian Securities and Investments Commission and to the Australian Prudential Regulation Authority in relation to some of those matters.

Senator BRAGG: What's the nature of the complaints? What are the recurring themes here?

Dr Smith: There are a number of recurring themes. Some of them relate to the changes we've seen in the administrators that are being used by the superannuation funds. A number of death benefit claims have been the subject of allegations that there have been significant delays in the assessment of those death benefits and then in their payment. We've had issues around income protection and TPD claims as well, where there are allegations that there have been additional and unnecessary requests for information and delays in making decisions in favour of complainants, as well as with denials of claims. So there are trends and patterns, but the ones that we have reported particularly relate to delays in claims handling.

Senator BRAGG: Why do you think it's taking the funds so long to pay death and TPD benefits?

Dr Smith: AFCA has seen across the board, in insurance, banking and superannuation, a lack of proactive resourcing of claims handling and also of complaint handling staff across the year. We have been encouraging all industries to push further and look at not only their resourcing but also the way in which they connect in through the different organisations that have a part in the chain of decision-making on claims—for example, the administrator, the insurer and the superannuation fund as well. We would like to see the superannuation funds, and encourage them to, think about their members in that respect and be far more proactive in their communication with members about where a claim is at in the process and what is needed for a claim, and assist people, when they are in vulnerable circumstances, to navigate that process as well.

Senator BRAGG: It sounds like they need a lot more transparency and openness in how they deal with these things, and also a lot more speed.

Dr Smith: AFCA publishes, every six months, data on the Datacube that assists all industries and superannuation funds to understand their performance in their external dispute resolution obligations. It would be a matter of asking the regulator about the new reporting obligations as well. There are many avenues now for schemes and funds to understand how they're performing, particularly against their peers, and to lift performance where it should be.

Senator BRAGG: How long should it take to process one of these claims? If I've been a longstanding member of a fund, I've paid my insurance premiums and I've had a claim for total and permanent disability because I've broken my neck, how long should it take to process that claim?

Dr Smith: It depends on the claim. The Life Insurance Code of Practice outlines a number of obligations in relation to that type of decision-making. For income protection, there's a time frame of two months to make the decision once all investigations are done, and six months for total and permanent disability. No doubt you're aware that for death benefit claims there is no specific time frame, and that those claims are to be handled as soon as practicable. It may be that that is an avenue to explore with the industry funds and their code of practice to strengthen it, to ensure that time frames are transparent and that people are held accountable.

Senator BRAGG: Finally, how many complaints have you had to AFCA about this issue of super funds not paying insurance claims in the last year?

Dr Smith: In the last calendar year, we received 8,122 superannuation complaints; that was a 45 per cent increase on 2022. Twenty-seven per cent of those complaints related to delays in claims handling—so, of 8,122, about one-third are related to delay. We are particularly concerned by that, particularly as it comes to income protection and TPD in circumstances where the rising cost of living means people do not have access to money to which they're entitled.

Senator BRAGG: Thanks very much for being here. I just ask that you are prepared to put in a submission to the Senate inquiry which is looking at these issues, through the Economics References Committee. Could you please do that and provide some of your data?

Dr Smith: Yes.

Senator BRAGG: Thanks very much.

Senator O'NEILL: It's always good to hear from AFCA; we've seen you in other settings. Just for the record, one of the concerns I have is about the insurance industry generally. People get their insurance in a whole range of ways; I think the Senate is focused on one particular access point to insurance. If I recall correctly, your

evidence was that the administrators acting for insurance companies, and the insurance companies themselves, have failed to put enough people on to do this job, and that, while the public perception is that there were delays around natural disaster insurance, the flow-on effect of response to natural disaster insurance has now been this very significant failure to attend to the important, ongoing business of responding to TPD claims and death and disability.

Dr Smith: Yes, that's correct. Next week we appear in relation to the inquiry into insurance, where we've provided extensive detail and data in relation to insurance claims per se, particularly general insurance matters. But it is true that we have had ongoing conversations with the funds, the insurers and the administrators about what we consider to be poor performance, and that has been reported to the regulators.

Senator O'NEILL: Can you just flesh out for me exactly what this administrator role is in the middle of this ecosystem? It seems to me that is a fundamental failure point that's affecting all Australians, no matter where they get their insurance.

Dr Smith: As with many organisations, there are aspects of claims handling that are outsourced to other entities; in this particular instance they are called administrators. There are a number of organisations that provide that service across Australia, particularly to superannuation funds.

Senator O'NEILL: Is the problem that those administrators don't have sufficient staffing? Or is it a cultural problem? What's your analysis at this point in time of the failure of the administrators to do what they're being paid to do?

Dr Smith: These are matters that we know the superannuation funds are working closely on, and there has been some movement in relation to the administration companies that are associated with these claims. It runs the gamut, from a failure to adequately resource to the cultural issues that come with, 'Which company in the chain is responsible for what task?' and the timely way that is done and the oversight and supervision of those decisions in the process. We've called on superannuation funds to lift their performance in relation to the role they play in overseeing any administration company they contract and also in relation to the decisions that insurers are making, which the trustees must review themselves.

Senator O'NEILL: Outsourcing seems to be a critical part of the challenge here, and a lack of investment in the right way to do the job in a timely way. That needs to be rectified.

Dr Smith: AFCA would say that superannuation trustees have had five years now of membership of AFCA, and many opportunities to understand what external dispute resolution looks like and also to hone their internal dispute resolution for their members. It's time, now, to look at the different elements to the chain in the claims handling process and delivery performance across the chain—and that would include the contractors.

Mr Untersteiner: Just to provide some clarification: generally, the issue we're seeing with administrators sits in the superannuation sector. The sorts of issues we're seeing in the general insurance sector—which we will be providing evidence on next week—are typically different sorts of issues, and it's important to explore those separately.

Senator O'NEILL: Thank you.

CHAIR: Thank you very much, Dr Smith and Mr Untersteiner. That concludes the questions the committee has for you. Thank you for appearing today, and you go with our thanks.

Australian Securities and Investments Commission

[11:13]

CHAIR: We welcome representatives from ASIC. We welcome you, Chair. Would you like to give a brief opening statement?

Mr Longo: Good morning, everyone. I'm pleased to appear before the committee once more today. I'm joined by Deputy Chair Sarah Court, on my right, and Commissioner Kate O'Rourke, on my left. We have two of our newest commissioners appearing for the first time—Alan Kirkland, on my right, and Simone Constant, on my left. Simone and Alan commenced with ASIC in November last year. Also present today, who you'd be more familiar with, is Chief Executive Officer Warren Day, our General Counsel Chris Savundra and Executive Director of Regulation and Supervision Greg Yanco.

I look forward to working with the new ASIC commission and the leadership team under our renewed organisational structure as we continue to deliver ASIC's important work. We will soon be issuing our enforcement and regulatory update for the last quarter.

I'll leave you with a few observations that show ASIC's enforcement record continues to remain strong across our broad remit. In the last quarter alone, we commenced over 80 investigations, charged 19 individuals with

criminal offences and secured nine criminal convictions. Our civil enforcement work resulted in almost \$60 million in penalties awarded by the courts. We issued two infringement notices in relation to our concerns about greenwashing. I note, in that connection, that we are widely recognised as a world leader in enforcing greenwashing concerns. In November we launched our first civil penalty action under the internal dispute resolution regime, alleging TelstraSuper Pty Ltd failed to comply with the relevant requirement. And just last Friday saw one of Australia's first court decisions on the application of the financial services law to crypto. I might add that there are several more to come. The Federal Court agreed with ASIC's argument that fintech company Block Earner was required to have a financial licence in offering its crypto-backed fixed-yield product. We're pleased to answer the committee's questions today.

CHAIR: Thank you very much. Senator Bragg?

Senator BRAGG: I might take you straight to the article in today's *AFR*. Have you read that?

Mr Longo: Yes, I have.

Senator BRAGG: I know this is historical stuff, but I think it's important to go over from a governance perspective. There's a quote here in the paper, apparently from the former deputy chair, saying:

There are two ways to correct it, and it's going to be up to you. It's your decision which way we do it. Because if I had wanted to throw you under the bus, I could have done it in my first year here. I could have leaked to a journalist.

Is this the kind of conduct that you saw widely exhibited at ASIC?

Mr Longo: I don't have anything to say about today's article.

Senator BRAGG: Under the standing orders, you're required to answer our questions.

Mr Longo: Would you mind repeating your question, please?

Senator BRAGG: I'm wondering about the sort of conduct that's going on at ASIC. Is that a common statement to be uttered within the commission?

Mr Longo: Not to my knowledge.

Senator BRAGG: So that's unusual, is it?

Mr Longo: I do not want to be drawn on the article today. It is true that you have the prerogative to ask me whatever you want, but that article is clearly historical, as your earlier question acknowledged. Of course, as a matter of general principle, the idea of leaking and behaviour of that kind is unacceptable and, to my knowledge, does not happen at ASIC and certainly not since I became the chair. As a general matter, I hope that response is both uncontroversial and unsurprising.

Senator BRAGG: I think that's a good response. My question here is the role you played as the new chair—and we've canvassed this many times in the past. I'm wondering what steps you took, if any, when you discovered that these sorts of comments were being uttered within the commission to other commissioners and potentially to other staff at ASIC?

Mr Longo: Again, you'll have to elaborate on that question. I read the article in this morning's paper, but that was about it. I don't have any knowledge of anything else.

Senator BRAGG: These are not complicated questions. These are questions about the culture in the organisation. My question is: what steps did you take when you became chair when you discovered that these sorts of comments were being made within ASIC, or did you not know about these comments were made?

Mr Longo: I do want to answer your questions, but the premise of your question suggests that I discovered something on 1 June 2021 of a nature that's obviously very unattractive. That's simply not the case. I was clearly aware of the broader context when I started the job on 1 June 2021, but my job then, as it is now and will be for the whole of my term, was to lead the agency in a productive and professional direction in the public interest. So I don't have any actual knowledge of—

Senator BRAGG: Fair enough.

Mr Longo: I'm not trying to be unhelpful.

Senator BRAGG: You're not being unhelpful. I'm just trying to understand the steps that the organisation has taken to rectify what has been, at times, an untidy period with a view that there would be confidence in the agency going forward. I mean, this is not a good look for the agency. When you were appointed, you were subsequently given a copy of the Seyfarth Shaw report, weren't you?

Mr Longo: Yes.

Senator BRAGG: And you read that?

Mr Longo: I did.

Senator BRAGG: Was the view that there were no steps that needed to be taken or that there were steps that needed to be taken?

Mr Longo: I have a couple of points. Just to go back to something you said a moment ago: ASIC already has policies, procedures and principles of governance that were in effect on 1 June 2021. I've always done my best, as chair of the agency, to continue to uphold those principles and requirements. Under my leadership, that's been the expectation of everyone around me and certainly of myself. On the second question: that was the subject of an extended hearing last year before this committee. I really don't have anything to add to what I've already said about having read that report and having taken the decision I took subsequently. I'm not here today to go over that again. What I can do is refer the committee back to the evidence I gave then.

Senator BRAGG: I understand that. I do want to be firm with you that I'm not seeking to go over old ground here, but there is an existing inquiry into ASIC, and these issues have come up throughout the course of this inquiry. Clearly there were actions taken or not taken during the period of your role as chair and decisions taken by other people, including ministers and people in ministerial offices, that were beyond your control. We need to look at whether the laws that exist here are adequate. For example, were there enough remedies or options available to you as chair or available to a minister to adequately deal with cultural problems which may have emerged? Given this is quite recent, I'm asking you, in your experience, if you felt that you had sufficient options to address the matters that you inherited?

Mr Longo: Understood. I think when I gave evidence the last time on this topic, I was quite clear and expansive on what the position was then. The law has not changed since then. The first point I would make is that the issues that might be raised in connection with ASIC are not unique to ASIC. There are other agencies in the Commonwealth that are outside the Australian Public Service. The ones that quickly come to mind are entities like APRA and the Reserve Bank. So I suppose my first point is that we shouldn't be thinking about this as just something to do with ASIC. Secondly, it obviously raises some very significant and potentially sensitive policy issues. The reason for that is fairly obvious, and, with respect, you've acknowledged this already in the way you asked the question. We're talking about statutory appointees appointed by the Governor-General on the advice of cabinet. So we're talking about a relatively small group of people who are put into very senior roles discharging duties of a wide nature in the public interest. So I suppose my second point is that wherever we land on this it has to be a whole-of-government approach—a whole-of-Commonwealth approach; it can't just be ASIC.

Finally, it is fairly clear from the situation that there is a bit of a gap. At the moment, under the ASIC legislation, for example—and I'd have to take some of this on notice—the level of conduct that would support the termination of an appointment of a statutory appointee is a very high bar.

Senator BRAGG: It is.

Mr Longo: But, as we all know, there may be conduct that requires accountability or feedback to the person that falls well below the higher bar that leads to termination, but it needs to be dealt with. So I think there is a gap there at the moment. How that gap should be filled and what mechanism we should put in place to address that gap is a serious policy issue and one for government.

Senator BRAGG: So, your evidence is that there is a gap?

Mr Longo: Well, my evidence is that as a matter of general principle I think there's a gap and, secondly, in the particular circumstances that I was confronted with in February 2022—and, again, I can really only refer back to what I said then—I went through a thought process and I landed where I landed, and one of the things I think I said at the time was that a code-of-conduct inquiry wasn't very practicable.

Senator BRAGG: Okay. Let me just ask the minister here, because I understand, Minister Gallagher, that you said at the end of last year, I think, that the government was considering changing the arrangements so that Public Service leaders could be suspended for conduct breaches, including at statutory agencies as stat appointees. Is that still under consideration?

Senator Gallagher: Yes.

Senator BRAGG: Is there anything else you could say about this?

Senator Gallagher: Yes, and that would be that they would apply to the Public Service Act. ASIC employment is subject to the ASIC Act. I was talking about—

Senator BRAGG: Yes, I understand that. Given that the chair of ASIC has just given evidence that there's a gap in the arrangements—we've seen a case recently where there weren't enough options—is this something the government will take under consideration?

Senator Gallagher: I'm sure the minister responsible is aware of issues in relation to ASIC and will be looking at how best to engage with ASIC leadership over ensuring that any gaps are dealt with—if they can be. I mean, one of the things about ASIC is that it's independent, so I think—

Senator BRAGG: But they're ministerial appointments.

Senator Gallagher: Yes. But the changes I was looking at under the Public Service Act deal with employment under a different legislative arrangement.

Senator BRAGG: Right.

Senator Gallagher: But I wouldn't rule it out. It's not something I have discussed with the relevant minister. But the government is aware obviously of some of the issues that have faced the ASIC leadership in recent times.

Senator BARBARA POCOCK: I have a few lines of questioning. Last week in the Senate committee inquiry into integrity in consulting services we heard from Syne Advisory about their new structure, which has established Syne Advisory as a corporate entity with an independent board, not a partnership. How does ASIC have visibility and regulatory oversight of Syne Advisory that would be different from that of the other major consulting services, such as PwC, EY, Deloitte and other partnership based firms?

Ms O'Rourke: As you've mentioned, some consultants, including Syne, have chosen to use a corporate entity as the basis on which they form their relationship with each other and their staff. In relation to other professional services firms which include consulting services, as you note, there are partnership models. The frameworks that apply to them are very different. Your question, particularly, was on what framework applies to corporate form consulting services versus partnership ones?

Senator BARBARA POCOCK: My question's about what visibility and regulatory oversight you have.

Ms O'Rourke: That's right. I understand. The regulatory framework, as I think you understand, is the Corporations Act, and ASIC has a wider range of responsibilities, tools and regulatory frameworks under that act than for partnerships, which are done at the state level. As to Scyne particularly, my understanding, which I'll correct on notice if I need to, is it's a company that isn't—there are layers of oversight that ASIC have depending on what type of company it is. At the highest end of that is a listed company, in relation to which there are a whole set of arrangements that apply, which don't apply to unlisted public companies or other companies. Forgive me for not knowing exactly which type of company Scyne is. But we do have a higher range of tools for any of those companies than for a partnership, because, as I said, the partnership framework is done at the state and territory level.

Senator BARBARA POCOCK: Could you, on notice, spell that out—having had a look at the way Scyne is established—so that we know what order of oversight you have?

Ms O'Rourke: I'd be pleased to.

Senator BARBARA POCOCK: Thank you. A number of the big four firms have told our Senate committee that they are engaged in reforms which introduce 'ASX-level' transparency and accountability, but without—as they put it—'disrupting the partnership model'. Do these reforms give ASIC any greater oversight of these partnerships?

Ms O'Rourke: I think the reference there to the ASX level is a reference to the ASX corporate governance principles, which are principles that ASX listed companies subscribe to, and sometimes other companies do as well. They're a set of principles that are available. They are voluntary principles, so, to the extent that entities including partnerships were to adopt those, there would be outcomes that are welcome, in terms of governance—for example, additional transparency—depending on which of the principles were applied and how they're applied. For example, as to the preparation of financial reports, their publication and having them audited—with respect to governance—some of the ASX principles cover the composition of the board. So there may be outcomes in relation to those. But if your question is about whether adoption gives us enforcement mechanisms—

Senator BARBARA POCOCK: My question is about ASIC oversight.

Ms O'Rourke: the answer is no.

Senator BARBARA POCOCK: None? None of those reforms give ASIC any oversight over those partnerships. In ASIC's view, is it feasible to operate a partnership as a genuine partnership with 900 or more partners?

Ms O'Rourke: ASIC doesn't have a view on that.

Senator BARBARA POCOCK: You don't have a view on that. Do you see any difficulty in partnerships in the consulting sector having a ceiling of, say, 50 or 100, in the way that medical practitioners' partnerships do?

Ms O'Rourke: We don't have a view on that partnership—

Senator BARBARA POCOCK: I wasn't asking your view. Do you see impediments or—

Ms O'Rourke: Forgive me. The question is: would there be an impediment to consulting partnerships being limited to 50 or—

Senator BARBARA POCOCK: Or a hundred, say, in the way that medical practitioners are?

Ms O'Rourke: I guess an impediment would be that the current structure has a much more significant number of partnerships within them, and I'm sure the consulting firms have described to you what the outcome is in terms of the range of consulting services that they provide and the number of experts in different cities all around the world. So I—

Senator BARBARA POCOCK: Don't answer for them, but thank you.

Ms O'Rourke: No, I understand. I guess an impediment I'm identifying is that it would be a very big transition in light of the current structure.

Senator BARBARA POCOCK: I think we understand that. Thanks for your answer, Ms O'Rourke. Isn't it the case that the Accounting Professional and Ethics Standards Board's APES 110, which stipulates the importance of confidentiality and integrity, is referenced in the legislative instruments to the Corporations Act? Is that right?

Ms O'Rourke: Yes, that is our understanding.

Senator BARBARA POCOCK: They are referenced? Do these standards give ASIC a basis to examine the non-audit functions of the big four firms, even if they are partnerships?

Ms O'Rourke: I think we've given evidence before that describes how the capacity of ASIC to oversee and regulate audit firms that are structured as partnerships is only partial. We have some elements, for example, where we register auditors at an individual level, and there is some activity that we can undertake through that regulatory framework. But the others—I think you're alluding to, for example, when they're non-audit services or aspects of the firm that go to its partnership framework rather than the company's, which makes our capacity to provide that regulatory oversight either partial or not there. We do think there's really important work to be done, including ASQM 1, and we are interested, because of its impact on both audit services and more generally, in the firms doing a fantastic job in implementing and complying with that. So it's very important. But I think your particular question is: what does that then give us as a regulatory hook in relation to non-audit services?

Senator BARBARA POCOCK: Non-audit, yes.

Ms O'Rourke: I'd refer back to our earlier evidence that we do think our regulatory oversight is partial and that there is a gap.

Senator BARBARA POCOCK: Or non-existent. 'Partial' means some of it's outside your remit. Thanks for that. ASIC does have some powers of investigation in relation to individuals within partnerships who hold professional registrations, such as tax agents and the like. Has ASIC determined whether there are any other individuals from PwC involved in the alleged tax fraud who hold professional registrations administered by ASIC? If so, have you commenced any actions in relation to those individuals?

Ms O'Rourke: I might start and then pass to my colleagues. We have given evidence before that, in relation to particular people or particular activities within the partnerships, there is some ASIC oversight. You referred to company auditors, who are registered. The other aspect that we've explored in prior evidence is the circumstances in which those firms have an Australian financial services licence and they nominate authorised representatives as someone who can act on behalf of that AFS licensee. We see partners in those firms use their AFSLs, often in provision of independent experts' reports on transactions and in other circumstances like those.

In terms of your particular question, which I understand is activity in relation to PwC, I might pass to my colleague Sarah Court.

Ms Court: I think I've given evidence about some of the work that ASIC's done following the leak of confidential information by PwC. I think we've talked at length about Mr Collins and the ASIC banning of Mr Collins. In relation to other individuals, again, I think that on the last occasion I did go through quite a long list of particular individuals within PwC that ASIC had considered.

Just to take a step back, I think in your question, Senator, you referred to a tax agent. We don't have jurisdiction in relation to tax agents.

Senator BARBARA POCOCK: No, sorry. I only mentioned tax in relation to the tax fraud.

Ms Court: Indeed. As Commissioner O'Rourke said, where we do potentially have jurisdiction is in relation to authorised representatives, registered company auditors and the like. We are continuing our engagement with the Tax Practitioners Board in relation to the individuals that the TPB continues to consider. As you're also aware, the AFP have a continuing investigation. We have also engaged extensively with PwC in relation to the various inquiries that it has done. There is nothing in the material presently available to us to suggest that there have been any current or former authorised representatives engaged in the dissemination of confidential information. But, as the committee is well aware, information seems to continue to come out in relation to how many people were involved and in what context, so we are certainly continuing our consultation, monitoring and looking at what's coming out through other forums, such as committees and the like.

Senator BARBARA POCOCK: Have you had any determinations or investigations in relation to Mr Tom Seymour?

Ms Court: I know we have considered Mr Seymour. I don't think we found any ASIC jurisdictional hook in relation to Mr Seymour, but I can probably find that out in the course of today, because I have had that information previously.

Senator BARBARA POCOCK: That would be great. Thank you, Ms Court. I want to move to a second line of questioning that relates to PwC. Does ASIC have a relationship—I'm sure you do—with your equivalent bodies in the US and the UK? And have you discussed the PwC Australia/PwC Global matter with your international equivalents?

Ms Court: We certainly have relationships with like regulators internationally. I'll have to take notice the extent to which our operational teams have been liaising with our international counterparts.

Senator BARBARA POCOCK: I know there has been real interest, as I'm sure you're aware, about the Linklater's report commissioned by PwC Global—

Ms Court: Yes, indeed.

Senator BARBARA POCOCK: which hasn't been made available to any of us in Australia. Personally, I have serious doubts about how useful it may be exactly; it was a report commissioned internally by PwC Global. However, the Senate has been quite assertive, as have the many other agencies, in trying to see it. Have you made any specific attempt, together with international agencies, to retrieve that report?

Ms Court: Again, I can't speak for our engagement with international agencies. I can tell you, though, that we have engaged with PwC Australia, requesting that it produce to us under a voluntary confidential disclosure agreement the investigative reports that PwC's external lawyers have prepared. PwC has responded that it hasn't been provided with reports and that it has had external law firms providing legal advice. It has not given us any further information.

I'm not sure if that relates specifically to the Linklater's report which your question referred to. What I can say, though, is that we've continued to engage closely and to ask PwC for continuing information, and that legal professional privilege has been claimed in relation to that information.

Senator BARBARA POCOCK: Ms Court and Mr Longo: what's your perspective about this hiding behind LPP? It's a classic PwC playbook, and they've used thousands of forms of legal professional privilege. Minister, you may have a view on this as well—about using that provision to prevent a regulator from having access to key information in relation to a matter of considerable national significance.

Ms Court: I'll start and then pass to Mr Longo. As we discussed on the previous occasion, we meet claims of legal professional privilege on a daily basis from all sorts of potential respondents to ASIC investigations. We find it frustrating; we challenge it in the courts and we're often successful. PwC is one example, but there are many other examples. I think the real issue is, obviously, that people have to be able to obtain genuine legal advice. We respect those kinds of privilege. Where it becomes a real issue, as you said in your question, is where those claims are effectively being used to stymie investigations. One of the challenges—and, again, I'm moving away from the people at PwC—is that in the current environment there's so much material available in an investigation. If we execute a search warrant, for example, we may get terabytes of information. All that information needs to be gone through by the person of interest's lawyers to see what they claim privilege in respect of, and those processes can go on for months. So the issue about claiming legal professional privilege remains a continuing challenge for all regulators.

Senator BARBARA POCOCK: Have you challenged PwC's use of legal professional privilege in the last year in relation to this matter?

Ms Court: Not on this matter in particular. Again, I can dig this out. We did challenge a claim in relation to legal professional privilege in which ASIC was successful in the Federal Court. I think PwC was the firm involved, but it was a different respondent. It was about getting access to a report over which privilege had been claimed. I can probably dig that out and find that information for you.

Senator BARBARA POCOCK: Right. Mr Longo, or Minister, do you want to make any comment about the use of legal professional privilege in this matter?

Mr Longo: I would just amplify Deputy Chair Court's remarks. Legal professional privilege has been part of our country's laws since the beginning—it's a very important principle in the public interest. It's often asserted in circumstances that are inconvenient to people who want to know what the whole story is. But with LPP, I think the starting point has to be that it's a fundamental principle which we uphold in Australia.

As far as PwC is concerned, the only other comment I would make—and it sort of goes to this question of jurisdiction and where ASIC fits in and where it doesn't—is that, while we talk about PwC as if it's a single entity, it's actually not a single entity; it's a conglomerate. It operates all around the world. My understanding of the situation is that the report that you're referring to was actually commissioned by a PwC entity—I don't have all the facts at my fingertips—outside of Australia. So that adds a dimension of complexity that is a bit unusual, I think it's fair to say. The LPP claims that ASIC often has to grapple with—and, as Deputy Chair Court said, we often find ourselves challenging LPP claims in the course of our investigations—are generally dealt with domestically. If we can't come to some understanding with the entity we're dealing with, we just go off to court and have the argument before a judge. What's unusual about the PwC situation is that it is an offshore thing.

Finally, just stepping back, with the way things are organised at the moment, you'd have to say the global coordination of regulation of professional service partnerships like a PwC is an incomplete story.

Senator BARBARA POCOCK: That's an understatement.

Mr Longo: Yes. I'd only make the obvious point to put some context around some of these questions. It's absolutely the case that we're operating in a modern environment now, where we have these huge consulting firms and professional service firms that provide services across an extraordinary range of activity across jurisdictions. I know parliament is looking at this, but that is ASIC's role in that. We're a sliver of that activity. Whether that sliver expands is a matter for government, but it is a sliver at the moment.

Senator BARBARA POCOCK: But right in this example—

CHAIR: I'll need to share the call, Senator Pocock.

Senator BARBARA POCOCK: Thanks for the answers. I'll come back.

Senator COLBECK: I think I can make the segue. I want to start on the same thing. I would be interested to know whether there have been any direct conversations with the PCAOB in the US. I think that organisation, the Public Company Accounting Oversight Board, is your equivalent in the United States. Am I right?

Ms O'Rourke: It's not a straight equivalent, but some of the obligations that we have are ones that they have too. There's not a like for like.

Senator COLBECK: So it's not like for like, but it was that organisation that issued a sanction against KPMG for the cheating scandal that occurred in that organisation. So an organisation in the US actually issued a fine against an organisation in Australia because there was no capacity to do it here. Recently, they issued a sanction of \$4 million against PwC Hong Kong for some things that occurred there and one of \$3 million against PwC Greece for things that occurred there. Let's accept that there are some differences, but that's an organisation which actually has extraterritorial reach in that sense, which I think is unusual. So I'd be interested in what conversations you might have had with the PCAOB, because they're obviously an organisation that has capacity (a) to look at these things in jurisdictions where a business that operates in the US also operates and (b) also to issue sanctions in relation to activities that don't meet standards.

Mr Longo: I've just consulted with my fellow commissioners. I think we'll take the extraterritorial reach of that entity on notice and see whether, as things stand, we—

Senator COLBECK: We know that they issued sanctions against KPMG in Australia for the cheating scandal. There were reasonably significant fines that were issued against KPMG. I think this goes to the point that you were making about the international oversight of these large organisations, what oversight there is and the way that they can then use the fact that they're effectively operating in a dark space, in a regulatory sense, to their advantage.

So just going to the issue of PwC International, which is the body that we—the parliament—through the Finance and Public Administration References Committee has been told holds the Linklaters report. That is a

body that is, I understand, registered in the UK. But it has an Australian director who sits in Sydney and shares a boardroom with the Kevin Burrowes, the Australian CEO. Is there any capacity for ASIC to interrogate, to question, to seek information from the Australian director, who would have responsibilities under the audit code to seek or pursue the document and information?

PwC Australia are putting their hands up and saying, 'It's nothing to do with us. We've not been given the document by PwC International.' But there's a director sitting in an office of PwC International, Ms Paddy Carney, I understand, is a director of that organisation PwC International. Its foundation is in the UK. I get that. We can follow that rabbit burrow. But is there any capacity here to seek that information or that document or go through a process to seek that document, given there is a director who is domiciled here?

Ms Court: We might have to give that a bit more thought, but, off the top of our heads, we think the answer is likely no if the fact is there's an international company, PwC International.

Senator COLBECK: It is a company that is registered in the UK, so it's a UK company. It has international reach because, as you've indicated, it's the organisation that ties all of these various pods of the structure together.

Ms Court: But without wanting to sound semantic and, unfortunately, these things often come down to semantics when I seem to be answering, he's not an Australian director.

Senator COLBECK: She.

Ms Court: Sorry, she—my apologies.

Senator COLBECK: She's a director of PwC International. She is a partner of PwC Australia.

Ms Court: But she lives in Australia.

Senator COLBECK: In Sydney.

Ms Court: So it's not an Australian directorship, as I understand what you are saying. It is an international directorship, and the director happens to live here.

Senator COLBECK: That's right. If the answer is no, I'm okay with that but I just wanted to explore the opportunities.

Ms Court: We will think about that but our initial reaction is we would not have jurisdiction in relation to her.

Senator COLBECK: So I wanted to go back to—sorry?

Senator BARBARA POCOCK: I understand she's on the board of PwC Australia as well as PwC global.

Senator COLBECK: Yes, that's correct.

Ms Court: I am always at risk of speculating, but the question comes back in terms of ASIC to: Is she a director of an Australian company over which we have jurisdiction? We can explore that. I'm not familiar with her details, I confess.

Senator O'NEILL: If you have an international relationship with your equivalent in England, because it is a limited company, my understanding is that you may have some oversight mechanism through that. Further to the PCAOB, we are aware through that committee and other inquiries that PwC were very tardy—I believe was the word that was used—in reporting matters that are now public record here in Australia with regard to Peter John Collins, Mr Seymour, Mr Sayers and action in that period, and that the PCAOB actually are giving consideration to matters around PwC International. Could you access your relationship with them and provide us with an update on that matter.

Ms Court: Yes, we will.

Senator BARBARA POCOCK: I had the wrong number. It was \$7.7 million that KPMG were fined.

CHAIR: I'm unused to the collective approach you three senators are taking. It seems very collaborative.

Senator COLBECK: I don't want to stress you at all, or we don't want to stress you. I want to go back to the conversation in relation to the fact that partnerships are managed at the state level. Senator Pocock has talked about the various levels. If I have a mum-and-dad partnership, the limited number of partners in the partnership can be 25 I think or something like that; GPs, 50; legal practitioners, 500. So there's a hierarchy. Let's put it that way. As you've correctly said, it's largely administered at a state level.

Ms Court: Yes.

Senator COLBECK: So all of these organisations, PwC included, and the others, are effectively administered through the states. Are you aware, within the state systems, of an infrastructure that has the capacity to actually provide a level of oversight to these multinational organisations that would match the sort of infrastructure support that you have as an organisation? You deal with multinationals based here in Australia. That is your role.

You have a fairly significant role and a whole series of skills, capacities and regulatory support to do that. This is a Dorothy Dixter question, I know, but I want to put it on the record. You effectively have multinationals that are being provided with oversight through states where the infrastructure to provide oversight doesn't exist.

Mr Longo: There's a range of partnerships in the legal profession, medical, a whole range of areas in our community where that activity is conducted through a partnership. As a general principle, yes, the law of partnership is developed by common law and by the states. There's no sort of over-branching federal law in that area and there's certainly not, to my knowledge, any state based regulator or institution of any note that's sort of worrying about the affairs of a PwC or a KPMG. Our system doesn't work that way.

In law and medicine and other activities, there are separate regimes of regulation. Some of them are self-regulatory and others are driven by statute. It goes back to what I was saying a moment ago. The partnerships like KWC, to use that word, are a bit misleading. When I use the word 'conglomerate', some of these businesses are actually made up of hundreds and hundreds of little entities, of companies. The way they work together is through basically the law of contract. They reach agreements entity to entity and share resources or whatever it is they agree to. But it's not a single entity.

We have been talking about the US regulator this morning. As a general principle, US regulators tend to be ambitious about their extraterritorial reach. That's a little bit unique. Most regulators are domestically focused. The US regulators, for all sorts of reasons, tend to have a bit more extraterritorial reach and that earlier question is something we're going to take on notice and have a look at and see whether there's some way we can come back to this committee in a helpful way so far as PwC is concerned. A long story short, the conglomerates like PwC operate internationally under something called a verein arrangement, which is an arrangement—

Senator O'NEILL: What is that word? I have not heard that before.

Mr Longo: I don't pretend to be an expert—

Senator COLBECK: It sounds extraterrestrial too.

Mr Longo: It's a mechanism for organising the affairs on a global basis. It's not a true partnership. It's something else. We're talking about an area which is very hard to regulate, frankly, on a global basis.

Senator O'NEILL: It is very murky.

CHAIR: I'll need to share the call in a moment, Senator Colbeck.

Senator COLBECK: So off the back of that conversation about the structures and the systems that don't exist, I suppose the following question is how might our existing toolkit be utilised to do the job that isn't being done? That's a big can of worms. I understand. But we are in a situation where we have organisations who tell us about all their wonderful ethical structures, and we spend a lot of time heading down the various rabbit burrows in that sense. So how would we bring those organisations—particularly the really big ones, that are equivalents to the big multinational corporates in reality—inside the fence of a corporate regulatory framework that requires things that are required of a corporation: for reporting, for example, and for transparency.

Now, you've got structures like the TPB that are obviously doing some good work—and we're up to nine investigations, which I'm sure you're across, as part of what's occurred out of the Collins matter—but you've got these large organisations that are effectively sitting outside our regulatory frameworks. How do we bring them inside the structures so that the reporting requirements that everyone else has to comply with, in a corporate sense, are visible, and there's some oversight and process?

Mr Longo: There are some very fundamental questions of policy that that question raises. I think Commissioner O'Rourke did a really good job a few moments ago of summarising, and Deputy Chair Court did in her earlier evidence as well. The way our current system works is that it's a little bit fragmented. We tend to focus on auditors, liquidators and financial services licence holders, but, at bottom, your question is sort of stepping back and saying, 'Well, we really want oversight of the whole thing,' and that's simply not been our regulatory approach until now. These firms have just grown—they've just exploded. To give just one example that I've been personally interested in over the years: the big accounting firms are also practising law; some of them have legal services arms. And that is coming back. That's why I keep using the word 'conglomerate'. It's a non-trivial question as to how you would get your arms around that and try to regulate it. At the moment, our system is what it is, and we've explained—

Senator COLBECK: And there are—

Mr Longo: They're big policy areas.

Senator COLBECK: various things there that do provide oversight—

CHAIR: Senator Colbeck, a last comment/question.

Senator COLBECK: I'll cede the call because, even though we are working together, I don't think our arms are long enough to get around that question!

CHAIR: Thank you. I do have a number of senators on my list for the last 25 to 30 minutes we have with ASIC, so I'll try and speed things up a bit, but I'll go to the deputy chair.

Senator BRAGG: I just want to try and pick up on this issue and then finish up with a couple of others. Have you had to make any referrals to the NACC?

Mr Longo: Has ASIC made any referrals to the NACC?

Senator BRAGG: Yes.

CHAIR: I'll just check with the minister as to whether questions like that are in order.

Senator BRAGG: Well, why wouldn't they be?

CHAIR: I'm not sure. Does the minister have a view about those sorts of questions?

Senator Gallagher: I think there are some sensitivities about asking people about matters that may or may not be before the NACC—

Senator BRAGG: He has obligations under the act to make referrals.

Senator Gallagher: Sorry?

Senator BRAGG: He's the chairman of the organisation, so he has obligations under the NACC Act to make referrals.

Senator Gallagher: Do you want to take some advice on it?

Mr Longo: Yes, I'd like to be—what's racing through my mind, Senator, is: I don't know whether it's appropriate, here and now, today, to answer the questions squarely, because part of my understanding of the way the NACC was intended to operate was in a very confidential manner, and if there are referrals made then they're confidential. It's then on the NACC, so to speak, as to whether to comment on that or not. I really don't want to be uncooperative, but I think it's a question, on reflection, that I would direct at the NACC, and if the NACC is prepared to answer the questions squarely, then of course we will do what we can, lawfully, and assist the committee, but, as things stand, I think it's something that has to go to the NACC directly.

CHAIR: I think Senator Reynolds is seeking to make a comment.

Senator REYNOLDS: If I may, it might assist with the question, but another committee of the parliament, JCPAA, has made a referral, and the chair was very public about that referral. So there is certainly a precedent.

CHAIR: I think this is an issue that is going to come up for a number of committees now that the NACC is established. I would probably prefer, myself, to get advice from the clerks before I insisted on those sorts of questions being answered, and I'm happy to undertake to do that.

Senator BRAGG: Can I suggest we have a private meeting now to get that advice?

CHAIR: Do you want to go to another line of questioning, and I'll alert the clerks that we need their advice.

Senator BRAGG: Can't we have a meeting to discuss it?

CHAIR: We can, but we'll need to get a clerk to give us some advice.

Senator BRAGG: Is that how it works?

CHAIR: Yes, that's how it works.

Senator BRAGG: Okay. I'll come back to it then. We'll get some advice and we'll come back to you.

CHAIR: Do you want to continue, and we'll alert the clerks.

Senator BRAGG: Do you know about this HyperVerse matter?

Mr Longo: Yes, we're aware of it.

Senator BRAGG: You know about it? I wanted to ask you about it. Apparently, there are two different schemes here: there's a Blockchain Global scheme and there's a HyperTech group.

Ms Court: That's right.

Senator BRAGG: Do you know about this? I might ask you a couple of basic questions, if that's okay.

Ms Court: Yes. Ask me some basic questions, and I'll see how I go.

Senator BRAGG: Do you know when there were first concerns raised with ASIC about these organisations?

Ms Court: Yes. Can you just bear with me for one moment? I'm just going to find my notes.

Senator BRAGG: Yes, sure. That's fine.

Ms Court: I have got a brief on this; I'm just trying to find it. I know I've seen it very recently, so I'm not sure why it's taking me time to find it. My apologies.

Senator BRAGG: It's Blockchain Global and HyperTech group—slash HyperVerse.

Mr Longo: I know. I've read it just recently. My apologies. Back to your question.

Senator BRAGG: When did you have concerns raised?

Ms Court: There are two different entities that we're talking about, Senator. I'm sorry if that was made clear in your question.

Senator BRAGG: It was, yes.

Ms Court: Blockchain Global is the first one. Blockchain was an Australian registered crypto asset exchange. The cryptocurrency that Blockchain Global offered—

Senator BRAGG: We don't have a system for crypto asset exchange—that doesn't exist in Australian law—so what actually was it? What sort of licence did it have?

Ms Court: It didn't have a licence.

Senator BRAGG: What did it have—an AFSL?

Ms Court: No, it didn't have an AFSL.

Senator BRAGG: It didn't have a licence?

Ms Court: It had no licence—no AFSL. It was unlicensed—

Senator BRAGG: Okay.

Ms Court: and, in our view, it was not a financial product. As you'd be well aware, there's this continuing grey area as to whether or not a crypto asset is a financial product that enlivens ASIC's jurisdiction. That company, Blockchain Global, went into voluntary administration in October 2021 and liquidation in February 2022, and it is said to owe about \$58 million to creditors. It is unlicensed and not a financial product.

Separate to that, there's this group we might broadly call the HyperTech group. That, we understand, was an offshore crypto—effectively, a pyramid scheme that was set up in 2020. There have been losses estimated in very significant amounts globally. In effect, in our view, that HyperVerse group is a scam.

We became aware of complaints about HyperVerse—I'm just trying to get the precise date from this briefing. Though 2020 we saw information about this scam unfolding. We issued a warning at that time about crypto scams generally. We have been, as you may be aware, talking about investment in crypto as being volatile and high risk and warning consumers that, if you want to put your money into crypto, you have to be willing to lose it. That's the history.

Senator BRAGG: Did you make any referrals to the Victoria Police?

Ms Court: Yes, we released information to the Victoria Police in 2020.

Senator BRAGG: Why?

Ms Court: As I understand it, the Victoria Police had an investigation going into this matter. That's probably all I can say about it.

Senator BRAGG: Am I right in saying that ASIC advised the liquidator here in 2022 that it would not take action against the directors for alleged breaches of the Corporations Act?

Ms Court: This then moves away from HyperVerse, HyperTech Group, which is this sort of amorphous global scam, and back to Blockchain Global. The connection between the two is that, as we understand it, some of the former directors of Blockchain Global are associated with HyperVerse, and that's the—

Senator BRAGG: Have you taken action against these directors?

Ms Court: Not yet. As you say, we had an initial liquidator report in October—I'm just trying to again find the date. As you may be aware, there are two forms of statutory reports that we receive. The first one is an initial statutory report. We received that in March 2022. That's information to us. We've now received, more significantly, a more detailed report from the liquidator, which came in in October of last year, and we are certainly looking at the issues raised by that liquidator report in relation to those individuals asserted to be involved.

Senator BRAGG: Have you issued a warning about HyperTech group, HyperVerse, Blockchain Global?

Ms Court: Again, you're putting them all together as if they're all one and the same thing. We need to separate them. Blockchain Global is in administration; that company is finished; it's not active anymore, as I understand it.

In relation to the broad HyperTech Group, the company—I shouldn't even call it a company, that's a misdescription—or the group has been variously called HyperTech, HyperVerse and various other things. In relation to the current complaints that we are getting in, as I understand it, we have listed that group on our investor alert list, which is a relatively new tool that we have on the ASIC website that gives investors who are thinking about putting their money into some of these crypto related things or other things the opportunity to have a look and say, 'Should I invest in this?' If they're on the list, our strong advice is not to.

Senator BRAGG: I just have one other matter to ask you about. At the last estimates, you may recall I made a promise that I would read back the *Hansard* to you in relation to the very distressing situation that many Australians are finding themselves in when they've had a loved one die or they've had an injury, and they go to their super fund and they're not able to get their insurance payout, which is very distressing because they're having to provide additional documentation at a most troubling time. In fact, we had the complaints tribunal here this morning saying that this was a real concern for them and it was coming through in their data. I was keen to understand what action you've taken in the last few months. When you were here in October, you said that you were aware of the issues, that it's an emerging theme and that you were prioritising it as an issue.

Ms Court: Yes. I was somewhat anticipating you may return to—

Senator BRAGG: I like to be true to label.

Ms Court: that theme. I am grateful for the consistency. I want to confirm this is an area we've got a strong focus on. It's a priority for us. We have a dedicated project relating to delivery of member services by superannuation funds, and it's a multiphase project. We're going to be doing it throughout 2024 and beyond. We are focusing, initially, on death benefits claims-handling, and that was the issue that we talked about last time. We have investigations underway. We are aware of the issues that AFCA have reported and the complaints that they're getting. We're also aware of the various media reports about those trustees—that those that are disserved in the media are engaging in unacceptable delays in the processing of these claims. So I can assure you we're looking at it. It is front and centre. I haven't got a case to announce to you today, but I can assure you that we will be continuing to focus on that this year.

Senator BRAGG: Can I ask you about the poor man from Tasmania, Mr John Bothman, who we discussed last time. He had to provide a second death certificate for his wife. Do you know how that got on? That's very distressing for this man.

Ms Court: No, I don't have individual information about that particular case.

Senator BRAGG: Could you take that one on notice, because I think it's important that we follow through on these cases. It's very unfortunate and quite unsavoury behaviour, really.

Ms Court: We agree with you, Senator, and that's obviously not the only case. We are aware of multiple distressing experiences of members through their super funds, and that's something that we are continuing to focus on—the super funds.

Senator BRAGG: Okay. Could you please provide some data to the committee on notice about the actions you've taken, and some examples, because I think it's really important that we don't—obviously, I'm happy to come back next time and canvass it again, but it would be good to get some hard evidence that the super funds are acting in the interests of the workers, because at the moment I think it's clear that they're not.

Ms Court: Absolutely. Without wanting to prolong—yes, indeed, we need to look at what the systemic issues are in these super funds, and the way that trustees are dealing with their members is something that we need to look at and are looking at in a systemic way. We're not an individual-complaints-handling body. AFCA is there to do that.

Senator BRAGG: Yes, but it's systemic, isn't it?

Ms Court: Well, that's what AFCA is telling us. AFCA is saying there are systemic issues here, and we are absolutely, as a result of that—

Senator BRAGG: So the funds are going to keep doing it unless you crack down on them.

Ms Court: Absolutely, and ASIC is extraordinarily active in the enforcement of superannuation. We've got 10 matters, I think—

Senator BRAGG: Good.

Ms Court: before the courts at the moment, including TelstraSuper, AustralianSuper, Active Super and a number of others. I want to reassure you we are in court in relation to super trustees as we speak, in multiple matters.

Senator BRAGG: Thanks.

CHAIR: Mr Longo, were you seeking to add something?

Mr Longo: Yes. Senator Bragg asked me a question earlier about the NACC. I have taken some advice of my own which might help the committee. I've not referred any matter to the NACC since the NACC commenced on 1 July 2023. I'm able to confirm that to the committee.

CHAIR: Okay. That is helpful to us, thank you very much, Mr Longo.

Mr Longo: It'll save some time.

Senator BRAGG: The only other question I have for you is: have any current or former staff asked ASIC for any financial or legal support in relation to the NACC?

Mr Longo: We'll take that on notice.

Senator BRAGG: You don't know?

CHAIR: It is appropriate to take the question on notice and see what information can be provided to the committee.

Senator BRAGG: With the greatest respect, they're supposed to answer the question now if they know the answer.

CHAIR: I think that there's been an indication that—

Senator Gallagher: I think it's appropriate that they consult and be able to take it on notice.

Mr Longo: I've asked my general counsel to elaborate on the—we don't want to be uncooperative, Senator, but the NACC process is very sensitive and we just want to be respectful of everyone's rights.

CHAIR: Mr Savundra.

Mr Savundra: Senator, we get from time to time requests from staff for financial assistance. The Legal Services Directions prescribe or regulate the circumstances in which we can provide that financial assistance. In relation to your specific question, I'll have to take it on notice. I don't recall whether the request for assistance was in relation to a referral to NACC or whether the request for assistance is more general in nature. If there's a specific circumstance that you're referring to—that might assist also.

Senator BRAGG: Okay. We look forward to seeing what you have to say on notice. Thanks, Chair.

CHAIR: I've got a number of senators on the list. Some people have indicated to me they only need five minutes. I'll go to Senator Reynolds on that basis.

Senator REYNOLDS: I hope I haven't misled you, Chair. It depends on the responses. Good morning, everyone. I'd like to turn the conversation to government trading enterprises owned and regulated under state laws. In this case, I'm talking about the Gold Corporation, trading as the Perth Mint. For some context for my questions, Senator Smith is actually chairing a Senate inquiry into the operations of the Perth Mint, and a number of issues have arisen which I think raise questions about possible gaps that these GTEs can operate under, somewhat flouting federal corporations law or slipping between state and federal law, particularly with directors' responsibilities. So what I wanted to ask first is: has Gold Corporation, trading as Perth Mint, ever come to ASIC's attention or been investigated or reviewed by you?

Ms Court: Not that I am aware of—but that is really not a full answer. I would have to take that on notice I'm afraid, unless anyone behind me can answer.

Senator REYNOLDS: That would be much appreciated.

Ms O'Rourke: Can I confirm—did you say at the opening of your question that they're incorporated under a Western Australian regulatory framework?

Senator REYNOLDS: Yes.

Ms O'Rourke: That would mean it's unlikely, but I think we need to be—

Senator REYNOLDS: Yes, I just wanted to make sure, because that then leads to some of the behaviours that have been exhibited and are the subject of longstanding AUSTRAC enforceable undertakings. The US Justice Department, the London bullion exchange et cetera have found far more concern with Gold Corporation than the Western Australian authorities have.

Ms Court: It's possible, even if it doesn't fall within our jurisdiction, that we've had matters referred to us or compliance made to us, so we'll certainly endeavour to find out the answer.

Senator REYNOLDS: Thank you. They've had some very interesting corporate partners here and overseas. The two that stand out are the Euro Pacific Bank and the Bank of Cyprus, which are very well known and reported to be narco-terrorists' and oligarchs' money-laundering facilities of choice. They've also chosen to do business with Perth gold mint. So are those sorts of relationships really the purview of AUSTRAC? In terms of who companies are trading with, particularly when they're known money launderers, is that not ASIC's jurisdiction or interest?

Mr Longo: I'd have to confirm. That wouldn't be our primary interest. Without trying to comment on the specifics of your question, as a general principle, we wouldn't be regulating or supervising entity's choice of bankers and those relationships. If there's money laundering going on or criminal activity going on, then the relevant authorities would have to be dealing with that. It wouldn't be our primary—

Senator REYNOLDS: Where I'll come to is the director's responsibilities under federal law and state acts. The Perth Mint is currently the subject of a thumpingly large enforceable undertaking by AUSTRAC. As you know, AUSTRAC has also looked at Crown, Westpac and others for similar breaches. Their enforceable undertaking is just for a small period of time under a particular board composition. There have been 3,322 breaches, with possible fines for the WA taxpayers of \$21 million for each breach, just south of \$70 billion. AUSTRAC, in this case, decided—because the Perth Mint had bared their bottom and said, 'I'm so sorry; we won't do it again'—to give them an enforceable undertaking. But the taxpayers are still on the hook because they're still breaching the law. They haven't remediated yet. Sorry, that's my unofficial discussion. At that time, when they knowingly, I contend, had these breaches: they were purchasing conflict gold; they were selling salted gold; the US justice department was investigating them; the London Gold Xchange had grave concerns about them; they had J5 in terms of taxation reviews—some of the large operations that resulted out of the Panama Papers; they were doing almost no know-your-customer requirements, which was obviously legislated; and then then they somewhat amazingly introduced a gold token.

It was called the Perth Mint Gold Token, and it comes down a little bit to some of the behaviours that Ms Court was just talking about. They launched a gold token that was WA taxpayer guaranteed and backed by physical gold assets—not enough. They sold more than they had, but that's another issue. Then they launched it on a cryptocurrency network, the Ethereum network. These tokens could be sold anonymously through their various highly regarded—and not to partners. So they did this knowingly. I probably think they were operating as a digital currency exchange without actually registering as a digital currency exchange, and they did no know-your-customer checks at all. They relied on the Euro Pacific Bank and Bank of Cyprus for their own checks of their own oligarchs and narco-businesses.

So you've got a board in a relatively small period of time who are making all of these decisions, subject to all of this scrutiny by overseas law enforcement. AUSTRAC was working with them but chose the path of working with them. As they worked with them, AUSTRAC admitted they actually got worse in terms of corporate behaviour. So that's the background; it is a big and long issue.

When we asked questions as a committee, the Gold Corporation came back and said:

It is not feasible for The Perth Mint's current leadership team to comment or speculate on the factors or considerations that may have informed previous decisions by former executives and managers at The Perth Mint.

That is an entirely unsatisfactory response to any Senate committee. It also seems to me that there's a secret sealed section of the Commonwealth Corporations Act, where people who are on the current board, if the composition changed, would have no liability or responsibility to even go back and read previous board minutes and provide the Senate with information. My first question really is: if you were conducting a Senate inquiry, would you expect it to be legally okay for a board to say, 'Sorry, it's not the same board composition as it was three years ago, so we're not going to answer your questions'?

Mr Longo: That wouldn't be a response that would be deemed to be attractive at ASIC—

Senator REYNOLDS: You could be a politician!

Mr Longo: nor would it be regarded as cooperative or helpful to a law enforcement agency. Clearly, we're the corporate regulator and there are literally millions of directors in Australia, but that doesn't mean we regulate each and every activity of a director. In this case, we don't have any oversight over the Perth Mint. Obviously, I'm not familiar with the structure of the Perth Mint. It may conduct its business through a company, and, of course, a company has to have directors.

Senator REYNOLDS: Gold Corporation—yes.

Mr Longo: At one level, you say, 'That must be ASIC's fault because it's a company and there are company directors.' I think that's an incomplete analysis. On that basis, we would be regulating every business in the country, like telcos, which is clearly not the case. The short answer to your question is that I think the current board should be making reasonable efforts to interrogate the books and records of the company and try to answer the questions. But, clearly, if they weren't there at the time, they're going to be hampered in asking agents—

Senator REYNOLDS: Some of them were.

CHAIR: Is there a final question? You've gone for 10 minutes because of the five-minute question.

Senator REYNOLDS: I'm happy for you to take it on notice, but my final question and the big issue about this is: is there a gap? All of this behaviour has been well reported and well known for years. There have been hundreds and hundreds of articles and law enforcement actions, but there have been no consequences for the board. There have been no consequences for the company, and they were able to take huge risks because the government let them go ahead and do it. It was a taxpayer who was at liability. They had a very valuable product, but they didn't have to exercise the same responsibilities. Again, I am happy for you to take this on notice. There clearly is a gap where you can have companies like that operating outside of the purview of federal law.

Mr Longo: We're happy to take the question on notice. I was just checking with my general counsel. Somewhere at the back of my mind the shareholder of this entity is the Treasurer of Western Australia.

Senator REYNOLDS: It is, yes.

Mr Longo: That's relevant.

CHAIR: Colleagues, we actually have a portfolio changeover right now, so we are really at a hard marker. I understand Senator Hughes has one question. I had promised Senator Roberts the call. Senator Roberts, would you assist with just keeping it to two questions?

Senator ROBERTS: I've got a few more than that.

Senator HUGHES: Do you want me to ask mine, because mine's hopefully a yes or no? Then you can pick your favourites, Senator Roberts?

CHAIR: Go ahead, Senator Roberts.

Senator ROBERTS: Thank you for being here again today.

Senator Gallagher: I don't mean to interrupt, but I'm just swapping over with Senator Ayres.

CHAIR: Thank you for your appearance in this portfolio, Minister. Thank you for answering our questions. You go with our thanks.

Senator ROBERTS: Can I start by confirming our meeting will occur on 19 March on the subject of the security of companies offering bullion storage and sales services in Australia.

Ms Court: That's right.

Senator ROBERTS: I look forward to that. Total compensation for the 'fee for no service' scandal was \$4.7 billion. Since those compensation payments, do you believe financial institutions have fixed their systems and this practice is no longer happening?

Mr Longo: I'll ask Deputy Chair Court to comment on that. I think it's a truism that systems and processes of the banks are always in need of improvement and enhancement, so one can never be certain that those systems will be fixed forever. We certainly think a lot of progress has been made coming out of the royal commission. I know Deputy Chair Court has done some work in this area as well.

Ms Court: I don't think I'd ever presume to say that the issues of fees for no service or the compliance and legacy systems of large financial institutions have been completely fixed. I think there's been progress made. As you say, there have been billions of dollars of remediation. There have also been multimillion-dollar penalties applied by courts in relation to that conduct. We continue to have cases where fees for no service are being alleged, and we are continuing to investigate them and take court action where it's appropriate.

Senator ROBERTS: That's pleasing. Do you think the amount of compensation, \$4.7 billion, met or exceeded the revenue that was illegally obtained by financial institutions for the 'fee for no service' scam?

Ms Court: I think you'd have to ask that question of those institutions. The remediation figure is eye watering.

Senator ROBERTS: I will turn now to the new mandatory Banking Code of Practice that ASIC will consider recommending to the minister. The Australian Banking Association, led by former Labor premier Anna Bligh, has extended coverage to include buy-now pay-later providers by including them in the phrase, 'Each bank will

exercise the care and skill of a diligent and prudent banker.' Does that phrase provide a quantifiable legal protection to customers, or is it utterly meaningless?

Ms O'Rourke: I'm happy to assist in relation to the banking code. I might just clarify. In your introduction, you referred to it as a mandatory code, and you also referred to it being taken to the minister. Industry codes aren't mandatory. You're right that the banking industry has developed one. The approval process is also one that, if chosen by the industry association, comes to ASIC. It's an ASIC approval process, not a ministerial one.

If I come to your particular question about the terms of the code, the code that exists now commenced in 2018. I think, as you're alluding to, the Australian Banking Association, who wrote the code, and its members, who signed up to it, have been going through a process of updating the code and have proposed to bring it to ASIC for additional approval—for approval under the statutory scheme. One of the issues that are live in that process is the question of the inclusion of the phrase 'prudent and diligent banker', which you've called out. In the existing code, the one that exists now that was approved in 2018—and there have been some revisions approved since—that phrase is included. In the proposed code, the draft code that's been prepared, there's a question about whether it can come out on the basis that it's duplicative of the responsible lending obligations that already apply to bankers. So that's the issue.

As to its progress, I'll give you some further information. The ABA had done a consultation process to develop the draft code. We now, at ASIC, are doing a consultation process associated with our consideration of approving it because of the importance of these codes to all banking consumers—all Australians. These codes really matter, and making sure that they are suitable in their content and meet the statutory requirements is something we take very seriously. We are undertaking a consultation process. That particular question is one of the ones we're seeking submissions on and very carefully considering.

Senator ROBERTS: I think I'll be coming back to that, Ms O'Rourke. I'll move quickly because the chair's needing to hurry.

CHAIR: I'm staring at you, Senator Roberts, but thank you for proceeding quickly.

Senator ROBERTS: I raised the fee for no service earlier for a reason. The clause in the proposed Australian Banking Association code, chapter 12, No. 31, used to read that the bank 'will make sure we have your agreement' on charging a fee for a new service. That clause has been removed from the new code, meaning the bank does not need to get a customer's permission before charging them a fee for a new service. If a bank doesn't get my permission, under the new code can they simply start charging me for services that I did not agree to or may not know I'm being charged for? Are they unwinding your good work on the fee for no service?

Ms O'Rourke: I'm not particularly aware of that proposed deletion. I think I might take on notice any background relevant to that. The general answer is that there are provisions widely in the code that would be relevant to whether fees for no service can be charged, and indeed I think my colleagues have spoken to the important work ASIC has taken to ensure that that sort of activity does not occur.

Senator ROBERTS: Can you show me in the draft code where it provides a guarantee of face-to-face banking services that means access to a bank branch?

Ms O'Rourke: I think that in both the existing code and proposed code the question around branch closures, which is what I think you're alluding to, is covered by reference to a protocol that exists about the provisions that a bank will consider on decisions as to whether or not it provides banking services in particular communities. It's not framed, as far as I'm aware, in the way that you've framed it: as a right. I can't point to that, if that's what you're seeking.

Senator ROBERTS: Debanking is proving to be a real problem across businesses that are alternatives to the bank system. Banks are debanking bullion dealers, crypto brokers and third-party cash transit companies. Is there anything in this code of practice that guarantees banking services for customers who use cash, bullion or cryptocurrency?

Ms O'Rourke: I'm going to have to take that on notice.

Senator ROBERTS: Is there anything in this draft that guarantees access to the King's currency—cash?

Ms O'Rourke: Not that I'm aware of, but I'm happy to take it on notice.

Senator ROBERTS: Can you show me where it says something like, 'We undertake to not terminate your banking services for your political views unless a criminal conviction has resulted,' or similar? As written, the code gives no protection for a customer who exhibits wrongthink on social media, for instance. This is a problem.

Ms O'Rourke: I think that's a statement.

CHAIR: Last question, thank you, Senator Roberts.

Senator ROBERTS: Why is the sentence, 'We will engage with you in a fair, reasonable and ethical manner,' being replaced with 'efficient, honest and fair'? Is there no room for ethics in modern banking, and is the term 'efficiency' used so that the bank can say it's not efficient for them?

Ms O'Rourke: I think you're right to point out that that's one of the important distinctions between the existing code and the proposed one, and therefore it's one of the areas that we are consulting on to understand stakeholders' views on that proposed change. I'm agreeing with you that it's an important issue for us to explore to understand the basis for the proposed change and what the consequences would be.

Senator ROBERTS: Are you aware that the Consumer Action Law Centre describes the new code as offering no overall improvements in consumer protection? Do you, ASIC, agree with this characterisation, and will ASIC add extra protections yourself before forwarding the code?

Ms O'Rourke: As I referred to, we're right in the middle of a consultation process which includes listening to stakeholders about their perspectives on the new code. We're taking careful consideration of all the issues that are raised before we move to the decision point that I described earlier.

Senator ROBERTS: Thank you. I must say that I appreciate the direct and immediate answers.

CHAIR: I understand that Senator Hughes has a question.

Senator HUGHES: I do. I want to check something with the Chair—I just want to give you a scenario. Let's say there's a big super fund board—call it Cbus. Let's say that there's an AMWU rep serving as a director of Cbus. That AMWU director wants to appoint an alternative director. Who holds the pen when deciding who that alternative director is? Is it the director themselves or is it the AMWU? I would have assumed that only the director themselves could appoint their alternative.

Mr Longo: I've been getting some quick advice here because the legal answer to that question, if I can put it that way, will be in the constitution of the entity. If you want to put in an alternative director then there may be an approval process at the board level which may require some process or mechanism, so I really can't answer your question off the top of my head. I'm happy to take it on notice.

Senator HUGHES: Maybe I can read out your own definition, and you can tell me if—

Mr Longo: I know what an alternative director is, I'm just not sure—

Senator HUGHES: The ASIC website states:

A company director can appoint someone to act as an 'alternate director' for a set period of time. This can include some or all of the powers that a director would have.

... ..

To appoint an alternate director, a Change to company details (Form 484) must be lodged with ASIC. You must notify us within 28 days if an alternate director is appointed.

ASIC's own definition is that a company director can appoint someone, so I assume that individual directors have a responsibility for their own appointment.

Mr Longo: As a matter of general principle, that's the approach that's taken. But before that director can actually do that, they still have to comply with the constitutional arrangements of that entity. So I'm—

Senator HUGHES: But a union couldn't direct an individual director, or just appoint them themselves? The letter would have to come and the referral would have to come from the individual, I assume, rather than an organisation. Otherwise, organisations could just do it willy-nilly. I assume that the director themselves would have to be the person responsible for it.

Mr Longo: As I said, the constitutional arrangements of that entity would have to be complied with.

Senator HUGHES: Alright. You have your own definition—

CHAIR: I think the question has been answered.

Mr Longo: I'm happy to take that one on notice—

Senator HUGHES: I'd like a lot more detail on that, if you could?

Mr Longo: I think it will be a short response—

Senator HUGHES: That would be great.

Mr Longo: but I want to check—

CHAIR: And it will apply equally to employer representation—

Senator HUGHES: Absolutely! I'd like to know.

CHAIR: Senator Colbeck, I understand that you have one question.

Senator COLBECK: Yes. I'd like you to take on notice the jurisdictions you're talking to in relation to the PwC matter. We heard last night from the TPB that, in their view, the sharing of information extended beyond what we've dubbed the 'dirty six' to a whole heap more—to a larger number of people in a range of jurisdictions who were sharing the information for a range of purposes. They're investigating that and, obviously, you're engaged with them.

The tax office told us last night that they're engaged with the large business five, which are Australia, the US, Canada, the Netherlands and the UK, and one outside the large business five. That's Ireland, and that's where some of these larger corporations which are being serviced by PwC are domiciled. Could you give us, on notice, the jurisdictions that you're engaged with in relation to this matter so that we can understand that. I think we'd be very keen to ensure that the 'dirty rotten scoundrels', which is the broader group than the dirty six—which we understand are in the US—have every regulatory tentacle possible chasing them down so that we can try to ferret them out. So please take on notice the jurisdictions that you're talking to so that we can get a sense of what the extent of the regulatory octopus might be.

Mr Longo: Yes.

CHAIR: It looks like that question has been taken on notice. Senator Pocock, very briefly.

Senator BARBARA POCOCK: My question is about splitting audit and non-audit functions in the big four. One of the arguments that those large consultant firms have put to us is that audits are so complex that they need to be able to draw on in-house expertise when conducting complex audits. Yet in your report No. 739, *Route cause analysis*, you say, 'the most common underlying root causes of negative quality findings identified were inadequate skills of audit team members carrying out the work' and your better practice recommendations included 'appropriate use of specialists and experts, and the timing and resources allowed for technical consultation'. To what extent do you think this reason for not splitting audit from non-audit functions is sound, remembering that we've had a lot of advice from Graeme Samuel, Allan Fels and others that the split is important to do?

Ms O'Rourke: Thank you very much for your question and for your interest in the report that we've prepared on audit quality, because it's an important part of ASIC's work. The first observation I'd make is that the findings in relation to that report are based on the work we've done across a whole range of audit firms, some of which do not have the kind of diversity of expertise that you referred to the large firms claiming for themselves. So we are keen to make sure that when we have findings that are at the smaller end of town or for others that we're not excluding those. They need to be imported as well. I guess my first observation is that that observation in our report may not be referrable to the big firms that you've got a particular focus on. I'm not sure you can draw that conclusion as being directly relevant to the question of the trade-offs for breaking up or splitting audit and non-audit functions. I think we've given evidence to other committees around some of those trade-offs, around opportunities, and you've heard other evidence as well. So I think the direct conclusion is that it's a little bit more complicated than that.

Senator BARBARA POCOCK: So do you agree at ASIC that such a split between audit and consulting would limit or reduce the risks associated with conflict of interest, which in turn should improve the quality of auditing in these big firms?

Ms O'Rourke: I think the question of conflicts of interest is an important part of firms, whether they provide audit and consulting services or otherwise. The quality systems and the government systems that exist within firms do very important work. I think the question of whether or not conflicts are effectively managed in those big firms is a more complex one, and I don't have a singular view on that.

Senator BARBARA POCOCK: So, more discussion needed. Has it come to your attention at ASIC that KPMG has delivered false audits for two companies, Paladin and Canstruct, who subsequently received more than \$2 billion of taxpayers' money to run immigration detention centres for the Department of Home Affairs? And is ASIC currently investigating KPMG for breaching audit standards in relation to those audits?

Ms O'Rourke: We'll take that question on notice.

Senator BARBARA POCOCK: Great. I've got others to put on notice. Thanks so much for your answers.

Senator HUGHES: Before we finish, I do actually have a copy of Cbus's constitution here, so perhaps you could help me out. It says, under 27.4:

A proxy may be appointed as follows:

(a) In circumstances where a Member is unable to attend a general meeting of the company or a director is unable to attend a meeting of directors:

- i. in the case of a member, he or she may appoint any other person; and
- ii. in the case of a director, he or she may appoint any other director, including an alternate director as his or her proxy to attend and vote at the relevant meeting.

I would say that that makes it pretty clear that 'he or she' appoints the alternate director. Wouldn't you agree? It doesn't say there that the union may appoint it. It says 'he or she'. That would seem to me to be an individual—

CHAIR: Senator Hughes, I think you've asked your question. I'm formally giving you the call as well, Senator Hughes.

Mr Longo: With all due respect—that's very helpful—I just have been around long enough to know that I would just rather take that very technical and significant question on notice to be sure I'm getting it right.

Senator HUGHES: I'm happy to flick you a copy of their constitution.

Mr Longo: But it'll be a short response. I'm not trying to evade it. We will answer that question as promptly as we can.

Senator HUGHES: Excellent.

Mr Longo: I just don't want to be confirming the correctness of it without just a little bit of work.

CHAIR: That's appreciated, Mr Longo. Thank you very much for appearing—

Senator O'NEILL: Could I put one on notice? I've been silent.

CHAIR: Wow, Senator O'Neill!

Mr Longo: I was hoping to limit the amount of homework we'd get today!

Senator O'NEILL: Sayers advisory investment family wealth—can you confirm that that is an entity over which you have supervision? Could you also provide the committee with any information about Mr Sayers, who was formally the CEO of PwC, and any supervisory instruments you have in place or any inquiries you're making into his suitability as a director and head of this business. Thank you very much.

CHAIR: The committee will now conclude its consideration of the Treasury portfolio for today. Thank you, Chair Longo and commissioners, for being with us today. The committee will take a brief two- or three-minute recess while we call DISR to the table.

INDUSTRY, SCIENCE AND RESOURCES PORTFOLIO**In Attendance**

Senator Ayres, Assistant Minister for Manufacturing, Assistant Minister for Trade

Department of Industry, Science and Resources

Ms Meghan Quinn PSM, Secretary

Corporate

Mr Neal Mason, Deputy Secretary

Ms Jane Urquhart PSM, Deputy Secretary

Analysis and Insights

Ms Michelle Dowdell, Head of Division

Ms Crystal Ossolinski, General Manager, Resources and Energy Insight

Chief Finance Officer

Mr Gavin McCosker

Chief Information Officer

Ms Rebecca Lee

Ms Simone Boulding, General Manager

Chief Operating Officer

Ms Leanne Yannopoulos

Ms Deborah Miliszewski, General Counsel

Business Grants Hub and Integrity

Ms Sam Chard, Head of Division

International Trade and National Security

Dr Carolyn Patteson, Head of Division

Mr Richard Samuels, General Manager, International Science and Resources

Ms Alison Drury, General Manager, Trade and International

Strategic Policy

Ms Camille de Burgh, Head of Division

Mr James Pitman, Acting General Manager, Ministerial and Executive Enabling Branch

Ms Naomi Perdomo, General Manager, Whole of Government Policy and Priorities

Outcome 1: Support economic growth, productivity, and job creation for all Australians by investing in science, technology and commercialisation, growing innovative and competitive businesses, industries and regions, and supporting resources**Program 1.1: Growing innovative and competitive businesses, industries and regions**

Ms Julia Pickworth, Deputy Secretary

Anti-Dumping Commission

Ms Isolde Lueckenhausen, Deputy Commissioner, Investigations

Ms Jessica Casben, Deputy Commissioner, Strategy and Legal

Australian Building Codes Board

Mr Gary Rake, Chief Executive Officer

Australian Space Agency

Mr Enrico Palermo, Head of Agency

Ms Dara Williams, Deputy Head of Agency

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

AusIndustry

Mr David Luchetti, Head of Division

Mr David Chuter, Executive Director

Industry Innovation and Science Australia

Ms Tanya Blight, General Manager, Office of Innovation and Science Australia

Industry and Manufacturing

Ms Tara Oliver, Head of Division

Mr James Flick, General Manager, Industry Net Zero Policy Branch

Ms Maxine Loynd, General Manager, Future Transport and Policy

Sovereign Capability and Supply Chains

Ms Donna Looney, Head of Division

Ms Jasminde Higgins, General Manager, National Reconstruction Fund Policy and Liaison Branch

National Reconstruction Fund Corporation

Mr Ivan Power, Chief Executive Officer

Ms Rebecca Manen, Senior Executive

Program 1.2: Investing in science, technology and commercialisation

Ms Helen Wilson, Deputy Secretary

National Measurement Institute

Dr Bruce Warrington, Chief Executive Officer and Chief Metrologist

Office of the Chief Scientist

Dr Cathy Foley AO, PSM, Chief Scientist

Questacon

Ms Jo White, Director

Science

Ms Janean Richards, Head of Division

Ms Hayley Arbaut-Zaalen, General Manager, Science Strategy and Priorities Taskforce

Ms Natalie Weddell, General Manager, Science Policy and Governance

Ms Paula Perrett, Executive Director, Office of the Chief Scientist

Technology and Digital

Mr Anthony Murfett, Head of Division

Mr Dan Quinn, General Manager, Enabling Technologies

Mr Lucas Rutherford, General Manager, Technology Strategy

Technology Investment Taskforce

Ms Michele Graham, General Manager, Quantum Branch

Commercialisation

Mr Nick Purtell, Head of Division

Ms Sandra Roussel, General Manager, Venture Capital and Entrepreneurship Branch

Australian Nuclear Science and Technology Organisation

Mr Shaun Jenkinson, Chief Executive Officer

Mr John Edge, Chief Operating Officer

Mr Miles Apperley, Group Executive, Nuclear Safety, Security and Stewardship

Ms Pamela Naidoo-Ameglio, Group Executive, Nuclear Operations and Nuclear Medicine

Commonwealth Scientific and Industrial Research Organisation

Dr Doug Hilton, Chief Executive

Mr Tom Munyard, Chief Operating Officer

Dr Peter Mayfield, Executive Director, Environment, Energy and Resources

Ms Kirsten Rose, Executive Director, Future Industries

Dr Elanor Huntington, Executive Director, Digital, National Facilities and Collections

Dr Jack Steele, Director, Strategic Government Programs

Mr Paul Graham, Chief Economist, Energy

Program 1.3: Supporting a strong resources sector

Ms Jane Urquhart PSM, Deputy Secretary

Australian Radioactive Waste Agency

Mr Sam Usher, Chief Executive Officer

Ms Jodie Lindsay, General Manager, Social Licence and Operational Support

Minerals and Resources

Mr Peter Chesworth, Head of Division

Mr Damien Dunn, General Manager, Resources Strategy Branch

Ms Vicky Pullen, General Manager, Critical Minerals Office

Ms Kym Moore, Acting General Manager, Mining Branch

Oil and Gas

Mr Robert Jeremenko, Head of Division

Ms Norelle Laucher, General Manager, Offshore Strategy Branch

Mr Cliff Weeks, General Manager, Offshore Resources Branch

Mr David Lawrence, General Manager, Gas Branch

Mr William Tan, General Manager, Decommissioning Taskforce

Mr Shane McWhinney, General Manager, Northern Endeavour Branch

Mr Graeme Waters, General Manager, National Offshore Petroleum Titles Administrator Branch

Geoscience Australia

Mr James Johnson, Chief Executive Officer

Mr Trent Rawlings, Chief of Corporate Division

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

Dr Steve Hill, Chief Scientist and Chief of Place and Communities Division

Ms Alison Rose, Chief of Space Division

Ms Erika Taturan, General Manager, Enabling Services

Mr Clive Rossiter, Chief Information Officer, Enterprise Data and Digital

Mr Su-Sueh (Michael) Koh, Chief Finance Officer

National Offshore Petroleum Safety and Environmental Management Authority

Ms Sue McCarrey PSM, Chief Executive Officer

Mr Graham Blair, Deputy Chief Executive Officer, Regulatory Operations

Mr Cameron Grebe, Deputy Chief Executive Officer, Strategic Regulation and Improvement

Department of Industry, Science and Resources

[12:56]

CHAIR: The committee will resume. We are now with the Department of Industry, Science and Resources, corporate enabling and business services. Welcome, Ms Quinn. Welcome, Senator the Hon. Tim Ayres. I will give you the dates for questions on notice shortly. Ms Quinn, was there anything that you wanted to notify us about, or do you have an opening statement? Sometimes you do.

Ms Quinn: Sometimes I do, but I don't on this occasion.

CHAIR: Excellent. I'll go to Senator Hughes.

Senator HUGHES: Thank you, Chair. Minister Ayres, it's true that you nominated Glenn Thompson to the Rail Industry Innovation Council, correct?

Senator Ayres: Let me make one point first, and then I'll go to that. In terms of detailed questions on this, the officials who were engaged in supporting the cabinet decision to make this appointment will be here later on this evening.

Senator HUGHES: Senator Ayres, we've actually got the transcript from last time—

Senator Ayres: Yes, I did have occasion to read that. The appointment was an appointment of cabinet.

Senator HUGHES: It's a position worth \$11,980 per annum—almost \$12,000 a year—with an appointment term of up to three years, so Mr Thompson stands to gain nearly \$36,000, correct?

Senator Ayres: If you say so. I haven't recently reviewed the remuneration. It is a part-time industry advisory board appointment.

Senator HUGHES: The department confirmed the remuneration level at the last estimates, and your own documentation says it's three years.

Ms Quinn: It is subject to the advisers attending various meetings et cetera.

Senator Ayres: It's more in the vein of—you'll give me the right terminology, Secretary—an attendance fee.

Senator HUGHES: Was he your nominee?

Senator Ayres: He was a nominee in a cabinet process, and it was dealt with in the normal way in a cabinet process.

Senator HUGHES: We'll come to that, because we did go into that in a bit of detail last time. There will be things to double-check, because you obviously weren't there. I want to now take you back to 2008. I understand you'd just done an interview and weren't quite clear when you were appointed to the Cbus board, but in 2008, on 20 August, you were appointed to the Cbus board as an alternative director for Mr Thompson, correct?

Senator Ayres: That was asserted to me today by a journalist. I have no reason to disbelieve the date. It was certainly more than 15 years ago.

Senator HUGHES: I have some documents that can be circulated outlining the date of your appointment if it would help prompt your memory. Does anyone need that tabled?

CHAIR: The process to table documents—

Senator Ayres: I'm not disagreeing with you, Senator Hughes—

Senator HUGHES: I'm just helping with your memory.

Senator Ayres: In terms of the precise dates, it doesn't seem to me to be material. It was a long time ago. I was in my 30s, probably.

Senator HUGHES: Minister Ayres, just to be clear—

Senator Ayres: That is a long time ago.

Senator HUGHES: It's all right; I just had one of those birthdays too. It was Mr Thompson and Mr Thompson alone who determined to appoint you; correct?

Senator Ayres: I was in the uncomfortable position just then of sitting next to the ASIC chair, Mr Longo, while you asked him a series of questions that, had I not been asked these questions by a journalist who you'd presumably briefed beforehand, I would not have known were about me. I had not had any interaction with him prior to that. I understood that the questions were about the arrangements for appointments to one of Australia's largest superannuation boards. I could not tell you, now, what the appointment arrangements were. What I can tell you is that in practice those were appointments that were made by the stakeholders set out in the Cbus constitution for both directors and alternate directors. The arrangements inside the Australian Manufacturing Workers Union, where there were very high standards of probity and governance around these questions, were that directors and alternate directors did not receive fees but were employees of the union. Arrangements were made for that purpose. However, what is the key question here? I don't understand what it is that a 15-year-old account—

Senator HUGHES: I think there are a number of mistruths that have already been spoken—

CHAIR: Senator Hughes, please be careful with your language—

Senator HUGHES: I didn't say the word 'lie'; I know you don't like that.

CHAIR: and how you characterise things.

Senator HUGHES: We don't refer to stage 3.

Senator Ayres: It is insulting.

Senator HUGHES: I'm sorry, Minister Ayres, but I can present you the Cbus documents if you would like and if they help refresh your memory. The 2011-12 report says 'Alternate director T. Ayres, alternate director for G. Thompson, member, audit and risk committee.' You've also just said that there were no fees paid to you.

Senator Ayres: That's right.

Senator HUGHES: That is incorrect. Can we get 5, 6 and 7 tabled? During the 2011-12 financial year you received \$4,255, including nine per cent superannuation. During the 2012-13 financial year you received \$2,234, including nine per cent superannuation. During the 2013-14 financial year you received \$6,708.63, which reflected your \$6,150 fee and \$558.63 in superannuation contributions. In just three years there was over \$13,000 from this board that Mr Thompson appointed you to. It's pretty good work if you can get it.

CHAIR: Before you answer, Minister, I want to clarify what the relevance of these questions is to the industry portfolio.

Senator HUGHES: This would be in regard to conflict-of-interest declarations. It is absolutely corporate.

CHAIR: I just want to clarify: you're asking questions about roles that the minister held in his prior role before coming into parliament that have—

Senator HUGHES: And it goes to a direct conflict of interest with regard to appointments he has made in his ministerial—

CHAIR: Your brain may very well be moving faster than mine, but I'm just trying to track it out. The question is about a role that the minister held on the board of a super fund when he was in a different role, prior to him entering the parliament. So you're seeking confirmation that he was on that board?

Senator HUGHES: If it helps and assists the chair—

CHAIR: So then I'm asking what's the connection to—

Senator HUGHES: We're going to get to that.

CHAIR: Well, I'm not seeing the relevance at the moment.

Senator HUGHES: There is direct relevance of someone providing Minister Ayres a previous paid position and that this director, Mr Thompson, is now the recipient of a number of board appointments that this minister has been responsible for nominating. We will get to the conflict of interest.

CHAIR: I suspect—

Senator HUGHES: And if you don't mind, Chair, I'd just like to continue.

CHAIR: I think we should move to the part of this that might be relevant.

Senator HUGHES: There is a substantial part to this. If it helps, we can table the interview that was just—

CHAIR: If you give them to the secretariat behind you.

Senator HUGHES: Yes, I'm giving it to them. I table the interview that was just—

CHAIR: No; I'll just clarify, Senator Hughes. The process for tabling is they'll come to us and we'll make a decision. They're likely to be tabled, but that's the process.

Senator HUGHES: I can read from them then, if you don't want it tabled for yourself.

CHAIR: No, Senator Hughes; that's not what I said. The committee has to make a decision to table it; you can't table it yourself.

Senator HUGHES: It would move a lot quicker if we could just go on with the questioning.

CHAIR: Well, does the minister—

Senator HUGHES: We're running interference at the moment.

CHAIR: Does the minister wish to make a response at this point?

Senator Ayres: I will offer a short response. I, too, Chair, struggle to see what the possible connection is between these events. This is testing my memory. It is certainly the case that the union had an approach to governance that required that people who were the subject of appointments of the union to various boards—because there are superannuation and all sorts of organisations and industries where inevitably participation in the board attracts some sort of fee or salary, the union's approach always was that those fees couldn't end up providing a benefit to the director or the alternate director or whatever the position was. I'm not sure what the position was in terms of superannuation. There may have been some—

Senator HUGHES: Again, I can table the documents from Cbus that declare the superannuation.

Senator Ayres: Senator Hughes, I am trying to be as open as possible here, and I'm trying to answer the question in a way that's efficient.

CHAIR: Yes. The minister has the call.

Senator Ayres: I'm not sure what the position was in terms of that superannuation. It's not something that has a connection with my work in the parliament. You'd be very welcome down at the Granville office of the

AMWU, probably, if you wanted to ask these questions. But the key questions that seem to underline this are: 'What is the connection? What is the nature of any conflict? And, if there was a conflict, was it appropriately dealt with?' And I suppose, just to foreshadow, there is no possible relationship.

Senator HUGHES: Minister Ayres, I'm trying to ask questions to establish that. Believe me, I'm not just taking it on your word.

Senator Ayres: I'm happy to answer questions—

Senator HUGHES: It would be nice to get back to them.

Senator Ayres: but let me just tell you this: No. 1, there is no relationship between any of these events.

Senator HUGHES: Right, well, we will get to that.

Senator Ayres: No. 2, there is no possible conflict. No. 3, in terms of the approach that I have taken, and that every person is required to take in terms of the ministerial code—whether they're an assistant minister, in the outer ministry or in the cabinet—there is a very thorough process for dealing with conflicts.

Senator HUGHES: And that's great because that will mean things move quickly along.

Senator Ayres: It's the belligerence—

Senator HUGHES: Minister Ayres, I would really like to ask questions—

Senator Ayres: The belligerence of the questioning that is—

Senator HUGHES: If you would allow me to ask the questions—

CHAIR: Senator Hughes, if you would allow me to chair this hearing—please stop your interjections.

Senator HUGHES: This is not a sermon.

CHAIR: No.

Senator O'NEILL: Point of order.

CHAIR: I'll come to your point of order. But the way that we are operating in this committee is that someone asks a question and then someone answers a question. There is a line between those two things so that we can all understand the questions being asked and the questions being answered.

Senator HUGHES: It's going to be a very long night.

CHAIR: Senator O'Neill, you had a point of order?

Senator HUGHES: Settle in for a long night.

Senator O'NEILL: I was reluctant to take a point of order because there seems to be a fair degree of heat, but my point of order is with regard to impugning motive which has been replete with Senator Hughes's contribution so far. There's an orderly way in which we can progress.

Senator HUGHES: Chair, that's not a point of order. I just asked a question to clarify a fact. How is that an imputation?

Senator O'NEILL: I'm just going to draw your attention to the fact that we've already had impugning of motive and impugning the senator by attributing motive.

Senator McDONALD: I don't think that's a point of order.

Senator O'NEILL: There should be no further contributions of those kinds whilst she prosecutes her question and answer.

Senator HUGHES: You're all very nervous about this, aren't you?

CHAIR: I would like to get to the relevance—

Senator HUGHES: We are going to be here all night at this rate. Long night ahead, peeps!

CHAIR: I would like to get to the relevance—if there is any—to the portfolio.

Senator HUGHES: If I'm allowed to ask questions we'll get there a lot quicker.

CHAIR: I'm just going to use the chair's prerogative to ask a question. Can the secretary or her delegate please outline the process for the appointment of the person who—

Senator HUGHES: That is not the question I asked. We did this at the last estimates. Less than half an hour ago, Minister Ayres out-and-out lied on national television.

Senator O'NEILL: Point of order!

Senator HUGHES: Out-and-out lied. Now we're seeing a protection racket—a protection racket—

Senator O'NEILL: Can you stop yelling at the chair?

CHAIR: You've been going for 15 minutes.

Senator HUGHES: I haven't got a question out because I'm getting interrupted through false points of orders and sermons. What are you so afraid of?

CHAIR: I'm interested in facts, and there are questions in front of the committee. I'm using the chair's prerogative to ask a question. Could the department please outline what the appointment process was in relation to Mr Thompson?

Senator HUGHES: That's not my question.

CHAIR: It's my question.

Senator HUGHES: You've taken the call off me to run a protection racket? That's what you've done. Just so we're clear.

CHAIR: I've used the chair's prerogative.

Senator O'NEILL: It's pretty clear that there's impugning motive. If I need to call a private meeting to bring this to order with the chair I'm happy to do so, because it's inappropriate.

Senator HUGHES: That'd give me time to make sure we can get a few cameras here to see the protection racket you're running and see how nervous you all must be.

CHAIR: This would be the second time I've asked you to consider your language. There's a question that I've asked the department as the chair and I'm seeking an answer. Ms Quinn?

Ms Quinn: For this particular appointment, it was in line with our usual appointment process, which is that ministers consider vacancies, with the department providing advice to support their consideration. In this case, it went through a process through to cabinet to consider the appointment. There was nothing unusual in this process. It went through a desktop review and analysis, providing of advice, and consideration by multiple ministers—in this case, both the Assistant Minister for Manufacturing and the Minister for Industry and Science. It then went through the usual cabinet process and cabinet consideration.

I also would like to take the opportunity to clarify—there was a suggestion that the particular individual on this advisory panel had been remunerated. It is the case that the individual is not being remunerated for this role. I wanted to correct the record here. He hasn't received any remuneration for the role.

Senator HUGHES: That is irrelevant.

CHAIR: Thank you very much, Ms Quinn. I'm presenting in 15-minute blocks. Senator Hughes, you had a 15-minute block. I'm going to be—

Senator HUGHES: We'll be coming back to this, so get settled in for a long night.

CHAIR: I'll share the call. Senator Pocock.

Senator BARBARA POCOCK: I would like to raise some questions of conflicts of interest, but I promise not to shout. Since June 2022, EY has been awarded over \$5 million in contracts by the department of industry, as I understand it. The only information on AusTender about these contracts is that they are for management advisory services or economic analysis. The Commonwealth Procurement Rules say:

The Australian Government is committed to ensuring accountability and transparency in its procurement activities. Accountability means that *officials* are responsible for the actions and decisions that they take in relation to *procurement* and for the resulting outcomes. Transparency involves *relevant entities*—

like the department—

taking steps to enable appropriate scrutiny of their procurement activity.

We're in the middle of an inquiry into consultancies, of which I know you will be well aware, that has revealed poor value for money, conflicts of interest, misuse of government information, contract extensions at great cost to the public purse, failure to have meaningful milestones that are assertively managed, a sizeable mob of non-tendered projects and clear evidence of the big four's disdain for elements of the parliamentary process. All of that's unfolding, yet there is virtually no public information on the nature of these \$5 million contracts paid for by the taxpayer.

I am really concerned to hear the department's view about whether it is being accountable and transparent here. Can you tell me what these contracts are for, and can you tell me and assure the Australian public that there is no conflict of interest between the \$5 million being paid to EY and their very significant and large client base?

Ms Quinn: I'll pass to my colleague Neil Mason, who looks after the area of procurement. We have a process of a centralised procurement area that provides expert advice and then distributes it out to line areas who are often the delegates, and the process of actual individual contracts.

Mr Mason: You mentioned a number of contracts. Do you have the contract numbers? It might just be easier for me to pull them up individually.

Senator BARBARA POCOCK: I'm talking about the total number of contracts held by EY since June 2022—pretty much under the current government's period of government. So I'm talking about a number of contracts to EY in the department? Does \$5 million sound right to you as the total package?

Mr Mason: I'll check the specific numbers. If we can work through each individual contract, I can talk to you about the specific nature of the question that you asked about the contracts themselves. Overall, I'd say \$5 million. I'll ask Mr McCosker to come up with the specific numbers of each contract. I think in this financial year to date, we've had something like 1,200 contracts. The total value will be well in excess of several million dollars, so \$5 million doesn't sound to me to be proportionately wrong in terms of the total spend that we would have been spending.

Senator BARBARA POCOCK: Are you telling me that, off the top of your head, \$5 million sounds like too much?

Mr Mason: No.

Senator BARBARA POCOCK: This is for the period since June 2022.

Mr Mason: What I'm telling you is that the \$5 million is a small amount of the total amount of money we would have spent this financial year.

Senator BARBARA POCOCK: I'm not asking a question about that. I want to know and I am concerned, given that that is a large amount of contracting work, whether the department is paying attention to the client base of EY and the potential conflicts of interest.

Mr Mason: Yes. Absolutely.

Senator BARBARA POCOCK: I need to know what's in those contracts and how you're managing those conflicts of interest.

Mr Mason: As I said, I'm happy to work through each of those individual contracts. If you've got the CN handy, I'll bring them up. We've probably got that information in front of us. If you don't, I'll just need a minute to open up the individual contracts. As I said, we've got roughly 1,200-odd contracts that we've got in play this financial year. I just need a minute to look at the specifics of each one of those. I would say, generally, that we've been very focused on our procurement activity over the last 18 months and beyond. That's been instituted as a result of some previous audit activity. Following that, we have been systemically changing a whole range of our policies and practices, including updates that were made at the end of 2022 to how we manage our conflicts of interest.

Senator BARBARA POCOCK: I'm very conscious about the time here. Perhaps, on notice, you could give me the complete list and detail. Management advisory services and economic analysis are very broad parameters. I would like to know what's inside the box of each of those contracts that EY have with you. There is one contract to EY for \$251,000 that is for 'professional associations'. Can you tell me why EY is being given \$250,000 for this purpose? What does that contract mean?

Mr Mason: Mr McCosker has been pulling up those individual contracts as we've been talking, so I might just pass to our CFO to talk about the contracts we have with EY.

Senator BARBARA POCOCK: Great.

Mr McCosker: There are a few, as you have rightly identified, so I can certainly go through all or some of those to highlight the details of what they're for. In the specific one that you mentioned, perhaps if we have the number, I can look at the specific detail.

Senator BARBARA POCOCK: I don't have the numbers in front of me.

Mr McCosker: No problems at all. To start with, we have one with our Australian Space Agency for \$123,000. That was issued for research services. We have one contract for our Business Grants Hub and Integrity Division of \$129,000. That was looking at the analysis for manufacturing related programs specific to the Modern Manufacturing Initiative program. We have a contract to the value of \$2.5 million, which was for an assurance partner for our departmental grants administration activities. We have a contract for \$730,000 for management-initiated review services, a part of our internal audit program. We have a contract of \$79,000 for professional

advice on payroll system assurance activities. We have a contract of \$1.3 million for professional advice—again, relating to our grants activities—that was in relation to the collaboration stream of our grants activities. There was another one for \$251,000, which was for the development of a critical technology economic analysis framework. I can certainly provide a bit more detail.

Mr Mason: Senator, we're happy, offline, to pull that together.

Senator BARBARA POCOCK: I haven't heard in that list a \$251,000 grant for professional associations. Is that the last grant?

Mr McCosker: I think that's the \$251,978—is that the precise figure?

Senator BARBARA POCOCK: I don't have the dollar figure.

Mr McCosker: I believe it is that last one, based on—

Senator BARBARA POCOCK: For critical technology. Just to be clear, then, the third grant you talked, for example—and you, Minister, may have a view about this—is a \$2.5 million grant to EY to provide assurance of the integrity of the departmental grants programs. Is that a description of what that \$2.5 million is for? I'm just picking out that one.

Mr Mason: Yes, that's fine. Essentially, we run grants on behalf of the department and a whole range of other government entities.

Senator BARBARA POCOCK: You're not running them on behalf of the department; you are the department, so you run your own grant programs.

Mr Mason: Yes. We do them within DISER, but we also do them on behalf of other portfolios.

Senator BARBARA POCOCK: Sorry.

Mr Mason: We have a business grants hub. As part of the activity, we deliver those grants on behalf of other government departments and we assure the activity. We actually come in and have auditors do—

Senator BARBARA POCOCK: And you'd want a really reliable, high-reputation firm in charge of that; wouldn't you? You wouldn't want someone in charge of that who, for the last 12 months, has been exposed for many, many misdemeanours in relation to the Australian public sector. Is that a concern for you, Minister? We've got people in charge telling you: 'It's all kosher. It's all fine. Trust us. We're running our Geiger counter over these programs,' and they are the very company which misused Australian confidential tax information to make money in another part of their enterprise. I'm sorry; it doesn't smell right to me.

Senator Ayres: I am, of course, not across the details of this particular contract, but I'm very happy for officials to answer on the detail.

Senator BARBARA POCOCK: I'm sorry; I have misstated. It's not PwC; it's EY. I need to correct the record. I've misstated that. As there is a real concern about value for money in the big four area, you have—

Senator Ayres: I was about to take you to that.

Senator BARBARA POCOCK: Thank you very much.

Senator Ayres: Not in any other way but the way in which you've raised it. There is enormous focus on these questions at the moment. The work that has been led by you and Senator O'Neill in terms of traversing some of these issues has been of real value to the debate about these kinds of services and their provision to government. But what Mr Mason has said is also true, and is something that I am aware of—that is, this department administers grant programs not just for its own grants; it's—

Senator BARBARA POCOCK: A hub.

Senator Ayres: Some of this corporatese is terrible—a hub or a portal. It offers this service across government, and there is a requirement for the department not just to assure itself but to assure other agencies and departments and to provide a compliance mechanism. I'm not surprised that that work is not conducted internally but is conducted externally. In terms of the actual parameters of the contract itself or its time period, I'd defer to officials on the detail.

CHAIR: Senator Pocock, I'll come back—

Senator BARBARA POCOCK: I just want to finish while we're on this, if you wouldn't mind. I'll try to be quick. My main concern, actually, is not about the nature of EY's contracts. I want to know what process you have to assure us that EY are not overseeing funds which go to clients in their business base. That's where the conflict of interest lies, and that's what I'm trying to get at. I want you to continue with providing me that on notice, but I'm really worried about the conflict of interest that exists with the client base of EY. For example, amongst their

client base is a very large number of large fossil fuel companies, and these programs will relate to those issues potentially.

Mr Mason: One thing I was going to add to that point was that last year, as we understood the level of scrutiny that was going through the parliament, we wrote to a number of people who had contracts in place with us, seeking additional assurance from those organisations on top of what already existed in the contract, essentially saying: 'Please give us assurance that some of those activities'—which I think you've just described—'are not occurring,' and we had correspondence back from those firms.

CHAIR: Senator Pocock, I did promise Senator Hughes five minutes before we break for lunch, which I think Senator Hughes would like to have.

Senator HUGHES: Where we left off the last question, which we didn't get an answer to, was that in the three years that I read out you received over \$13,000, which did include superannuation payments. So, even if those payments were handed over to the union, your super fund would have received a boost from those payments. You just said—

Senator Ayres: I accept the point that—

Senator HUGHES: Can I finish asking my question, please?

Senator Ayres: Yes, of course you can, Senator Hughes. We're very anxious to get on with it.

Senator HUGHES: We've only got five minutes. I just want to recap a little bit, which may make it clear to you why I'm concerned. You just said on Keiran Gilbert: 'There was no remuneration received—no remuneration, no conflict and no conflict of interest there.' But in 2008, Glenn Thompson appointed you to a lucrative position on a super fund board, from which you, or the AMW, received thousands of dollars over a number of years, but you received superannuation payment for, if nothing else. Now it could appear to some that you, as a minister, have returned the favour and played an instrumental role in the appointment of Mr Thompson to, actually, two plum government postings within this portfolio worth almost \$300,000 over the next few years. You thanked Glenn Thompson in your maiden speech. There are various social media posts of the two of you meeting and hanging out since you have become a senator, yet you have confirmed that you do not see a conflict of interest, from which I can only determine that you have not made a conflict-of-interest claim. Is that the case?

Senator Ayres: Much of that is not the case, and I don't see—

Senator HUGHES: No. The question is: have you or have you not ever declared a conflict of interest when it comes to Mr Thomson?

Senator Ayres: I can tell you this. My conflicts are absolutely compliant—

Senator HUGHES: How are conflicts of interest declared generally? Are they verbal? Are they written?

CHAIR: Let the minister answer.

Senator Ayres: In these sorts of interrogations, they always seek to be Columbo, wandering around and always getting their—

Senator HUGHES: Maybe you could answer the question: how do you make the conflict of interest—

Senator Ayres: Let me give you a tip. What you have to do is ask the person the question, get the answer, listen to the answer and then frame the next question. That's the way that it works.

Senator HUGHES: Thanks for the mansplaining.

Senator Ayres: What was the question?

Senator HUGHES: Did you or did you not declare a conflict of interest? Yes or no?

Senator Ayres: I can tell you that the answer, whether or not the conflict is real or apprehended just by you, is—

Senator HUGHES: I think no, because you don't think there's a conflict.

Senator Ayres: You should not assume no.

Senator HUGHES: Yes or no?

Senator Ayres: You should not assume no.

Senator HUGHES: So, yes, you did make a declaration?

CHAIR: I think we're all waiting for the minister's answer, Senator Hughes.

Senator McDONALD: A yes or no would do!

Senator HUGHES: Yes or no?

CHAIR: It's difficult to get an answer with all the interjections.

Senator HUGHES: Maybe, Ms Quinn, I'll ask you as the secretary of the department: have you ever received a conflict-of-interest claim regarding Mr Thompson or anyone, in fact, from Minister Ayres? If you do receive conflict-of-interest claims from anyone—from Minister Husic, Minister Ayres or anybody required to give them—how are they given? Are they verbally given to you? Are they in a letter? How do you receive any conflict-of-interest declarations?

Ms Quinn: In my experience, it varies depending on the operation of the government of the day. Usually, conflicts of interests by ministers that impact on their dealings with the department and for the department to be aware of them to make sure that we support ministers in their conflict-of-interest declarations are made known to us in writing or orally, depending a bit on the speed with which that information might need to be given. In all cases that I've been involved in where we've been made aware of a conflict of interest for a minister, it depended on how regularly the conflict needed to be managed and then arrangements were put in place to make sure information was managed to support ministers in managing their conflict of interest.

Senator HUGHES: Specifically, did you receive a conflict-of-interest claim or notification from Minister Ayres regarding Mr Thompson? Yes or no?

Ms Quinn: I would have to check with the officials.

Senator HUGHES: Do you have an SES person here who's responsible for declarations of conflicts of interest? Perhaps they can come and explain.

Ms Quinn: As the senator mentioned, the staff who were involved in the particular appointment for the rail position will be here in the manufacturing session. They were involved in the process. I wasn't that intimately involved.

Senator HUGHES: So there's no-one here from the department at the moment—

Ms Quinn: Not right now, no.

Senator HUGHES: who's responsible for keeping and maintaining a register of conflicts of interest?

Ms Quinn: That's not typically how we manage it.

Senator HUGHES: I still don't know, Ms Quinn, whether or not you received a conflict-of-interest declaration from Minister Ayres about Mr Thompson whether in regard to the rail board appointment or—and we'll come to this a little bit later—the National Reconstruction Fund board. I can assure you that, when you say to me that the speed of things need to be monitored, when we come to the National Reconstruction Fund you'll see the speed with which his appointment was made. So perhaps during the break you can speak to whoever is responsible for managing conflicts of interest. I would invite you to table any—whether it is a letter or a file note—documentation of any conflict-of-interest claim that Minister Ayres has made to the department.

Ms Quinn: I'm happy to take that on notice and talk to officials and see if I can assist the committee.

Senator HUGHES: Thank you.

CHAIR: This seems like an appropriate point to take a break. Before we do so, the committee tables the interview transcript referred to by Senator Hughes.

Senator Ayres: I will just indicate that I understand it's probably been prepared speedily with whatever the technology is. It's not relevant to the matters that Senator Hughes seeks to traverse, but there are some questions that Mr Gilbert's asking that look like they're answers coming from me, but that only goes to some of the points about the broader economy and that sort of stuff. I just noticed that there were some deficiencies in the transcript.

Senator HUGHES: It says 'TA'. I assume that's Tim Ayres.

Senator Ayres: I'm just pointing it out. It's not relevant to the matters that Senator Hughes is pursuing.

CHAIR: Thank you, Minister. That's on *Hansard* now in relation to the document that the committee has now tabled.

Proceedings suspended from 13:35 to 14:35

CHAIR: The committee resumes. Senator Hughes.

Senator HUGHES: Ms Quinn, just before we went to the break, you took a question on notice and were going to speak to the officials to see if you could assist the committee with regard to any conflict-of-interest declarations that Minister Ayres has made. Have you had the opportunity to do that?

Ms Quinn: I have had an opportunity to get some more information. In relation to the Rail Industry Innovation Council, as I mentioned before, it was managed through the cabinet process as it was considered a

significant appointment. We followed the appropriate process in line with the *Cabinet Handbook*. The Minister for Industry and Science was the lead minister on that appointment process. Thus he proposed the appointees to the cabinet process, and he was the minister who made the appointments. The practice for ministers declaring conflicts of interest is through ministerial processes—the Code of Conduct for Ministers—and is managed in line with the *Cabinet Handbook* for cabinet decisions. In relation to the cabinet process, it would've been the Department of the Prime Minister and Cabinet managing the cabinet process.

Senator HUGHES: So you didn't reach out to any other department to make sure that there was a conflict of interest declared? The Rail Industry Innovation Council's own terms of reference state:

The Assistant Minister will select nominees for the Chair and membership of the Council.

It specifically states that the assistant minister, which is Minister Ayres, will make those appointments and select the nominees—they are basically just ticked and flicked back to cabinet. In fact, Ms Anton, at the last round of estimates, explained that there was a very long list of nominations of possible candidates provided to Assistant Minister Ayres's office. The list of nominees, which we were told was a very long list, was handed to Minister Ayres. At that stage, was a conflict-of-interest declaration made? I would also like to request a copy of that list of names. I'd like to know if Mr Thompson's name was on that very long list.

Ms Quinn: As I mentioned, we followed the process, as determined by the *Cabinet Handbook*. The Minister for Industry and Science was the lead minister and proposed it to cabinet. The evidence that I think you're referring to set that out. Minister Ayres was part of the consultation process, but the—

Senator HUGHES: Regardless of how you want to spin this, Ms Quinn, the process includes Minister Ayres. I asked a very specific question—

CHAIR: I think the secretary had not concluded her answer.

Senator HUGHES: Was a conflict of interest declared?

CHAIR: Have you concluded your answer?

Senator HUGHES: I am going to have to assume, if we cannot see one presented—

CHAIR: We'll come back to you in a second.

Senator HUGHES: that it was not. There has been no conflict of interest declared.

CHAIR: For the convenience of the committee, could you please conclude your previous answer?

Ms Quinn: We did not receive any conflicts of interest through this process from the minister leading it through cabinet, Minister Husic, nor did we receive anything in relation to conflicts from Minister Ayres.

Senator HUGHES: That was a very long way to get to 'There was no conflict of interest declared.' It's amazing how much more quickly things could move in this place if questions were just answered.

CHAIR: It's difficult for me not to make the point that I had to invite the secretary to conclude that answer, with significant interruptions.

Senator HUGHES: Chair, I would welcome you to direct them to answer any questions briefly, if that's what we could achieve, especially when they're yes-or-no questions.

CHAIR: Senator Hughes.

Senator HUGHES: Minister Ayres, for the sake of brevity, we'll summarise a few things and then we'll skip forward to 2023. You were appointed as Mr Thompson's alternate director on the Cbus board in 2008, for which you received over \$13,000 of remuneration, including superannuation, as stated in Cbus's own annual reviews each year. You were on a unity ticket with Mr Thompson at the 2016 AMWU national conference. You mentioned Mr Thompson and personally thanked him in your maiden speech, and there are social media posts of you meeting with Mr Thompson in your Senate office. There's one in particular—if you need a refresher—on 24 November 2022. So I think it's safe to assume you've had a lengthy relationship with Mr Thompson. Do you have any recollection, Minister Ayres, of how long you have known Mr Thompson? Kindergarten? Twenty years? Thirty years?

Senator Ayres: I have known Mr Thompson a long time. In my previous occupation he was an official who came to prominence very quickly in the union in the late 1990s.

Senator HUGHES: Right.

Senator Ayres: I would have first got to know him, I think, in the context of either collective bargaining or his work in making the strongest possible case for, in particular, the automobile-manufacturing, shipbuilding and rail-manufacturing sectors. That was his background. As to which year, I couldn't possibly tell you.

Senator HUGHES: It's over 30 years?

Senator Ayres: I have been aware of him for a very long time and I have worked with him. I still don't see quite how that's a problem, Senator Hughes.

Senator HUGHES: We'll keep going.

Senator Ayres: If we'd had a woodchopping business or if I'd bought milk and lollies from him at the corner shop, I just don't understand that—

Senator HUGHES: We'll get to that.

Senator Ayres: Well, maybe. Maybe.

Senator HUGHES: If we fast-forward to 28 June 2023—

Senator Ayres: Sorry to interrupt, Senator Hughes. I have been as clear as I can. It is the case that we served—me in a subsidiary capacity, as an alternate director. I have been as clear as possible, although I think it's scarcely relevant because it's so long ago, that it's my very strong recollection—and I'm very confident about this part of it—that the position of the union, which we all complied with, was that you could not earn director fees. I am not confident about the legal position in terms of whatever amount of the superannuation guarantee would be required to be paid. I've been as open as—

Senator HUGHES: I can assist you, because it's in the annual report.

Senator Ayres: I understand what they say, but I'm telling you what it is that I recall, and so I'm just trying to be as open as possible about that. However, I don't think anything flows from it.

Senator HUGHES: Minister, that's up to me to decide in the questions, but I can assure you—

Senator Ayres: It's not up to you, Senator Hughes. I heard your assertions and I read the transcript from the last estimates, where I wasn't able to be here to answer your questions. I think if it were up to you we'd all have been condemned a long time ago. I think it's up to others.

Senator HUGHES: Chair, perhaps you'd like to help here again to just move things along. There are annual reports that have been provided to the committee if they would like to table them. I've got 2011-12, 2013-14 and 2014-15, and each one at the end: alternate directors 2013-14 fee, if applicable; SG contributions equivalent; total remuneration paid. You add those two up. There was superannuation paid, and it's superannuation from 2008 to 2014—six years of superannuation. As we know, superannuation—and I assume you have it in Cbus—has delivered some pretty substantial returns.

Senator Ayres: I just think it's—

Senator HUGHES: So the superannuation was paid. I can assist your recollection, but your recollection is incompatible with the truth, because it is there for all to see in the annual report.

Senator Ayres: I've just told you what I recollect. I don't need a running commentary on my propriety or honesty, Senator Hughes. Feel free to ask some more questions, and we'll see how we go.

CHAIR: Just briefly, I do want to go back to the question of—

Senator HUGHES: I'm actually trying to get an answer on that.

CHAIR: You haven't even let me speak, so please do. I'll give you more time because I'm taking some of it. I think you've established what is already known, which is that the minister knows Glenn Thompson. I don't want to spend the committee's time going over all the ways in which they may know each other. I can't see how that's pertinent to the committee.

Senator HUGHES: Minister Ayres interrupted my question to make that statement. I was trying to fast forward to 28 June 2023. I would draw your attention to an announcement—again, if the committee were to require a copy, I could table it—of the National Rail Manufacturing Advocate and eight members of the Rail Industry Innovation Council in Maryborough, Queensland. Everyone was flown up for the occasion. Do you recall that, or can I assist you with some documentation?

Senator Ayres: I certainly do recall it. It was a very proud moment for me, for what is a very high-quality expert advisory group, the innovation council. The advocate will do much to reverse what has happened under Liberal administrations at the state level that have offshored thousands and thousands of blue-collar jobs and lost hundreds and hundreds of apprenticeships, particularly in New South Wales. I absolutely remember that day. It was a very proud day at a rail facility where the Queensland government have put significant resources into making sure that they keep rail manufacturing in Australia. It was a very proud moment, and I was very proud to be there alongside those members of the Rail Industry Innovation Council who could attend that.

Senator HUGHES: I'm appreciative and thankful you remember that day. I'm sure you've done many doorstops and I'm sure AMWU reps aren't present at every single doorstop. What was interesting about this one was that the only people to speak at that doorstop were you; the local Queensland state MP, which seems very legitimate; the National Rail Manufacturing Advocate, considering it was for them; and Mr Thompson. So no-one else had that same privilege. It seems that you must have been very proud standing next to your very long term friends.

CHAIR: The association's already known.

Senator Ayres: In my career working for workers in the manufacturing sector before I came to this place, as you indicate, in my first speech—although, there is one spelling error. Mr Cozens is referred to, and his name's spelled wrong. I apologise; I hadn't read the *Hansard*. Mr Cozens is also a friend of mine and a very capable trade union official.

Senator HUGHES: So you've appointed him somewhere? Did I miss that?

Senator Ayres: No, I'm just pointing out that we'll have to go back and see if the *Hansard* can be fixed. His name's been spelt incorrectly. I could not have been more open, in terms of my pride in the work that I had done before I came into the parliament and my commitment in the parliament to advocating for the interests of that sector. In particular, if we zero in on the rail sector, my commitment is to work on behalf of the government to generate the best possible policy propositions, to drive change in the procurement processes of the states and territories and in the practices of the major companies and their contractors in a cooperative environment with the trade unions who work in that sector, where the AMWU is the principal but not the only trade union—to work hard because I believe that it is in the interests of Australia to have a domestic rail manufacturing capability, and I think that we need to develop smart propositions. I could not have been more open about my advocacy around these issues. I have been—

Senator HUGHES: Could you have been more open about your relationship with Mr Thompson?

Senator Ayres: very open—including, as you've pointed out, in my first speech. It's not the Panama papers, Senator Hughes; it's my first speech. And—

Senator HUGHES: Well, Minister Ayres, if you'd like to abbreviate these answers—

Senator Ayres: I'm not going to be interrupted by you. I'm not going to be—

Senator HUGHES: we could move through.

Senator Ayres: I'm not going to be interrupted by you.

CHAIR: You have the call, Minister.

Senator Ayres: I have been open about this because I am so committed to making a difference in this area—

Senator HUGHES: Okay. So can we move to the secretary now, please.

Senator Ayres: and I am very confident not only in the processes that have been engaged here but in the quality of this industry advisory board and the contribution that each of them will make together, including Mr Thompson's contribution. This is a man who was appointed to boards by the Howard government and who has played a role, including in advocacy, in this place under several different governments on this issue and on shipbuilding issues, and has contributed more to the ongoing sustainability of these industries and their future growth than many other Australians I can think of. So I'm very proud to have him on the board.

Senator HUGHES: Thank you, Minister Ayres. Secretary, we've just now heard a very long answer from the minister about his close association over a long period of time with Mr Thompson. Do you not believe, due to the very nature of this relationship—the longevity of it, the fact that there are financial ties to it—that a conflict-of-interest declaration should have been made? Again, I draw your attention to the fact that evidence given by departmental officials on 27 October 2023 could not be clearer—that there was a very long list of candidates, nominations of possible candidates, that was provided to the assistant minister. What will it take for a flag to go up for you?

Ms Quinn: I just want to draw the committee's attention to a correction from Ms Anton that was submitted post Senate estimates in relation to this question. She has provided this in writing, as is the usual practice, just to make it very clear that the minister assisting and Minister Husic were provided with separate briefs which provided information about the processes and suggested names for the process.

Senator HUGHES: Could I get the dates of those briefings?

Ms Quinn: I can take that on notice.

Senator HUGHES: Was Minister Ayres briefed before Minister Husic?

Ms Quinn: I will have to take that on notice. I don't have that in front of me.

Senator HUGHES: If Ms Anton is available, would she be able to find that? Is she here later tonight or is she around?

Ms Quinn: No, she's not, but the team that manage the process might be able to provide that information for you.

Senator HUGHES: Were they both provided with the same very long list?

Ms Quinn: I can see whether they've got that information. I'm not aware.

Senator HUGHES: Are you able to provide us with a copy of the very long list?

Ms Quinn: I'm happy to take that on notice. It's part of a cabinet process and—

Senator HUGHES: This was not at cabinet. The list of final nominees went to cabinet, not the very long list. That did not go to cabinet. Can you let us know the number of names that were on the very long list?

Ms Quinn: I'm happy to take that on notice.

Senator HUGHES: Was Mr Thompson's name on the very long list, or was it on the list of nominees that Minister Ayres then provided back to the department after his briefing?

Ms Quinn: Just to be really clear, Minister Husic took the nominees to cabinet.

Senator HUGHES: No, but Minister Ayres—under their own terms of reference, it is the assistant minister who nominates these people. So, unless the rail council's own terms of reference have been thrown out the window, unless they've just been ignored, their own terms of reference say:

The Assistant Minister will select nominees for the Chair and membership of the Council.

It's pretty clear. So either you need to let us know that, 'No, we just ignored the terms of reference—threw it out the window—and just did it with Minister Husic'—which I'm pretty sure didn't happen, because we've already been told a very long list was supplied to Minister Ayres.

Senator Ayres: Senator Hughes, if you will stop badgering the secretary. She has answered the question.

Senator HUGHES: She hasn't answered the question.

Senator Ayres: If you would just listen. She has asserted—

Senator HUGHES: Just a silly little girl—

Senator Ayres: That is just as insulting as some of the other things.

CHAIR: I think you should just continue, Minister.

Senator Ayres: She has advised you of what the process was. It was a cabinet process. She has taken on notice what it is that can be provided to you given those parameters. We're here to see if you have any more questions.

CHAIR: I'll just step in there. We've been going on this for 20 minutes on a 15-minute call. I will share the call with Senator McDonald. Before I do that: Ms Quinn, you were going through some information that you had there. You've concluded that? Thank you.

Senator McDONALD: These questions are about the Business Grants Hub. Is that you, Mr Mason? I want to understand at a practical level how you currently help departments and agencies in the design, administration and delivery of grants, especially following the ANAO audit of operation of grants hubs in 2022. Is it typical for the lead department's or agency's job to be monitoring the policy aspect of a grant arrangement and how well it's meeting or not meeting its aims in a policy context, or is that the Business Grants Hub's responsibility?

Mr Mason: I'll swing to Ms Chard, who looks after the division that the grants hub is in, in a moment. What you've outlined in terms of the policy responsibilities and the design of a grant generally sits with the policy area, yes.

Senator McDONALD: How about the assessment of how well it's meeting or not meeting its aims in a policy context?

Mr Mason: Assessments of grants obviously will vary depending on the policy intent. I will pass to Ms Chard to give you a general overview of our approach.

Ms Chard: Typically the departments, when we're managing a grant for an external agency, would be assessing the delivery of the grant services against the grant agreement. But the assessment of whether or not the grant overall met the policy objectives would actually be a responsibility of the policy agency. We would

certainly provide them with information about the delivery of the grant to help them make that assessment, but the assessment of whether the grant program met the policy intent would be a matter for the policy department.

Senator McDONALD: Within the Business Grants Hub, do you have the authority to monitor any aspect of a grant and the purposes for which it's being used, or are you telling me that it is the responsibility of the agency under which area it is that the grant money has been provided?

Ms Chard: Certainly the department for the Business Grants Hub monitors the delivery of the grant against the terms of the grant agreement. A grant agreement will set out the specifics of what was to be delivered under the grant, and the grantee will provide the Business Grants Hub with milestone reports. In some instances there may be a requirement under the grant agreement for the grantee to conduct an independent audit and for that kind of material to be provided to the Business Grants Hub, and the Business Grants Hub will make an assessment of whether or not the grantee has actually met their milestones and the terms of the grant agreement.

Senator McDONALD: At the request of Minister Plibersek, DCCEEW is currently undertaking an investigation into the \$8.3 million grant that the Albanese Labor government awarded the Environmental Defenders Office in the October 2022 budget. You are apparently helping the department to administer and deliver that grant. Have staff at the Business Grants Hub been asked to participate and/or take a leading role in the investigation instigated by Minister Plibersek?

Ms Chard: We've been asked by the department of climate change to assist them in their review. We have agreed to assist them by answering any questions that might be pertinent to their review.

Senator McDONALD: Could you tell me who first contacted you about this investigation and on what date?

Ms Chard: I was first contacted by the department last Friday. The specifics around the review was a conversation I had with the department. Yesterday might have been the first time. I might take that on notice, if that's okay.

Senator McDONALD: Last Friday being 9 February?

Ms Chard: Yes. But, if you don't mind, I will take it on notice to get the specifics.

Senator McDONALD: Thank you. I'd appreciate that. So, for your role in the investigation, you were contacted initially last Friday. You've just had a conversation with the department, I think you said?

Ms Chard: Yes. I've had a number of conversations over the last week.

Senator McDONALD: Could you clarify the expectation of what it is that the grants hub will be doing as part of that investigation?

Ms Chard: We don't have a specific terms of reference as yet to the review. We've just undertaken to support them with their inquiries.

Senator McDONALD: There's apparently an obligation on you to produce an annual audit of this grant to the EDO—is that correct?

Ms Chard: That's correct. An independent audit is a requirement under their grant agreement to be delivered by 30 April to coincide with their next milestone report.

Senator McDONALD: Thank you. Is DCCEEW's involvement in this grant purely financial—in other words, they just participated in writing the guidelines and have no other role now?

Ms Chard: We have regular reporting and engagement with our client agencies on the delivery of grants where we will provide them with visibility of the progress reporting. It varies in each different grant's circumstances depending on the particular arrangements we have with the client agency. It varies—usually some sharing of information around the progress of the delivery of a grant.

Senator McDONALD: What is the nature and extent of the oversight that the Business Grants Hub exercises over what the EDO is practically doing with the government's funding at a day-to-day level?

Ms Chard: Our analysis of the progress of the grant is based on progress reports. A grant agreement will typically have a series of milestones. It will set out the specifics of what was to be delivered under the grant, and then reporting milestones against those. The grantee will provide us with reports periodically against those milestones. That might be monthly or quarterly depending on the particular grants. Our grant assessors will then make an assessment of those reports.

Senator McDONALD: When coalition senators, including me, asked a series of questions at the Environment and Communications estimates on Monday, DCCEEW officials said that, at a government level, accountability and responsibility for dealing with any breaches of the guidelines and potential misuse of the EDO's grant funding

rested entirely with the Business Grants Hub. I've obviously tried to capture a longer conversation in that. Is that correct? Have I understood that correctly?

Ms Chard: Could you just repeat that?

Senator McDONALD: That, at a government level, accountability and responsibility for dealing with any breaches of the guidelines and potential misuse of the EDO grant funding rested entirely with the Business Grants Hub.

Ms Chard: I don't think it's correct to say 'entirely' with the Business Grants Hub. In this particular grant, the department is the signatory on the grant and therefore we have a role in assessing whether or not the grant is being appropriately delivered. But that would always be a collaborative assessment in consultation with the client agency.

Senator McDONALD: DCCEEW conceded on Monday that they were involved in a number of discussions with the EDO prior to the finalisation of the grant guidelines, including to clarify what the EDO could and couldn't do under the terms of the grant. Was the Business Grants Hub involved in those discussions as well?

Ms Chard: The Business Grants Hub wasn't involved in discussions with EDO on the development of the grants guidelines. The department—the Business Grants Hub—was involved in discussions with EDO on settling the grant agreement. Once the grant guidelines have been settled, agreed and published and grantees make applications to the grant, the Business Grants Hub then takes responsibility for undertaking that initial assessment and providing advice. Once a grant has been decided, the Business Grants Hub then engages in contract negotiations with the grantee to settle the terms of the grant agreement.

Senator McDONALD: The DCCEEW secretary also said that the Business Grants Hub undertakes to make assessments on a relatively regular basis about the implementation of an agreement. That's what happened in this case. If you are indeed making relatively regular assessments—bearing in mind that gross misconduct has been practised by the EDO in a number of forms at the same time as this grant agreement has been enforced—how do you pick up or not pick up on that misconduct, let alone take any action on it?

Ms Chard: If you give me one moment, I will just access my information about when we undertook the last assessment against a milestone for EDO to give you a sense of the timing between the progress reports. The first milestone report was considered on 16 November 2023, and that report was considered satisfactory. So the grants assessors in Business Grants Hub assessed that report and were satisfied that they'd met their obligations under the grant agreement. Subsequently we paid \$1 million of the grant agreement. The initial payment had actually been made on signing the grant agreement. The next milestone progress report isn't required until 30 April 2024.

Senator McDONALD: Do you recall if the EDO applied for the grant or were approached to apply for the grant?

Ms Chard: They were invited. Two organisations were invited to apply for the program.

Senator McDONALD: Can you tell me the name of the other organisation?

Ms Quinn: It's Environmental Justice Australia.

Senator McDONALD: That's an affiliate organisation of the EDO, so in effect it's the same organisation with two names. So DCCEEW wrote the guidelines in consultation with the grants hub and then invited these two organisations to apply?

Ms Chard: Yes, that's correct.

Senator McDONALD: Are you aware of any meetings of the EDO with department officials, either the grants hub or DCCEEW, prior to their application for the grant?

Ms Chard: I'm not aware. I'm aware that there had been some consultation between the department of climate change and EDO in developing the grant guidelines, but I couldn't tell you the specifics of any engagement that may have occurred or the specifics of any engagement that might have occurred before they made their actual application once the grant guidelines were published. Typically, for probity reasons, we wouldn't engage other than in broad terms with an organisation about their actual application once the grant guidelines have been made public.

Senator McDONALD: Otherwise it would look like the guidelines were written for them to apply.

Ms Chard: We would want to avoid any implication that they had been assisted in making their application.

Senator McDONALD: You said you weren't aware, but on notice would you please inquire as to any meetings with the EDO or the—

Ms Chard: I can assure you that the department didn't have any of those meetings around the guidelines, so those questions might be better directed to DCCEEW.

Senator McDONALD: Okay. I want to know what meetings they may have had in the guideline development during that period with the EDO or the EJA.

CHAIR: Is that an appropriate spot to break and go to Senator Hughes?

Senator McDONALD: If you wouldn't mind coming back to me after that.

CHAIR: Yes. Senator Hughes.

Senator HUGHES: Minister Ayres, you'd be familiar with your obligations under the ministerial code of conduct. Maybe we can just do a quick refresher of some of it. In the foreword it says:

The Albanese Government is committed to integrity, honesty and accountability and Ministers in my Government (including Assistant Ministers) will observe standards of probity, governance and behaviour worthy of the Australian people.

In section 3.2 it says:

Ministers are personally responsible for the management and declaration of their private interests, the identification and declaration of any current or potential conflicts of interest with their official duties, and for making arrangements to manage their interests in accordance with the requirements and procedures provided for in this Code. While Ministers may take advice on these matters, Ministers are not able to delegate their personal responsibilities for knowing the details of their private interests and how any conflict is managed.

Section 5.1 says:

Ministers are required to provide an honest and comprehensive account of their exercise of public office, and of the activities of the agencies within their portfolios, in response to any reasonable and bona fide enquiry by a member of the Parliament or a Parliamentary Committee.

Minister Ayres, at any stage did you think to seek some guidance, as you're entitled to do, on whether or not there may be perceived or potential conflicts of interest with any of the appointments that you made and the very long list that you were given with regard to the Rail Industry Innovation Council?

Senator Ayres: I am very confident that I have complied in all respects with the ministerial code. Where it's appropriate, I make sure that I'm across all of the details that I'm required to be across. As you point out, it is a matter for people who are bound by the code—ministers and assistant ministers—to ensure that they comply, and I do.

Senator HUGHES: Secretary, do you accept that Minister Ayres had some involvement in the appointment process of the Rail Industry Innovation Council?

Ms Quinn: Minister Ayres was provided with a briefing in terms of the process that would be applied in this case and some information from the department as to who we were suggesting might be on the process, but, as I've mentioned before, Minister Husic was the deciding minister, being the cabinet minister.

Senator HUGHES: But he had some involvement. I think we've established that he got a very long list. He got a briefing. So he had some involvement. Did Minister Ayres ever seek any counsel from you as to whether or not it was appropriate for him to declare a conflict of interest? Was it ever raised with you that he had had a long association with any of the names on the list, whether provided by him or by you? You may have said to him: 'No. There's no need to declare a conflict of interest here.' Did he ever seek any advice from you in that respect?

Ms Quinn: No, he didn't, and I want to be clear that the evidence from Ms Anton last time was that the very long list reference was provided to Minister Ayres's office as part of discussions between office officials.

Senator HUGHES: Sorry, Minister Ayres outsourced his duty to nominate the member and chair to his staff? Are you now saying that only his staff received the very long list?

Ms Quinn: I'm going off the evidence as in *Hansard*. What often happens in the appointment process is that, as part of the analysis, desktop review or other processes that we do through appointments, we discuss possible candidates with a wide of people—

Senator HUGHES: To clarify, was the briefing to Minister Ayres or to Minister Ayres's staff?

Ms Quinn: Separate briefs were provided to the assistant minister and Minister Husic.

Senator HUGHES: Yes or no—

CHAIR: To which question?

Senator HUGHES: I'm asking the question now: do you consider Minister Ayres had some involvement in this process—yes or no?

Ms Quinn: Minister Ayres was consulted as part of the process.

Senator HUGHES: Yes or no? I'm asking for a 'yes' or a 'no'. We can talk like *Yes Minister*—

CHAIR: Senator Hughes, you can ask a question—

Senator HUGHES: I've asked for a 'yes' or 'no' answer.

CHAIR: but you may not be happy about the answer that is provided. I note that there is a repetitive tone to this question, because the secretary has already answered it at least twice.

Senator HUGHES: I asked for a 'yes' or 'no'. Do you believe—

CHAIR: The secretary has answered the question at least twice.

Senator HUGHES: that Minister Ayres had some involvement?

Ms Quinn: As I have said, Minister Ayres was consulted as part of the process.

Senator HUGHES: So 'yes'? You can't say the word? It's like them not being able to say '275' in the parliament.

CHAIR: The secretary has now answered the question three times.

Senator HUGHES: I'm going to put that down as a 'yes'. You can tell me if you want to change it—

Senator O'NEILL: On a point of order, Chair—I am loath to interrupt—standing order 203 indicates that it is disorderly to persistently and wilfully refuse to conform with a standing order or to disregard the advice of the chair. The chair has called you to order on many occasions—three on that particular one—Senator. Chair, you've done that, and it hasn't been responded to. I just draw Senator Hughes's attention to the standing orders, through you, Chair.

Senator HUGHES: Thank you, Senator O'Neill. Secretary, with that involvement that Minister Ayres had in this process, do you now believe that he should have declared a conflict of interest?

Ms Quinn: Now you're asking me for a matter of opinion?

Senator HUGHES: You can give advice as to whether or not—you don't think—I'm sorry, I don't even know where to go with that. That is just extraordinary.

CHAIR: I'd like and expect the secretary—the public servants who come here to answer questions—to be treated with respect.

Senator HUGHES: And senators who ask questions deserve to have their questions answered.

CHAIR: Is there another line of questioning in the time that you have, or should we go back to Senator McDonald?

Senator HUGHES: I will ask one final question, Ms Quinn. You have obligations, under your own department's policy. There are also obligations you have, if you think there has been any issue of corrupt behaviour, to make a referral to the NACC. Have you made a referral to the NACC?

CHAIR: I don't believe that question is in order. I think that there's a—

Senator HUGHES: Protection racket.

CHAIR: tone of a threatening nature to the secretary there.

Senator HUGHES: It's a simple obligation that the secretary has.

CHAIR: I'm happy to discuss that particular line of questioning with you offline, Senator Hughes, but that question is not in order. Do you have another line, or shall I go to Senator McDonald?

Senator HUGHES: There are the department's own principles that apply to how to approach managing conflicts of interest. Do you believe, Secretary, that you have applied the department's own principles of conflict of interest declarations?

Ms Quinn: As I've mentioned earlier—I'm happy to repeat my answer—the process for this appointment went through the usual processes, as set out in the *Cabinet Handbook*. We complied with all process steps and all elements of that process, and I do believe that we acquitted our responsibilities in a professional manner.

Senator HUGHES: Part of the principles of your own department reads:

The following principles apply to the department's approach to managing conflicts of interest ...

The seventh point is:

If a conflict of interest becomes apparent the department will seek to resolve this in a way which manages the conflict in line with risk, including consideration of staff impact.

Do you believe you now have a duty to resolve this conflict of interest and lack of declaration?

Ms Quinn: As I mentioned, the practice for ministers declaring a conflict of interest is through the ministerial process, which is the Code of Conduct for Ministers, in line with the *Cabinet Handbook* for cabinet decisions, and that process was applied to the appointment process which you're referring—

Senator HUGHES: I'm asking about your responsibilities under your own principles document. Do you believe, under your own sense of principles, you have any action to take?

Ms Quinn: You're referring to my responsibilities to enforce within my staff?

Senator HUGHES: Right.

Ms Quinn: That's a separate question. You've asked previously about the cabinet process and process for a significant appointment, for which a set of practices is set out in the *Cabinet Handbook*, which is connected to the Code of Conduct for Ministers. That's a process for decisions that go through cabinet. I'm not entirely sure what you are referring to, but it sounds very much—and I'm happy to be corrected—like our internal processes whereby we manage conflicts of interest within actions and accountability of staff. They are separate processes. In both cases for this element, I believe things have been managed appropriately.

Senator HUGHES: The department's role is to advise ministers. And part of your conflict of interest policy reads:

Government boards and committees play an important strategic role in providing leadership, direction and accountability across the public sector.

There are many types of government boards ...

Blah, blah, blah, blah, blah—further on it says:

The potential exists for conflicts of interest for duty in committees or boards established by the department, particularly where a Minister appoints the chair and/or members and the committee or board can significantly influence decisions.

That doesn't mean anything to you?

Ms Quinn: Yes, it does mean something to me.

Senator HUGHES: Do you believe you've acted in accordance with these guidelines and principles in your role?

Ms Quinn: Yes.

Senator HUGHES: And you have never, at any stage, thought, 'Maybe I should sit down and have a chat with the minister and the assistant minister about what their obligations are when they're nominating or appointing board members'?

Ms Quinn: I have had quite a few conversations, in terms of obligations, with various ministers in various roles over a long period of time, and we manage those conflicts across different appointment processes according to the *Cabinet Handbook*.

Senator HUGHES: I'm trying to understand how you manage them if they're not made.

Ms Quinn: As I mentioned earlier in the evidence today, ministers and their offices inform us of conflicts and—

Senator HUGHES: How—verbally or written?

Ms Quinn: Either. I've experienced both.

Senator HUGHES: I asked you before the lunch break to provide on notice that information to us.

Ms Quinn: I'm happy to check *Hansard*.

Senator HUGHES: I can do it here; I've got the *Hansard*:

I would invite you to table any—whether it is a letter or a file note—documentation of any conflict-of-interest claim that Minister Ayres has made to the department.

Your response was:

I'm happy to take that on notice and talk to officials and see if I can assist the committee.

Those were literally the last words before the chair took break.

Ms Quinn: And I came back and said that we weren't aware of any conflicts in relation to this issue.

Senator HUGHES: So there were no conflicts of interest? How do you manage conflicts of interest if they're not declared? That is my question to you.

CHAIR: There is a distinct repetitive nature to the questions. If the secretary has different information to provide from that which she's provided multiple times, she can.

Senator HUGHES: Okay. If the minister does not declare a conflict of interest and then you become aware that perhaps they should have, what's the next step?

Ms Quinn: It depends on the situation.

Senator HUGHES: Let's talk about the one we're in—not a hypothetical.

Senator Ayres: This is a cabinet process, a cabinet appointment.

Senator HUGHES: This is a declaration of a conflict of interest. I'm not asking—

Senator Ayres: There's slippage across here to—

Senator HUGHES: I'm asking what the next step in the process is if the secretary becomes aware of the conflict and no declaration was made.

Ms Quinn: I refer back to—the lead minister in relation to this appointment was Minister for Industry and Science, and he took the process through cabinet.

Senator HUGHES: Sorry, but that is in absolutely no way related to the question I asked you. I asked: if you become aware of a conflict of interest, post a decision where no conflict of interest was declared, what is the next step?

Ms Quinn: First, there has to be an establishment that there is a conflict of interest, and I'm just suggesting that the—

Senator HUGHES: We've established you do acknowledge that there was some involvement of Minister Ayres in this process, he has a long relationship with Mr Thompson, and at no point was that brought to your attention.

CHAIR: You're completely putting words in the mouth of the secretary at this point.

Senator HUGHES: We can get the *Hansard*.

Senator O'NEILL: The *Hansard* won't say that!

CHAIR: It won't support that.

Senator HUGHES: It absolutely will, and that's why we're feeling very uncomfortable.

CHAIR: Senator Hughes, I need to start to share the call, if you could just conclude this line.

Senator HUGHES: I'm very happy to come back, because we have much more to go through.

CHAIR: Senator McDonald.

Senator McDONALD: Turning back to the grants hub, Ms Chard, just to clarify, I believe you said earlier that you are aware that the DCCEEW officials had had contact with EDO during that period.

Ms Chard: I understand that, in the process of developing grant guidelines, there was consultation with the EDO by DCCEEW. That is my understanding, but, as I mentioned, I would like to take it on notice on the specifics.

Senator McDONALD: Thank you. I have some papers to table, please, Chair. The first is a Facebook post. When I raised it with him on Monday, the DCCEEW secretary had not seen this EDO Facebook post that I'm just tabling. There are two things there. One is an EDO Facebook post, and the other is from a candidate in the New South Wales state election who was discussing what the EDO involvement was. First, the Facebook post is the one that I'm referring to. In it, I think they are plainly engaging in witness coaching, because it is a forum about describing to people how to become somebody who could become involved in blocking projects. You've not yet seen it, so I can't ask you if you've ever seen this Facebook post before. How are we going with that?

CHAIR: It's a Facebook post that's in the public domain, and then there's this attachment.

Senator McDONALD: No, they're not attached; they're two separate items. They just happen to be—

CHAIR: Do you just want to table this one?

Senator McDONALD: Both of them. That one in your right hand is the one that I was seeking to table.

CHAIR: What is this, sorry?

Senator McDONALD: It's a Facebook post.

CHAIR: You want to table that one?

Senator McDONALD: No—this advertisement for an event that was on Facebook.

CHAIR: Right—a Facebook event. Okay, no worries.

Senator McDONALD: Would you mind providing this to Ms Chard, please, so that she can understand what I'm referring to? My question, finally, is: Had you ever seen this Facebook post before I raised it on Monday? Is it your view that this kind of activity is allowed within the grant guidelines as they're currently written?

Ms Chard: I've not seen this post before. I don't think I could make a judgement on whether or not it indicated any noncompliance with the grant agreement. I would imagine that that kind of assessment would be made as part of the review that we'll support DCCEEW on.

Senator McDONALD: The investigation that DCCEEW is doing currently is only referring to the High Court decision that came down on 15 January. That's currently the scope of the investigation. These two issues of the Facebook post and this other activity which I've just tabled hadn't been seen by DCCEEW prior to that. The focus of my questions was asking to expand the investigation to include these further activities. We will have to proceed with an assessment, then, of whether or not those activities are in fact in breach of the guidelines or not, because you haven't had an opportunity to assess that.

Ms Chard: That's correct. As I mentioned earlier, I haven't had a terms of reference provided for the DCCEEW review yet. I appreciate your comments about the scope.

Senator McDONALD: There are a number of other dubious activities in which the EDO has involved itself. The second example I've provided is that a teal independent candidate in the New South Wales state election admitted that the EDO had been working directly with her on the preparation of new state legislation. Is it appropriate or allowed under grant guidelines for a grant recipient—in this case, the EDO—to involve themselves directly with this kind of political activity with certain MPs and candidates, seeking to change government policy, allowing them to lobby and influence government policy, by writing legislation at the same time as receiving \$8.3 million in a federal government grant?

Ms Chard: I'd need to take that on notice, to review the detail.

Senator McDONALD: Thank you. On reflection from you, and given the conduct of the EDO over the life of this grant agreement, are the grant guidelines insufficiently prescriptive about what the EDO can and cannot do with this \$8.3 million of funding from the Albanese government?

Ms Chard: I think you're asking me for an opinion. I don't think I can answer you with an opinion.

Senator McDONALD: I wasn't seeking an opinion; I was seeking to understand how the department would assess guidelines if you become subsequently aware of actions, if they would be suitably written to capture those things that I imagine, at the time of writing the grant, weren't imagined or suspected.

Ms Quinn: You asked about the responsibilities between the department which manages the program and the grants hub. We establish that the grant guidelines are managed by the program owner, which, in this case, would be the department of climate change. Those are questions they would consider in evaluating the program and the outcomes of the program, whether the guidelines did or didn't provide enough guidance. They're matters on policy and effectiveness of the policy rather than the operations of the hub, which is around the grant agreement and where the milestones and specific agreed outcomes or agreed actions have been met—just to refer you back to that earlier evidence.

Senator McDONALD: I understand. Unfortunately, earlier this week the DCCEEW officials gave quite the reverse scenario of who was responsible. I potentially suspect that will be something that will be discussed in the investigation as well, as to where responsibility lies, and that we will have this discussion again at the next estimates because we can't have estimates where two departments are saying different things at the same time; it's not very helpful to the committee.

Just to finish on that: do the grant guidelines allow recipients to lobby and influence government policy at the state level by writing legislation?

Ms Chard: I'd need to take that on notice.

Senator McDONALD: Thank you. So you're going to go through a process of being engaged with the investigation that DCCEEW is carrying out, but the scope is yet to be settled. Whose responsibility is it to close the loopholes in this grant funding that is allowing a grant recipient—in this case, the EDO—to get away with unethical behaviour? Is it going to be DCCEEW or the grants hub?

Ms Chard: The Business Grants Hub's responsibility is to ensure the grantee is delivering the services outlined in the grant, consistent with their grant agreement. If there was consideration of the program more broadly, and the intent of the program, and whether the program was meeting its policy objectives, that would be a matter for DCCEEW, as the policy department.

Senator McDONALD: I'm trying to get to a number of aspects around due diligence that don't appear to have been undertaken in relation to this \$8.3 million grant—issues like researching and checking the kinds of activities, including outreach activities, that the EDO had conducted in the past; exploring the past conduct of the EDO and its clients and witnesses in other legal cases; and investigating the EDO's extensive associations and networks with other organisations, including funders and donors—including numerous foreign donors. We've had the High Court make a decision that was fairly damning about the way in which the EDO went about recent legal action. We've got Facebook and social media cases that I've just tabled. I don't think taxpayers want to see this run on. How are we going to fix it? Who's going to be responsible for reviewing it and for rewriting or closing loopholes in guidelines? That's what I'm trying to assess.

Senator Ayres: I think the official is trying to answer questions in terms of the scope of what it is the grants hub administers here. Many of those questions—I think all of them—are questions of policy for government. That is not something the official is able to engage in. I think she has done her best to explain what it is the hub does.

Senator McDONALD: Please understand my frustration. When I asked these very similar questions of DCCEEW, I was told to come and talk to you. There is a big gap there in understanding accountability and responsibility of guidelines and accountability of execution of review of guideline assessments. I hope that, by the time we get to the next estimates, that gap will be resolved, otherwise it means that grants right across the board are going to come into question over who was responsible for assessing the behaviour and activities of grant recipients.

CHAIR: Can I step in and say that we're still in corporate, enabling and business services. That means we're three hours behind in the program; we're still on the first witness, for whom the agreed program was to allocate 30 minutes. I think my maths is right because it's a pretty simple equation—the difference between 12.30 and 3.30—so we are roughly three hours behind if we still have questions for corporate.

Senator HUGHES: I still have at least three blocks.

CHAIR: For corporate?

Senator HUGHES: We can go to a spillover, but not in the corporate—

CHAIR: I'm wondering whether we can start to move towards 'supporting a strong resources sector', which was due to come on at one o'clock. If everyone could assist with very short questions and very short answers.

Senator BRAGG: There's a lot to get through still. We'll talk about it and see what we can get to. We'll try to identify the really important priorities and do our best to comply with the timetable.

CHAIR: Thank you.

Senator McDONALD: My final question on this matter is this. In response, the DCCEEW secretary said: ... the Business Grants Hub has a responsibility here in terms of accountability under the contract.

Is he correct that this is your responsibility? If so, why is it the case that none of this crucial work, to which senators who asked questions the other day referred, seems to have been conducted by anyone in the government?

Ms Chard: The Business Grants Hub has accountability for ensuring that the grantee meets their obligations under the grant agreement. The department is supporting DCCEEW in its review of the grant in light of the recent court case.

Senator McDONALD: I'll turn to another topic. Minister King has made a number of public statements highlighting that the average wage in the resources sector is \$144,600. Where has that figure come from?

Senator Ayres: There are a lot of issues of substance that need to be dealt with right across the resources sector, as you would be aware. Right now, we're just waiting to finish on corporate.

Senator McDONALD: This is a corporate question.

Senator Ayres: How can it—

Senator McDONALD: Because the data that supports that, I assume, has come from the corporate division. It hasn't come from the corporate division?

Senator Ayres: If we can assist you in that way, I'm open to it. I just—

Senator McDONALD: So which section should I direct that question to?

Senator Ayres: To resources.

Senator McDONALD: Okay. Has the department been asked to undertake any analysis of or to make any changes to the minerals resources tax?

Ms Quinn: That's also a question for the resources team.

CHAIR: The next witnesses.

Senator McDONALD: Can I assume that that also applies to the fuel tax credits? That will also be for the resources section?

Ms Quinn: Yes.

Senator McDONALD: I think I can put the rest of these, which are on the critical minerals agreement, on notice.

Senator HUGHES: I'll move on after this, but I just want a quick recap so I'm superclear, Ms Quinn. In 2008, Glenn Thompson appointed the now assistant minister to a position on a super fund board, for which he received remuneration over a number of years, including superannuation. Now he's a minister, it would appear the favour is being returned and, by your own admission, Secretary, he has played some role in the appointment of Mr Thompson to definitely one but potentially two plum government postings within his portfolio. The total of both of those is almost \$300,000 over the next few years. Mr Thompson was thanked in Minister Ayres's maiden speech. There are various social media posts of the two meeting and hanging out. Is it seriously your position that there was no conflict of interest to declare?

Ms Quinn: I will recap the evidence I gave at last estimates. On the basis of information I have before me, the appointments went through appropriate processes managed and enacted by the department.

Senator HUGHES: So you are refusing fundamentally to support Minister Ayres's decision not to declare.

CHAIR: I think that is a double negative!

Ms Quinn: So I—

Senator HUGHES: He hasn't declared. You are not saying he should have declared. So are you really supporting his decision not to declare?

Ms Quinn: I'm talking about the process that the appointments went through in which the department was supporting ministerial process. I believe the *Cabinet Handbook* processes were managed and enacted as set out in the *Cabinet Handbook*. All policy matters related to the ministerial code of conduct are actually managed by the Department of the Prime Minister and Cabinet.

Senator HUGHES: You got a whole lot of new information, I assume, today. Did you have this information? Were you aware of these ties back then? If this is new information, is there nothing you plan to do with this new information?

Ms Quinn: All matters relating to the ministerial code of conduct are matters for the Prime Minister and the Department of the Prime Minister and Cabinet in supporting him as the responsible minister.

Senator HUGHES: Alright. Let's move on. Minister Ayres, I think you would say the NRF is the single most transformative piece of policy work from the perspective of our manufacturers. You gave a keynote address where you called the NRF 'one of the largest investments in manufacturing in Australia's peacetime history'. You've been the Assistant Minister for Manufacturing since 1 June 2022. I assume, as the Assistant Minister for Manufacturing, you'd agree that you've probably got a really big interest, a real stake in the operation of the NRF. Correct?

Senator Ayres: The National Reconstruction Fund board—

Senator HUGHES: I'm just talking about the NRF generally. You love it, you support it and you've got a big stake in it as the Assistant Minister for Manufacturing.

Senator Ayres: The board, the organisation, the principle is one that I strongly support.

Senator HUGHES: You'd be pushing for positive outcomes for manufacturing and you're invested in the success of the NRF as one of the assistant ministers around. You care about the scope of it, its priority, its investments mandate and everything about how it operates. And, as you just mentioned, the board. I assume you've got a very strong interest in who serves on the board of the NRF.

Senator Ayres: The composition of the board is a matter for cabinet in the first instance. It is, as I understand it, the ministers who are engaged in the legislation and all of the issues that surround the National Reconstruction Fund are the Minister for Finance and the Minister for Industry and Science. The process here was very simple. I'm advised that the two NRF ministers, Husic and Gallagher, wrote to the Prime Minister seeking approval to appoint Mr Thompson to the board. I don't have that correspondence. It went to cabinet, I'm advised, and cabinet approved the appointment. It is right to say that I strongly support the principle and this is, of course, a board that's decision-making will be independent of government.

Senator HUGHES: Minister, have you ever had a conversation with the minister for industry, the Minister for Finance, any other cabinet minister or their staff about the NRF board—informally or formally?

Senator Ayres: The appointment process was a matter for cabinet.

Senator HUGHES: Okay, so despite the NRF not yet spending a dollar on struggling manufacturers, there has been a flurry of activity with the NRF. Before we continue, I just want to confirm some facts.

Senator Ayres: We haven't got far in facts so far.

Senator HUGHES: Thank you for your commentary, Minister Ayres, but I think we've established quite a few new facts that, perhaps, were unknown. Secretary, can you confirm when recruitment for the NRF board commenced and when it concluded?

Ms Quinn: I don't have that information with me, although my colleagues who are responsible for that process will be joining us later in the estimates hearing. They will be here under the industry proportion of the hearing.

Senator HUGHES: Sorry, this is a corporate matter, the recruitment of a board.

Ms Quinn: No, it's not managed by the policy area.

Senator HUGHES: Really?

Ms Quinn: Yes.

Senator HUGHES: How very strange.

Senator Ayres: We did point this out at 12.30.

Senator HUGHES: Thank you, Minister. I can refer you to and I can table it if the committee so wishes. There was a media release titled 'National Reconstruction Fund Board announced' issued on 9 August 2023. This media release names eight appointees: Martijn Wilder AM as the chair, Ahmed Fahour AO, Dr Katharine Giles, the Hon. Kelly O'Dwyer, Daniel Petre AO, Kathryn Presser AM, Karen Smith-Pomeroy and Daniel Walton. Does that ring a bell, Assistant Minister?

Senator Ayres: Putting aside the pejorative expression, I was aware of the announcement.

Senator HUGHES: Okay, so that's 9 August 2023. I can also table another media release that was released on 18 September 2023, and I think it's important we take particular note of the language that was used by Minister Husic.

This was called 'National Reconstruction Fund Board meets for the first time'. Minister Husic proudly announced:

As of today, the NRF Corporation is officially up and running.

Our government is ambitious for the NRF Board to deliver great things for Australian industry and manufacturing.

Each of the eight independent Board members bring the skills needed to strengthen Australian manufacturing and our industrial capabilities.

It's very deliberate and thoughtful language—there's not really much room for misunderstanding that there are eight independent board members and that the NRF is officially up and running. Would that appear clear to you, Minister Ayres, from that media release?

Senator Ayres: The announcement speaks for itself.

Senator HUGHES: I draw your attention to a further media release, titled 'Appointment to the National Reconstruction Fund Board', which was issued on 20 October—not that much later. It was 18 September and then around a month later there was another appointment that was made to the NRF board after its first board meeting—more than two months after appointments were made following the formal recruitment process, which taxpayers funded. Are you aware of that announcement?

Senator Ayres: I'm aware that that announcement occurred, yes.

Senator HUGHES: Don't you think it's a little bit strange that you'd have to appoint someone to a board two months after you made 88 per cent of the other appointments, you declared it up and running and you had eight outstanding individuals? Why do you think they needed to make an extra appointment?

Senator Ayres: Governments make appointments from time to time. These were both cabinet appointments—the two responsible ministers, the Minister for Industry and Science and the Minister for Finance—

Senator HUGHES: Are you aware of who that ninth appointment was?

Senator Ayres: Of course I am. The announcement was made. It's not a secret—it has found its way to you and to many other Australians.

Senator HUGHES: It's a very lucrative appointment to the NRF board that will net Mr Glen Thompson nearly \$300,000 over the term of his appointment. At any stage, did you discuss this appointment to the NRF board with Minister Husic, Minister Gallagher, the Prime Minister, or any cabinet minister or their respective offices?

Senator Ayres: These are cabinet appointments.

Senator HUGHES: So you are definitively ruling out that you raised Mr Thompson's name as someone who should be added to the NRF board?

Senator Ayres: What I'm trying to do is answer your questions, ideally uninterrupted. These are cabinet appointments. I pointed you to the ministers who engage in the cabinet processes. This is a very fine board—

Senator HUGHES: It was a very fine board that needed to be changed, according to—

Senator Ayres: As I was trying to say, this is a very fine board of very accomplished Australians who will make a very strong contribution in this important area of trying to rebuild Australia's capacity to commercialise, in particular, manufacturing, IP and propositions in Australia. People—

Senator HUGHES: Chair, in line with your request, might I request that you ask the Minister to keep his answers brief?

Senator Ayres: It will make decisions on an independent basis and it will administer—

Senator HUGHES: Minister, you were asked whether or not you had a conversation with anyone about it, and I'm now getting a lecture about what the board's aiming to achieve.

CHAIR: Senator Hughes, you've asked a question. You might not like the answer, but the minister is answering your questions.

Senator HUGHES: It's not an answer. You asked for quick questions and quick answers to speed things up. I'm trying to assist the chair—

CHAIR: Senator Hughes, you are not assisting the chair. The Minister has the call.

Senator Ayres: Just give me a bit more time to consider my answer, Senator Hughes—

Senator HUGHES: Well, it's a yes or no, mate. It's really easy.

Senator Ayres: The board—

Senator HUGHES: While you prevaricate.

Senator Ayres: and the fund administer a very significant amount of public money in terms of equity and loans that will provide very significant impetus for Australian industry.

Senator HUGHES: I did not ask what this is about.

Senator Ayres: The point I'm making is that this is a series of cabinet appointments that are going to strengthen Australia's manufacturing capability. I know it has been the subject of political argument because the coalition doesn't support it; in fact—

Senator HUGHES: This has nothing to do with the question you were asked.

Senator Ayres: it vigorously opposes it. I understand the hostility—

Senator HUGHES: Chair, if you want to move along, ask the Minister to either end this sermon or answer the question, because I'm going to ask it again.

Senator O'NEILL: I'd like to hear the answer.

Senator Ayres: I understand the hostility to appointments—

Senator HUGHES: We're going to be here all night—guys, settle in.

Senator Ayres: particularly a prohibition in some of the coalition's minds—

Senator HUGHES: Mate, settle in. It could be your last night.

Senator Ayres: to any engagement with people who have a trade union background. I expect that kind of opposition, but this is a cabinet process. I support it.

Senator HUGHES: So you, literally the Assistant Minister for Manufacturing, did or did not have any conversation or input, formal or informal, into the appointment of Mr Thompson?

Senator Ayres: It's a cabinet appointment.

Senator HUGHES: You're not a member of cabinet. I'm asking you, outside of the cabinet room: did you have any formal or informal discussions about the make-up of the board, particularly Mr Thompson?

Senator Ayres: I have answered you very clearly.

Senator HUGHES: You really haven't.

Senator Ayres: The process was very simple. The two ministers who are charged with the fund—

Senator HUGHES: The question was: did you have any conversations—yes or no?

CHAIR: Senator Hughes, let the minister answer the question.

Senator HUGHES: Yes or no—a very quick answer.

Senator O'NEILL: Point of order, Chair: standing order 203 again—

Senator HUGHES: We're going to be here all night. Settle in, guys. We'll get the popcorn.

Senator O'NEILL: disregarding the direction of the chair. I want to hear the minister's answer. I can't hear.

Senator HUGHES: It's a yes or no. I'd love to hear it.

CHAIR: Deputy Chair?

Senator BRAGG: We should be able to do this. One person asks a question and the next person answers the question, and then that continues. It's not very hard.

Senator O'NEILL: That's exactly right.

Senator BRAGG: Maybe we can work on that basis.

CHAIR: We're due to take a break shortly. The people at the desk have been at the desk for way longer than they should've been, so we would like to draw this to a conclusion.

Senator HUGHES: I am nowhere near ready.

CHAIR: Let's do what you're trying to do, Senator Hughes, which is to ask short questions and get short answers.

Senator HUGHES: That'd be great.

CHAIR: What is your next question?

Senator HUGHES: I still haven't got an answer. Yes or no—did you have any input or conversations, formal or informal, into the appointment of Mr Thompson?

Senator Ayres: It was a cabinet process.

Senator HUGHES: Is there an email, a conversation or a record of any involvement you may have had in Mr Thompson's appointment? They are not cabinet-in-confidence, because you are not in cabinet.

Senator Ayres: It was a cabinet process. The two ministers who engaged in that process are Ministers Husic and Gallagher.

Senator HUGHES: So you are saying you never had a conversation with them?

Senator Ayres: No. What I'm saying, as I said before, is that it was a very simple process. It's the process that the secretary has outlined.

Senator HUGHES: Why can't you say you had a chat to them?

Senator Ayres: It is a cabinet process.

Senator HUGHES: Why can't you say: 'You know what? Glenn's a mate of mine. I said he'd be a great addition'?

Senator O'NEILL: Chair.

Senator HUGHES: Yes or no—did you have a conversation?

Senator Ayres: As I indicated, it is a cabinet process.

Senator HUGHES: I cannot believe you can't answer this, but I will try the secretary now and see if we get anywhere. The longer this goes on, the more I'm coming back. It's all going to—

CHAIR: It's repetitive questioning, but go ahead, Senator Hughes.

Senator HUGHES: Well, we don't get an answer.

CHAIR: You may not like the answer, but you're getting an answer.

Senator HUGHES: No, it is not an answer.

CHAIR: What is your next question?

Senator HUGHES: Secretary, FOI No. 3473, document 12, which I can table if you require—I could probably just hold it up for you, because you can see lots of redactions. This is supposed to be a time line for the establishment—

CHAIR: Are you seeking to table the document?

Senator HUGHES: If everyone would like to have it tabled, I'm happy to seek to have it tabled.

CHAIR: Keep speaking to it—if I can see it—and we'll table it.

Senator HUGHES: The email is from I don't know who, on Monday 5 June 2023. It was cc-ed to a Damian Mullaly. It has an attachment titled 'NRF - Timing to commencement.pptx.' It looks like a PowerPoint attachment. It reads:

The NRF board is potentially for—
redacted—

Here is their timeline to establishment to ensure the board is in place before commencement of the act—
redacted, redacted, redacted.

Why was a time line under FOI redacted? It's a time line. It doesn't have names on it. There's nothing especially secretive about it. It's a time line.

Ms Quinn: I'm happy to take that on notice. I wasn't the decision-maker on that particular FOI. I'm happy to take it on notice and see whether the official that was the decision-maker can provide additional information. Usually as part of the FOI release there are decisions around redactions that are provided. I'm not sure if you have the original letter. That might have some additional information in it. There are obligations under the FOI Act not to provide cabinet-in-confidence material. Sometimes that can go to the time at which cabinet considers things. That theoretically might be at play.

Senator HUGHES: It tells us in the one line that's not redacted, 'Here is the timeline to establishment, to ensure the board is in place before the commencement of the act.' I'm sure that has grammatical errors. There is an indication of the timeline, but the actual timeline's redacted. This is a \$15 billion fund with what I assume—to recruit eight directors—was a very expensive recruitment process. Do you honestly expect that taxpayers can accept that the department can't even provide a timeline under freedom of information?

Ms Quinn: As I said, I'm happy to take it on notice. I wasn't the decision-maker in that process. We have independent decision-makers who apply the statute as required under their legal obligations to manage the release of information according to the legislation. I have taken that on notice, and I'm happy to see whether there's any additional information we can provide.

Senator HUGHES: I would appreciate you taking it on notice. If you can get back to it tonight—

CHAIR: The committee tables the document.

Senator HUGHES: Thank you, Chair. We now know that the board appointments were made. The board was off and running. They'd had their first meeting. Minister Husic was praising his board that he'd appointed as outstanding individuals. We now know that it was incomplete. Someone else had to be added. I think it's vitally important that we see what the timeline was. Was the timeline, 'Let's appoint the first eight and then see how we go. We might another one after,' or was the timeline, 'This is where it's going to be'?

CHAIR: What's the question, Senator Hughes?

Senator HUGHES: Secretary, FOI 3473 also shows that the department had a provisional list of candidates as of 10 May 2023. You emailed out the timeline on 5 June, but they had a list of provisional candidates on 10 May. Again, if I could seek to table this, because there are lots of big grey boxes here again. Can you explain what this list is that's being referred to?

CHAIR: The committee tables the document.

Ms Quinn: No, I can't. I'm happy to take it on notice. Clearly if something is redacted then I can't read it.

Senator HUGHES: Perhaps you might want to take some interest in this and try and find out what was said.

Ms Quinn: As I said, the officials that manage this process will be here later this evening under the program 1.1. They may be able to provide additional information around the redactions. As I said, there's usually a decision letter that goes with the release of documents, which identifies what element of the legislation has been called on in order to redact the information. In this case, the timeline's under section 22, which I'm happy to get corrected what section 22 refers to, but that gives some indication of the decision-makers justification or considerations for why they've redacted it.

Senator HUGHES: It's interesting. The couple of sentences: 'Agree with this position that Treasury should advise DISR that their minister should engage with the Treasurer on this. I wouldn't weigh in on the candidate list or matrix.' That's interesting advice. Do you happen to know, or could you find out, whether or not the list that was referred to here was put together by the department, was it provided by a recruitment firm, or was it provided by the minister's office?

Ms Quinn: I can confirm—and, as I said, officials can provide more details later—that we did engage professional support for this process. I can't speak to that specific list, but there was an appointment process where we sought information from various sources—quite a wide set of sources—including identifying that there would be appointments through estimates. There were lots of other processes for people to be aware that there would be appointments to the board. Of course, there was a legislative process that identified that there would be a chair and between six and eight members of the board, so it was a public process that there would be appointments. Then, as part of the process of supporting the cabinet ministers who have responsibility for the NRF—Minister Gallagher and Minister Husic—we engaged a recruitment firm to provide assistance, and they were involved in the process throughout.

Senator HUGHES: How much were they paid?

Ms Quinn: I don't have how much they were paid, but I'm sure officials will be able to answer those questions later.

Senator HUGHES: If they're listening, if they can make sure that they come with that information, that would be very helpful. What I'm confused about is that this first email, where there's a provisional list, is on 10 May, yet the time line has not been established until 5 June. This is obviously very difficult, because whoever has enacted this FOI has not—we don't know what the time line is. When was the recruiter hired?

Ms Quinn: I don't have that information in front of me, but we can make sure officials coming in later in the session have that detail.

Senator HUGHES: It would be very helpful to know whether the recruitment firm was engaged before the provisional list or whether it was after the time line was set out.

CHAIR: The secretary has said that that information will be provided later if possible.

Senator HUGHES: Great. Were there two sets of recruitment processes or just one?

Ms Quinn: There was a continuous process—one.

Senator HUGHES: One process?

Ms Quinn: That's my understanding, yes.

Senator HUGHES: Okay. We'll come back to that. There's another document I'd like to draw your attention to here. Again, if the committee would like, I can seek to table it. Again, there are significant redactions, but there is a series of emails and draft letters of appointment. There's a whole series of exchanges here between Mr Thompson and a Ms Oliver from the department. I have to say that I'm reading these emails and looking at the times, the dates and the speed at which this appointment for which the letter was drafted occurred. The email that Ms Oliver received—I don't know who from, but it's someone in Finance and relates to Mr Thompson—says:

Please find attached suggested changes from Finance ...

- included a proposed start date ...
- list the nominee current roles and other that they are a part of and relevant to the role ...
- included remuneration payable for the position, as set by the Rem Tribunal.

The forwarding email says:

For your visibility only, DISR will consider our proposed changes ...

If you look at the time stamps and the dates of these emails, it is extraordinary. You can barely get a ream of paper in this building within the time frame in which Mr Thompson appears to have been recruited and spoken to, to have sent a letter of acceptance and to have been given a letter of offer. Where did this flurry of activity come from? I've never known a department to move so quickly.

CHAIR: The committee tables the document. Who was that question directed to? The secretary?

Senator HUGHES: Yes. This is extraordinary. It's a great flurry of activity. If only everything moved this quickly! The subject line says 'Joint Letter to the Prime Minister_NRF appointment'.

Ms Quinn: I'm somewhat unclear on the question.

Senator HUGHES: Within a very short time frame—you have a copy of the emails—Ms Oliver engaged and spoke to Mr Glenn Thompson about his appointment to the NRFC board:

Hi Glenn.

Thanks for talking with me just now.

CHAIR: I appreciate you're trying to provide further information.

Senator HUGHES: It was in a very short period of time. What were the time pressures with regard to this big flurry of activity?

Ms Quinn: As I mentioned, the officials responsible for this process will be here, and they will have much more information about the process.

Senator HUGHES: Okay.

Ms Quinn: Typically, we respond to requests from government—

Senator HUGHES: Sorry? Requests from—

Ms Quinn: Typically, in terms of providing advice to ministers, we respond to requests for action.

Senator HUGHES: People are appointed to boards in two days?

Ms Quinn: We provide advice if we judge it to be appropriate. I'm happy for officials to walk through what happened in this case when they appear later.

Senator HUGHES: Yes. I'd like to know if this was a separate recruitment process, so it would be very helpful to know. How did Mr Thompson's name suddenly get proposed for sole consideration for appointment? Were any other applicants considered as part of this, alleged, now, additional appointment process? Is it usual practice for the department to facilitate appointments to board positions of this magnitude—this is a \$15 billion fund—in just over three business days? Is that usual?

Ms Quinn: I don't know that it's unusual.

Senator HUGHES: Wow! A \$15 billion fund, and you can get on the board, for 300 grand for the appointment, in under three days—extraordinary!

Ms Quinn: So what you have before you in the FOI—

Senator HUGHES: It's amazing this country doesn't progress much better [inaudible]. Productivity in the department's obviously very high!

CHAIR: Is there a question, Senator Hughes?

Ms Quinn: Sorry—if I can just finish my answer—

CHAIR: [inaudible] where we're at—

Ms Quinn: which is: what you have before you is an exchange between officials, in terms of administering elements of—

Senator HUGHES: That was Mr Thompson?

Ms Quinn: administering elements of the process. It's not clear, from the FOIs, the length of the process, prior to the actions that are articulated in the FOI. So I think that it's fair that we wait for officials to be able to provide what they can—noting that this was a cabinet process.

Senator HUGHES: I will just point out to you that—and I'm sure your officials can update you as well—there was a massive, multiple-month recruitment process before, taxpayer funded. The board's announced. It has its first meeting. They're all exceptional. All the skills are fantastic. Yet it appears that there was apparently none for Mr Thompson. So I ask you to ensure that the officials that will be here later tonight are well up to speed with this process and have all the relevant documents, because this is not a cabinet-in-confidence part of the process. This is absolutely taxpayer money being spent on a recruitment process, and we want to understand it and we want to know why Mr Thompson was put on this board, after it was announced, after it first met, after it was said to have excellent skills—yet somehow or other Mr Thompson was going to inject the missing skill. So if all information pertaining to the recruitment process of the eight members and Mr Thompson can be provided tonight, that would be very helpful.

Senator Ayres: Well, this is indeed, Senator Hughes, why, at 12.30, the secretary asserted, and I asserted, that these issues would be more efficiently dealt with when relevant officials were at the table. That is the program of the committee.

Senator HUGHES: Seriously, [inaudible]—

Senator Ayres: And the secretary has taken on notice some elements of this that go to the provision of FOI documents, and undertaken for the department to do their best upon what the basis was. There's a series of them, and, if you look through—and I've seen these documents for a few seconds now—there are different rationales advanced, and I don't understand the background of those. Officials may be in a position to answer that, but it's otherwise taken on notice. Of course, this is a cabinet process—a cabinet appointment.

Senator HUGHES: [inaudible] dealt with in the corporate section, Minister Ayres?

Senator Ayres: As was indicated to you, officials would be available—

Senator HUGHES: Well, [inaudible] of interest to delve into, in the corporate sector.

CHAIR: Okay—

Senator Ayres: at whatever time—

Senator BRAGG: I think we're in a position now to [inaudible].

CHAIR: Thank you. The committee is—

Senator HUGHES: Well, I will be coming back to some of these things, and, under Minister Ayres's guidance, that they can be answered in that part of the—

CHAIR: Thank you, Senator Hughes.

Senator BRAGG: As to the program, I think we're going to now release corporate.

CHAIR: The committee is in a position to release corporate. The committee will take the scheduled break and resume with program 1.3.

Proceedings suspended from 16:13 to 16:33

CHAIR: The committee resumes and welcomes representatives from the Department of Industry, Science and Resources for program 1.3, supporting a strong resources sector, excluding the Australian Radioactive Waste Agency. Senator McDonald.

Senator McDONALD: Here we are at another portion, so I'm redirecting my questions that I had in the wrong place previously. Specifically, I would like to start with the wages question that I started on. Minister King has made a number of public statements highlighting that the average wage in the resources sector is \$144,600. Can I ask where that figure comes from, please?

Senator Ayres: I was advised shortly before the break that those figures are figures sought by the minister's office and that their providence is from the Parliamentary Library. That is all I know.

Senator McDONALD: Would you know if they're mean or median wages?

Senator Ayres: I have exhausted the outer limits of my knowledge of this subject.

Senator McDONALD: Can I ask you to take it on notice, please?

Senator Ayres: If we can provide any additional information, we will.

Senator McDONALD: Is that figure mean or median wages? Does it include all cash earnings? Does it include bonuses? Does that include all jobs within the sector—managers, professionals, technicians and trade workers? That's from the ABS. What date is this captured wages data from—not when it was released, obviously, but the period of time that it was measured over?

Senator Ayres: This must be in connection with an assertion that the minister has made, consistent with the government's decision in terms of the stage 3 tax package, where people who earn—

Senator McDONALD: I'm looking for the average wage in the resources sector—

Senator Ayres: above \$148,000 will still get a tax cut but people below \$148,000 will get a substantially larger tax cut.

Senator McDONALD: That's what I am trying to understand. When the period is over, will they be indexed up to—I've given you that list.

Senator Ayres: Whatever information we can provide, we will. Having provided that information, I'll look forward to more support from you and your colleagues on this question.

Senator McDONALD: Has the department been asked to undertake any analysis or work on any changes to minerals or resources taxes?

Ms Quinn: I will throw to my colleague.

Ms Urquhart: We do undertake work and engage with Treasury regularly around the petroleum resource rent tax. If you would like a more refined description of our interactions I could call my colleague to the table.

Senator McDONALD: Let's keep going with this. It might be broad enough. Has the department conducted any of this analysis or work on the PRRT unprompted by the government?

Ms Urquhart: The Treasury has the lead on the petroleum resource rent tax. I think it would be fair to say that the work we undertake in the department is part of a framework of supporting Treasury's lead on the administration of the PRRT.

Ms Quinn: If stakeholders raise questions while we engage with them, we may well do some analysis to understand their concerns.

Senator McDONALD: Further to that, does the department know the impact that an MRRT or equivalent would have on the resources sector? I assume that's something that has been raised by industry, in their concerns.

Ms Quinn: Once upon a time there would've been analysis of that sort, I imagine, but most of the discussion recently has been around the PRRT.

Ms Urquhart: I'm wondering if we should be clear that we're talking about the same thing. You refer to a minerals resource rent tax. I'm referring to the petroleum resource rent tax.

Senator McDONALD: Yes. I do understand the separation.

Senator Ayres: Which proposition are we talking about? There's the proposition that's government policy, and then there's another thing.

Senator McDONALD: We first talked about the PRRT, and the second thing was the MRRT. What about the two professors—Fels and Sims—who addressed the media club on Tuesday? In the *Australian* article that I tabled yesterday and the discussion, which I don't have with me, they were quoted as saying they'd consulted with Treasury on Tuesday. Has the department been asked to provide any input into any analysis of their proposal?

Ms Urquhart: I haven't. I would have to take it on notice to check if there had been any contact with anybody else in the department.

Senator McDONALD: Terrific. Thank you for doing that. I'm sorry—I said Professor Fels, but it was Professors Garnaut and Sims, of course. Thank you all for nodding; you knew what I meant. Has the department been asked to undertake any analysis or work on any changes to the fuel tax credit scheme?

Ms Urquhart: I'm not aware of us being asked. Again, I could take it on notice to check more thoroughly.

Senator McDONALD: Thank you. As part of your oversight of the resources sector, have you done any analysis of the impact that removing or changing the scheme would have on the resources sector?

Ms Urquhart: I'd have to take that on notice. I'm not aware of work done in that respect.

Senator McDONALD: Secretary, has industry raised concerns with you over the fuel tax credit scheme? We know that there was a big advertising campaign last year. I assume they've raised it with you.

Ms Quinn: I don't recollect them raising that specific concern with me personally. There are always discussions around how the industry is going, their cost base and things like that, but that specific issue hasn't been raised with me.

Senator McDONALD: Minister, do you agree with Minister King or Minister Gallagher's position on the fuel tax credits scheme?

Senator Ayres: I've learnt that it's always very good to agree with both Minister King and Minister Gallagher!

Senator McDONALD: Unfortunately you'd be taking two positions, then.

Senator Ayres: My answer stays the same, Senator McDonald.

Senator McDONALD: Wisely, very wisely! Minister King has definitively ruled out changes to fuel tax credits, and Minister Gallagher wouldn't be drawn on the fuel tax credits scheme.

Senator Ayres: I understand the semantic difference and the game playing that goes on here. Of course, the government is fully focused on what is a very full schedule of dealing with the cost-of-living challenges for Australians—that is, prosecuting the argument in the parliament and outside for tax cuts that will be extended to 14 million taxpaying Australians. That is our agenda.

Senator McDONALD: Minister, will you unequivocally rule out any changes to the fuel tax credits scheme or a mining tax?

Senator Ayres: I'm not aware of any proposition in relation to either of these issues. It is the case that the government has announced some changes in relation to PAYG tax that will deliver substantial benefits as we deal with the cost-of-living issues—

Senator McDONALD: I'm sorry, Minister, but the chair does want us to move through this as quickly as we can, so if we could stay focused.

Senator Ayres: There are no plans that I'm aware of beyond the ones that we've traversed in terms of the PRRT. That is the case.

Senator McDONALD: Can you commit that there is no plan without caveats?

Senator Ayres: I am the assistant minister for manufacturing and for trade, and I support the position of the government. We have a very full agenda on our hands, dealing with the cost-of-living issues.

Senator McDONALD: I want to ask some questions now on the critical minerals list. Could the department please explain the difference between a critical mineral and a strategic mineral.

Mr Chesworth: The difference between the two is essentially a slight difference in the criteria that apply. For those on the strategic minerals list, it is an indication of the importance that the Australian government accords to those minerals and that they are not subject to any current supply issues.

Senator McDONALD: I'm sorry; would you just flesh that out a little bit more. The strategic materials list is not subject to any supply issue. Is that what you said?

Mr Chesworth: That's correct.

Senator McDONALD: Whereas a critical mineral is subject to supply issues?

Mr Chesworth: Yes, that's one of the four criteria for the critical minerals list.

Ms Urquhart: Senator, you'd be aware that Minister King announced the critical minerals list on 16 December last year. That was when she updated the critical minerals list but also announced a new strategic materials list. To make the critical minerals list, or to assess if minerals should be on the critical minerals list, four criteria were applied in that assessment. One was use in government's priority technologies, including clean energy and defence. Another was Australia's geological potential to meet supply. The third was the needs of our strategic international partners, and the fourth was the vulnerabilities of our supply chains. Consistent with Mr Chesworth's answer, strategic materials, on the other hand, satisfied the first three criteria but didn't—at that time—have vulnerable supply chains in Australia.

Senator McDONALD: So we don't have bauxite as a critical mineral, but we do have alumina as a strategic material—sorry, did I—

Mr Chesworth: That's correct. Yes, it's refined alumina.

Senator McDONALD: Are strategic material projects able to access critical minerals programs like the Critical Minerals Facility or the \$1 million allocated in the Reconstruction Fund?

Mr Chesworth: No. Those on the critical minerals list are able to access those special critical minerals programs, but those on the strategic materials list may be able to access other government assistance.

Ms Quinn: I just want to clarify: you asked about two programs—the Critical Minerals Facility and the NRF?

Senator McDONALD: Yes.

Ms Quinn: The NRF criteria are somewhat broader.

Senator McDONALD: So strategic materials may be able to access that fund?

Ms Quinn: That's right. It has a broader component for supporting the industry in emissions reduction, so it's not as narrow as the Critical Minerals Facility.

Senator McDONALD: Can you tell me why the strategic materials list was created?

Ms Urquhart: Yes. I think it was felt that in the updating of the critical minerals list there was a case to closely monitor the situation of the materials that we ended up putting on the critical materials list for exactly the reason of the supply chain criterion.

Senator McDONALD: I guess I was wondering why you wouldn't have listed bauxite as a critical mineral, knowing that it becomes a strategic material—for example, phosphate for potash. This is just me trying to understand. I would have thought they would have killed the same bird with one stone. That was really my only concern.

Ms Urquhart: We can certainly take on notice to provide you with more information on our considerations and around bauxite in particular.

Senator McDONALD: Yes—and potash, or phosphate, which is of particular interest for the food manufacturing part. On the government's critical minerals list website it states that critical minerals are central to

our modern technologies, our geological potential—the four you just identified. Sorry, you did just say this, but the materials on the strategic materials list are the first three but not the fourth. Is that correct?

Ms Urquhart: That's correct. At the time of updating the critical minerals list, it was assessed that there was a set of materials that satisfied the first three criteria but, at that time, not the fourth.

Senator McDONALD: So nickel, lithium—have these minerals shown enough vulnerability to make it to the critical minerals list now?

Ms Urquhart: That would be a matter for government consideration.

Senator McDONALD: Okay—

Ms Urquhart: Minister King ran roundtables in Western Australia a little over a week ago, engaging with producers in both the lithium and nickel space, and I think it's fair to say that we're doing a close analysis of the situation as it pertains to both of them.

Senator McDONALD: Terrific. I did have some questions on that, which I can't lay my hands on immediately, so we'll come back to—

CHAIR: Let me know when you have concluded a block there, because Senator Cox has questions. I can come back to you.

Senator McDONALD: Terrific. Can I have another two minutes on this?

CHAIR: Sure.

Senator McDONALD: I was going to ask about phosphate versus phosphorus and alumina and bauxite—but you're going to come back to me with those reasons. One of the other reasons I contemplated was that it might have been that only periodic table elements were going to be included on the critical minerals list. I would really like some more information on that, to understand the logic behind those two lists. Was this decision the department's or minister's?

Ms Urquhart: The department certainly provided advice to the minister in making her decision.

Senator McDONALD: Was it to split it in this way? Was that the department's advice?

Ms Urquhart: I think it would be fair to say that the department's observations from the process of updating the list were that there were a set of materials that warranted particular attention ongoing.

Senator McDONALD: Again, because of the access to the critical minerals funding—there's slightly more funding available for critical minerals than strategic materials—I'm wondering why phosphorus was kept on the strategic materials list instead of the critical minerals list.

Mr Chesworth: We'll come back to you with that further detail.

Senator McDONALD: Thank you. I will labour the point, given that I think it's so important. Considering the increasing pressure on the global phosphorus and phosphate supply chain and the overwhelming dominance of one Asian supplier, is it still the department's view that phosphorus is not vulnerable to supply chain disruptions and not worthy of being a critical mineral? If you'd come back on that, I'd appreciate it.

Mr Chesworth: Most certainly.

Senator McDONALD: And, of course, potash is the same, given that we have no development or almost no development of potash in this country.

Ms Quinn: Clearly there's judgement involved in assessing the criteria, particularly around vulnerabilities of our supply chains. It would have been based on information at the time in terms of other options, suppliers et cetera. It was a point-in-time assessment, and this is something that we assess over time and can shift depending on what's happening in the international environment.

Senator McDONALD: Yes. I think particularly the supply chain issues of having single source suppliers around these critical inputs have been developing for some time, so it shouldn't be a surprise to the department or us. Finally on that, given what's happened with nickel, obviously these things can move very quickly. I suggested that nickel be on the list last year. The department didn't take up my excellent recommendation, but does that make the list already outdated?

Mr Chesworth: When the list and the strategic list were both announced, it also indicated the time frame for review, but the minister also has the ability to make decisions within that time frame as well.

CHAIR: Senator Cox.

Senator COX: I'd like to ask some questions about the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Bill that was introduced today into the House. Can the

department please outline specifically the changes that relate to the streamlined approval that's been placed within this regulatory framework and its direct involvement with or the way it interacts with the EPBC Act?

Ms Urquhart: Certainly. I'll invite my colleagues Rob Jeremenko and Norelle Laucher to answer.

Mr Jeremenko: As you're aware, the bill that was introduced today is mainly concerned with offshore safety. Granted, the title of the bill is 'safety and other measures', and I'm not doubting that what you mentioned is one of the measures in there, but I just thought it'd be useful to outline that there are some very important changes to improve offshore safety in this bill around strengthening the role of health and safety representatives, improving worker protection against discrimination and coercion, improving health and safety rules for diving operations and dive vessels, and strengthening and simplifying reporting requirements for serious injury notifications.

That is not a complete list, but, when legislation is before parliament, government tries to, where appropriate, combine some other measures that are related, and that is certainly the case with the streamlining provision that you referred to. Put simply, that provision ensures that any further improvements that can be made to the Offshore Petroleum and Greenhouse Gas Storage Act via regulation in the future do not cause a disconnect and a breaking of the existing streamlining arrangements that are in place today and with the EPBC Act. So that is at a high level and what that particular streamlining provision in the bill today is about.

Senator COX: I've sat here for four hours waiting for the answer to that particular question, and I'm still not very clear about the timing. Why does this actually need to happen now? What's happening in the landscape where we are deciding that there's a piece of reform that's urgent to bring to the parliament straightaway and that gives the power to the minister to make changes to important things like the EPBC, for instance, and its engagement? Are we trying to fast-track climate bombs here? Is this what the department or the Minister for Resources is trying to do? That's exactly what it looks like from where I'm sitting.

The crossbench were briefed twice about this bill, except for the Greens. Why is the department and the minister so hellbent on getting this passed when we have so many other processes happening in the background, like the nature-positive reform? The minister's own department is undertaking pieces of consultation about two very major court cases. Is that a smokescreen? I'm trying to understand the timing, so I'm hoping someone can answer that.

Senator Ayres: I think, to be fair to Mr Jeremenko, that's really a question for the minister, and I'll answer on her behalf. The bill does a number of things. I won't traverse all of them, because I think it's been canvassed, but a significant amount of the bill goes towards safety protections for workers in the sector. There is a technical amendment that does mean that the government has adopted the recommendations of the Samuel review in full, and that will facilitate administrative action that delivers those in full. There is no change to the consultation requirements in any way, shape or form as a consequence of this piece of legislation.

Senator COX: But it gives the power to the minister to make those changes. Why give power to the minister if you're not going to make the changes? That is the point I'm trying to make. Why would the government try and streamline this and put it underneath worker safety as a stealth mode? What is the government trying to achieve by doing that?

Senator Ayres: It's not, to use your phrase, a stealth mode.

Senator COX: It is.

Senator Ayres: It has been explained. It is very clear. It is not a secret that this technical amendment is part of the bill.

Senator COX: It was a secret. I meet with Minister King's office quarterly, and yet they didn't even have the decency to come to my office and brief us. When I introduced my private senator's bill, I did the courtesy thing of going and briefing the minister's office before I introduced that bill. Why did they do this and not come to us and give us an explanation about why it was happening? If it wasn't a secret, why?

Senator Ayres: It's not a secret; you're telling me all about it. It provides for the capacity to adopt the recommendations in this report to strengthen the framework. The crossbenchers were briefed, including about this issue. It is therefore up to the parliament to debate. It is not a secret in any way, shape or form. We are talking about it here as publicly as one could do, and the government is very open about that.

Senator COX: I know you're not the Minister for Resources, and I'm very respectful of that, but my office found out from an article in the *West Australian*—not from the minister's office, not from the briefing of the crossbench. I found out via an article from the *West Australian*. I think it's pretty disappointing. We make an assumption that we work across the aisle here in good faith and by negotiation, but we don't see that reciprocated when there's something like this bill that the government are trying to move through the parliament.

I just want to clarify that this amendment actually does give the Minister for Resources the power to make changes to the approval processes for offshore projects.

Mr Jeremenko: Ms Laucher, next to me, has all of the detail, and she can answer you on that.

Ms Laucher: It might be worth, if I may, taking a step back to describe a little bit about the strategic assessment and the streamlining arrangements. You've mentioned the article in the *West Australian*. I don't think that's a correct articulation of the streamlining arrangements and how they work. I might outline that and then I can get to the point of your question.

In February 2014 NOPSEMA's environmental management processes were endorsed under the EPBC Act through a strategic assessment. That strategic assessment is what we refer to as streamlining. What that essentially means is that, when NOPSEMA undertake a decision under their environmental management program, it's also taken to be a decision under the EPBC Act. In 2014, when it was assessed, it demonstrated that the environmental approvals that NOPSEMA would take under the regulations under the Offshore Petroleum and Greenhouse Gas Storage Act also met the requirements at that time under the EPBC Act.

The independent review of the EPBC Act, the Samuel review—which was published in 2020 and, as you know, led to the Nature Positive reforms—also found that the current settings for that strategic assessment have significant limitations and noted that the regulatory settings for NOPSEMA are effectively frozen. That stifles continuous improvement of environmental regulation and further streamlining, and it means that the strategic assessments are unable to respond to changes in information and circumstances. What that's meant for the Offshore Petroleum and Greenhouse Gas Storage Act and the environment regulations that sit underneath that is that we've essentially been frozen in time for around 10 years.

As you know, this government has announced a review of the offshore environmental regime. What this technical amendment does is address the issues that were identified in the Samuel review to allow the minister to ensure that the outcomes of that environmental management review can be implemented in full in the regulations. The minister for the environment still has full control over that strategic assessment under the amendments that went into the parliament today. What that means is if she—or he, at the time—is uncomfortable in any way, under any amendments that a minister for resources would propose in the environment regulations, they can remove the strategic assessment, and it would no longer be in force or be valid. It doesn't allow the Minister for Resources to override the EPBC Act in any way, but it allows us to adapt and ensure continuous improvement and international best practice in environmental management.

Senator COX: You talked about the minister being 'uncomfortable'. I'm quite uncomfortable. I've been uncomfortable—and my people have been uncomfortable for 236 years—sitting here fighting resources companies who don't want to ask permission to go on our country. We now have a minister who doesn't want to provide any consultation. I'm really interested to know who was consulted about this bill. Did the minister actually talk to anyone about the interaction and the interplay of cultural heritage as part of the environment? We're still asking questions. I was in here on Monday night asking the same department about cultural heritage, the can that this government and the previous one have been kicking down the road for four years in this place. We are part of the environment. We are still waiting on cultural heritage in the EPBC, which has been neglected through our sea country because of offshore projects.

There are two court cases, two separate plaintiffs and appeals processes, because the government don't want to listen. They're listening to industry and proponents. I've got questions for NOPSEMA—and 'll sit here for another four hours if I have to—to highlight to them that they've only had three per cent of their overall applications refused—not rejected but refused. The system isn't broken, people. The system's working really, really well. It's just not working for us blackfellas, who are going to stand up against this.

Senator Ayres: I think the quote in today's *West Australian* said, 'The amendment would allow the minister to bypass the existing complex processes under the EPBC.' There will be close work with crossbenchers over the course of the parliamentary debate about this bill, but this bill will not weaken environmental regulations in any way. I understand why that assertion in the *West Australian* it provocative. But let me be clear: the bill will not weaken regulations in any way. Any future changes to offshore regulations will be the subject of consultation and, I imagine, intense parliamentary scrutiny. This is not—

Senator COX: How is that possible? We're not mentioned in the legislation.

Senator Ayres: This is a piece of legislation that will make its way through the parliament, and it will be the subject, no doubt, of discussion not just in the parliament but between offices.

Ms Urquhart: Senator, I might be able to help. This reform is one in a suite of reforms that are on different timelines. This particular bill relates primarily to the offshore safety review completed in 2021. That review found

that the regime is leading practice in the regulatory framework, but it did identify a set of improvements. They ranged across quite a significant number of measures: strengthening the role of health and safety representatives, workforce health and wellbeing reforms, addressing incidents of sexual harassment, modernising the regulation of diving, facility design and operation, reform measures related to operators and titleholders, compliance and enforcement in jurisdictional coverage, as well as the technical amendment related to maintaining the link with the EPBC Act that my colleague Ms Laucher talked about before.

I think it's important to think about it in the nest of reforms. The minister felt it was important to proceed with those safety reforms and to get those moving in the parliament. At the same time, as you would be aware, we are undertaking quite a number of other reform activities. Perhaps of particular interest are those which relate to environmental management policy review, a component of which relates to consultation of relevant persons. The department's work on that is front-ending—is that the right expression? They're putting it at the front.

CHAIR: Frontloaded.

Ms Urquhart: They are frontloading, if you like, the consultation and consideration of relevant persons. That work is subject to the consultation paper that's out for public consideration, so—

Senator COX: I'll continue the conversation on that, then. This is a very significant piece of work that the department is now undertaking as part of that offshore regulatory framework. I'm happy for you to take this on notice: what are the locations that the department is travelling to, and on what dates, to actually undertake these consultations? But I have some information that suggests your consultation with First Nations group is underway; is that correct?

Mr Jeremenko: Yes. Consultation is part of the offshore environmental management regime first stage, which is about consultation requirements and relevant person definition. It started when the consultation paper was released 12 January this year, so we've been consulting since then.

Senator COX: January this year?

Mr Jeremenko: Correct.

Senator COX: Can you tell me who those First Nations peoples are who you are talking to?

Mr Jeremenko: Certainly. The formal consultation period, as I said, started on 12 January. That will conclude in early March, on 8 March. In terms of the engagement with First Nations peoples, in addition to the normal process of a statement on the department's website and a press release that identifies there's a new consultation out on a piece of policy work, we, as a department, have emailed out to some 290 First Nations groups, spanning land councils, prescribed bodies, corporates and other peaks. In addition to that, we have followed up with phone calls to each one of those. I'll give you the exact numbers. We followed up with phone calls to almost all of these groups, confirming the email addresses; drawing the attention of those individuals and those groups to the particular email, if they weren't aware of it; and describing to those who are interested what this is actually about. As part of those direct contact reach-outs, we had 200 discussions and left messages for another 64. As a result of those, we have managed, in addition to the somewhat old-fashioned way of emailing out, been able to actually confirm that the vast majority of those 289 actually received and were aware of the consultation and were offered further in-person or via other electronic means briefing and/or discussion on the content of that consultation.

Senator COX: Mr Jeremenko, did the review go up on the department's website and did the period of consultation for six weeks commence over the summer holidays in which no-one would have been watching; the Top End of Australia would have been in the wet season? And we have a Closing the Gap target about digital access. Did all those things happen?

Ms Urquhart: Senator, you point to a conversation that we certainly had within the department about the timing and the balance we were needing to strike between moving quickly on that particular element of the review and at the same time needing to ensure that we connect with peoples that need to know about the work. I think Mr Jeremenko has given us a fairly fulsome outline. We've also invited Mr Weeks to the table, who's intimately involved in this consultation work.

Senator COX: Just to clarify, this department can get consultation papers out, get them on the website, give a six-week consultation period and close that off, yet other departments in this government have been consulting for four years with First Nations people about issues that are absolutely critical for them. And this department thinks that is sufficient. Is that correct?

Ms Urquhart: No, I would like to—

Senator COX: Because 'you need to move quickly'. They were your words.

Ms Urquhart: I would like to correct if I misrepresented it. I think it would be fair to say that the government was keen that we engage on the issue early. We certainly have a consultation paper out. The review itself extends for three years, and beyond the current consultation paper there will be other opportunities through the course of those three years for consultation.

Senator COX: I'm just finishing up.

CHAIR: Okay.

Senator COX: One last question. Mr Jeremenko, on the list of 290 folks—I'm going to put it in that way, alright—that you've got, do the names Ms Raelene Cooper and Mr Dennis Tipakalippa, or even the Manupi clan, appear? Because I know that you haven't spoken to any of them.

Mr Jeremenko: We do have a full list. I'm not sure whether Mr Weeks knows the answer to that off the top of his head, but we can give some further detail.

Mr Weeks: No, those names are not on the list. We've gone to organisations, primarily, so land councils and prescribed body corporates—

Senator COX: Why not, Mr Weeks? Why wouldn't your first stop be to look at the consultation piece? First Nations people have told the Federal Court about the lack of consultation, about fixing the loophole in your legislation to make them relevant people, and about the fact that we don't give free, prior and informed consent. There are only three people—not 290; three: Manupi, Tipakalippa and Cooper. Why?

Mr Weeks: They are certainly welcome to make a submission. We've gone to those organisations which represent a lot of First Nations people, but, on your point, we can follow up and make contact.

Senator COX: That is not the answer to the question, Mr Weeks. These people have been standing in the Federal Court, fighting against major oil and gas companies in this country—and, in fact, against NOPSEMA, your independent regulator—and you don't have the decency to call these people and ask them what they've just gone through over the past three years? They've been in court fighting, picking up every single bit of legal jargon that's thrown at them and every process. Their people were crying in that court in Darwin when they were talking about sea country. Do people understand the hurt that was attached to that? This department—this minister—can't even pick up the phone or hold a meeting with those people. Do you think that's acceptable, Senator Ayres? I don't.

Senator Ayres: I think the department's just outlined for you the extensive list of representative organisations and others that they have—

Senator COX: Land councils.

Senator Ayres: Yes—provided material to—

Senator COX: They are not the representatives of those plaintiffs, let's be clear—

CHAIR: Okay, Senator Cox.

Senator Ayres: I understand—and I'm responding on the basis of the questions that you've asked and the answers—that, in your view, where litigants have been involved in activity, they should also have been consulted. I heard the department say that they would consider that, and—

Senator COX: That's common sense. It really is.

CHAIR: Okay.

Senator COX: That's quite patronising, actually—

Senator Ayres: It's not a field of activity that I've been engaged in, but it's not always the case that previous litigants are engaged in that kind of way. I've heard what you've said, the department has heard what you've said, and we'll see what they do—

Senator COX: Let's respect the people. You can't stand up here and claim that you're a friend of blackfellas when you're not really. It's gammon.

CHAIR: Thank you, Senator Cox. I need to share the call at this point. I'm going to go to Senator McDonald, and then I'll go to Senator David Pocock.

Senator McDONALD: I wanted to come back to you about supply chains. In the May 2023-24 budget—sorry, I'm not sure who to look at as I ask this; we'll resolve down—it was announced that the government would spend \$57.1 million across four years from 2023-24 to build supply chain connections with other countries. Specifically, in the May 2023-24 budget estimates the department advised that \$40 million would be allocated to a grants program to leverage co-investment from other countries to support projects. I note that, conveniently,

Minister King opened the grants yesterday, only a day before you all had to show up here—so that is very helpful! Why did it take so long for this grant round to open, considering this measure was announced almost a year ago?

Ms Quinn: We have officials from the Critical Minerals Office and the division who manage that grant program.

Mr Chesworth: Yes, the initial announcement was made last year. There was a significant amount of preparatory work required before we got to the next stage I might ask Ms Pullen to go through some of that detail.

Ms Pullen: The preparatory work that we undertook to do the international partnerships program firstly looked at supply chain studies. The important thing here is to ensure that whatever we develop in the grants program will respond to gaps outlined in supply chains. We're working through those supply chain studies now and, at this point, we've advised government that the international partnership program grant guidelines would be appropriate to fill any key gaps.

Senator McDONALD: So that's what's been happening for the last 12 months—supply chain studies?

Ms Pullen: Correct.

Senator McDONALD: Were you held up from announcing the opening of these grants by the minister? Was the decision on timing her decision?

Ms Urquhart: Yes, obviously, the minister decides when she's going to announce a grants program, but she also relies on the department to support her in that work. As Ms Pullen outlined, there are two elements to the Critical Minerals International Partnerships program. You've pointed to the \$40 million in grants and Ms Pullen has talked about the \$17.1 million to step up international engagement, including \$6.65 million for critical supply chain studies and \$6.7 million for Austrade boosting international engagement on critical minerals. So there's a connection between the supply chain work and the opportunities which that reveals, which then informs the grants program.

Senator McDONALD: With the \$17.1 million that was allocated to commission that series of supply chain studies, I believe it was for all five studies to be conducted from that funding—is that correct?

Ms Pullen: I'll need to take that one on notice.

Senator McDONALD: Have all of those been completed now?

Ms Pullen: No, they haven't. We've undertaken two so far.

Senator McDONALD: How many have commenced?

Ms Pullen: Two have commenced.

Senator McDONALD: What were the focus areas of those two?

Ms Pullen: We've commenced with two countries—firstly, with Germany and, secondly, with France.

Senator McDONALD: The studies are based by customer, as opposed to by critical mineral—by supply chain?

Ms Pullen: Well, yes, by customer but then also by critical mineral. It depends on what the relative country has agreed with us as their most critical, critical mineral in this case.

Senator McDONALD: What are the three remaining studies?

Ms Pullen: Those ones are still up to government for decision.

Senator McDONALD: Secretary, are you concerned that under the policies of this government international investors no longer appear to want to invest in Australia? We've just had a thousand nickel workers lose their jobs already, and with the BHP announcement today it looks like another 3,000 will. How do you believe these grants are going to counteract poor policy?

Ms Quinn: The government has worked to release a critical minerals strategy. It sets out the six areas of focus and we have been steadily working through those areas of focus to make sure that we have the information that's available to the market and that we're looking internally at issues to address within Australia—such as the Critical Minerals Facility. We're working through those things. It is the case that there's volatility in pricing for commodities and it's the case that the transition to net zero is likely to be quite bumpy. We've seen volatility in nickel and lithium prices—they were very high and then fell—and there are a few different factors behind that. The most important thing is that we work to provide advice on the foundational structures within Australia, and that we work with international partners in the critical minerals space. As we discussed earlier, one of the criteria to become a critical mineral is that there are issues in the supply chain internationally. That has required

government-to-government work, working with industry and with government together to resolve some of those issues. There's quite a lot of activity that's going on. The team have been working through the issues, and opportunities in the critical mineral space are a strong focus of this government.

Senator McDONALD: I want to start this question by apologising, because the department had some significant criticism just then and I feel like I'm wading into the same space from exactly the opposite direction: slow down, speed up. I acknowledge that you are in a very difficult situation with the questions you have to answer from completely conflicted points of view. I'm sorry to the individuals that this is the situation.

If we look at the situation with nickel today, we see the price has collapsed because of additional supply coming on through Indonesia. The Indonesian supply has been 60 per cent funded by the CCP. We have massive market intervention by a massive player, and Australia, Australian workers, Australian investors and Australian companies have all been left in a particularly difficult situation, particularly for those Australian workers looking down the barrel of no work and certainly not the well-paid work that they've had working in the mining industry. Whilst I acknowledge the work that's happening on supply chains and I appreciate that this is work that's happening, how do we speed this up? We really rely on these projects and the investment as well as critical minerals that are important for battery technology and all of these things, and yet Australia has been dealt out of the market. I assume that your answer is going to be that it'll be a decision for government, but how do we speed this up? Are you providing advice to the minister about how we might speed this up?

Senator Ayres: I might answer some of those points. There are a range of minerals and resources that have been traversed over the last 15 minutes, but we can stick with nickel for a second. There is, as you say, considerable uncertainty out there. The reports that you alluded to say the facility employs 3,000 people in nickel production. We are very focused on those reports. There have been a series of mine closures or mothballing over the course of the last six or so weeks.

Of course, there are a number of things that are going on there in the global market and a number of drivers, and you pointed to some of them. Firstly, of course, global prices have fallen very steeply. The figures I have are that, in the US dollar terms, it has gone from circa \$34,000 to circa \$16,000 per tonne over the course of a couple of years at the same time as production costs have increased. There are, as you pointed to, protectionist measures undertaken in competing economies. There is also the fact that, while it is an advantage and a strength for the Australian nickel sector—and we should not lose sight of this—that we have got high ESG standards, the global price at the moment does not reflect that.

Senator McDONALD: No. I think the customers are saying they don't care that ESG standards.

Senator Ayres: That is right. Companies have made decisions, and there is a regulatory framework that interacts with that. Companies have made decisions about the long-term trajectory of what the end uses of these products are going to require. Nickel is an important product in terms not just of its mining but also of the production of nickel all the way to the various manufacturing processes. I won't go through all of the architecture of the government's policy, but this is front and centre of the minister's considerations. In her home state of Western Australia, which is the largest part of Australian nickel production, it is absolutely front and centre for her too.

Senator McDONALD: The Chamber of Minerals and Energy of Western Australia is stating that up to 10,000 jobs can go. Does the government recognise that increasing costs from onerous industrial relations legislation, energy prices and the conversion to a new energy system absent enabling infrastructure are all things that have left the Australian nickel industry badly exposed to a crisis like we're seeing now?

Senator Ayres: The minister has been engaged directly with the leadership of the nickel sector just as recently as, I think Ms Urquhart said, a few weeks ago. There are representations made to the minister all of the time. I can tell you that the government is considering all of the questions that are raised by the industry. It has certainly never been raised with me. While there is an argument about industrial relations arrangements, I think trying to point to an argument that occurs in the parliament about industrial relations and wages in the sector—it is not a driving factor in investment decisions in the sector. I can tell you—

Senator McDONALD: What about rising energy prices and infrastructure investment?

Senator Ayres: I can tell you that, after a decade of incoherent energy policy—

Senator McDONALD: Not much consultation of the 10,000 people who are following this—

Senator Ayres: where four gigawatts have gone out of the system and only one gigawatt has gone in, the resulting impact of that—a coherent approach from the government to the lowest-cost-possible, reliable approach for the future of the energy sector is critical for the future of nickel.

Senator McDONALD: But it's not the lowest cost, and that's exactly the point. The US has increased its reliance on oil and coal. Indonesia has done the same, because all of these jurisdictions are trying to bring down input costs. Australia is not be nimble in this regard, and there are 10,000 people directly who are going to wear the cost of us not getting it right.

Senator Ayres: We are relying not on the ideology that's informing some of the coalition's thinking about this but on the engineering, the science and the economics, which all point to having a coherent approach to energy policy—

Senator McDONALD: It's cold comfort to the 10,000 nickel workers—

CHAIR: I need to share the call.

Senator Ayres: The nickel price has collapsed. There is an oversupply in the market. That is what is driving—

CHAIR: Thank you, Minister. I need to share the call. Senator Cox.

Senator COX: My question is a continuation on offshore wells and decommissioning. I've asked many questions about offshore wells, and both the department and, if I can be honest, NOPSEMA have given me some pretty dismal answers around what we can do. Currently, we know that there are wells that were leaking off my home state of Western Australia. Right now we put a lot of trust in industry to self-regulate in relation to that and to be responsible. Does the department actually know how much gas is being leaked from those wells? Has there been an attempt to calculate that?

Mr Jeremenko: The answers to the questions on notice that you refer to are provided, in some cases, in consultation with NOPSEMA, who are, as the regulator, responsible for those offshore wells and their condition and also for making sure that they are remediated appropriately. NOPSEMA would be best placed to give you the detail of it.

Senator COX: I am happy to ask that question to them. But what is plan B in relation to the major failure of decommissioning framework—the Northern Endeavour was one of the first committees I was on—so that this is not passed on to the taxpayer? We have to always prepare for the worst-case scenario, and I would like to know how the department and the minister are thinking about that, because the worst-case scenario is we do pass this on to the taxpayer because of the decommissioning process and the fact we already know there are leaking wells, we already know there is a problem—where there is smoke there is fire—and we're not doing anything about it, so I would like to hear what the department is doing.

Ms Urquhart: We are undertaking work on a decommissioning road map. You may be aware of that, and we could certainly talk you through some of the work we have been doing on that road map.

Senator COX: That would be really beneficial if I could organise a briefing. That would be great, thank you.

Mr Jeremenko: We can provide some answers from the experts now, if you like.

Senator COX: Yes, if you would like to quickly do that. I was happy to have a briefing.

CHAIR: Senator Cox might accept the offer of a briefing, if that's okay.

Senator COX: I am happy for you to walk me through that and if I have any questions—in the interests of time.

CHAIR: Thank you, Senator Cox, and thank you for being available to answer that now.

Senator McDONALD: Would that be a briefing available for all senators?

Senator COX: I think that would be beneficial.

CHAIR: You two could get together and have that briefing.

Senator DAVID POCOCK: I have some questions about the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other measures) Bill 2024. What date was the request for part 2 of the bill to be included—that is, the part title approval under the EPBC Act?

Mr Jeremenko: The formulation of legislation is a process that involves the government taking advice on matters of policy that may well sit together appropriately in a piece of legislation, but, ultimately, the government makes that decision as to how that legislative package is pulled together. Perhaps Ms Laucher has a specific answer.

Ms Laucher: I do not have a specific date. I will need to come back to you on notice.

Senator DAVID POCOCK: If possible, maybe someone watching can look it up and get you an answer. I will keep asking.

Mr Jeremenko: I can get them to have a look but part of that would have been part of a policy authority, which is a cabinet deliberation process. If I can take it on notice and come back in this session, I will; otherwise, what I can probably say in the broader context that goes potentially to part of your question rather than a date—

Senator DAVID POCOCK: I have a bunch of questions. I am just after the date for now. I am also interested what date the department started working on part 2 of the bill, if you are able to provide that, which is dependent on when you were asked to work on part 2. Also, what advice was provided to the government that part 2 should be included in a bill that goes to worker safety?

Mr Jeremenko: I will take that on notice.

Senator Ayres: We will take it on notice and if we can provide more information today on that basis then we will—or this evening, I should say—in the normal way.

Senator DAVID POCOCK: In looking at the explanatory memorandum of the bill, there is a section titled 'Consultation' on page 6 that outlines the consultation of the bill, which reaches back to 2019 and includes a discussion paper, a draft policy framework, an independent review, an operational review, a WA parliamentary report, and consultation between various departments and agencies. But none of this actually seems to be consultation on this part. Not one part goes to the significant changes to environmental approvals. Then we hear about this section of the bill, for the first time, from the minister via an article in the *West Australian*. Minister, it looks a bit like opportunistic politics—creating an omnibus bill, where you're stapling this other thing on, which you say is not about this, to a worker safety bill which I assume most people would have very few issues with.

Senator Ayres: It's not my experience with bills that deal with safety and industrial relations. There are often strong views about some of that. I can tell you what I'm aware of. The first is that the minister asserts that there have been briefings provided to crossbench offices. The second thing is that this is not a secret. This is clearly telegraphed that it is there. Today we are talking about it. I'm not sure what the legislative timetable is, but there will be a very significant amount of time to deal this.

There are a few different levels of consultation that we're talking about here. First of all there is consultation about the bill itself. The second is the consultation about the outcome in regulatory terms. If the bill is adopted and the minister provides for recommendations that implement, for example, the outcomes of the Samuel review and the nature-positive reforms then there will be consultation about that. Then there are, of course, the consultative provisions that will then ensue in the regulations. I can just tell you, that in terms of the crossbench, the minister is very keen to engage over the coming weeks and months, as we deal with this piece of legislation.

Senator DAVID POCOCK: Thank you, Minister. It just strikes me as a worrying trend over the last 12 months, where we've seen—I would argue that this isn't a technical amendment at all. This is a substantial change to a significant regulation-making power. You mentioned the Samuel review. The wording of the Samuel review is that this should be in the second tranche of proposed reforms. The government often refer to the Samuel review, but you're rushing this forward. The Samuel review made it very clear that we should deal with EPBC reform and then ensure that these sorts of things are dovetailed and aligned, but that's not what's happening here at all. We're seeing this tacked on, and I'm just concerned.

We saw the water trigger attached to the nature repair market, and then we saw things to do with the PWC tax leaks, which I think are absolutely critical to get right. Your government has attached the petroleum resource rent tax, which I'd argue is a missed opportunity, the way it's proposed. As a crossbencher, in thinking about dealing with legislation—I don't know; I find it really concerning.

CHAIR: Are you seeking a response to that?

Senator DAVID POCOCK: Sorry, I'll get to my point. I'm just trying to lay out that, in not being part of a major party, one of my big frustrations that I see is that, in opposition, parties kick and scream about this sort of thing and then when they get the opportunity in government they do the same thing. I'm just interested: how do we have better governance so we don't have stuff dropped to the *West Australian* before the consultation period ends?

Senator Ayres: What I don't want to do is argue with you about the consultation that has happened with crossbench offices. The minister has a very strong view about what consultation has occurred.

Senator DAVID POCOCK: I'm not asking about that at all. That's beside the point.

Senator Ayres: So let's move on from that. There is no trick here. It is there in the legislation. The minister is very keen to talk to the crossbench, yes, but also across the parliament about the importance of this piece. I appreciate it is both technical and substantial. It allows for the two pieces of law to speak to each other and the minister to be able to regulate effectively, and that is a good thing. It will provide for a stronger and more

coherent framework and a stronger and more coherent set of protections. She is very keen to engage with you and with parliamentarians broadly about it. I think we can look forward to a pretty good debate in the parliament about this piece of legislation. It is important reform, and the government is front-ending this piece of technical and substantial work.

CHAIR: I'll need to share the call, Senator Pocock.

Senator DAVID POCOCK: One last question?

CHAIR: Sure.

Senator Ayres: Give him another one.

Senator DAVID POCOCK: That was a marvellous sidestep there, Senator Ayres.

Senator Ayres: I have to say this is one of my proudest moments, being told by Senator Pocock that it's a good sidestep.

Senator DAVID POCOCK: The sidestep and the goosetep to avoid the substantive question.

Senator Ayres: That's not what my footy coach said when I was a kid, that's for sure!

CHAIR: There you go, we're into the sport metaphors now.

Senator DAVID POCOCK: This may be a more technical question than having a go about government process. Looking at the proposed bill, how does the broad ongoing accreditation as set out in the bill ensure amendments to legislation or regulations meet new national environmental standards if consideration by a future EPA is not required?

CHAIR: I suspect there may be a bill inquiry—

Senator DAVID POCOCK: It hasn't been introduced.

CHAIR: Sure. It's a specific clause of a bill that you're asking questions about, but the minister can answer as well as he can.

Senator DAVID POCOCK: I'm asking about that, and then EPBC-EPA.

Ms Laucher: We're probably talking about intersections that haven't been developed by DCCEEW in the legislation under the Nature Positive legislation as yet. What I would say is that the environmental management review that was announced by the government is over three years; it's a staged review. Part of the terms that we have for that review is that we're consistent with any reforms to the national environment legislation that are undertaken by DCCEEW for Nature Positive, and that includes picking up any standards as they come through and are considered.

I would expect that it is likely, when a new EPA and New Nature positive legislation come through, that there'll need to be new transitional arrangements that enable either a new streamlined type arrangement like we have now or some kind of accreditation of NOPSEMA. That's yet to be determined. What this allows us to do is to make sure that we don't have what the Samuel review effectively talked about, where we've got a system frozen in time and we're not able to pick up those improvements and those new standards that come through from the work that's been undertaken from Nature Positive.

Senator DAVID POCOCK: Sure. But, to be clear, Samuel said to do this after EPBC. Maybe on notice, I'm interested when DCCEEW was informed about the fact that part 2 was included in this bill. Thank you.

Ms Laucher: I can take it on notice. What I can say now is that DCCEEW has been consulted from the beginning of this amendment and is supportive of the amendment. It was designed in consultation with DCCEEW, rather than DCCEEW being notified after the fact.

CHAIR: I have some advice about the program: I believe that we'll be ready to move shortly to the nuclear related part of the program next, after Senator McDonald concludes a batch of questions.

Senator McDONALD: With that in mind, can we be quite focused in our answers, please, so I can get through as many as possible. I note that consultation on the Future Gas Strategy has now closed, and submissions have now been made public. How is the department managing the topic of CCUS with regard to the Future Gas Strategy?

Mr Jeremenko: Thank you—I was just checking whether the secretary wanted us to jump in. Correct. Consultation has closed. I'll add a little bit of extra information, not to delay the committee. Two hundred and ninety-two written submissions were received. The vast majority of those, as you say, are published on our website. It's very clear, as the consultation paper that was released by the government back in October last year made clear, that CCUS is going to be a key enabler of allowing Australia to transition to net zero. So that is a key

component of the work that we are doing now not only in taking the best of what we heard in consultation, both via submission and discussion, but also in formulating some policy options for government around the actual strategy itself.

Senator McDONALD: Given that the ministers responsible for the department have some differing views on the technology, how is the department managing or deciding how heavily CCUS will be utilised in the future of the gas industry in Australia?

Mr Jeremenko: I don't accept the premise of that question—

Senator McDONALD: Fantastic!

Mr Jeremenko: about the two ministers. But what I can talk to, apart from that introduction, is that the detail around both the analysis of how CCUS can play such an important role, as well as all of the modelling that we are doing around the supply demand challenge for gas, will be presented to cabinet ministers through the normal cabinet process.

Senator McDONALD: Okay. I'm delighted that you think that I'm wrong on the differing views of the ministers. I'm only reflecting on what I read in the newspaper and some of the negative commentary about CCUS from some. I'm pleased that that's not been your experience, and, hopefully, there'll be great utilisation of CCUS into particularly those offshore regions. Does the mandatory code of conduct for gas have any impact on the development of the Future Gas Strategy?

Mr Jeremenko: Certainly, the mandatory code of conduct—I know you are aware of it being in place and active after a two-month transition period since September last year—is one of the suite of gas policies, including, for example, the Domestic Gas Security Mechanism and the heads of agreement that are currently in operation and will certainly be part of the inputs that we are considering in formulating the Future Gas Strategy. Nothing has been considered in isolation.

Senator McDONALD: Have the exemptions under the mandatory code been considered as part of the development of the Future Gas Strategy?

Mr Jeremenko: Certainly, the exemptions and the four that have been announced by government go a very long way to contributing extra supply into the system, and that is absolutely germane to the Future Gas Strategy analysis.

Senator McDONALD: Which ministers and their offices have been involved in the development of the Future Gas Strategy?

Mr Jeremenko: There is a very broad involvement across the Public Service through various committees, including a Public Service representative at a band 3 level from DCCEEW, Prime Minister and Cabinet—

Senator McDONALD: I'm sorry, I may not have been clear. I was asking about which ministers and offices?

Mr Jeremenko: Sorry, you did say that, and I default to public service jargon. Certainly, in terms of the ministers—and they would be being advised by these departments—Minister Bowen is key and Minister Plibersek, the relevant ministers for DCCEEW. As I said, Prime Minister and Cabinet is involved. I can't speak to whether ministers themselves in all departments have been fully briefed, but, certainly, in terms of the broader cabinet process, ministers have been already discussing some of the early thoughts to come out of the consultation. Treasury is another key department that is involved and the Treasurer.

Senator McDONALD: I guess it goes without saying that Minister King and Minister Husic, or their offices, would also be involved?

Mr Jeremenko: Yes, absolutely. Minister King and Minister Husic are also represented through our respective deputies here in the department on that IDC.

Ms Quinn: I'd just note that there is the Net Zero Economy Committee, which is a subcommittee of cabinet. The members are on the website. That is part of the ministerial consideration, as well as the intention to go through full cabinet.

Senator McDONALD: So they will consider the Future Gas Strategy?

Ms Quinn: Yes.

Senator McDONALD: The net zero—what was the third word?

Ms Quinn: Net Zero Economy Committee.

Ms Urquhart: Senator, it may also be useful to think about how we're doing the work. This is a whole-of-government strategy, notwithstanding the lead by the department of industry. The steering committee that I chair has three representatives out of DCCEEW for energy, environment and climate. We have Treasury there and

Prime Minister and Cabinet is there as deputy chair. Foreign affairs is there, of course, because of the international aspect. They've been very deeply involved in reviewing the work as it has proceeded and, indeed, contributing directly. There has been engagement with each of the agencies you'd expect us to engage with on the data work that we've been doing—whether that be AEMO or the ACCC. This is genuinely a whole-of-government activity.

Senator McDONALD: You've led me neatly into my next question: have the ACCC and AEMO been consulted as part of the development of the Future Gas Strategy?

Ms Urquhart: Yes, intimately.

Senator McDONALD: Will the Future Gas Strategy consider how to avert the looming risk of blackouts posed by gas shortfalls towards the end of this decade? We had evidence from DCCEEW about the post-2028 shortfalls.

Ms Urquhart: The gas strategy takes a long view and, obviously, in taking that long view it seeks to address nearer-term challenges, as well as the transition to 2050.

Senator McDONALD: Was that yes?

Ms Urquhart: Yes!

Senator McDONALD: Thank you. What engagement has the department had with state and territory governments as part of the Future Gas Strategy?

Ms Urquhart: As you'd be aware—I think we mentioned this before—Minister King chairs a round table of her state and territory colleagues where the Future Gas Strategy has been discussed. I would have to go back to notes about when precisely those round tables met. You don't have it, Mr Jeremenko?

Mr Jeremenko: No, I don't, but I was going to answer that one.

Ms Urquhart: We can certainly bring you that on notice.

Senator McDONALD: That would be terrific. I'm looking for involvement by state and territory governments specifically. If it's through the ministerial round tables then you could just confirm whether they have the gas strategy on the agenda—that it's not just when they met but it was specifically—

Ms Urquhart: Yes, it isn't solely with ministers, obviously. Another formal mechanism, also, is the senior officials group that sits underneath that round table. Then of course there are discussions which have happened through the development of the work, as needed. We can seek to bring you a full answer about state and territory engagement.

Senator McDONALD: Terrific. Which foreign governments, or companies linked with foreign governments, have engaged with the department in the development of the Future Gas Strategy?

Ms Urquhart: Do you have that list of submissions from foreign governments there?

Mr Jeremenko: Yes. I just have to be a little cautious because some of the governments who have submitted asked for their submissions to be confidential. Clearly, we've been talking to our key trading partners, including our partners in Japan, Korea and Taiwan.

Senator McDONALD: Did the Chinese government make a submission?

Mr Jeremenko: I will have to take that on notice.

Ms Quinn: Those are formal submissions in, but this is a publicly known activity where we have engaged with our Department of Foreign Affairs colleagues. They've also been part of talking to individuals and then bringing that back through the network for us to consider.

Ms Urquhart: I can also let you know that we've had meetings with the embassies of Japan, China, Korea, Singapore and Malaysia. The overseas counsellor network has also engaged in those countries, including with DFAT colleagues. We've had bilateral meetings and round tables with the Australia Japan Business Cooperation Committee; the Korea-Australia Joint Committee on Energy and Mineral Resources Consultations and Cooperation; and the Joint Energy and Minerals, Trade and Investment Cooperation Consultations, which is a bilateral connection with Taiwan.

Senator McDONALD: The DISA website outlines that you expect to release the Future Gas Strategy in mid-2024. Does the department still expect to release it around that time? Do you expect that the strategy will be provided—assuming that it is mid-2024—before or after the budget?

Ms Urquhart: That would be a decision for the government. We're certainly on track to deliver the strategy as expected.

Senator McDONALD: Did the Environmental Defenders Office make a submission to the Future Gas Strategy?

Mr Jeremenko: I don't have that answer to hand. Unless Mr Lawrence behind me can—

Senator McDONALD: I think he's quickly communicating something.

Mr Jeremenko: He doesn't, by the sound of it. We will need to take it on notice.

Senator McDONALD: Okay. Please take on notice whether or not they made a submission and if they made recommendations. Will the Future Gas Strategy consider options for streamlining environmental approvals to ensure gas projects that will deliver additional new supply won't face unnecessary regulatory delays?

Mr Jeremenko: In terms of the streamlining of environmental approvals, that work is ongoing, but it's via the concurrent piece of work that the government has funded on the environmental management review over the three-year period from 2023-24. Nothing is happening in isolation, but that is something that is also being considered by us in terms of providing advice to government in and around this period.

Senator McDONALD: Will the Future Gas Strategy provide recommendations to ministers?

Mr Jeremenko: Ultimately we need to finish the work that we are doing. The whole intent of the strategy is to provide that clear fact base around the medium-term and long-term challenges in the gas space for the transition to net zero. Time will tell as to whether there are recommendations associated with that, other than that the government agrees to what is being produced as a strategy document to provide that fact base.

Ms Quinn: Just to be clear: it's the government's strategy. Often it's the case when the government owns a strategy it doesn't necessarily have recommendations, because—

Senator McDONALD: Yes, I know. I was thinking that through as I asked it. I was just trying to understand. We've just talked about the government's renewable energy targets or net zero targets. I'm just trying to understand how they're not necessarily—I can't think of the right word.

Ms Quinn: It's certainly the case, as we look through it, that the government's got the Future Gas Strategy. It's also got the emissions reduction plan for the resources sector as part of thinking about the 2035 emissions reduction target for Australia. There are a few opportunities for government to think about the emissions side of the discussion. But clearly the Future Gas Strategy looks broader than just emissions and looks at the state of production, state of demand and what's happening in the market. It's more of a holistic, broad approach to the gas strategy. So, just to clarify, it is a broader consideration.

Senator McDONALD: Particularly those trading partners who are relying on Australia's energy supply to keep their lights on may not necessarily be on the same page as the net zero plan.

Ms Quinn: One of the interesting issues in the gas space is the domestic uses and international demand. It's an internationally traded commodity, and we produce gas for Australian consumers and also international consumers. That issue is canvassed in the analysis.

Senator Ayres: Gas is not just to keep their lights on, Senator McDonald, and I know you didn't mean that only in that sense. It is a crucial part of their own net zero strategies. In industrial terms and in household consumption terms, that is their pathway to net zero, and the government's very engaged with them about that.

CHAIR: Senator McDonald, that's been about 15 minutes.

Senator McDONALD: It has. I will put the remainder of my questions on that and the big chunk I have coming on notice. Could I just ask a few more questions?

CHAIR: That's really appreciated, thank you. Yes.

Senator McDONALD: Has the department had any communications with DCCEEW regarding the conduct of the EDO in the Munkara vs Santos case? Who should I direct that to?

Ms Urquhart: I'm not aware. We can do some checking and come back to you on notice.

Senator McDONALD: Has DISR previously raised any concerns about the EDO's conduct with DCCEEW?

Ms Quinn: We can take that on notice as well. We'd need to check between the grants hub and the policy area. We'll take it on notice.

Senator McDONALD: You see why I'm separating my questions there. Finally, has the department been asked to participate in DCCEEW's investigation of the EDO and their conduct?

Ms Quinn: My colleague Samantha Chard answered this earlier. The answer is yes.

Senator McDONALD: Terrific. I'm sorry I missed that earlier. I will put the rest of these questions on notice, with the final one: do you believe that it is an appropriate cost for a company to bear even when winning a court case against vexatious litigants? It's quoted in the *AFR*:

Santos' Barossa gas project could face a cost blowout of up to \$800 million and a potential delay of a year or more, despite the company's Federal Court win ...

Senator Ayres: That sounds like a policy question. It's something that officials can't really answer.

Senator McDONALD: I'll hand it to you then, Minister.

Senator Ayres: The legal framework is the legal framework. I think Minister Plibersek has asked for an explanation. That has been very public. Justice Charlesworth's decision and the comments and findings in the decision—

Senator McDONALD: They're pretty clear.

Senator Ayres: speak for themselves. There is a role for community legal centres in particular spheres, but it is also important that they act ethically.

Senator McDONALD: Exactly.

Senator Ayres: I listened to your questions earlier. Some of the other questions that you raised about advocacy work and all that sort of stuff—I'm familiar with that in the context of, for example, women's community legal centres, where they do engage in advocacy. There have been different approaches taken by different governments to that question.

Senator McDONALD: It's the funding element, isn't it. It's the grants. They receive grants.

Senator Ayres: There is support at the state and Commonwealth levels for those kinds of centres, but the government has sought an explanation, and we've read the decision very carefully.

CHAIR: I believe we have one more block of questions before we move to the nuclear related agencies, and I call Senator Canavan.

Senator CANAVAN: Thank you, Chair. I want to ask a few questions on nickel. I think my colleague Senator McDonald asked some before, so if I'm repeating please let me know; I can catch up with the transcript. You've obviously seen the reports about BHP announcing that they may have to mothball the 3,000-odd jobs, and it would be an absolute tragedy if that's the case. Has the department done any analysis on the impact of the safeguard mechanism on the Nickel West operations?

Ms Urquhart: I would suggest not specifically, but I would like to interpret your question more broadly and take it on notice.

Senator CANAVAN: This is obviously not something that was announced today; it's been in speculation for weeks, and I believe the minister has been meeting with the industry over there. Have you been asked by the minister to do, or have you begun of your own accord, any analysis of the viability of the Australian nickel industry—where it's up to, its cost structure or how it rates, especially against its Indonesian counterparts?

Ms Urquhart: As you'd expect, we've absolutely been busy thinking about the nickel sector. You'd be aware of Minister King's roundtables in Western Australia a little over a week ago. We obviously provided support to the minister for those roundtables. In addition, I think it'd be fair to say that we have been considering the issue, including engaging in discussions with the Chamber of Minerals and Energy Western Australian. We've been reviewing the particular material that they have provided. We are also assessing the place of nickel as a critical material. You'd be aware of its status on the critical materials list. We've been thinking about the extent of market disruption. There's a question about the extent to which this is unusual, not part of the cycle and not part of what you might call normal market perturbations. We're trying to consider what the forecast of impact might be. We're in the quite devilish situation of there being market changes that are very disruptive. At the same time, we can see the longer term, where nickel is very important, and I think this was underlined by its presence on the critical materials list. So we've been thinking about that, and also an examination of causes. Is it about the cost of inputs? Is it about the drop in nickel price? I think it's all been a little bit covered, and you would see in the transcript today—

Senator CANAVAN: I'm not asking you to repeat what you said earlier. I'm specifically asking about the safeguard mechanism. I think you're suggesting you have looked at the cost structure of the Australian industry. One of its costs, now, is that it's subject to the safeguard mechanism. Is that something that you've looked at?

Ms Urquhart: I would say we're doing that work.

Ms Quinn: The safeguard mechanism is owned by the Minister for Climate Change and Energy. That department has ownership of that policy, but we have worked very closely with them through the analytical assessment, working with stakeholders et cetera across both the resources and the industrial processes—

Senator CANAVAN: Can I just get an answer to my question.

Ms Quinn: We have worked with—

Senator CANAVAN: I realise that the policy is not yours, but to the extent that you're looking at the cost of nickel production—diesel costs aren't your fault either, but I'm sure you're factoring those into these issues. Have you looked at how much the safeguard mechanism will cost nickel works?

Ms Urquhart: In the last week—explicitly on that question—I can't answer, and I would like to take it on notice.

Senator CANAVAN: This particular issue has been going for some months now; it's not something that has popped up this week, so I'm surprised by that. Based on some sums that I've just quickly done, in the next 10 years they're potentially facing a \$100-million bill. There are obviously a lot of assumptions in that—I don't know the exact formula they've been given; it's a complex assessment and scheme, and it's not something you can even get from the government's website—but it's in the tens of millions at least, possibly hundreds of millions. It's a big cost. Has the minister, in any of your discussions or analysis, looked at giving them relief from this and saying: 'You don't have to. We're going to try and save the Australian nickel industry. We won't require you to be subject to the safeguard mechanism and buy carbon credits for the next period of years'?

Ms Quinn: We are looking at a range of options to provide advice to government on this issue. Minister King outlined some of those very publicly in her press release post the roundtable, and we have had engagement with the industry. They've put various things on the table, and we're working through the issues.

Senator CANAVAN: Was one of those the safeguard mechanism?

Ms Quinn: Not specifically, in the conversation I was in, but clearly they have provided some analysis of their cost structures, and we're working with them to get a common fact base on what's been happening in terms of the cost structure for the industry.

Senator Ayres: I'm not in a position to talk about the specifics of that, but I can tell you there have been requests from industry, some of which have an eye to the global competitive issues, and they are all on the list for the government to consider.

Senator CANAVAN: I noticed today that the WA Premier has said that he's considering providing royalty relief to Nickel West. Is the government looking at any kind of tax relief—the safeguard mechanism, which is effectively still a government imposed obligation, and/or other tax relief—to Nickel West?

Ms Quinn: Minister King was clear in her press release after the roundtable that she's asked for an acceleration of looking at tax options. She publicly stated that in her press release. That press release also indicated that the Western Australian government would be thinking about royalty relief, so there are a range of things that we're working through and thinking about. I'd just point you to her press release.

Senator CANAVAN: Minister, you mentioned the global marketplace, and obviously that's mainly Indonesia and its government policies. I'm not the expert here. I realise it's probably a matter for Trade, and I'll ask them tonight. Is one of the things being looked at action through the WTO? It would seem to me that the export bans that Indonesia places on its raw nickel exports—I don't know; I'm not a lawyer, but they seem somewhat questionable.

Senator Ayres: I think you should direct those questions there.

Senator CANAVAN: Okay. That's fair enough.

Senator Ayres: There is an oversupply in the global market. The price has fallen very steeply over the course of the last 18 months.

Senator CANAVAN: The other issue here is that Indonesia is fuelling this expansion of nickel refined products through the use of coal fired power. In 2022 they increased their use of coal by 32 per cent, in one year. That's from the International Energy Agency. It's an almost unbelievable statistic—32 per cent—but apparently it's true. Are you looking, then, at the energy competitiveness? They are using a very cheap form of energy to compete against us. The use of coal is something that is probably not prohibited in Australia but it's basically prohibited; it's denied to BHP. Have you looked at whether or not, if we were to unlock more fossil fuel energy sources as Indonesia is doing, we could save these 3,000 jobs?

CHAIR: I'll put the question, but I'll just note that, in the few hours that we've been dealing with these issues, that question has already been asked, in a broad sense. I'll definitely put it; we just need to start to move to conclude—

Senator CANAVAN: I'm happy for the officials to do that. I'm not so sure that's your role.

CHAIR: My role is to try and get us through the night, and I'm doing my best.

Senator CANAVAN: If they've answered it, you can point me to the transcript. It seems like you're running political interference there, but I'm happy to hear the answer.

Ms Quinn: We are working with the industry to understand the changes in their cost space and to think about what that looks like going forward. There is the cost structure within Australia, the cost structure of competitors, and the opportunities going forward. The other element that's on foot here—you mentioned the WTO arrangements—is that I am aware that the EU has taken action against Indonesia on their nickel policies. So there is an international focus on that, but Trade officials would have more details. In terms of the other aspect, the government has the review of the Carbon Border Adjustment element, which will also look at some of these issues.

Senator CANAVAN: That's not going to help us, presumably, because we've got to compete in these export markets. How is that—

Ms Quinn: It's intended to be one of the mechanisms of analysis about the comparisons between—

Senator CANAVAN: Is it to soften the safeguard mechanism, or provide subsidies, or—

Ms Quinn: Part of it is the comparative analysis: is there an unfair advantage, relative to products, between countries that may or may not be taking action on climate change versus countries that are taking action.

Senator CANAVAN: Sure, but, if there is, what's the remedy? What can Nickel West get?

Ms Quinn: And that is a question that's being put to the review.

Senator CANAVAN: Okay, so we don't know yet. Obviously, Australian tariffs aren't going to help here.

Ms Quinn: We have an anti-dumping regime.

Senator CANAVAN: I suppose what I'm suggesting is that not much of the Indonesian nickel is coming here. It's going to other countries, so we're not involved in that transaction.

Senator Ayres: You can see economies around the world adopting different strategies in relation to these sets of issues. The government is alongside the processes that officials have talked about. The government is aware of all of that.

Ms Quinn: It is the case that Europeans and Americans are looking at similar sorts of arrangements, and they are, potentially, purchasers of Indonesian nickel.

Senator CANAVAN: Do we know what the Indonesian nickel refineries are paying for power? What are their energy costs?

Ms Quinn: I can't tell you here, but I'm happy to take it on notice and provide any information that we've got.

Senator CANAVAN: Do we know if we've looked at that?

Mr Chesworth: I'm not quite sure; we'll take it on notice.

Senator McDONALD: Would that be one of the supply chain studies that we were discussing earlier? There was \$17.1 million that's gone to studies in Germany and France; there were three more to do.

Ms Urquhart: If we're still talking about energy prices in Indonesia: it's unlikely.

Senator McDONALD: Or supply chain challenges.

Mr Chesworth: It's more likely to be a data point that we might be able to track down.

CHAIR: Given the discussions we've been having here, we're now ready to move to the next part of the program.

Senator CANAVAN: Can I ask one final question on a different issue?

CHAIR: A final question from Senator Canavan.

Senator CANAVAN: I'm concerned now that we have, seemingly, put all our eggs in one basket with the Critical Minerals Strategy. I went on a couple of trips overseas with one committee last year and all of our diplomats were talking about critical minerals, or hydrogen. We don't talk up coal, oil or gas. We just don't talk about it to our trading partners. It's not mentioned, or I didn't hear it at any of the functions. I don't think our trading partners seem to hear it from us.

We've got all these eggs in one basket: we've got nickel prices crashing; lithium prices are crashing; and potash is going nowhere because of the massive gas expansion in the US. There's a problem here. I started the critical minerals resources strategy; I'm a big supporter of it. But, if there's one thing that's important in mining, it's not to put all your eggs in one basket because things go up and down. We seem to have missed the boat here, the LNG boat, if you like, because we have not talked about gas—we've not promoted gas—and all that investment has gone to Qatar and the US. The US is doubling its LNG capacity in the space of the next decade. Are we seeking to attract more investment in gas? I don't see it. If so—or coal for that matter; the coal price has been obviously elevated too—what are we doing?

Senator Ayres: The government are fully engaged and are in constant discussion with our partners overseas about gas. To look at some of the industrial process terms—I know you don't accept that the path to net zero is the right course for Australia in economic and environmental terms, but put that aside for a second—gas is a critical component. If we are to get to low-cost hydrogen production and low-cost hydrogen utilisation in some of these sectors, gas will be critical to those processes. It is critical in Australia. It is critical to our trading partners overseas, and we share an approach with them in terms of our partnerships on gas in particular. Of course the future of the global coal market is subject to market trends and the measures that economies are taking around the world.

Senator CANAVAN: I didn't—

Senator Ayres: There is a future gas strategy that you will have heard—you may not have been in here, but we spent quite some time traversing it before. That is aimed at achieving precisely those objectives.

Senator CANAVAN: With all respect, my question was not an engineering one. I think you're the Assistant Minister for Trade as well; is that not correct? Can you point—

Senator Ayres: I'm reluctant to answer trade questions [inaudible].

Senator CANAVAN: Well this is a resources question. Can you point me to something you've done, or something the other ministers in this space have done, overseas that has promoted opportunities to invest in Australian gas? Point me to it.

CHAIR: And can we conclude here.

Senator Ayres: It is the subject—

Senator CANAVAN: Chair, could I take a point of order here? I think it's incredibly unhelpful for the chair to be intervening on another senator's questions. Under the standing orders—

CHAIR: Senator Canavan—

Senator CANAVAN: Chair, I'm making a point of order. I don't want to keep people around, but, under the standing orders that your party set up, I can continue asking questions as long as possible. I don't want to do that, but if I'm going to be intervened and interfered with, I will.

CHAIR: Senator Canavan, there is a reliance on some level of collegiality and discussion—

Senator CANAVAN: I absolutely agree, and you're not displaying that.

CHAIR: You've come in very, very late to this session.

Senator CANAVAN: What the hell has that got to do with anything?

CHAIR: Well, you weren't even at the table when we were ready to move on.

Senator CANAVAN: Sorry for getting a cup of tea.

CHAIR: You've had a 15-minute block already. You've said that it's your final question, a number of times.

Senator CANAVAN: Well, as I said, they're your standing orders, not mine.

CHAIR: There needs to be some collegiality in our processes here. The minister has the call.

Senator CANAVAN: Can I re-ask the question?

Senator Ayres: You don't need to. I'm very happy to answer it.

Senator CANAVAN: I'm going to. I just want to know where overseas, with our trading partners, the government has promoted investment in Australian gas.

Senator Ayres: Okay. On 28 January, Minister King was in Japan and Korea talking about precisely these issues.

Senator CANAVAN: On notice, give me evidence, because I didn't see any of it.

Senator Ayres: I'm very happy, on notice, to give you a longer answer about these questions.

Senator CANAVAN: Please take that on notice. I'd be very interested.

Senator Ayres: It is often the subject of engagement with our partner economies in north Asia and in the range of questions that we've just been traversing in the European Union and the US in particular.

Senator CANAVAN: Can I just also check, now that I've been interrupted a couple of times—

Senator Ayres: Not by me.

Senator CANAVAN: Not by you—you've been very good. You've been excellent, Minister, except for the engineering lesson.

Senator Ayres: I think what the chair is trying to do is manage a situation where we are many hours over.

Senator CANAVAN: I realise that.

Senator Ayres: And it's not your responsibility for that. But my observation over the course of the day is that we've lost a few hours.

Senator CANAVAN: It's now going longer because of that. It's being counterproductive. I believe, from hearing it in the media, that in 2023 the US overtook Australia as the world's largest LNG exporter. Is that correct?

Ms Quinn: I'm happy to take that on notice, unless—

Senator CANAVAN: I thought we would know that.

Ms Quinn: Qatar is also very close.

Senator CANAVAN: Yes, it bumps around a bit.

Ms Quinn: The three are roughly the same. You have to be a bit careful with things going up and down. But, at the moment, I've got a chart in my mind and they're about the same. But it is the case that there are significant investments in the United States and Qatar.

Senator CANAVAN: I'm specifically asking about 2023. I'm happy to table this or email it if needed. It's an article in the *Financial Review* from 11 January 2024, headlined 'US becomes top LNG exporter, overtaking Australia and Qatar'. It says:

The US has become the world's biggest exporter of liquefied natural gas for the first time, with 2023 shipments overtaking leading suppliers Australia and Qatar.

Is that correct?

Ms Quinn: We can double-check. It's also the case that the US is looking at some regulatory restrictions on some of its LNG exports.

Senator CANAVAN: I know. That's an election ploy, though I know you can't say that. But that's not for projects that have already got approval. It's only for new ones.

Ms Quinn: New ones. That's right.

Senator CANAVAN: So it won't take effect for five or six years—if it ever does—in real terms. But the facts are, as I said earlier, they are on track, even with that particular restriction imposed, to double their LNG capacity in a decade. They'll well overtake us then. I would have thought the department would be tracking this pretty closely—

Ms Urquhart: We do.

Senator CANAVAN: given they're our major competitor in the Pacific region in particular. Do we know?

Ms Ossolinski: We do track these things very closely as part of our *Resources and Energy Quarterly* publication, where we provide outlook for the resources sector. Indeed there's been huge growth in supply from both Qatar and the United States and, yes, the United States has become the largest exporter of LNG.

Senator CANAVAN: It's a bit disappointing, but that's what happens when we don't try and attract investment. Thank you.

**Department of Industry, Science and Resources
Australian Nuclear Science and Technology Organisation**

[18:31]

CHAIR: Welcome. Do any representatives have an opening statement? You're happy to proceed straight to questions. Great. Senator McDonald, you have the call.

Senator McDONALD: I'm trying to understand the decision time line around the Kimba decision last year. Please pull me up if there's anything that I don't have accurate. On 1 August, the department submitted MS23-

001217 to the minister's office on the PDMS, and I have that to table. On 3 August, Minister King met with Mr Ramsey, the member for Grey, to discuss Kimba and the Community Development Program. On 7 August, Minister King signed MS23-001217, advising that she would not appeal the High Court decision. That's what I'm tabling. On 9 August, the department submitted MS23-001339 with policy and legal advice for the minister based on the draft ministerial state that her office had provided. At last estimates, Mr Usher and the department told us that they found out on the evening of 9 August that the decision would not be appealed. On 10 August, the minister made the ministerial statement in the parliament. Is this a correct outline of the time line of the decision? Mr Usher.

Mr Usher: I was first aware that the decision to move away from the Napandee site was being considered on the Tuesday. I can't quite recall the date; I think it was Tuesday 8th. But, as I understand, the final decision to actually move away from the Kimba site was taken—I was aware of that late on Wednesday 9th.

Senator McDONALD: That's what you said at the last estimates—

Mr Usher: That's correct.

Senator McDONALD: that you found out on the evening of the 9th the decision would not be appealed. Are you happy with the time line as I have it?

Mr Usher: That's right.

Senator McDONALD: Terrific. When was the cabinet decision taken to support the minister's decision to not appeal, or did the minister make the decision on her own?

Mr Usher: I would have to take that on notice. I was not involved in those discussions.

Senator McDONALD: Secretary, are you aware if there was a cabinet decision? I'm not seeking any information on the decision; I'm just seeking a date. Was it a cabinet decision, or did the minister take that decision on her own?

Ms Quinn: I understand the minister was authorised to make that decision in consultation with colleagues.

Senator McDONALD: What date did cabinet endorse this decision?

Ms Quinn: I'm happy to take that on notice. But, as I said, I understood that she had authority in consultation with her colleagues, which is not the same as taking a submission through cabinet.

Senator McDONALD: I appreciate that. I assume that at some point cabinet would have later—or perhaps not. Perhaps, as you say, she had the authority and it just rolled along. Did the department prepare the ministerial statement or did the draft originate from the minister's office?

Mr Usher: I believe that the draft was prepared by the ministerial office, and we provided advice on that statement.

Ms Quinn: Just to be clear: it couldn't have come out of nowhere. We were working with the office in preparation of the court case and things were going back and forth. But, with the original final version of the ministerial statement, we fact-checked it and provided some advice. It was more of an iterative process, rather than the idea that it just went one way.

Senator McDONALD: I understand. When was the ministerial statement prepared?

Ms Quinn: We can take that on notice to see what the minister would like to provide in terms of what happened in her office. But clearly we were closely engaged with the minister and her advisers all the way through this process. I'm not sure that it was around for a long time, because of the decision timing, as you've mentioned, but we had provided a great deal of information through an iterative process leading up to the eighth, ninth and 10th.

Senator McDONALD: On notice, could you provide the date that was prepared, please? Why was the legal and policy advice only provided to the minister's office on 9 August?

Mr Usher: I have to take on notice recalling that. I believe there was another court hearing on Monday the seventh, and the policy and legal advice was provided in response to that court case, to that court hearing on Monday the seventh.

Senator McDONALD: So the advice MS23-001217 was provided to the minister on 1 August. The minister signed it on 7 August, advising she'd not appeal. But it was not till 9 August that the department submitted the next advice, which you should have—MS23-001339. What was the reason for the delay on that?

Ms Quinn: That would have been considering the implications of the matters before the court, and in response to considerations around all the things we needed to provide advice on. We can check if there was anything else,

but, from my recollection, it was just doing the work we needed to do to provide appropriate options for the minister to consider.

Senator CANAVAN: Can I just ask a follow-up question?

Senator McDONALD: Please.

Senator CANAVAN: Just to be clear, because MS23-001339, the 9 August note—

Ms Quinn: It's regarding the statement specifically.

Senator CANAVAN: It says:

That you note—

presumably in this document—

the legal considerations regarding your ... statement.

Were those legal considerations provided to the minister before she made the decision on the seventh?

Ms Quinn: We certainly provided advice before she made decision on the seventh.

Senator CANAVAN: But were there new legal considerations provided in this particular note that were not included in the one submitted to her on the first?

Ms Quinn: Yes, would be the short answer.

Senator CANAVAN: Why wasn't she advised of those legal factors before she made the decision?

Ms Quinn: Because it was partly around the iterative clarification of questions. Legal advice is rarely one set of answers. It's usually a set of advice, and then you ask questions and check the facts provided to legal experts, and that is an iterative process. We certainly had a mechanism and a great deal of work leading up to decisions, and we would have considered the statement and checked what was in there against other kinds of questions.

Senator CANAVAN: But my takeaway from your evidence is that the minister did not have all of the legal ramifications of her decision before her before making a decision on 7 August.

Ms Quinn: That wasn't the intention of my evidence; it was merely that we provided legal advice to support the minister in her decision around the appeal considerations, which go to working under the legal framework that we provide in the Australian government around legal court cases, in terms of model litigant behaviour. There's a whole set of considerations that ministers make about court cases, including appeal considerations. That has a set of legal advice. It goes into quite some detail about prospects, model litigant arrangements et cetera, and that would have been very much focused on that.

There were other considerations in the minister's statement around the National Radioactive Waste Management Facility, so we would have had another set of questions that we answered there. Just to be really clear, the first minute you've got is on the appeal considerations; the second is on the statement she made to parliament.

Senator McDONALD: To Senator Canavan's point, though: under that time line that we agreed was correct earlier, the minister made the decision on 7 August. She signed the first note that we've got a copy of, 1217, advising that she would not appeal the High Court decision. But it was only on 9 August that the department provided 1339, with the policy and legal advice for the minister.

Ms Quinn: Regarding the statement, just to be clear, it's not that they're separate processes. It's an iterative process. I'm reasonably certain—Mr Usher can correct me—that there was a whole set of information and considerations provided to the minister leading up to the court case, leading into the arguments in the court case and leading through the process of the court case, and there were other considerations in terms of decision-making that went into the statement to parliament. So they're not separate streams; they're iterative, and we covered all our bases through the advice that we provided to the minister.

Senator McDONALD: Wouldn't it be normal that there be other notes or other briefs that have not been included as part of this FOI response?

Ms Quinn: I can check in terms of the remit of the FOI request and the timing, because we certainly answer FOI requests under the legal obligations.

Senator McDONALD: If you could, please do, because otherwise what that would imply is that the minister made the decision based on limited advice.

Senator Ayres: I don't think it's capable—I've heard your questions, Senator Canavan's questions and the answers. There is a long process of advice during the conduct of this matter—

Senator McDONALD: I appreciate that, Minister, but it does not come up in the FOI response.

Senator Ayres: Sure.

Senator McDONALD: So there seems to be a big gap.

Senator Ayres: There is advice provided about the decision in terms of the appeal, and then there is advice in the submission provided in terms of the statement, which also deals with future action and all those sorts of questions. They are different questions—that's what it sounds like to me. If there's any other information that can be provided, including about the scope of the FOI request, I am sure the department will provide it on notice.

Senator McDONALD: That's exactly where I'm getting at, because, based on this, it would look like the minister had made the decision without full advice and, before that advice was received, she made the decision to cancel the site. That's what it looks like when you look at the documents and briefs that we have here. So, if that's not the case, I would ask that you go back and check the FOI scope and consider whether or not there is missing documentation.

Ms Quinn: I'm happy to take that on notice. I don't believe that characterisation. It's certainly not my understanding of the system.

Senator McDONALD: Okay.

Senator O'NEILL: That's not how I read these documents that are before us.

Senator McDONALD: Well, that's excellent, Senator O'Neill. Let's let the department do this. Why are you always so negative?

Senator O'NEILL: I'm contesting your reading of the documents.

Senator McDONALD: The second part of this is: why did it then take two days for anybody to mention it to ARWA? The decision was made on 7 August.

Ms Quinn: For the appeal?

Senator McDONALD: Yes, and nobody thought to mention this to ARWA.

Mr Usher: We received the signed brief to say that the decision wasn't going to be made to appeal. I think it was the decision that formed the full content of the minister's statement to parliament. The full content about that was what we were informed of on the Tuesday.

Senator McDONALD: I appreciate that, but that was signed on 7 August and it was on the evening of 9 August that you've told us.

Ms Quinn: I think there are two different things here: there's a decision to appeal and then the decision not to continue with Kimba.

Senator McDONALD: Okay.

Ms Quinn: I'm reasonably certain that ARWA was aware as soon as anyone in the department was aware about the appeal, so as soon as that information was provided.

Senator McDONALD: That's not the timeline that I read out before.

Ms Quinn: I want to get the words right. There's the decision and timing around the appeal and then there's the decision and timing around the minister's decision that the facility would not be in Kimba.

Senator McDONALD: Even though not appealing actually means you've made the decision not to continue with Kimba?

Ms Quinn: Not necessarily.

Senator McDONALD: Really? How would that happen if you don't appeal. You're not proceeding with that site, are you?

Ms Quinn: Not through the legal process, but they are separate—

Senator McDONALD: Not through any process, I would suggest.

Ms Quinn: That's not necessarily the case.

Senator McDONALD: Was there another avenue to continue with Kimba apart from a legal one?

Ms Quinn: Possibly. The decision around the appeal is a process around the legal system and the decision about site is obviously informed by the legal case.

Senator Ayres: It sounds to me like there's a sequence of decisions that need to be made.

Senator CANAVAN: Did you prepare or provide suggestions about draft legislation which could have continued the Kimba site, notwithstanding the legal decision?

Mr Usher: As part of the policy and legal advice we provided through this process, we considered a wide range of options for the minister.

Senator CANAVAN: Including potential legal changes?

Mr Usher: A wide range of advice on the options.

Senator CANAVAN: Did that include potential changes to the law, and seeking parliamentary approval to change the law?

Ms Quinn: We can take that on notice.

Senator CANAVAN: Okay. Take that on notice. You only have to ask. We'll support it, I'm sure, won't we Susan.

Senator McDONALD: That's what I suggested. In advice 1217, recommendation 2. What was that recommendation 2 that was agreed to?

Ms Quinn: I would have to take it on notice. It's not available in this. It's been redacted through section 47C, so we have to check what that obligation or redaction is.

Senator McDONALD: Was there an adviser note attached to MS-001217?

Ms Quinn: I'm not sure what you mean by adviser note.

Senator McDONALD: Normally, when a brief like that arrives there will be an adviser's notes.

Ms Quinn: That may be something that the minister's office does. We prepare the MS as presented.

Senator McDONALD: I appreciate that. Specifically, my question is whether there was an adviser note attached? I'm asking if that could be provided. Minister?

Senator Ayres: Sorry, are you asking me a question? I was temporarily distracted.

Senator McDONALD: You were. I'm asking if there was an adviser note attached to this brief that we're talking about, MS-001217? And I'm asking for a copy of that please.

Senator Ayres: I think I'll have to take that on notice.

Senator McDONALD: On the next advice, MS23-001339, attachment B highlights the legal advice from King & Wood Mallesons on 9 August 2023. Where is the departmental policy advice that you outlined at last estimates was provided to the minister? It's highlighted in that brief, under recommendation 1.

Ms Quinn: I'm very sorry, but I don't think I have that document in front of me. Do you want to give me the number again please?

Senator McDONALD: MS23-001339.

Ms Quinn: Where were you referring to?

Senator McDONALD: The departmental policy advice.

Ms Quinn: Is that a particular reference on a particular paragraph?

Senator McDONALD: It was highlighted in that advice under recommendation 1. 'That you note potential policy and legal considerations regarding it.'

Ms Quinn: Yes, that is the rest of the MS, so that's a recommendation but—

Senator McDONALD: This is it in entirety?

Ms Quinn: Yes. That has been provided through FOI processes. And there were attachments to it as well, including a draft ministerial statement and the actual legal advice from King and Wood Mallesons is on the back.

Senator McDONALD: Okay, so the advice itself is not attached?

CHAIR: While you're looking at that, the committee has tabled the documents.

Senator McDONALD: Kimb was cancelled in August 2023 yet in November 2023, less than three months later, you were advertising 19 new roles across ARWA and a further three roles this month, all on SEEK. Can you explain why you've hired so many new people after your project was cancelled?

Mr Usher: At ARWA we fulfil a range of functions for government. We provide advice to government. We are looking at developing and implementing disposal pathways not only for low-level waste but also intermediate-level waste and we are developing plans fully within the lens of social licence as well. We have been building up our capability in ARWA over the last couple of years. I'm very proud of the way we have developed that. We still have important work to do and it's not just about progressing the facility at Kimba. There is a full range of work that we need to do. You could argue that there is actually more work for us to do now that we have moved away

from the Kimba facility—the technical work to provide advice to government, advice to waste owners and to develop our plans. Underpinning options assessment is still required.

Senator McDONALD: Was there more? What I'm trying to understand is, prior to Kimba, you had this process of going to seek a site, provide advice, all of these things. The Kimba site is cancelled. Is that not the same role—searching for another site, providing advice to government? What required a ramp up of people given that this is exactly what you've been doing for the previous few years?

Mr Usher: We were still building our capability that was required to deliver the Kimba facility.

Senator McDONALD: Now you have no facility to deliver and you're still ramping up your capability.

Mr Usher: But the work is still there including the provision of advice to government—across the whole of government—waste owners, potential new waste owners. And there's a full range of technical work, policy work, legal work, work to support stakeholder engagement and the development of those plans that we are continuing to develop.

Senator McDONALD: How many staff within ARWA are linked to the ex-Kimba facility?

Ms Quinn: I'd have to take that question on notice. We had a number of people who were working on the Kimba facility. For example, people who were working on the site characterisation work are now planning for the remediation and the decommissioning of the site. We are still developing work on the design and on the safety case. This can still be done even at a generic level. We are still doing that. The detailed number of that I would need to take on notice.

Senator Ayres: The fact is, in this area, the government has some decisions to make. This is an important set of national problems to secure safe storage for low- and intermediate-level waste. We are in the situation that we are in because a court decision found that the previous minister had apprehended bias—

Senator McDONALD: We do know the circumstance. We covered this at length in the last estimates. I will be short on time. Unless you've got something to add to this question, then I would ask that you just keep it short.

Senator Ayres: We're in this position because of that. That means that we have to make careful decisions based on advice, and ARWA will be supporting the government's decision-making on those questions and they do need the resources to be able to do that work.

Senator McDONALD: On notice, I'd like to know how many staff within ARWA are linked to the ex-Kimba facility and how many staff are linked to the search for a new facility? I'd like the breakdown of the staff by APS level or salary band, and all of that within the framework of your total staffing numbers, your total ASL. Do you have any staff based in Kimba?

Mr Usher: We do still have an employee in Kimba for the work we're still doing there. We still have the site to manage and supervise. We're still planning for the remediation and decommissioning of the site before the site will be disposed of. We are planning our remediation work there and it is still important for us to be represented in the Kimba community whilst we still have responsibility in the area.

Senator McDONALD: Last estimates, following the Kimba cancellation, you told us you are now preparing advice to government about where to next. The government is still committed to building a national radioactive waste facility. Have you completed that advice yet?

Mr Usher: That work is ongoing.

Senator McDONALD: What works had been done at the Kimba site that require remediation?

Mr Usher: Well, in November 2022, we started site-specific characterisation work. That was done under a specific cultural heritage management plan. This was for a range of technical characterisation activities; for example, the drilling of bore holes, the installation of seismic monitoring equipment, the digging of trial pits, the installation of weather and dust control, and doing some studies for seismic activities as well. A number of these involved disturbing the ground in line with our cultural heritage management plan, so we have committed to remediating, decommissioning those facilities and putting the site effectively back to where it was before the site was declared.

Senator McDONALD: How long do you think that will take?

Mr Usher: We're planning that. We're going through the plans at the moment.

Senator McDONALD: So you haven't started that yet?

Mr Usher: We haven't started that and the reason for that is that we need to work with the traditional owners to ensure we're still effectively managing the cultural heritage as part of that remediation work. We are also in

discussions with the South Australian state Aboriginal and heritage affairs department, who will oversee that work now that the Commonwealth overrides are no longer relevant.

Senator McDONALD: Have you engaged with any private sector organisations who provide radioactive waste disposal or other management services for the purpose of preparing advice for Minister King and the cabinet?

Mr Usher: I have had discussions with a range of stakeholders since the Kimba decision.

Senator McDONALD: I mean private sector organisations who provide radioactive waste disposal?

Mr Usher: I have met with stakeholders there but have not engaged with them regarding the particular options assessment. That is a matter for government. We do get interest from private sector and other organisations about services they may wish to offer but we are not engaging in any specific siting or other processes at this stage.

Senator McDONALD: How can you provide a full suite of advice to the minister and cabinet if you're not considering all options?

Mr Usher: I think we are considering a wide range of options.

Senator McDONALD: Yes, but not any from the private sector organisations who already provide radioactive waste disposal?

Mr Usher: Well, we're not considering specific proposals from the private sector but we are looking at a full range of options. There are policy—

Senator McDONALD: I'm sorry to interrupt but it does sound a bit like gobbledegook. If you don't engage and understand what the options are, then the minister can't make a full decision, if you say there are private sector arrangements. She would then logically say, 'This is not a fulsome brief,' surely?

Mr Usher: It is part of our remit to understand the marketplace and the environment—the whole system for radioactive waste management and disposal in Australia—and that's the base on which we will be providing advice and options assessment to the minister in due course.

Senator McDONALD: I'm just flagging to the minister, if she or her office are listening, that the advice will not be complete if you don't provide the commercial options as well. I'm not trying to teach you how to suck eggs, but I would expect to have a full range of options; otherwise, it's not a full range of options.

Mr Usher: That's what we are looking to do.

Senator McDONALD: I understand you are working with Defence on their own radioactive waste facility. Does this mean that the current position of the Australian government is to build two separate radioactive waste facilities in Australia?

Mr Usher: The minister, in her statement, has asked ARWA to look at options for alternative proposals for storage and disposal of the low- and intermediate-level Commonwealth waste—largely civilian waste, dominated by ANSTO. We are providing advice to the Department of Defence. The Department of Defence have said that they are taking responsibility for any future radioactive waste arising from a future nuclear-powered submarine program.

Senator McDONALD: That's a yes, isn't it?

Ms Quinn: There are two processes within government, but they are joined in terms of drawing on common expertise.

Senator McDONALD: But two sites?

Ms Quinn: 'There are two considerations of government' is more apt, because there has not been a declaration on sites for either; that's a future decision of government. So there are two processes, with different types of waste; the processes are joined administratively, through IDC, but also draw on common expertise in both ARWA and ANSTO.

Senator McDONALD: I understand, but the government position is to develop a Defence site—separately, is what I heard from Mr Usher. Would that be a fair—

Ms Quinn: That decision hasn't been taken by government.

Senator McDONALD: It hasn't been taken by government? So 'maybe' is the answer. Have you or any members of ARWA visited any locations in Australia with Defence which could be suitable for a new radioactive waste facility and, if so, where?

Mr Usher: I have not and I'm not aware that we have done any visits to sites with regard to them being potential disposal sites. We're not looking at specific proposals for sites at this stage.

Senator McDONALD: So there are no sites being considered. We are a long way away from a new site then?

Mr Usher: That's correct.

Senator McDONALD: How much of ARWA's budget has been spent on activities outside of the industry and resources portfolio? Is Defence reimbursing your costs?

Mr Usher: We have had some funding that's been allocated by the Submarine Agency; I think it's for \$5.2 million over this year and next year.

Senator McDONALD: What is ARWA's preferred method for permanently disposing of Australia's radioactive waste?

Ms Quinn: That goes to policy advice that we will provide government in the fullness of time. We have previously provided advice, and we're relooking at it in light of the government's decision in the legal case. I think we will provide our advice to government in the usual way.

Senator McDONALD: I want to run through the costs of the process to develop the national radioactive waste facility. How much was spent, in total, from the beginning of the site selection process through to the minister walking away from the selected site?

Mr Usher: Between 1 July 2014 and the ministerial statement in August of last year, the Commonwealth spent approximately \$108.6 million. There's been an additional \$2½ million spent to the end of December this year, making a total of \$111 million.

Senator McDONALD: How much was spent on the process of selecting a site?

Mr Usher: I would have to break it down. We would have to take that question on notice, but that total includes community and Indigenous engagement activities for nominated and declared sites; legal costs, including defending litigation; community grant programs for Kimba and other nominated sites; site characterisation; and design and technical work that has underpinned the work so far.

Senator McDONALD: Alright. Then, on notice, can you please break down that number: (a) how much was spent on the process of selecting a site, (b) how much was spent on engaging with the local community through the ballot that was commissioned, (c) how much was spent on hiring staff, (d) how much was spent on building and (e) how much was spent in court, for legal fees?

Ms Quinn: Perhaps I could just check the timing of that, because there have been a few different processes. Are you suggesting from March 2015, or 2014?

Senator McDONALD: Well, the scale Mr Usher just spoke about was 1 July 2014 through to the decision, and then added the \$2½ million since then. So, I think the same period would make sense—

Ms Quinn: Okay. We'll look to what we can do. It might not be possible to do everything completely accurately, given the records over that time, but we'll look to see what we can do.

Senator McDONALD: I understand.

Senator Ayres: It's been a very expensive—

Senator McDONALD: Fifty years in the making, Senator Carr told us, which is why he was so passionate about getting Kimba done and was so involved in bipartisan support for the project—

Senator Ayres: It has been, and we are in the position that we are in because the findings of the court in relation to that minister—

Senator McDONALD: And the current minister had choices—

Senator Ayres: apprehend advice—

Senator McDONALD: as to whether to legislate, to appeal, and none of those decisions were taken—

Senator Ayres: I don't think the coalition escapes responsibility by saying, 'Oh, we wish you'd taken an alternative position.' There's a pattern there, with that minister, of these kinds of outcomes—

Senator McDONALD: Minister, please! We keep doing this. This is why we spend all day here!

CHAIR: Well, I'll just try—without—

Senator McDONALD: This is my final question, Chair.

CHAIR: Sure.

Senator McDONALD: Given all this cost, do you expect to spend this much all over again to find a different site?

Ms Quinn: I might take that. We've been funded to do the appropriate work, as in the budget papers. Quite a lot of what was done will be able to be used again. But there will be new challenges, no doubt, in a new process. So, we can't answer that with precision, other than that we are currently funded to undertake the work to provide appropriate advice to government to meet the objective, which is to find an appropriate place to store Australia's nuclear waste.

Senator McDONALD: I'd like to direct these questions to ANSTO, and I've got about seven minutes to do that, I understand.

CHAIR: Well, I believe Senator Canavan may also have some questions, and we're trying to get to the dinner break at 7.15 and trying to release this group at that time.

Senator McDONALD: Okay. To ANSTO: according to the most recent national radioactive waste inventory prepared by ARWA in 2021, ANSTO currently has 2,307 cubic metres of low-level radioactive waste temporarily stored at Lucas Heights. Can I get that confirmed, please?

Mr Jenkinson: We probably have a more up-to-date number that I can provide on notice, because a bit of time has passed since then.

Senator McDONALD: Sure. Okay. That would be terrific.

Mr Jenkinson: We can break it down against all the waste.

Senator McDONALD: Thank you. How much has been budgeted and/or spent to build additional temporary storage for low-level and intermediate-level radioactive waste at Lucas Heights following the government's cancellation of the Kimba project? So, the new site's been cancelled, and you've got: 'Uh-oh! We have continuing waste accumulating. We no longer have a plan in several years to ship it off there.' And you've started building additional temporary storage.

Mr Jenkinson: We started building additional temporary storage prior to that decision, because we were going to need it before the facility was already built. We have not taken any additional funding post the decision at this stage.

Senator McDONALD: How much did it cost to build the temporary storage, then?

Mr Edge: There was an allocation in the 2021-22 budget of \$59.8 million to construct some additional temporary waste storage capacity.

Senator McDONALD: Did you spend all of that?

Mr Edge: The construction is still underway.

Senator McDONALD: Are you on track to spend all of that? Did you overbudget? How are you going against budget? Or are you subject to the same cost overruns that everybody else has had?

Mr Edge: Our view is that that budget allocation is sufficient to construct the facility.

Senator McDONALD: Great. How much does it cost to continue the maintenance of the temporary storage?

Mr Jenkinson: I'd have to take that question on notice.

Senator McDONALD: Thank you. I understand there is a commercial company that has already built and now operates a low-level radioactive waste disposal facility, with all the required government permits in place, in Western Australia. Why has a commercial company been able to bring a site to operation and the government has been unable to?

Mr Jenkinson: I'm not sure that's a question I can answer.

Senator McDONALD: Does anybody else want to have a go?

Mr Usher: There is a commercial company that has licences to dispose of some types of low-level waste, under Western Australian state legislation. They are able to offer that service to industrial and other users. They're not able to take nuclear waste or intermediate-level waste. They're not able to offer a full service, due to a range of waste acceptance criteria, legislative and policy issues.

Senator McDONALD: My understanding is that they do take radioactive waste, and it took them 12 years to get their approvals. But we will obviously both have to check that data, won't we? So, on notice—well, I guess that's my notice. Is ANSTO considering disposing of waste via currently operating sites such as this commercial site in Western Australia run by Tellus? Is that an option for the temporary disposal until the country finds its own?

Mr Jenkinson: We have facilities on site at ANSTO to safely store and manage waste from our operations for a number of years to come and are waiting for the outcome of any decisions on the national waste repository.

Senator McDONALD: So, no, you're not going to use a commercial site; you're waiting to build—

Mr Jenkinson: We're waiting for a government decision on what a national repository will be.

CHAIR: Can we share the call with Senator Canavan?

Senator McDONALD: Of course.

Senator CANAVAN: Very quickly, I just want to check on the status of the nuclear waste at ANSTO and whether you've got enough room to keep storing waste there at Lucas Heights.

Mr Jenkinson: As I said, we can provide, on notice, a list of all of the different wastes we have and the storage capacities as they sit at the moment at ANSTO. We have foresight to storage capability up into the mid- to late 2030s. We would probably need, if there were no change in the current situation, to come back to the government in around the early 2030s, to start applying for an NPP for additional storage to allow time for the planning, the licence application and the building of a facility so that that would be ready for the end of the 2030s, when we would be needing additional storage.

Senator CANAVAN: You're saying that you can keep storing stuff at Lucas Heights till the end of the 2030s?

Mr Jenkinson: At this stage. We—

Senator CANAVAN: That's not what I was told when I was minister. Why has it changed? Why has the advice changed?

Mr Jenkinson: I'd have to look at the—

Senator CANAVAN: Yes, if you could, go back on notice and look at that too, because it's not what I was told.

Mr Jenkinson: We're building additional storage as a result of the 2022-23 budget.

Senator CANAVAN: That was definitely not what I was told. Okay.

CHAIR: Senator McDonald, are you in a position to put things on notice and conclude?

Senator McDONALD: To make you happy, Chair, absolutely.

CHAIR: That is wonderful news. Thank you very much, Senator McDonald. Thank you, Mr Jenkinson and Mr Usher, for being with us. We will take a dinner break.

Proceedings suspended from 19:13 to 20:17

National Offshore Petroleum Safety and Environmental Management Authority

CHAIR: The committee is resuming with NOPSEMA. Welcome, Ms McCarrey and team. Thank you very much for tabling your opening statement. We'll proceed straight to questions.

Senator WHISH-WILSON: I have just a couple of quick questions on SPAs, special prospecting authorities. How many have been granted by NOPSEMA since they came into regulation?

Ms McCarrey: We actually don't grant SPAs. That's granted through NOPTA and the department.

Senator WHISH-WILSON: Through NOPTA? So it doesn't come to NOPSEMA?

Ms McCarrey: No. Once they've been granted the SPA, it comes to us for the environment plans and safety cases.

Senator WHISH-WILSON: Just as a matter of interest, do the SPAs require ministerial sign-offs?

Ms McCarrey: I'm not sure.

Ms Urquhart: I'm happy to take that on notice.

Senator WHISH-WILSON: Thank you. I'm especially interested in whether Minister King has to sign off on these or whether it's NOPTA and then they go through to you.

I have a couple of questions on the decommissioning compliance strategy that you've got on your website. On page 4 of the document *Decommissioning compliance strategy 2024-2029* you mention that companies can apply for permissioning documents if they want to change the conditions around decommissioning. Could you give me an idea of how many companies have applied for permissioning documents.

Ms McCarrey: As part of decommissioning activities, in the same way as for any other activity in the offshore environment, any decommissioning activity requires a safety case and an environment plan. As far as how many applications we've had around EPs for decommissioning, I'll just hand over to Mr Grebe. He may be able to put his finger on that particular statistic for you.

Mr Grebe: Currently we show submissions that are under assessment. That is the only statistic I can give you without further digging around in our statistics on notice. We have 11 that are currently under assessment, but that covers the carrying out of activities for removal and also includes environmental plans proposing alternative end states to removal. So there's a mix in there.

Senator WHISH-WILSON: Can you provide on notice details of those 11 that you have before you. Thank you. In this document you talk about the ALARP principle—'as low as reasonably practicable.' It says:

NOPSEMA expects Titleholders to make the case in their permissioning documents that risks associated with reusing or leaving property unused or wells suspended or shut in are both acceptable and reduced to as low as reasonably practicable ...

On the following page, you also outline your targets for decommissioning. Who decides what is practicable in this regard?

Ms McCarrey: The principle of 'as low as reasonably practicable' is an understood legal principle in many safety and environmental laws. That decision is actually taken by the delegate within NOPSEMA in having a look at all of the evidence that's provided through the environment plan or safety case. We have a similar principle in place for safety as well.

Senator WHISH-WILSON: So it's a condition in law. Does that mean it's legally challengeable?

Ms McCarrey: Yes, any decision that NOPSEMA takes is legally challengeable.

Senator WHISH-WILSON: And you provide public details around the ALARP principle, for example, in its application in this instance? I know we have talked about this previously on seismic testing.

Ms McCarrey: We have a range of guidance material on our website that relates to the ALARP principle generally in relation to environmental issues. We also have guidance in relation to the ALARP principle as it relates to safety as well.

Senator WHISH-WILSON: When I was reading a document this afternoon, I found that companies could also apply for a sea dumping permit through DCCEEW. How does that interact with your responsibilities under the act?

Mr Grebe: The guidance clarifies that there may be other approvals beyond that required through the offshore petroleum and greenhouse gas storage regime through the act and the environment regulations. They operate separately. Separate approvals may also be required, for example, under the sea dumping act. That sets out where approvals would be required in different circumstances. That bit of legislation is administered by DCCEEW.

Senator WHISH-WILSON: It is. I've got their document open. It says:

... activities undertaken within Australian waters ... during the exploration, exploitation and offshore processing phases of offshore oil and gas production do not require a permit.

That's a sea dumping permit. But you have conditions under the Offshore Petroleum and Greenhouse Gas Storage Act which you regulate. If you're no longer in the exploration, exploitation or processing phase, you can apply for a sea dumping permit—is that your understanding of it?

Mr Grebe: We don't administer the sea dumping act, so I couldn't comment on the requirements under the sea dumping act. There are particular triggers when sea dumping approvals are required and certain elements that are exempt, as I understand it. I take it the guidance you're referring to there is DCCEEW's guidance on offshore petroleum.

Senator WHISH-WILSON: Correct.

Mr Grebe: It's really for titleholders or offshore petroleum companies to ensure they understand and comply with those requirements under the sea dumping act—and that's in addition to anything under the environment plan process we administer.

Senator WHISH-WILSON: Are you aware of any applications for sea dumping to leave structures in place through DCCEEW that have crossed over your jurisdiction?

Mr Grebe: I'm not aware off the top of my head, but I can take it on notice to confirm.

Senator WHISH-WILSON: If you can. I'm interested as to whether a company that has mature fields that need decommissioning can apply directly to DCCEEW without getting penalties from you, the regulator, in your enforcement activities.

Mr Grebe: Sorry, can you repeat the last part of your question.

Senator WHISH-WILSON: If I have infrastructure in the water that I don't wish to decommission, for various reasons—it could be for environmental reasons or others—and I apply for a sea dumping permit under

DCCEEW, do you have a say in whether DCCEEW grants it? The way I read this, if it is granted they can leave it there.

Mr Grebe: I understand your question to be about whether the approval outcomes from either process influence the other, and the answer is no; they're completely independent. We still have to make our decision about whether to approve an activity, including decommissioning in situ, against the criteria for acceptance in environment regulations. They don't get turned off or modified in any way based on an outcome under the sea dumping act. As I understand it, the same applies vice versa. In order to leave property equipment in situ, a company would need, if it was required, a sea dumping permit approved, and they would also need an environment plan, among other approvals, accepted by NOPSEMA.

Senator WHISH-WILSON: By NOPSEMA, but not by DCCEEW? I had a quick look at the DCCEEW website, and they had to provide environmental details and explanations as to why they sought that.

Mr Grebe: There's no exemption under the sea dumping act based on any decision of ours on an environment plan under the OPGGS regime. They don't interoperate; they're completely separate. They generally run in parallel, and there are examples in the past where there have been applications and there are proponents who have approached both NOPSEMA and DCCEEW to contemplate navigating through both approval processes. But where the law triggers both to be required they both apply, and you have to navigate through both and get both approvals.

Senator WHISH-WILSON: That's where I was getting to. I'll put some more questions to DCCEEW about this. If they go through that dual process and they're successful with DCCEEW, in terms of being able to leave their infrastructure there, but you have a different opinion, what happens then?

Mr Grebe: The proponent has to change its application, change its activity, change the end state and change the way it's managing the impacts, and similarly adjust its proposal to address whatever is preventing it being approved under the sea dumping act.

Senator WHISH-WILSON: One can't supersede the other. They would need to get approvals from both of you to do that.

Mr Grebe: Precisely.

Senator WHISH-WILSON: Thank you. I have a couple of quick questions for you on carbon capture and storage, for which I understand you are the regulator. I had a look at the Australian government Department of Industry, Science and Resources consultation hub document, which I have in front of me. It goes into the details about the areas of consultation and provides maps. I will ask some generic questions and put some more detailed questions to you on notice. I'm familiar with the Bonaparte and Browse basin because of the debate we've had recently in parliament around the Santos application through sea dumping for a potential CCS project in the Timor Sea. How many proposals have you got before you currently for CCS that go through the process?

Ms McCarrey: None.

Mr Grebe: None for the injection of CO₂. We have two environment plans that are in force for exploration—so greenhouse gas assessment permits. We're aware of a number of projects considering applications.

Senator WHISH-WILSON: And they go through NOPTA first and then go to you?

Ms McCarrey: Correct.

Senator WHISH-WILSON: I'll put some questions to NOPTA. Looking at all these maps, it's obvious the CCS projects are mostly going to be in mature oil and gas fields, where the companies have been operating for years, have an understanding of the geological structures and a whole range of things and have the infrastructure in place. If a company applies for a licence or areas of acreage, what happens if they have decommissioning plans in place for those mature basins?

Mr Grebe: Can I clarify: you're seeking to understand what happens if a titleholder is seeking, as part of their CCS injection project, to reuse petroleum infrastructure?

Senator WHISH-WILSON: Correct. Looking at the map, they're all around existing oil and gas fields. Most of them are mature. I'm guessing they would have a decommissioning planning in place with you for those areas. If I say, 'I now want to do a CCS project', which is what Santos seems to be looking at doing in the Timor Sea, what happens to my decommissioning liabilities and commitments?

Mr Grebe: There's a lot in that one question.

Senator WHISH-WILSON: There is.

Mr Grebe: The best answer to give is to say that, under the OPGGS Act and the regulations, at least from our role and responsibility, the coexistence and recognition that there are two types of activities that have licensing or titles therefore enable NOPSEMA to regulate environment plans, safety and well integrity for petroleum exploration and production and for greenhouse gas storage. Both regimes are covered under the one bit of legislation and there are various mechanisms, but it is quite complex about how that coexistence can apply should there be a transition or reuse. It would depend on each case, on how the different requirements would apply, and the company have to navigate through those—including how issues like the responsibility for removal of property equipment would need to be considered. Those are decisions that would depend entirely on the nature of each individual project, the type of facility and so on.

Senator WHISH-WILSON: I've said this on the public record: I'm concerned that companies that have liabilities and are working with you through a process—I read your different ratings today for that process. If they apply for a CCS licence, and therefore a new project, they won't have to go down that decommissioning route because they've given life to a new oilfield. I'm wondering, because I couldn't find it in any documentation, if there is any regulation around milestones that they need to meet in terms of progressing those projects before you say, 'Wait a second; when are you going to do this?'

Mr Grebe: It's important to emphasise that our decommissioning strategy highlights our focus on this stage of activity for the very reason that the act has specific requirements for titleholders to not just remove property equipment from petroleum acreage when it's not in use but maintain it in good condition and repair until it's removed. That exists irrespective of what's planned next for any petroleum infrastructure. We don't accept a proposal around reuse or in situ until we've accepted the arrangements for the next stage or end state for the activity. There are no situations where there's property equipment which isn't having one form or another of an activity related to it. It could be care and maintenance over a longer period. There may be cases—and it's open to titleholders to submit environment plans—that propose to transition and operate infrastructure. The regulations provide that and make sure we don't accept those arrangements until we're satisfied with the environmental impacts and risks, the safety risks and the integrity of wells. There aren't any situations, to put it plainly, where there are no plans and agreed outcomes with the regulator if they're seeking to deviate from full removal.

Senator WHISH-WILSON: I read the offshore CCS Commonwealth regulatory approvals mapping, where you've got a decommissioning and post-closure monitoring program, and you go into details about that. It basically gives a period of what's called closure assurance—a period of 15 years—following successfully setting up a CCS project. What assurances will you be seeking from companies that go down this road that they actually will do CCS projects? Applying for an area and not having to meet your decommissioning requirements now because you're going to turn it into a carbon, capture and storage project—

CHAIR: Senator Whish-Wilson, I've got other senators that have questions. Would a few more minutes get you through, or shall I go to another senator?

Senator WHISH-WILSON: If I could just finish this, Chair, and then if you can come back to me—I have, probably, only another five or 10 minutes.

CHAIR: Okay. Mr Grebe?

Mr Grebe: I think the assurance is simply that the legislative framework has requirements in it to ensure that those types of issues are dealt with across the life cycle as indicated by the guidance. So those are the kinds of questions, where it attaches to the licensing, that are the responsibility of NOPTA through to the minister to make decisions on a site plan for the reinjection over the life of the project including post-closure monitoring. The greenhouse gas storage regulations under the OPGGS Act stipulate a range of very specific requirements and criteria that need to be met before those projects are approved, in a sense. That goes equally for a proposal to undertake a petroleum activity that involves control of greenhouse gas emissions. I think that was the other part of your question.

Senator WHISH-WILSON: Yes.

Mr Grebe: If there's a commitment to do certain things—I'm just talking generally here—about emissions reduction or controls as part of the environment plan that we accept, we have a role and function to monitor and oversee compliance and take enforcement if that plan isn't being implemented.

Senator WHISH-WILSON: You have 'identify and assess' in your mapping that I referred to earlier. Then you have 'select', 'define', 'execute' and 'operate' prior to 'decommissioning and post closure monitoring'. Do you give time frames for companies when they're in the 'select', 'defined' or 'execute' process? How long can I take if I want to go down this road and I'm an oil and gas company? Can it be months, years or decades?

Mr Grebe: It probably depends on each individual case because there will be various complexities that need to be understood, to understand whether it's feasible to carry out CO2 reinjection. Particularly at the earlier phases and the end closure, we're straying into a scope that's not the responsibility of NOPSEMA. The guidance document you're referring to is joint across the Department of Industry, Science and Resources, NOPTA and us.

Senator WHISH-WILSON: But you'd be the regulator? You wouldn't have enforcement, compliance and monitoring of these various—

Mr Grebe: We do have our role, certainly, but oversight of the site plan and approvals around the site plan as part of granting an injection licence—we aren't responsible under the regulations for that.

CHAIR: We will move now to Senator McDonald.

Senator McDONALD: How many EPs have been approved since you were last before estimates, and can you break them down by project type.

Ms McCarrey: Since last estimates—it might be a bit difficult. I can actually give you a bit of an update. Since 6 December NOPSEMA has accepted 21 environment plans, including activities to progress the Scarborough, Barossa and Crux projects. In the 17 months since the Federal Court decision of Tipakalippa, we have accepted 30 environment plans.

Senator McDONALD: What was the date for that one?

Ms McCarrey: The 30 environment plans are since the court case of Tipakalippa, which was last November/December—

Mr Blair: September 2022.

Ms McCarrey: 2022.

Senator McDONALD: What was the average assessment time for those EPs?

Ms McCarrey: The average time for those 30 was 13 months.

Senator McDONALD: That's better, isn't it?

Ms McCarrey: We expected this to happen. The Tipakalippa court case decision did have a huge impact. There was a change in the requirements for consultation, so a number of environment plans that were under development at the time went on hold while companies went back and actually undertook the consultation and the new requirements as per that court case. So there was always going to be that delay of time. What we're starting to see now is that companies have been through that additional consultation requirement. Therefore environment plans are now coming through and are actually being accepted because companies can demonstrate that they've undertaken that consultation.

Senator McDONALD: At the last estimates you told the committee that the average assessment time for three seismic EPs since the Tipakalippa decision was 562 days. Have any of those three EPs now been approved?

Mr Grebe: I would have to take that on notice. I think, from memory, there may be one or two that have been accepted. We've had additional seismic surveys submitted, obviously, since the court case, and some of those may be in the mix. I can get you, on notice, those specific three.

Senator McDONALD: How many seismic EPs are currently under assessment, and what is the average assessment time now for a seismic EP?

Mr Grebe: I would have to take on notice the actual assessment time frame for seismic EPs under assessment. But I can confirm the number of EPs that we have under assessment at the moment, which is seven.

Senator McDONALD: And you're coming back to me with an average assessment time?

Mr Grebe: Sorry, Senator—correction. It's five.

Senator McDONALD: And you're still coming back to with the average assessment time?

Ms McCarrey: Yes.

Senator McDONALD: Can I just go back to that 13-month average assessment time. Is that measured from the original application date, or did you restart the clock when they went away and redid consultation following the Barossa case?

Mr Grebe: It's the original submission date.

Ms McCarrey: From the original submission date.

Senator McDONALD: Okay. That's positive. How many environment plans are currently under assessment, and what is the average assessment time for those?

Mr Grebe: There are 26 environment plans under assessment currently. Submission dates vary for those, from as early as 2021, which was one of the examples in the three seismic surveys with extended time frames, and that, by the way, is still with the proponent for revision and resubmission. The 26 include environment plans submitted as recently as yesterday—for drilling a well, for example.

Senator McDONALD: What is the longest period an EP currently with NOPSEMA has been waiting for assessment?

Mr Grebe: I'd say it's the EP that was submitted on 8 November 2021, which is a seismic survey. I can take on notice to confirm if there are any that were submitted before that date.

Ms McCarrey: Senator, that's as of the date submitted. It hasn't actually been sitting with NOPSEMA during that time. Generally, NOPSEMA will turn it around within the 30 days that's required under the legislation. With the increased complexity, and some of the environment plans we receive now—we've gone from environment plans sometimes being up to a couple of hundred pages to being thousands of pages of information. So we have occasionally extended that by another 30 days. But the time period that Mr Grebe is referring to is from the first submission. If it doesn't meet our requirements, we will go back to them and let them know what they need to do, and it could sit with the company then for another 12 months or so before they resubmit it.

Mr Grebe: Senator, that is the longest running assessment, just to confirm, so I don't need to return on notice.

Senator McDONALD: To your point, Ms McCarrey, one of the things we talked about at the last estimates was that going-away period. They're very sophisticated players. They're experienced. They've got consultants who know what they're doing. They've gone away after the 30 days that you had the submission. Is that improving now that we've been through the Barossa and the restating of consultation? I'm just curious as to why it's taking so long and they're not coming to you with the right information in the first place.

Ms McCarrey: Certainly I'd have to say, in the almost 12 months I've been in the job, there really has been an improvement. I think the Tipakalippa case really did change the requirement for consultation for the offshore industry. I believe it actually provides much richer information into those environment plans now. It does take into account management of environmental issues that they perhaps didn't do before. What has happened over the last 12 months with, certainly, a lot of briefings and a lot of education and a lot of discussion, and by going through and doing consultation, particularly with First Nations groups, is that there have been improvements. I would not sit here and say things are perfect, but there's been a real uplift with the consultation that's being undertaken and, then, the information that's being provided to us in the environment plans.

Senator McDONALD: Have you allocated any additional resources in recent months to address the backlog of EPs?

Ms McCarrey: Yes. Probably not so much additional resources. What we've made sure we've done is we have ensured that we have filled the positions that sit within our organisation, because when I came in there were a number of vacancies. We've ensured we've done that. But we have brought on a couple of additional people—certainly one, and we've got another couple starting soon—who really do have that experience around consultation and consultation methodology to help with that process.

Senator McDONALD: How have the delays in processing EPs impacted on NOPSEMA's operating budget?

Ms McCarrey: Certainly, at the moment, our operating budget as of midyear is actually working relatively okay. We monitor the budget month by month, so we're obviously looking at EPs and how that impacts on the budget. We did have some concerns back in October and November, and we're constantly monitoring that. With some of those EPs going through now, that is actually assisting with our revenue, as it's coming in as well.

Senator McDONALD: Has the recent full court decision in *Munkara v Santos* provided any clarity or direction on how to apply the regulations and, if so, how?

Ms McCarrey: Yes, it has. Every court case does provide just that little bit of clarification around a number of issues. Probably, in this particular case too, it wasn't just around the consultation issue; it was also about the requirements around an environment plan and when an environment plan needed to be completely reviewed. So there was some really good guidance that actually came out of that decision on when it is considered to be a major or new impact or a risk on a project, which is then what triggers that requirement to do a complete review of the EP. There was some good guidance there. I think there was also some clarification in there around culture of a people, and the judge has gone through some explanation around some definition around the culture of a people, which will help clarify it for us. We're undertaking a review of our guidance right now as a result of that case.

Senator McDONALD: That leads me directly to my next question. Will NOPSEMA be issuing updated guidance to titleholders as a result of the decision and, if so, when?

Ms McCarrey: Yes. We're actually undertaking that review at the moment. Obviously, that includes our legal team completely going through the implications of the case. We hope to have a next draft of that. I'm going to turn to Mr Grebe, who's taking carriage of that particular activity.

Mr Grebe: There are two separate bits of guidance that are being updated. One relates to consultation with relevant persons. We also have updates from feedback from the first year and use of that document, obviously, so those additions are in there, and we expect that to be published by the end of the month. Similarly, there are updates to the guidance regarding the submission of proposed revisions, which, as Ms McCarrey outlined, provides further case law regarding what constitutes a significant increase or new impact or risk that could trigger a revision. Similarly, that is expected to be published by the end of the month.

Senator McDONALD: Terrific. The decision made a couple of findings about the shortcomings of the evidence and the conduct of the Environmental Defenders Office. Were you surprised by the conduct of the EDO and the consultant the EDO engaged, as detailed in the judgement?

Ms McCarrey: Yes. The judge actually made a number of findings in that case. From our perspective, our focus was on the work that had been undertaken by Santos. The general direction specifically required Santos to undertake work with an appropriately qualified expert to have a look at any potential cultural features that might sit along that pipeline. Our assessment team, first of all, very early on, looked at the experts that had been identified by Santos through an inspection, and they were comfortable with the appointment of those experts. Then, once the work had been completed by Santos, we were notified of that and our team undertook an inspection of the work and, because of that inspection, we were comfortable Santos had met the requirements of the general direction.

Senator McDONALD: Is the behaviour that the judge described, with regard to the EDO, behaviour you've previously witnessed or been aware of?

Ms McCarrey: Not to that detail. We wouldn't be aware of individual meetings and things, no.

Senator McDONALD: Has NOPSEMA ever questioned the methodology or substance of expert evidence presented to you by the EDO?

Mr Grebe: I think it's important here to say that we don't have a capacity to make assessments of evidence submitted by any third party. In fact, when we do receive information, we conduct our own inspections to inform ourselves about the potential for issues—such as new information about cultural features, for example. That's what we did when we conducted the inspection that led to the general direction that Ms McCarrey talked to. But we don't make judgements or assessments or necessarily take information from third parties to be expert evidence just on the face of it.

Senator McDONALD: Has NOPSEMA had any engagement with the EDO on this or any matters since the court decision?

Ms McCarrey: I would need to come back on notice as to whether we've had any correspondence since the actual court decision. From time to time we'll receive correspondence. We have not had any one-on-one engagement with the EDO, no.

Senator McDONALD: What steps will NOPSEMA take to scrutinise the expert evidence presented by the EDO to NOPSEMA in the future?

Ms McCarrey: I would probably just repeat, as Mr Grebe said, that, given how the regulations are set up, it's actually for the titleholder to undertake the work of looking at any particular cultural features or any other impacts on the environment. It's the titleholder that undertakes that work. We then assess, with the expertise of our staff, the information that is provided by the titleholder. We don't make any individual assessments on experts from, as Mr Grebe said, third parties.

Senator McDONALD: Under the proposed nature-positive reforms, will NOPSEMA remain the decision-maker for offshore oil and gas projects?

Mr Grebe: That's probably a question for DCCEEW.

Ms McCarrey: That's obviously a question for DCCEEW, because it's still in its drafting stages.

Senator McDONALD: Right.

Ms Urquhart: NOPSEMA will still remain authorised under the offshore act.

Senator McDONALD: So you don't see a change with the introduction of the—

Ms Urquhart: I haven't heard any suggestion of it, no.

Senator McDONALD: What role, if any, would an EPA have in relation to offshore oil and gas projects that are currently delegated to NOPSEMA?

Ms Urquhart: I don't know the answer to the question. Are you asking in the context of the nature-positive reforms?

Senator McDONALD: Yes. It's my understanding that the proposal is the introduction of nature-positive legislation and a new federal environmental protection agency.

Ms Urquhart: I'd prefer to take it on notice, particularly given that the nature-positive reforms are still in their development. I would want to check with DCCEEW colleagues and answer comprehensively.

Senator McDONALD: I have just a couple more, Chair, and then I'm done.

CHAIR: Great. I think we should be in a position to release NOPSEMA at about nine o'clock. We'll need to go back to Senator Whish-Wilson, but continue, yes.

Senator McDONALD: Would the environment minister be able to call in offshore oil and gas project decisions in which NOPSEMA is the accredited decision-maker?

Ms Urquhart: It seems to me there is a set of questions there that might be grouped, and we might respond to you, because they do require us to engage DCCEEW and consider the work underway.

Senator McDONALD: Okay. Is the bill introduced by the minister in the other place today sufficient in keeping your accreditation, or would there need to be a new accreditation process for NOPSEMA?

Mr Grebe: It would be the same answer as we just gave. If your question, Senator, is about the nature-positive reforms, I think, as the deputy secretary has explained, it's still in development.

Ms Urquhart: Is it still in the context of the nature-positive reforms, Senator?

Senator McDONALD: No. This one was—

Ms McCarrey: Senator, are you talking about today's?

Senator McDONALD: Today's. I've moved forward to the bill introduced today.

Mr Grebe: I beg your pardon.

Ms McCarrey: My understanding of the bill tabled today is that it wouldn't change our streamlining arrangements.

Senator McDONALD: How is NOPSEMA being engaged by the Department of Industry, Science and Resources in the consultation currently underway into consultation requirements for offshore oil and gas projects?

Ms McCarrey: Yes.

Senator McDONALD: No—how is it?

Ms McCarrey: Sorry! It's getting late. A lot and in many ways. We actually have a lot of conversations with our colleagues at DISER around a whole range of issues, and obviously over the last 12 months we've had many conversations around, as the regulator, how the application of the law and regulation is done. We have conversations on how that's working. Many conversations.

Senator McDONALD: Terrific. Will NOPSEMA be making a written submission to the consultation?

Ms McCarrey: I don't expect so, because we've been involved so extensively along the way.

Senator McDONALD: What advice is NOPSEMA providing to DISER on how to clarify the consultation requirements?

Ms McCarrey: At the moment, we've fed back to DISER where we believe some of the clarification may assist. I think where we'll have greater input is once the consultation has been completed and there's information that's been provided to DISER from a whole range of different parties. Then I would think we would be involved in conversations with DISER about how that information is actually applied.

Senator McDONALD: What specific aspects—

CHAIR: Senator McDonald, last one. The final five minutes will go to Senator Whish-Wilson.

Senator McDONALD: Thank you. What specific aspects of the consultation requirements need to be clarified to assist the assessment process?

Ms McCarrey: I think the court cases probably lean a little bit towards that. Certainly some clarification. The policy paper that has actually been put out by DISER gives you exactly what the issues are that need to be clarified. As I said, we had many conversations. We had a lot of input. The actual questions and things as outlined in that paper give you a really good indication of the sorts of things that need to be clarified.

Senator McDONALD: Thank you.

Ms Urquhart: Chair, I have an answer to a question Senator Whish-Wilson posed. You asked about special prospecting authorities and whether they required ministerial sign off. No, they're issued by NOPTA, by the titles administrator. That's conferred directly by the act.

Senator WHISH-WILSON: Thank you. I have a couple of quick questions for you on potentially expired environmental plans for Woodside Petroleum. I understand the Offshore Petroleum and Greenhouse Gas Storage Regulation 2023 requires titleholders to submit a revised environmental plan every five years—is that correct?

Mr Grebe: Correct.

Senator WHISH-WILSON: The five-year period commences at the date the last environmental plan for the activity was accepted or on a different date if specified in the acceptance notice for the last environmental plan—is that correct?

Mr Grebe: Yes.

Senator WHISH-WILSON: Did the five-year period for three of Woodside's operations commence on the date the last environmental plan was accepted? I'm referring to the Macedon operations, the Vincent Ngujima-Yin FPSO operations and/or the Pyrenees facility operations.

Mr Grebe: We're aware that the environment plan dates for the proposed revisions for five years has been reached. We're in communication. That's actually occurring not just in those you mentioned. The time frames are challenging to get through the more complex and lengthy consultation with relevant persons. Titleholders have raised concern that it would be premature to submit proposed revisions. The regulations don't make the environment plan expire, as you put it. They are still in force. NOPSEMA actively monitors the time frames in which titleholders are intending to submit proposed revisions for our assessment.

Senator WHISH-WILSON: Could you perhaps make that a little bit simpler for me? It's not black and white. Five years at your discretion?

Mr Grebe: The effect of not submitting a proposed revision by the due date doesn't result in expiry of the environment plan in force. An environment plan is for the life of the activity and the scope of the activity in the environment plan. The environment plan continues in force. It's one of the grounds for withdrawal of acceptance. If a titleholder is overly recalcitrant and is failing to submit a proposed revision when it's needed then the regulations give NOPSEMA the power to commence the process to withdraw acceptance of the environment plan, which is obviously a withdrawal of the permit.

Senator WHISH-WILSON: But you're saying tonight it's not needed—is that correct?

Mr Grebe: In situations where we accept that the case is necessary to take that additional time, which it is in the case of needing to consult with relevant persons, particularly in light of the case law created from Santos v Tipakalippa, then we have accepted an additional time by titleholders to do that work, because submitting an environment plan without that done would actually be non-compliant.

Senator WHISH-WILSON: Would you formally say you've provided exemptions or extensions to Woodside? Is there anything within the relevant legislation?

Mr Grebe: There's nothing in the regulations, so it's not a formal mechanism to extend the time frame. As I said, given that there is an enforcement power for us to withdraw acceptance, we have ensured we have clarified the time necessary to do the additional work, and therefore the deadline that we expect the environment plan to be submitted by. We track and monitor those.

Senator WHISH-WILSON: Have you given a deadline to Woodside on these three operations?

Mr Grebe: There would be time lines that we've agreed with Woodside for the proposed revisions, yes.

Senator WHISH-WILSON: Are you able to provide those to me on notice?

Mr Grebe: I should be able to on notice, yes.

Senator WHISH-WILSON: Just to be clear: Woodside hasn't breached the Offshore Petroleum and Greenhouse Gas Storage Regulation on these matters?

Mr Grebe: No, there's no offence for failing to submit a proposed revision.

Senator WHISH-WILSON: That's all from me. Thank you.

CHAIR: Thank you very much, Ms McCarrey and team. We are in a position to release NOPSEMA. I realise I should welcome new people and congratulate people on new roles, which I've just read about in the opening statement.

Ms McCarrey: It's in my opening statement. I was going to introduce Graham, had a question gone to Graham. I introduce Graham Blair, our new Deputy Chief Executive Officer for Regulatory Operations.

Mr Blair: Pleased to meet everybody.

CHAIR: That's great. Let's not tempt fate. I release you right now!

Proceedings suspended from 21:02 to 21:05

Department of Industry, Science and Resources

CHAIR: We welcome back Ms Quinn and welcome Ms Julia Pickworth and her team for program 1.1. Thanks for being here. I'll go straight to questions—assuming there are no opening remarks from either of you—from Senator Hughes.

Senator HUGHES: Secretary, I want to address the briefs your department provided to Minister Ayres and Minister Husic in relation to this very long list of candidates for the Rail Industry Innovation Council. Before we left, you took this on notice. Have you got any updates for the committee?

Ms Quinn: I'll pass to my colleague Julia Pickworth.

Ms Pickworth: As per the secretary's early description, there was a correction to that *Hansard* which explained and set out the process. As set out in that correction, both Minister Ayres and Minister Husic received separate briefs setting out the process and outlining a number of names of the candidates we considered for appointment. The process that we've explained in that correction is in line with the *Cabinet Handbook* and in line with the process for significant appointments.

Senator HUGHES: So in line with the terms of reference of the Rail Industry Innovation Council, which say that the assistant minister nominates the chair and the members?

Ms Pickworth: The terms of reference for the Rail Industry Innovation Council—and I'll pass to my colleague in a moment to correctly describe them—explain that Minister Ayres is to provide the nominations. They are significant appointments. They go through a cabinet process, and that process, and the process of appointment, is made by the Minister for Industry and Science.

Senator HUGHES: I understand that. I'm interested in the names that got to cabinet. I find it extraordinary that now this very long list of candidates needs to be corrected. I want to confirm how many iterations of this brief existed. I'd like to know how many names were on the first list and I'd like to know how many iterations of this list there were. I do want to understand. We have a very long list of names in briefs that went to Minister Ayres's office. Then we had the signed brief that went from Minister Ayres's office to the department. Then we had a brief from the department to Minister Husic confirming the nominations made by Minister Ayres, which then went to cabinet. Would that be a correct assessment of the process?

Ms Pickworth: Senator, as I outlined before, a correction to that *Hansard* was tabled on 22 November.

Senator HUGHES: Yes or no, was that the process, or what was the process? Okay, let's start with: what date did Minister Ayres receive his initial brief?

Ms Pickworth: As I've outlined, the process for appointment to the Rail Industry Innovation Council—

Senator HUGHES: This is the question I asked today.

Ms Pickworth: was through the cabinet process. In line with usual cabinet processes, briefings were provided to support that cabinet consideration.

Senator Ayres: It's a cabinet process, Senator Hughes; that's the bottom line.

Senator HUGHES: It's a cabinet process once it gets to Minister Husic. You are an assistant minister, who, under the terms of reference, is responsible for nominating these positions. The department can't just come here and change what they said. They actually told us that a very long list of candidates was provided to you. I don't know why, after 4½ hours—in fact, from October—no-one can answer just a number: how many names were on the long list?

Ms Pickworth: Senator, as I stated before, the *Hansard* you're referring to was corrected in a letter provided to the committee on 22 November, which explained the process that was undertaken.

Senator HUGHES: So you're telling me you are now going to sit here and refuse to answer anything that I ask you with regard to this process and just continue to run a protection racket here.

CHAIR: Senator Hughes—

Senator HUGHES: We could not even get a confirmation from the secretary—

CHAIR: Senator Hughes—

Senator HUGHES: around a conflict of interest declaration. These are serious ministerial code of conduct breaches—

CHAIR: Senator Hughes—

Senator HUGHES: and you are refusing to—

CHAIR: Senator Hughes, it's too late for me to yell but there has been a correction to the *Hansard*. I understand that you have separate questions to that about numbers on lists.

Senator HUGHES: Are you saying that there were no lists that went to Minister Ayres, or that there was a list which went to Minister Ayres but you're not going to tell us that there was a list that went to Minister Ayres? Was there a list that went to Minister Ayres or not?

Ms Pickworth: As I've stated, we provided a briefing to Assistant Minister Ayres and to Minister Husic—

Senator HUGHES: Were they were briefed at the same time?

Ms Pickworth: Given that this is a cabinet process, I would need to take on notice how much further detail I can provide—

Senator HUGHES: I'd like you to take a series of dates which I would like to know about on notice. I'd like to know on which date Minister Ayres was originally briefed; the date on which Minister Husic was briefed; what the number of names was on the list; and how many lists were generated. Was it on the first list, the second list, the third list; the long list, the short list or the cabinet list that Mr Thompson's name appeared?

Ms Pickworth: We'll take those questions on notice.

Senator HUGHES: Secretary, I appreciate that you've passed this to Ms Pickworth now but this is just absolutely extraordinary—your refusal to answer questions and provide evidence that this Senate is entitled to ask questions about—

CHAIR: Sorry, Senator Hughes, who is that directed to?

Senator HUGHES: To the secretary; I said her name at the beginning.

CHAIR: It isn't appropriate to speak to an official in that tone. Ms Pickworth has just said that she's taking questions on notice to see what information can be provided.

Senator HUGHES: Ms Quinn, surely we have now established beyond reasonable doubt that Minister Ayres was involved in the appointment process for the Rail Industry Innovation Council—do you accept that? Yes or no.

Ms Quinn: He was briefed on the matter, yes.

Senator HUGHES: Yes. Further to that, it's very clear from the minister's own admission that he has had a very close and long relationship with Mr Thompson—correct? Yes or no.

Ms Quinn: He did provide that evidence, yes.

Senator HUGHES: Ms Quinn, how long have you been a public servant for?

CHAIR: I'm not sure what the relevance of that is to this estimates consideration!

Senator HUGHES: I don't think it's a particularly offensive question. Have you been a public servant for five years—

CHAIR: The extensive CV is available, I'm sure.

Senator HUGHES: Let's assume it has been a substantial period of time. Can you seriously sit there and tell me that there was no conflict of interest to report here?

Ms Quinn: I answered this question at the last estimates and I've already answered it at this estimates—

CHAIR: Today.

Ms Quinn: I'm very—

Senator HUGHES: I asked for a yes or no, and I still haven't got that.

Senator Ayres: Chair?

CHAIR: Yes.

Senator Ayres: Senators are entitled to ask questions; they are not entitled to be rude or disrespectful, or to badger witnesses. I have watched this for a little while now and I'd just encourage people to consider the way that they approach the questions that they ask.

Senator HUGHES: Secretary, unequivocally, yes or no, can you sit there and tell me that there was no conflict to report?

Ms Quinn: On the basis of the evidence before me and the process that was undertaken, it's not clear to me that there was a conflict of interest.

Senator HUGHES: That's a no. So, Secretary, if this is not a clear conflict which, by any measure, should have been reported—whether it's the Ministerial Code of Conduct or, indeed, your department's own conflict-of-interest policy—could you explain to me what on earth would be?

Ms Quinn: Senator, that's a hypothetical question and, typically—

Senator HUGHES: I'm wondering if anyone has to declare anything.

Ms Quinn: You've asked me a hypothetical question about what a conflict of interest would be. A conflict of interest would result in someone obtaining a benefit for themselves through an official process, or a benefit for a family member—those sorts of things. In this process, all steps as set out in the *Cabinet Handbook* were adhered to, and that process is designed specifically to manage any issues around conflict of interest, if they were to exist. So I am confident that, in this process, all the steps were undertaken, and, if there were any or perceived to be any, they were managed through that process as appropriate.

Senator HUGHES: How were they managed?

Ms Quinn: All conflicts, as required, would have been managed through the process, as I've mentioned already, at various stages in the process but particularly in the cabinet process—

Senator HUGHES: But Minister Ayres has told us that he didn't declare a conflict of interest because he didn't perceive a conflict of interest. So how was anything managed if it was not brought to anyone's attention?

Ms Quinn: As I've mentioned several times, Minister Husic was the minister responsible for taking the appointments through cabinet. Therefore, Minister Husic is responsible for ensuring the appropriate processes, as supported by the department—

Senator HUGHES: So it's Minister Husic's fault?

Ms Quinn: There has not been any discussion about any connection between Minister Husic and anyone in this process. So, given Minister Husic was the minister taking things through cabinet, given the processes that we undertook—which are set out publicly, in terms of the nomination and Minister Husic being the minister responsible for taking things through cabinet—and given that the cabinet process was managed by PM&C and the cabinet office in the usual way with all appropriate conflicts being managed through that process, it's difficult to see that there's a gap in that process.

Senator HUGHES: It's extraordinary to think that there was no oversight in this process. Secretary, before the break, you also said that you would take on notice, to provide to this committee, the time line of appointments for the NRF board. Have you got an update for us now?

Ms Quinn: We are in the component of the program where the members who looked after the National Reconstruction Fund are here, and they do have information available to answer some of the questions you raised.

Senator HUGHES: Is it possible for them to table the time line?

Ms Pickworth: We have prepared some information that we can share now. I don't have it in a form that I can easily table, but my colleagues are joining me at the table and will be able to answer.

Senator Ayres: To your testament, Senator, you may ask questions. In terms of production of documents, there's a different process.

Senator HUGHES: That'll be coming. Don't you worry. Presumably, this time line would have been discussed and approved by the relevant minister's offices—that being Minister Husic's and Minister Gallagher's. Correct?

Ms Quinn: Can I just clarify one thing. You mentioned the FOI. I presume you're referring to the time line that's mentioned in the FOI document.

Senator HUGHES: It's the one that's redacted completely in the FOI.

Ms Quinn: I want to point out that the FOI that I undertook to take on notice and the decision-maker's consideration of the FOI will have to be transferred to the Department of the Treasury because it was a decision by the Department of the Treasury in terms of releasing that FOI document. It's not a decision that was taken in my department. So I'm happy to—

Senator HUGHES: But we've established that a time line exists.

Ms Quinn: I'm not entirely sure. It's an email within Treasury that you're referring to and a decision-maker in Treasury. So I've mentioned—

Senator HUGHES: It literally says, 'Here is their time line'. So I think we can establish the redacted part is a time line.

Ms Quinn: I'm not sure what the time line refers to.

Senator HUGHES: 'Here is their time line to establishment to ensure the board is in place before commencement of the act.' 'NRF—Timing to Commencement'. They're the unredacted parts. 'The NRF board is potentially for'—blank. It's pretty clear, even with the redactions.

Ms Quinn: Without being able to see what's in the redaction, it's difficult to make that conclusion. I wanted to point out that it's a Treasury—

Senator HUGHES: I'm sorry. Am I in *Yes Minister*?

Ms Quinn: It's a Treasury decision-maker that made the decision on the redactions, and I wanted to clarify that. If you go to questions, we can't answer that element.

CHAIR: Secretary, can you—

Senator HUGHES: I asked a question, saying that there was a time line that was approved by the ministers—

CHAIR: Senator Hughes, I'm just trying to—

Senator HUGHES: and you're saying they can't answer that.

CHAIR: Senator Hughes, I'm just trying to assist—with my own understanding as well. Secretary, you've said that the document in question originates from Treasury. Are you—

Ms Quinn: The FOI decision-making, the decision and the release of documents were held by the Department of the Treasury.

CHAIR: Yes. So were you taking on notice whether you could find out further information about that from Treasury?

Ms Quinn: We can refer it to the Department of the Treasury for them to consider if they've got further information.

CHAIR: So you've done that, and you've agreed to take that on notice at this point.

Ms Quinn: Yes.

CHAIR: And then these officials have brought information about time lines and are ready to answer those questions.

Senator HUGHES: I mean, I'm just astounded. The time line is redacted, which you're saying you've got no idea about. This was literally the biggest program in your remit. It was an election commitment and drafted legislation, and you're telling us that there was no discussion during the legislative process—

Senator Ayres: The secretary has given—

Senator HUGHES: while your department literally staffed the NRFC before the CEO—

CHAIR: Is there a question?

Senator Ayres: The secretary has given evidence that these are Treasury documents, which are subject to an FOI with Treasury decision-makers. That's how I understand it. She undertook when that was not clear to her—and she's come back with that information and indicated that, while she could take it on notice and refer it to Treasury, ultimately that material, redacted or otherwise, is Treasury material. It can't be more reasonable than that.

Senator HUGHES: Let me try again. Ms Looney and Ms Higgins, if you know anything about the time line—I'm just asking: was it approved by Minister Husic and Minister Gallagher?

Ms Pickworth: I might start and then pass to my colleagues. Obviously the establishment and creation of the National Reconstruction Fund was a significant project of work. There absolutely were plans and time lines to ensure that we delivered that commitment. We can certainly outline in broad terms what the time line was leading into that establishment. We've obviously had the legislation, the priority areas declaration, the investment mandate, the appointment of the board and the appointment of the CEO. Through that process there absolutely was extensive project planning undertaken. I might check with my colleagues whether they have anything further they want to add now or whether there are more specific questions you have that we can provide details on.

Ms Looney: If it's useful, we can walk through the time line that we have. It is not the time line that was reflected necessarily through those documents—

Senator HUGHES: We don't know, because they're redacted.

Ms Looney: because we need to take that on notice and come back to you. What I can do is walk through the time line from the start of consideration of standing up the NRF. In October 2022 it was confirmed that the election commitment would be considered in the 2022-23 October budget. That was the first milestone. On 30 November the NRF Corporation Bill was introduced into parliament. On 29 March the NRF Corporation Bill passed the House of Representatives and the Senate. On 11 April 2023 the NRF Corporation Act received royal assent. In May 2023, through the budget, the finalised NRF Corporation establishment details were included in the 2023-24 budget. In May 2023 a NRF reference group was consulted on the development of the investment mandate. On 6 June 2023 the NRF priority areas instrument was registered. On 13 June the NRF priority areas instrument was tabled in parliament. On 9 August 2023 the chair and seven members of the NRFC Board were announced. On 10 August 2023 the NRF priority areas declaration disallowance period ended in the Senate. On 4 September the NRF priority areas declaration disallowance period ended in the House of Representatives. On 18 September 2023 the NRF Corporation Act and NRF priority areas declaration area commenced. In October 2023 the statutory consultation with the NRF Corporation Board on the investment mandate was undertaken. On 20 November an additional appointment to the NRF Corporation was made.

Senator HUGHES: We'll come back to that.

Ms Looney: On 29 November the NRF Corporation investment mandate was registered. On 30 November the NRF Corporation investment mandate was tabled in parliament. On 1 February this year, 2024, the NRF Corporation appointed a CEO.

Senator HUGHES: That's obviously the universal time line for the NRF. But what we were particularly talking about earlier and what the redacted email clearly refers to is the recruitment time line of the board. We're assuming that that is the redacted material. I didn't hear you mention the recruitment process commencing for the advertising for board members, the securing of a recruitment firm and their being briefed. Was there a time line for any of those details?

Ms Looney: Before we move to that question, I just want to correct what I just read into the *Hansard*. The additional appointment took place on 20 October. I think I misspoke.

Senator HUGHES: I think you said 20 November.

Ms Looney: I just wanted to clarify that.

Senator HUGHES: That's okay.

Ms Pickworth: Senator, you mentioned some further questions that you foreshadowed earlier. We have information available about the process and the recruitment firms that were used to support those processes. What Ms Looney read into *Hansard* is the high-level time line. We're certainly able to answer some of your questions from earlier about the contracts that were used to support the board and CEO search.

Senator HUGHES: Who were the recruitment agencies that were brought in for this?

Ms Looney: For the board appointment, it was NGS Global, and the contract amount was \$32,000.

Senator HUGHES: In total?

Ms Looney: For that contract.

Senator HUGHES: It was \$32,000 for eight directors, nine directors? What was their—

Ms Pickworth: For a bit more context, the Department of Finance worked with our department to support the search for the board. They had a whole-of-government contract with NGS Global, so we used that process. The contract details are on AusTender. They provided support in terms of the search for and the pulling together of a list of potential board appointees.

Senator HUGHES: When the advertising was done for this campaign, did the ad direct people to apply to the recruitment firm or directly to the government?

Ms Pickworth: For clarity, before I pass to my colleagues, at this point we're still talking about the board. There was a separate process undertaken for the CEO.

Senator HUGHES: I'm only interested in the board. When the ads were run, I assume there was an advertising campaign somewhere to notify people that you were seeking board members?

Ms Pickworth: We may need to take on notice the further detail underpinning the board appointment process in that contract. Partly why I'm doing that is that it was led by the Department of Finance, and we'd need to work

with our colleagues to make sure we can fully answer your questions. Obviously we had a lot of people approach the department around roles and potential roles with the NRF. From my recollection, the board appointment wasn't publicly advertised, but I will take that on notice and come back and confirm that. Part of why I'm doing that is I have more front of mind the NRFC CEO appointment, which had public advertising around that.

Senator HUGHES: So you're not aware of what NGS Global was tasked with. Were they asked to find 10 candidates, 20 candidates or to provide a certain skills matrix to make up a board?

Ms Quinn: The legislation sets out the parameters of the board. It sets out the chair and six to eight board members. It also sets out the skills matrix and the capabilities that would be taken into account through a process. That legislation—

Senator HUGHES: Ms Quinn, I've worked in executive search and I know when you're briefed by a client they'll ask you for a shortlist of three or five people for them to then have a look at and interview. Did they present to you or did you request a certain number of people in particular areas, or did you just say to them, 'Come back to me with X number of names'?

Ms Pickworth: In their role, they certainly did identify some candidates. They also identified and assessed the candidates' suitability and conducted due diligence. So they supported the process. The department and the Department of Finance themselves were also, obviously, receiving and gathering names as part of our work to support the appointment of the board.

Senator HUGHES: Were they passed to NGS? Again, having worked in this area, I know that companies that get people to approach them directly quite often will then refer them to the recruiter so the recruiter has full oversight and can put together the best possible shortlist. Were the people that directly approached the department or the minister referred to the recruitment agency?

Ms Pickworth: Certainly, the NGS role did assess candidates' suitability, including, as the secretary's mentioned, against the markers in the legislation of what the ministers should have regard to, and did conduct due diligence on the candidates that were being considered.

Senator HUGHES: All candidates that were being considered?

Ms Pickworth: I'd have to take on notice further detail on that.

Senator HUGHES: Was this process undertaken once, twice? Was there one recruitment process, or were there a number of recruitment processes for the board?

Ms Pickworth: There was one process undertaken around the appointments to the board, but, as my colleague has noted, upon establishment there was one vacancy and, as is usual, as governments consider vacancies, in line with that process, the vacancy was considered. It wasn't separate. There were not multiple processes run for the board appointments.

Senator HUGHES: The board can be between six and eight members and a chair. So when Minister Husic proudly announced the board of eight members—that it was up and running, was ready to go, had excellent skills and a fantastic board—the chair was singing their praises. They had their first board meeting. When did they realise: 'Oops! We've gone out and done this, and, oh, we can put another mate on!' When was that? Why would the minister go out and say, 'We've got a fantastic board and we've had our first board meeting. But, actually, on reflection, we've got a vacancy'?

CHAIR: The question you're putting is about the time line in relation to the subsequent appointment of Mr Thompson?

Senator HUGHES: I am asking: was Mr Thompson on the first list provided by the recruitment firm?

Ms Pickworth: As outlined previously, when we were talking about the Rail Industry Innovation Council, this is subject to a cabinet process and, in line with the usual cabinet processes, the department provides advice to support that consideration and to support that process, and that was undertaken for the board appointments.

Senator HUGHES: When it was thought that there was a vacancy available, was there another recruitment process with the same resources allocated to go out to make sure that it was attracting the best possible person, that it was identifying the skills that were required that were missing from that board, that there was a recruitment firm engaged, that the same sort of interviews and shortlisting was done? Was that process undertaken in order to get to Mr Thompson, or was he a lone appointment? He was just such a star that he didn't need to go through the process like everybody else did. A group of quite eminent Australians went through a significant process. Did Mr Thompson go through the same process?

Ms Pickworth: As I outlined before, it is usual for governments to consider the make-up of boards and to consider vacancies. In line with the usual process, the department provided advice to support that consideration

and for the appointment process, and that process was completed in advance of the appointment being finalised and the public announcement on 20 October.

Senator HUGHES: There have been emails we've provided. I noticed that Ms Oliver was here, who's a starring witness in these emails sent. It was a very quick turnaround. There was a flurry of activity. Emails were being responded to within three minutes of getting Mr Thompson's letter of offer.

CHAIR: Senator Hughes, I do need to share the call. We've been going for 30 minutes here.

Senator HUGHES: I'm happy to come back if you would like.

CHAIR: I'll go to Senator Stewart.

Senator STEWART: I'm interested to understand your support for industry and industrial research. Are you able to tell me about the many grant programs that you oversee across industry and science? It'd be great to hear some of those examples of people who might not know what it is that you guys support and fund and help grow.

Ms Quinn: We do provide and support a range of opportunities for different sizes of businesses. The most significant program is the Industry Growth Program, which is a new program of the government to support innovative companies who are looking to step up and do something different in Australia. That is the most significant growth program by number of grants. The other significant one is the CRC Program, which—I'm going to get the acronym wrong.

Senator STEWART: There are so many acronyms.

Ms Quinn: It's in our science area. It's the cooperative research grants and the projects that go with them. So they're the two large grant programs that are run out of the industry department.

Senator STEWART: When you say 'large', does that mean numbers or dollar amounts?

Ms Quinn: Both in terms of the number of proponents but also in terms of the funding that's available. I might throw to my colleague David Chuter, who's the executive director looking after the Industry Growth Program, to provide a high-level oversight of what that program does. The other ones are more in the science space, but they go to cooperative research, and we can come back to those if you need.

Mr Chuter: I recently joined the department after 30 years in the industry sector, a long career in manufacturing and, coincidentally, seven years of having the privilege to run the Innovative Manufacturing CRC, the cooperative research centre. Part of my responsibility is to run the Industry Growth Program, the new \$392 million program. It is a program in two parts. The first part and probably the most significant part for SMEs is advisory support. We do that in two ways. We have a team of advisers around the country who are already in service, working with many SMEs and start-up companies to really drive their commercialisation and growth plans. The second part is an industry partner organisation network, for which the grant program has just been opened up.

The other part of the program is a grant program, and that is designed for grants of quite a significant size for small and medium businesses—up to \$5 million of matched cash. Those grant guidelines are in the process of being finalised and published, and it is anticipated that program will be published in early 2024, in the first quarter of this year.

Senator STEWART: I'm not sure about the answer to this question—are there things that you do to target and attract First Nations businesses into this space in particular?

Ms Quinn: We also provide a service through our industry network. We have experts in supporting small businesses, in particular, to connect to government programs not just within our portfolio but across other portfolios, such as health and defence. We have an industry regional manager network, and they are spread around the country. As part of that program, we have more recently employed dedicated First Nations business support to be able to connect First Nations businesses into programs. So that's one thing that we do in terms of small business, and they also provide expert feedback to the department in terms of lessons learnt or what might or might not be working. That's one aspect.

We also then, through the guidelines, engage with other programs through our grants hub, which we heard earlier evidence about. We work with departments to remind them of the Closing the Gap obligations that the government has in terms of economic participation. They are the policy owners, but we work with them to give them examples of guidelines and assistance that can be done in programs to boost First Nations businesses. We also work with others through the procurement system, which is managed by the Department of Finance in a policy sense. But we all, as departments, operate under those procurement systems, which have an element of First Nations participation as well. They're just some of the things that we do.

It is definitely the case that we've increased our understanding and focus on First Nations at the direction the government to meet the closing the gap obligations, including the obligations we have as a department to look at our internal processes to increase our understanding of the issues and to lean into that space. But I'll just go back to—

Senator STEWART: It sounds like you're on a steep learning journey but doing well.

Mr Luchetti: Just to add to the secretary's comments, we have a regional manager network in AusIndustry. We have 30 members of that network; two of the 30 members are First Nations members. They were brought on in June-July last year to actually focus specifically on First Nations businesses and making the connections there. They do a number of things for us. It's not only the contact that they have with First Nations businesses and engagement but also working with the other regional managers to create pathways and to help them with the way that they engage with First Nations businesses. The other thing that we support is that we're a sponsor of the Supply Nation awards. That's another opportunity for us to raise our profile in the support that we provide.

Senator STEWART: Excellent In the interests of time, I think I might separately have a chat to you guys about what it is that you're doing.

CHAIR: Just some guidance on the program—because we are due for a break in a few minutes. We're going to continue on with program 1.1 for a short period of time, and then we should be in a position to call the National Reconstruction Fund Corporation. Senator Hughes, you have the call.

Senator HUGHES: Just to finish up on the recruitment process—Ms Pickworth, you might be able to answer this quickly. You mentioned the cost of this recruitment process was \$32,000.

Ms Pickworth: Yes.

Senator HUGHES: Was there one invoice or two invoices?

Ms Pickworth: I would have to take that on notice. Again, as I mentioned, NGS Global was procured through a whole-of-government contract that sat with our colleagues in the Department of Finance. So I'd need to discuss that with our colleagues.

Senator HUGHES: I'm trying to understand how many processes they were, the recruitment steps and what happened. Was there a recruitment process that cost \$32,000 that produced the eight members and then there was another one? Or, if there was only one invoice that produced eight directors, then I have to assume that Mr Thompson was appointed in a bespoke, behind-closed-doors manner. So could you please take on notice how many invoices there were. In fact, we'd be very happy if they could be provided to the committee. You can obviously redact—people are good at that—any specifics that might be there, but certainly provide the invoices themselves.

I would just like to move on now. Minister, you'll be pleased to know there's a change of topic. On ABC Radio on 15 January, the Prime Minister claimed that the National Reconstruction Fund had been open for business since November and that money was available. At the same time, the NRF website carried the official guidance, 'We're just getting started.' The NRF, in its set-up phase, said, 'We are developing formal processes to evaluate financing proposals.' Minister, was the NRF open for business in November?

Senator Ayres: It certainly is, and I think, given that they are—

Senator HUGHES: Sorry, it was?

Senator Ayres: It is and was. Of course, in terms of the set-up and the progress that the fund is making, I think it would be more efficient to ask those questions when—

Senator HUGHES: I've got some others for when the NRF arrive. These are just more for you.

Senator Ayres: I would be very happy to allow Mr Power and others to add to those questions.

Senator HUGHES: I think this actually goes to the issue of government and department.

Senator Ayres: The fund will start making investments as soon as possible. Of course, there is an excellent board that, with the CEO and the chair, is charged with responsibility for making decisions in the same way that other funds of similar nature—the Future Fund and EFA—make these kinds of decisions. There is a governance framework There are all of the mandates and frameworks that are appropriate to make sure that public money is invested properly. The fund has had a link available for people to engage. Mr Power will be able to tell you how that work is going.

Senator HUGHES: I can get you a copy of the transcript if anyone would like it tabled. The Prime Minister very clearly and repeatedly said it's operating and it's open for business whether the website is there or not. The

Prime Minister did acknowledge, though, the website's inability to accept applications and said that he would examine the issue with the website. He accepted that there was no way to apply. That's a matter of fact.

Senator Ayres: I'll let Mr Power and colleagues talk to those issues in detail. They have direct knowledge about how the process of engaging with project proponents is proceeding in real time. If you're interested in the answers to that, he is just around the corner in time terms and physically.

Senator HUGHES: I think we can establish it was factually incorrect for the Prime Minister to claim that the NRF was open for business when it was not, in fact, open for business. Secretary, in your evidence—

Senator Ayres: I've learnt in working on this committee that you reach conclusions well ahead of where the rest of us might.

Senator HUGHES: Well, if you can't apply, I don't think you're open for business. Secretary, in evidence you provided to the committee when we last met on 26 October 2023, you said of the NRF:

It has a few more steps in its process. It is a matter for them exactly when they will be making decisions. The board has established the corporation as an entity. It is staffing up.

At the same time, we know from media articles that the minister was boasting that the NRF had received hundreds of applications. To the point of the process: it sounds like Minister Husic's office was perhaps open for business, not the NRF. Secretary, we have established that the website was deficient. You submitted in evidence that there were more steps in the NRF's processes before it was operational. If not the minister's office, where were these hundreds of applications being made, and how did the minister's office know the amount of applications made?

Meghan Quinn: As I mentioned and as set out, there are various steps involved in setting up the NRF. We've talked about the timing of the board appointments. The NRF Corporation Act commenced on 18 September, establishing the corporation and allowing the board to meet for the first time. The National Reconstruction Fund investment mandate was finalised on 29 November, and that set out the government's priority areas for investment and the rate of return and was the last legal step in the creation of the NRF. Prior to that date, the NRF was receiving investment related inquiries, as were the department and other interested parties. These inquiries were provided to the NRF corporation entity and staff for them to consider as was appropriate by their activities. As Minister Ayres has said, the NRF Corporation will be here shortly to provide information about timing and their processes in terms of inquiries. We seek information from the corporation from time to time to be able to provide briefings to interested parties and we do share information back and forward. So, in terms of the route through which the minister would have received facts and figures, it would have been through the engagement with the corporation.

Senator HUGHES: You just said that you had inquiries made, not applications. The reason I'm very keen to talk to you is that Mr Power wasn't actually in the job at the time the website was not operational. I'm trying to understand and get my head around how the applications were being received. Were they via very-well-connected people, people that knew people, people that had good lobbyists who were saying, 'This is where you go and do it,' because the public website, the portal where people and companies apply, was not operational?

Senator DEAN SMITH: [inaudible]

Senator HUGHES: Well, they're not applications, because they're inquiries. I'm trying to understand how these applications were received, as Minister Husic told us that there were hundreds of applications. If they were received under the process while the portal was not operating, what about the companies who have now applied legitimately through the portal? Do the companies who made inquiries or, as Mr Husic calls them, applications at the top of the list because they were well connected, or are those that go through the portal?

CHAIR: We might seek a response at this point.

Senator Ayres: This is an independent fund that is a serious show.

Senator HUGHES: Very serious.

Senator Ayres: It's not the commuter car park fund. It's not the sport rort fund. It is a fund that has independence—

Senator HUGHES: If you want to be here all night, get comfy!

Senator Ayres: and will take applications and project proponents from across the board. It will assess them in a serious way.

Senator HUGHES: I'm asking how they will be ranked? Is it first in, first served? Is it people who had a great lobbyist or sent it through to Ms Quinn directly?

Senator Ayres: There is a whole team ready to answer your question.

Senator HUGHES: Mr Power wasn't there.

CHAIR: Can I assist? This may be a good segue to the National Reconstruction Fund Corporation, who are ready to be called.

Senator HUGHES: I haven't finished, and I'm entitled to continue asking questions until I'm finished.

CHAIR: I know. I was genuinely trying to assist by also saying that National Reconstruction Fund can help with the process once they're established. Senator Hughes has questions about these matters that the secretary was about to respond to.

Meghan Quinn: The National Reconstruction Fund Corporation has existed from 18 September and it has had staff—

Senator HUGHES: The portal was not operating. You're missing the point of the question.

Meghan Quinn: It has had staff and a functioning entity from that point. The corporation itself appeared before this estimates last time, prior to Mr Power's appointment, with an interim CEO. They would be in a position to answer your technical questions about the process, the numbers, when they did or didn't have a particular website and whether they took inquiries or other elements via email address et cetera.

Senator HUGHES: What was the email address people were applying through?

Meghan Quinn: I said that hypothetically; I'm not aware.

Senator HUGHES: Oh, you're hypothetical now. We do those.

CHAIR: Genuinely, the National Reconstruction Fund Corporation is the next witness we're about to call, so—

Senator HUGHES: This is disgracefully opaque. The PM has made it clear on national radio that there was no front door, only back doors for applications while Minister Husic was claiming there had been hundreds. There was no way for an ordinary company out there to go through a public process. As you say, Minister, it's very serious. There was no clarity with how a normal Mum-and-Dad manufacturing business could go and apply, but, for those that had access to a great lobbyist or knew people who could get in contact with other people when the department was fundamentally staffing the NRF, inquiries were received. Are these inquiries considered applications as Mr Husic has said they were, or are they inquiries?

Senator Ayres: You're asking the wrong people the question. If the question is how the fund is dealing with applications, project proponents or whatever that have appeared since Mr Power was appointed, he can answer those. If the question is whether there is any different way that project proponents or applications were dealt with during the period Ms Manen was the acting CEO, they will be able to answer those questions. If you want to ask questions about applications that came before that period—I hear you say there wasn't a red button on the website for people to press—

Senator HUGHES: The website wasn't working. The portal wasn't open.

Senator Ayres: then they'll be able to answer those questions. The point of the fund is it's an independent fund, so it's not actually within the knowledge of the officials about how the fund—that is the set-up of the fund; that is how it works.

Senator HUGHES: Secretary, when the minister's office or the department received inquiry/applications for funding whilst the portal was not operating, how did they get to the NRF? Were they collated by the department and sent over with a cover note? Did the minister's office submit them to the department, or did he directly send them to the NRF? How did they get to the NRF?

Ms Quinn: I'm not aware of those details, because I was not involved in any of that process.

Senator HUGHES: Is anyone in the department here involved in the NRF?

Ms Pickworth: As the secretary outlined, prior to establishment there were extensive approaches and inquiries from companies while the department was in the establishment phase, prior to the corporation being stood up. Subsequent to being established, the corporation themselves have received extensive approaches and inquiries from companies. We, certainly, are able to talk to the number of inquiries the department received prior to establishment. From the point of establishment on, the National Reconstruction Fund Corporation are best placed to answer those questions.

Senator HUGHES: How many did you receive?

Ms Pickworth: I'll ask my colleague whether she has those details to hand. We might be able to give you some summary stats and see if that addresses some of your questions.

Ms Looney: Prior to establishment, the department received a number of inquiries and contact from interested parties around general prospects between 22 October and 23 August. We had 92 entries—

Senator HUGHES: Sorry, prior to stand up, there were 92?

Ms Looney: Correct. There were 20 meetings recorded with companies undertaken. That was between February and July in 2023. There were prospects referred to us by states. Between February and April 2023, there were five.

Senator HUGHES: It's not quite hundreds of applications.

Ms Pickworth: Just to note, those were inquiries that came to the department prior to the establishment of the National Reconstruction Fund Corporation. The National Reconstruction Fund Corporation would be able to answer subsequent.

Senator HUGHES: I'll be asking them. It's not quite hundreds. Those 120 or so—

Ms Looney: That was prior to establishment.

Senator HUGHES: Prior to their standing up, what did you do with them? Did you put them together and send them with a cover note with each one? How did they get to the NRF?

Ms Looney: I'd need to take it on notice.

Ms Pickworth: Obviously I think we've talked about this at past estimates. Within the department, we undertook preparatory work for the National Reconstruction Fund Corporation stand-up. There was a suite of information documents and advice provided from the department to the team that then worked on the National Reconstruction Fund Corporation upon establishment, including the department providing secondees across as well.

Senator HUGHES: But that doesn't tell me how the application/inquiry—

Ms Pickworth: We've already taken that on notice. I just wanted to provide some context.

Senator HUGHES: I'm just concerned though that perhaps the minister got hundreds of his own applications of inquiries, when you look at his media release and the figures he was professing. They may have come to him directly.

CHAIR: Given that we've got an hour left with the three witnesses, I appreciate that your best to get through—

Senator HUGHES: I'm not getting anywhere here, so I'll ask the NRF. I've got a lot for them.

CHAIR: Thank you very much, Senator Hughes. We release program 1.1. Thank you very much. We'll take a brief suspension as the next corporation comes forward.

National Reconstruction Fund Corporation

[22:01]

CHAIR: We welcome the National Reconstruction Fund Corporation. Mr Power, welcome to your first appearance at Senate economics estimates. Welcome, Ms Manen, as well. We've seen you before. If you have an opening statement, I would ask you to table it rather than speak to it because we're very short on time at this point. I'm going to Senator Hughes.

Senator HUGHES: Up until a few weeks ago, the official guidance on the NRFC website for potential applicants was: 'We're just getting started. We're in a set-up phase. We're developing formal processes to evaluate financing proposals.' When did the online application appear and become active on the website and when did that text go?

Ms Manen: The NRFC website was live on 30 October. The website was updated on 30 November, the day after the investment mandate was registered, to include an option on the website to provide information to the corporation including in relation to those companies seeking investment from the corporation.

Senator HUGHES: So there was an application process?

Ms Manen: There was the ability on the website to provide information to the corporation from businesses seeking investment.

Senator HUGHES: Was it a proposal or an application? Were they submitting a proposal?

Ms Manen: I think an important point to make in relation to the corporation is that it is a little different in terms of the way in which it would consider investments when contrasted with a traditional grants program, where there is a call for applications and people submit those. We are inviting businesses to contact us with their project proposals.

Senator HUGHES: In an ongoing fashion?

Ms Manen: That's right.

Senator HUGHES: The PM admitted that the website was deficient and that people could not apply online and could not submit a proposal. I've got a transcript of an interview he gave on the ABC on 15 January where he said that the website was deficient. I've heard from Ms Quinn that there were inquiries made. We've had Mr Husic say there were hundreds of applications at a time when the website was not operational. So what I want to know is: If I go on now and want to submit an application, is there a form there? Is it a standard form that people complete to submit to you?

Ms Manen: If you go onto the website now, there is a standard form that people can complete to provide information about their projects or the projects for which they're seeking investment.

Senator HUGHES: When did that form start to exist?

Ms Manen: If I may, I'd just like to say that I don't agree with the proposition that the website was deficient and that people were unable—

Senator HUGHES: The Prime Minister's proposition?

Ms Manen: The website was—

Senator HUGHES: It's not mine; it's the Prime Minister's.

CHAIR: Senator Hughes, let's wait for an answer.

Ms Manen: Thank you, Chair. The website was operational, and people were able to contact the corporation with their projects in order to provide information to us about seeking investment from the corporation. That functionality on the website was made on 30 November, the day after the investment mandate was registered.

Senator HUGHES: Was that via an email address?

Ms Manen: There was a contact form on the website.

Senator HUGHES: So they put their details in and filled it out? When did this standard form come into existence?

Ms Manen: The form that you're referring to was uploaded onto the website on 23 January.

Senator HUGHES: We'd get through these things much more quickly if we just got the information up front. Do all of these inquiries and applications that came through before the standard form was in place need to be resubmitted in the same format that everybody else in the public who has now gone through the website has used, or are they at the top of the list? I'm talking about the ones that went directly to the department that were then forwarded through and the ones that went directly to the minister's office that were forwarded through. Are they at the top of the list? Do they need to resubmit the application through the portal now that it exists?

Ms Manen: I think it's important to emphasise that the range of inquiries and the range of approaches that the NRFC is receiving are across a broad spectrum from people wanting to understand more about the NRFC and wanting to talk to us about the projects that they have and that they're thinking about. Not all of them are at the same stage of maturity in terms of how far along those project proposals are in their development. What I would say is that all of the inquiries that we've received are treated in the same manner. They are referred to the team in the corporation that is responsible for assessing proposals. That team is working through those proposals, including engaging with companies who are seeking investment or who have inquiries to provide the information that they're seeking, and they are all being treated in exactly the same way.

Senator HUGHES: How many applications have you received to date?

Ms Manen: If you're referring to how many people have filled out the standard web form—

Senator HUGHES: The standard web form, and now we're hearing that there are people who came through lots of other gateways. How many in total?

Senator DEAN SMITH: Excuse me, Senator Hughes. Can I ask a quick question. Is the standard form your proposal landing page?

Ms Manen: Correct.

Senator DEAN SMITH: Thank you.

Senator HUGHES: How many have come through the proposal landing page, and how many in total?

Ms Manen: I can tell you that for the period between 30 October 2023 and 23 January 2024 we've received over 130 inquiries related to investments via our website.

Senator HUGHES: How many have you received since the portal's been operational, from 23 January?

Ms Manen: There have been 28 submissions through the portal.

Senator HUGHES: So at no stage—when the minister declared, 'The NRF's open for business and we've received hundreds of applications'—was he even in the ballpark of being correct. When were the investment guidelines finalised?

Ms Manen: The board moved quickly to develop the investment guidelines following the registration of the investment mandate on 29 November. The board agreed to develop the guidance at their meeting on 1 December and agreed to the content of that guidance on 20 December, requesting that it be formally copyedited and professionally edited prior to publication. That guidance was provided to the editor on 10 January. The board conducted a final review on 19 January, and the guidance was published on 23 January.

Senator HUGHES: When we're talking about a very serious and very large sum of taxpayer money, isn't it putting the cart before the horse where there are applications and inquiries—so it's engaging and occurring—before investment guidelines are even finalised?

Ms Manen: As I mentioned before, the corporation has been engaging with a large number of businesses that are interested to find out more about the corporation and more about the NRF and the way in which it will operate.

Senator HUGHES: It just seems extraordinary to me that you've had 130 inquiries from 30 October to 23 January. How would they be getting information from you? How could they put in any form of application or program that they're interested in putting forward when they actually don't know, what and why the guidelines are going to be for the application? It just seems incredibly strange that the corporation didn't have any internal processes stood up but was open for business.

Senator Ayres: Senator Hughes, I've just received some information. You asserted earlier that the Prime Minister said that the website was deficient. What he said, after a question was put to him, was:

I'll examine the issue of the website.

It's a reasonable point that you make. But people who are actually following this, who are interested in applying, will have seen Katy Gallagher's recent release from November setting out what the process is. Why do you assert—in a question to a witness who has no way of knowing whether what you said about what the Prime Minister said is correct or not—something that is highly incorrect?

Senator HUGHES: If that's your biggest complaint today—settle in for a long night.

Senator Ayres: Why is it that questions are asked in that way?

Senator HUGHES: Settle in for a long night. The website was not operating.

Senator Ayres: That's not correct.

Senator O'NEILL: It's inappropriate.

Senator HUGHES: Please, Senator O'Neill, stop screeching across the table.

CHAIR: That's not appropriate. Let's go, Senator Hughes. Let's see what we can get through.

Senator HUGHES: Well, we will if we—

CHAIR: Let's go.

Unidentified speaker: Tell the truth.

Senator HUGHES: Pardon me?

Unidentified speaker: Tell the truth.

CHAIR: Let's see what we can get.

Senator HUGHES: Well, if we could tell the truth we would have been finished a lot earlier this morning.

CHAIR: Let's go, Senator Hughes.

Senator HUGHES: We have a situation where the NRFC rightly states on its website that it's still developing formal processes. The PM is asked on morning radio about why firms can't apply for funding. The PM says that he will examine the issue with the website. Did either the PM's office or Minister Husic's office contact the NRFC about this matter?

Ms Manen: I received no contact from either the PM's office or Minister Husic's office.

Senator HUGHES: He did—and you can go to your transcript—say he would examine the issue with the website, but he never did follow up on his public commitment to do so. That's hardly surprising.

Senator Ayres: There's no basis for that assertion.

Senator HUGHES: Would you like me to read it out for you where he said that?

Senator Ayres: I just did.

Senator HUGHES: And so he reneged on a public commitment that he made. How many of the applications that have been received or come to attention have been already rejected?

Ms Manen: I'm sorry—can you repeat the question?

Senator HUGHES: Have any projects that were sent through, including those that were sent through before you even had guidelines, been rejected?

Ms Manen: There have been no decisions taken in relation to investment inquiries.

Senator HUGHES: Do the 130 firms that came through the back door need to resubmit the online application form to have their application considered?

Ms Manen: As I said to you before, all of the inquiries that we have received are being dealt with in the same way. We did—

Senator HUGHES: So you have a standard form though now. You didn't before. But they're being treated in the same way? You can roll your eyes as much as you like. Honestly, can I just get an answer? The obfuscation is disgraceful. The protection racket and the way that this is being covered up—

CHAIR: Senator Hughes.

Senator Ayres: There are a series of behaviours here—I just think there ought to be a little bit of reflection.

Senator HUGHES: I think there's a great deal of reflection that should be happening.

Senator Ayres: There ought to be.

Senator HUGHES: There might be a spot for you, Senator O'Neill, soon!

Senator O'NEILL: That would be great!

CHAIR: That's not appropriate.

Senator Ayres: That's unacceptable.

CHAIR: Can I just reset? We've got three witnesses to ask questions of. Are you concluded, Senator Hughes?

Senator HUGHES: No, I'm not.

CHAIR: There are a number of senators here who have—

Senator HUGHES: I'm going to move on to another issue though because this is clearly getting nowhere. On 31 January this year, the Minister for Industry and Science made comments to the media noting his ambitions for the NRF to co-fund projects with superannuation funds. He said, 'We've got one of the biggest saving pools on the planet through superannuation and so where we can team up with them is really important.' Mr Power, can you confirm that this is an intention that's shared by the NRFC?

Mr Power: I think the act is quite clear in instructing the NRFC to co-invest and to crowd in private capital. So, following the act, we certainly will be seeking to be co-investing with private capital, yes.

Senator HUGHES: I refer the NRFC to a document titled *AustralianSuper director and chief officer cessations FY24*. If the committee would like it tabled, I can provide a copy. Would you like me to table it, or can I seek to have it tabled?

CHAIR: You can. We just need to put eyes on it, but keep speaking to it.

Senator HUGHES: This document reveals that Mr Daniel Walton had retired from his position as a director of AustralianSuper, effective 1 September 2023, having been appointed to the NRF board on 9 August 2023. Does the NRFC agree that this is the appropriate way for NRF board members to eliminate a perceived or actual conflict of interest, given the clear intention to team up with super funds?

Mr Power: Are you asking for my opinion on that?

Senator HUGHES: I'm asking: does the NRFC think that its board of directors should not also serve on the board of a superannuation fund when the stated intent is to work collaboratively with them? Would that not be seen as a conflict of interest?

Mr Power: I have two comments on that. Firstly, the events you're talking about certainly predate my appointment, which was three days ago.

Senator HUGHES: Yes, I welcome Mr Power.

Mr Power: Thank you. Secondly, I'm in no position to comment on appointment of directors or any of those matters. I do know that there are very clear guidelines that I am subject to about conflicts of interest.

Senator HUGHES: Is the board of directors subject to significant conditions and advice?

Mr Power: I have no doubt they are subject to significant policies around conflicts of interest. All of us will be following those policies.

Senator HUGHES: If there were a conflict of interest that arose, how would you, as CEO, deal with the situation?

Mr Power: We have a very clear policy of how we deal with conflicts, and I will be following that policy.

Senator HUGHES: Do you think it's acceptable, whilst Mr Walton has retired from his position—which seems to be very admirable, and he seems to be someone of integrity to do that—for Mr Glenn Thompson, another board member, to currently serve as a board director of Australian Super?

Mr Power: Are you seeking my opinion?

Senator HUGHES: Mr Thompson, another board member, serves as a board member of the NRFC and also serves as a board director at Australian Super. Is that part of a conflict of interest?

CHAIR: I think Mr Power's correctly pointed out that you're seeking an opinion, and it's not an appropriate question.

Senator HUGHES: Wouldn't you assume that Mr Walton's resignation from his directorship of Australian Super may have given a clear indication to Mr Thompson to do the same? A directorship would put someone in a position to have knowledge and responsibility, which would clash with his ability to impartially make decisions on behalf of the taxpayer.

Senator Ayres: I'm not sure how such a question's capable of being answered. I've heard your assertion. Mr Walton is an excellent and very experienced director in a range of areas.

Senator HUGHES: He clearly understands conflict of interest.

Senator Ayres: I have no knowledge about the basis for his retirement from a directorship. He holds a number of positions out there.

CHAIR: I'm struggling to see the relevance.

Senator Ayres: Mr Power has indicated, on his third day, that the fund has a set of policies that deal with inevitable conflicts that arise on corporate boards, investment boards, bank boards and superannuation boards that are managed in the usual way. I'm not sure that more information can be provided to you on that question.

CHAIR: Senator Hughes, in accordance with the discussions that we've had on the committee about management of time, are you in a position to put your questions on notice at this point or ask one final question to conclude? Senators have questions.

Senator HUGHES: I'm interested, Mr Power—perhaps you can provide it to the committee on notice—in whatever the guidelines will be with regard to the management of conflicts of interests and whether or not the minister or the NRFC has sought any advice on how conflicts of interests could arise and be managed, given that NRFC has been given a directive to 'team up' with super funds.

CHAIR: Not that anyone accepts that categorisation, but is that a question on notice for Mr Power?

Senator HUGHES: I'm sorry; what categorisation?

CHAIR: You know what I mean: the teaming up part.

Senator HUGHES: It's actually a quote, 'Team up with super'.

CHAIR: Alright, have you put your question?

Senator HUGHES: Mr Thompson has, on his profile on the NRF, that he is on the Australian Super board. It's just extraordinary. There is a clear lack of transparency.

Mr Power: Delighted. We'll take that on notice.

CHAIR: Thank you very much, Mr Power. The committee thanks the National Reconstruction Fund Corporation for your attendance this evening. We release you with our thanks. The committee calls the

Department of Industry, Science and Resources outcome 1, program 1.2: science technology and related. We encourage you into the room expeditiously.

Department of Industry, Science and Resources

[22:24]

CHAIR: We are considering outcome 1, program 1.2, science, technology and related. We welcome you, Ms Wilson and team. We'll proceed straight to questions. Deputy Chair.

Senator BRAGG: Good evening. How much would it cost build a quantum computer in Australia, just roughly?

Senator Ayres: He's been waiting all day for this question! He's very patient.

Ms Quinn: I think I heard the question. How much would it cost to build a quantum computer in Australia?

Senator BRAGG: Yes.

Ms Quinn: That's a very difficult question to answer given where things are at in the state of quantum computing. The government has a quantum strategy, which is looking to support those involved in that endeavour. The government is invested in SQC as well, as a company. We're always looking for information about the system. There are private companies overseas that are endeavouring to build quantum computing, large and small companies, and they have valuations that range up to the many billions. There are a large number of different companies and different technologies, so it's a little hard to be precise. But it's a significant endeavour, requiring quite significant technical advances, and many companies are a fair way along that curve.

Senator BRAGG: Do you think that there are Australian companies that could build a computer?

Ms Quinn: There are proponents that are looking to develop the ability to do that. As I mentioned, SQC have stated their desire to move towards that, and there are others overseas.

Senator BRAGG: Are you aware of a company called PsiQuantum?

Ms Quinn: I am aware of that company, yes. It's a company housed in the United States, I believe.

Senator BRAGG: It's a US company, is it?

Ms Quinn: Yes. I believe so.

Senator BRAGG: Has the department met with PsiQuantum?

Ms Quinn: Yes, we have.

Senator BRAGG: At what level?

Ms Quinn: At a range of levels. Members of the company have visited Australia and engaged with the team looking after the quantum strategy and provided advice. We've met with them at various different levels.

Senator BRAGG: Were there meetings in the US with PsiQuantum?

Ms Quinn: Minister Husic attended the United States for various purposes back in January 2023, and he did meet with that company at that time, with department officials.

Senator BRAGG: Minister Husic did?

Ms Quinn: Yes, in the tour in the United States.

Senator BRAGG: Do you know who was in that meeting?

Ms Quinn: I can take it on notice.

Senator BRAGG: Thank you.

Ms Quinn: I believe it was the minister, with his office staff and a departmental official.

Senator BRAGG: If you could, also include in your answer any third parties who may have been in that meeting. Do you know whether or not PsiQuantum is a registered company in Australia?

Ms Quinn: I don't know that. I don't know whether anyone else in the team would know. I presume you could do a search.

Ms Wilson: We'll take that on notice.

Senator BRAGG: Have there been any informal agreements between the government and PsiQuantum agreed?

Ms Quinn: Did you say 'informal'?

Senator BRAGG: Have there been any agreements between PsiQuantum and the government, the Commonwealth?

Ms Quinn: I'm happy to take it on notice in terms of relation, because there might be other engagements, because other colleagues are dealing with quantum technology et cetera. At this point in time, I am not aware of any agreements with the company.

Senator BRAGG: Do you know whether the Commonwealth has engaged with the Queensland government in relation to any engagement with PsiQuantum?

Ms Quinn: I do believe we are aware that the Queensland government has engaged with PsiQuantum.

Senator BRAGG: Is it a consortium? Is it a three-way engagement? Do you know?

Ms Quinn: I'm happy to take the details of the engagement on notice.

Senator BRAGG: Do you know how much funding has been allocated by the Commonwealth to quantum computing?

Ms Quinn: I don't have that off the top of my head.

Senator BRAGG: You can take it on notice if you want.

Ms Quinn: I know there are various grant programs and different types of support activity. I'm happy to take it on notice. There were some prior to the quantum strategy and during the quantum strategy. So I'm happy to take it on notice.

Senator BRAGG: Do you know whether there have been any closed invitation-only EOIs issued in relation to quantum computing?

Ms Quinn: We did undertake an EOI exploring the maturity of the market around quantum computing. That occurred last year.

Senator BRAGG: Was that a closed process or was it available to anyone?

Ms Quinn: We surveyed the market in terms of who we sought information from, and we went out to 21 domestic and international companies as part of that exploration process.

Senator BRAGG: How many?

Ms Quinn: Twenty-one.

Senator BRAGG: How many were foreign and how many were domestic?

Ms Quinn: I don't have that right here. I'm happy to take it on notice.

Senator BRAGG: Do you know what other governments have done in relation to these matters? Have they generally run open tenders?

Senator Ayres: Do you mean other governments around the world or state and territory governments?

Senator BRAGG: Other foreign governments.

Ms Quinn: I'm happy to take it on notice. I'm aware of some activity. Some have standing processes, and, for others, I'm not sure how we would know if they ran invite processes, given we're not a quantum computing company, but we might have some awareness of that through some of the contacts and discussions. We certainly have engaged internationally with others about what they're doing to develop the quantum space.

Senator BRAGG: Okay. I'm almost finished, Chair; I'm trying to be efficient. I don't want to verbal you here, Ms Quinn, but 21 companies were invited to engage in the closed or limited process, and you're going to take on notice how many were foreign and how many were domestic. Was PsiQuantum one of those?

Ms Quinn: I don't have the full list here with me, so I'm happy to take that on notice.

Senator BRAGG: Does anyone know? No-one else would know that?

Ms Wilson: We'll take it on notice. I haven't got the details in front of me for the 21 domestic and international, so we'll get the split for you.

Senator BRAGG: Okay. Was the Australian of the Year—I'm not sure it was this year, so it's probably 'former' Australian of the Year—Professor Simmons, invited to apply?

Ms Quinn: I'm happy to take that on notice, given I haven't got the list. I don't want to mislead the Senate by ruling people in or out. But I'm happy to let you.

Senator BRAGG: Okay. I'll just ask you one final one. I've seen a lot of these questions on notice over the years, and whoever signed off on this answer has done a very good brief answer, which I guess is perhaps politically advantageous. Do you know about question 2727?

Ms Quinn: If you would like me to look it up, I have a kind of packet for questions of notice.

Senator BRAGG: It was from me on 10 November 2023.

Senator Ayres: I sense that Senator Bragg feels a moment of comedy coming on, and he might want to read it out.

Senator BRAGG: Well, this is the only opportunity I've had for many hours!

Senator Ayres: I know.

CHAIR: He's been very good.

Ms Quinn: My computer is still trying to load the large file with more than 110 questions on notice, so it might take a little while, if you want to read it out.

Senator BRAGG: I know other people have questions, so I don't want to monopolise the time. Maybe I'll put it on notice.

Senator Ayres: I don't want to take up much time, but this is the broad area of quantum, and Australia is a world leader in the technology. We have the fifth-largest quantum technology workforce in the world. For our research papers in this area, we are ranked fourth in the world. The government is very focused on making sure that, if possible, these technologies are commercialised in Australia. There is enormous strategic and economic opportunity here.

CHAIR: Thank you, Minister. I table the document referred to by Senator Hughes, and I call Senator Allman-Payne.

Senator ALLMAN-PAYNE: I want to ask questions around gas companies accessing the R&D tax incentive scheme. Section 355.25 of the Income Tax Assessment Act stipulates that you can't get R&D tax credits for petroleum exploration activities. Is it correct?

Ms Quinn: I believe so, yes.

Senator ALLMAN-PAYNE: Am I also correct in understanding that AusIndustry assesses, on behalf of the of the board of industry, innovation and science, whether a company's activities are eligible for the R&D tax incentive scheme?

Ms Quinn: Not AusIndustry. We do do that function, but AusIndustry is a separate part of the department. But we do have an assessment process, yes.

Senator ALLMAN-PAYNE: And then the ATO processes the company's tax return, relying on that assessment that's given to the ATO.

Ms Quinn: That's correct.

Senator ALLMAN-PAYNE: Okay. The claim from Tax Justice Network and Lock the Gate is that Empire Energy has reported receiving \$28.8 million through the scheme over the past three years. Empire's financial report states that it accessed the R&D scheme in relation to drilling and fracking gas exploration and appraisal wells in the Beetaloo, even though gas exploration is excluded from the R&D tax incentive scheme. Can you tell us how you assess R&D tax incentive registration applications made by companies whose whole business is exclusively gas exploration.

Ms Quinn: I'll pass to my colleague who's got more details on this matter.

Mr Purtell: The first thing to say, just to warn you, is that we're not permitted under both the Industry and Research Development Act and the tax legislation to discuss individual applications, so I can't talk about the individual case or any other individual case. But, in terms of the broader question that you finished with, yes, we do. The actual application of the test you mentioned is that there needs to be a core R&D activity, and that's for all applicants for the R&D tax incentive. And the legislation that you mentioned at the beginning says that certain activities cannot be defined as a core R&D activity, and prospecting is one of those. We would investigate all of that as a matter of principle for all applicants and determine whether they're eligible.

I should say as well that, as you mentioned, it is a jointly administered program with the ATO. While every applicant registers with us—there are 12,000 applications every year—we don't review every single one of them inside the industry department. We do that for certain categories, such as advanced and overseas findings, and the ATO does their work. Then we do other compliance checks, spot checks and the like.

Senator ALLMAN-PAYNE: Okay. Will you now investigate or at least interrogate further whether Empire Energy claiming the R&D tax incentive for activities undertaken in the course of exploring for shale gas is valid and legal?

Mr Purtell: I'm happy to look into that further, noting that it would a bit challenging to then discuss the results of it. But, yes, I understand. I've seen the report that you mentioned.

Senator ALLMAN-PAYNE: The Tax Justice Network and Lock the Gate have asked the board, the ATO and Minister Husic's office to investigate Empire's claims. Do you know if any action or response has come from Minister Husic's office?

Mr Purtell: I might have to take that on notice. Because we cannot discuss RDTI applicants, including with the minister's office, we are somewhat limited in the discussions that we've had. But I'll take on notice the question you just posed.

Senator ALLMAN-PAYNE: Thank you. While I have your attention, can I also request that you look into two other matters and respond to this committee about whether or not they're lawful R&D claims. The first one is Blue Energy. They're exploring for gas in Queensland and they just received \$7 million from the R&D scheme, which was for the 2022-23 financial year. Blue says explicitly in their ASX statement:

This R&D Rebate provides Blue with significant, non-dilutive funding for the ongoing exploration and appraisal of its portfolio of domestically focussed gas exploration projects.

On the face of it, that looks like an invalid claim right there, so we would like to ask you to advise on the lawfulness of that claim. Obviously, I'm expecting that you'll take it on notice.

The second one is Galilee Energy. They received \$4.95 million for their Glenaras gas project in the Galilee basin in Queensland for the 2022-23 financial year. While they do wastewater management, the bulk of their work program is focused on gas exploration and appraisal. Would you also be able to advise on notice on the lawfulness of that claim?

Mr Purtell: I'm very happy to look into those as part of our compliance process. As I've mentioned a couple of times, it's a little bit challenging to report back, but we could also talk about ways that that might be possible. I'm certainly happy to look into them.

Senator ALLMAN-PAYNE: Thank you, Chair.

CHAIR: The committee thanks outcome 1, program 1.2, and we release you.

Commonwealth Scientific and Industrial Research Organisation

[22:41]

CHAIR: We welcome back Dr Hilton. It's your second appearance at estimates?

Dr Hilton: Indeed. Thank you, Senator.

CHAIR: We also welcome representatives of CSIRO. If you did have a written opening statement, we would need you to table that at this stage, obviously, Dr Hilton.

Dr Hilton: I think it has been tabled.

CHAIR: Thank you. We look forward to seeing that. Senator Canavan.

Senator CANAVAN: I have some questions for Mr Paul Graham about the GenCost report.

Dr Hilton: I'm happy to at least make an initial comment—

Senator CANAVAN: I think he might need to come to the table. I see him at the back there. My questions are specifically about statements he has made. Obviously you're welcome to comment on them. I'm just referring to a webinar that was held on, I think, 2 February when Mr Graham was asked: why did CSIRO exclude consideration of large-scale nuclear reactors from the GenCost report. In the answer to that question, Mr Graham, you referred to face-to-face workshops held in 2018. You said, 'There weren't any nuclear experts at those workshops.' You later went on to say, 'I've got meeting notes from that meeting which say that large-scale nuclear isn't the right size for Australia.' Did the CSIRO have anything other than those meeting notes to make the decision not to look at large-scale nuclear in the GenCost report?

Mr Graham: That time in 2018 was when, essentially, we started the GenCost project. That was a time when we were setting—and talking to the industry about—what sorts of technologies we should include. Once we did the first run of the GenCost report, and probably for the five years after that, we didn't get any major avalanche of submissions saying that we should have large-scale nuclear. We definitely got two or three, but there wasn't a sense that we were on the wrong track. In the most recent round of submissions, we've just had 40 submissions received this month. There is a very strong suggestion that we should consider large-scale nuclear, but I would say, in the five years previous to that, there was really only a handful of feedback in that regard.

Senator CANAVAN: I just return to my question which, with all respect, I don't think was answered—

Mr Graham: Just to clarify: that's the total of feedback that I have got records of. I don't have any records of any other feedback.

Senator CANAVAN: But, when you started the GenCost report and didn't include large-scale nuclear, did you have any more information other than meeting notes from a meeting which you described yourself as having no nuclear experts at it?

Mr Graham: Just to clarify my answer: our process is that we have consultation. We put out a draft report each year, and we have consultation on that. That's our main way of collecting information about what industry want in the report and how they're receiving the information that we provide. As I said, in the past five years prior to the last round of submissions, I could find only a handful of submissions that actually asked for large-scale nuclear.

Senator CANAVAN: The difficulty I've got here is that you said also at this webinar that, at that workshop, 'The people there were the sort you'd expect at the time—you know, generation companies, transmission companies, developers.' Of course, at that time—including now—there is no domestic nuclear industry, so presumably you're getting your information from coal, gas and renewables companies. Clearly they have a vested interest in not having nuclear power in Australia. Why would the CSIRO base a decision to not look at an alternative energy technology by only talking to the very people who would compete against that technology?

Dr Hilton: I think maybe there's a misunderstanding. We've obviously done this report a number of times, so I think picking 2018 as a window and characterising that as being the only moment in time where we have sought expertise on the GenCost report is probably not fair—

Senator CANAVAN: I'm only quoting Mr Graham's words.

Dr Hilton: and the fact that we've been able to go through this process five times through different consultations, drawing on expertise from a wide range of experts, shows, I think, that we have an open mind about technologies.

Senator CANAVAN: Perhaps you could take on notice—because we have very limited time—what other times you've spoken to experts since 2018. It seems that the initial decision was based only on discussions with competitors to nuclear energy. You can take on notice what other discussions you've had since then, including any discussions you've had with people who might actually know about the nuclear industry, because that doesn't seem to have happened then. I have very limited time, so I'll have to move on. Could you take that on notice?

Dr Hilton: We can take that on notice.

Senator CANAVAN: Also in relation to GenCost, I want to turn to the issue of coal price assumptions. There's some information that I've seen that the fuel price assumptions seem to be based off the inputs and assumptions into the ISP process. Is that correct?

Mr Graham: Yes, we use the inputs and assumptions workbook that AEMO publishes as the source.

Senator CANAVAN: Your price assumptions for fuel price for coal in 2023 seem to be at a low point of \$4.30 per gigajoule and a high point of \$11.30 per gigajoule. When I look then and see the table of fuel prices at different power stations in the IASR—AEMO's assumptions—the low price of \$4.30 seems to be the average of the coal prices, whereas the high price of \$11.30 seems to be the maximum. Why have you chosen a minimum as a mean and used the maximum for the maximum? That doesn't seem to make any mathematical sense.

Mr Graham: I can explain that. There has been a change in the methodology that AEMO use. I can't remember exactly when it occurred, but they've stopped publishing a coal price for new coal plants. I suspect that's because they don't expect there will be any new coal plants. In the past, they did have a separate table which said, 'This is the coal price that a new greenfield coal plant could potentially get from the market.' They still provide that for gas, but they don't provide that for coal anymore. In the absence of that information, all we can look at is the coal prices that current plants are receiving. The problem with looking at coal prices for current plants is that their prices actually reflect maybe long-term contracts that they've been able to successfully go into before the latest coal price spike occurred, for example. So some coal plants are sitting on a 10-year contract and are not affected by the coal price spike that we experienced. But if you're a greenfield coal plant which is coming in and you don't have an existing contract, you're going to face those higher prices, so that's why we have to take a higher price.

Senator CANAVAN: It makes no sense to me; even that explanation still makes no sense, because if you want to get a low point—the lowest possible point—it makes no sense to me to take the mean of an existing range, especially when some of those plants in your model, like Eraring, are at high points due to the war in Ukraine. But I'll put that aside—the methodology seems ridiculous. Mr Graham, I think that, unfortunately, and with all due respect, you have shown a high degree of ignorance there about how coal-fired power plants work.

CHAIR: Oh—

Senator CANAVAN: Hear me out! One of the plants in your model—well, in AEMO's workbook—is Kogan Creek. It has a fuel price of \$1.57 per gigajoule and it has a stranded mine. There's a pad right next to Kogan Creek, which was going to be Kogan Creek A. We could build another power plant—in fact, the plan was to build another coal-fired power plant there. That coal can be accessed at exactly the same price today, because, effectively, it's the mine cost. Have you looked at the Kogan Creeks or the Millmerrans, which have stranded coalmines and which can actually achieve the \$1.50 per gigajoule price, even with a new coal-fired power station? Why haven't you factored that in?

CHAIR: Senator Canavan, the witnesses don't come here to be insulted, they come here to answer questions based on their expertise. You did say something insulting, would you consider withdrawing it?

Senator CANAVAN: I'm happy to withdraw. Of course, I was only commenting on the discussion about coal-fired power plants—

CHAIR: Okay—

Senator CANAVAN: But, Mr Graham, why haven't you factored in the fact that—

CHAIR: If Mr Graham can answer the subsequent question—

Senator CANAVAN: you can achieve fuel price costs of \$1.50 at stranded coalmines? In fact, the cost curve for coalmines in Australia—about 80 per cent of them—is below \$2 a gigajoule. Some of them have to pay export prices, so that's above cost, but some of them don't. And new ones might not have to, especially if they've entered into a long-term contract. Why hasn't that been factored in?

Mr Graham: We've had a longstanding approach where we only include new greenfield projects in GenCost. There is a separate process which AEMO has—

Senator CANAVAN: This is ridiculous.

Mr Graham: for extending coal plants at existing brownfield sites. But we're looking at new coal plants only.

Senator Ayres: So it's new coal-fired power and, moving the Overton window of coalition thinking from experimental small nuclear reactors to big ones, which coastal Queenslanders—

Senator CANAVAN: Minister, I think that the problem here—

Senator Ayres: Where's it all going to go?

CHAIR: Okay—

Senator CANAVAN: The problem here is that your government is relying heavily on this highly criticised work. This work is discredited, in my view, now—totally discredited—

Senator Ayres: Experimental nuclear reactors—

CHAIR: Can I—

Senator CANAVAN: The CSIRO has been criticised by—

Senator Ayres: No, you can't say that—

CHAIR: Okay, okay, gentlemen—

Senator CANAVAN: And it has now been revealed that you're making dodgy mathematical decisions associated with their assumptions. They're relying on information about nuclear from the competitors of nuclear energy! Their whole process is conflicted and discredited now, and it should not be used as a basis for—

CHAIR: It being—

Senator CANAVAN: public policy.

Dr Hilton: Can I make a comment, please?

CHAIR: You can, Dr Hilton, but I'll just do one thing before I call you.

Dr Hilton: Please.

CHAIR: I want to say that we only have seven minutes left and I'll give a few minutes to Senator Whish-Wilson. We also have Senator Rennick in the room and he has one question. So we'll be very brief. Have you concluded, Senator Canavan?

Senator CANAVAN: Yes.

CHAIR: Senator Whish-Wilson. No, we don't have sound for him so we'll go to Senator Rennick.

Senator RENNICK: What specific advice has the CSIRO given to environmental departments as to the risks of pumping up to 730 million litres of CO₂ into the Great Artesian Basin—specifically, the Precipice Sandstone aquifer in the Great Artesian Basin?

Dr Mayfield: I think you're referring to the CTSCo project in the Surat?

Senator RENNICK: Yes. In general, what are the whole risks involved in pumping CO₂ into the basin?

Dr Mayfield: The CSIRO has provided some advice to the Queensland Department of Environment, Science and Innovation, looking at the EIS and those studies at this point in time. I'd refer you to QDESI, to speak with them, given that we provided that to them.

Senator RENNICK: Can I get that on notice? Can you share that advice with me?

Dr Mayfield: We'd have to consult with the Queensland Department of Environment, Science and Innovation, because the information was provided to them.

Senator RENNICK: But you're the Australian government and I'm an Australian senator. What you give to the Queensland state government you surely can share with senators, especially a Queensland senator.

Dr Mayfield: We will talk to them and try to see what's possible there—

CHAIR: And see whether you can assist the committee.

Dr Mayfield: I don't have the right—it was provided to them confidentially as part of their considerations of that project.

Senator RENNICK: But isn't it your knowledge—

CHAIR: I think Dr Mayfield's taken it on notice to see what he can provide to the committee, which I think is satisfactory, Senator Rennick.

Senator RENNICK: But my point is that we shouldn't have to—I'm happy to take it on notice; it's just that I don't know why you need permission—

CHAIR: Okay.

Dr Mayfield: I just want to go through the protocol.

CHAIR: That's great. Thank you.

Senator WHISH-WILSON: I want to ask a question in relation to the *Investigator*, for which of course the home port is Hobart in Tasmania. Have you had forward funding for 300 days of science in 2025-26?

Dr Hilton: As you're aware, CSIRO hosts a number of different national facilities, of which the Marine National Facility is one. We applied for funding from NCRIS and were awarded less than we applied for. That means the *Investigator* is not funded for the full 300 days of sailing at this stage.

Senator WHISH-WILSON: I've just had a look online at the MFP Voyage Programme, and I can only see the 2025 year, but it looks like about 180 days, which is kind of where we started when the *Investigator* was built. Would that be correct?

Dr Hilton: I'll take that on notice. The expert on our infrastructure is unable to attend today, so I'm happy to take that one on notice.

Senator WHISH-WILSON: And what can you tell me about 2026 and 2027? Is that funding and the planning also in lockdown at around 180 days?

Dr Hilton: I'll take that on notice.

Senator WHISH-WILSON: Minister, are you aware of the funding shortfall for the *Investigator* in those years and the fact that these scientists try to plan these expeditions and their programs years in advance and that they're not able to do so at the moment?

Senator Ayres: I'm sorry, Senator—I'm here representing the minister, of course, and I'm not in a position to do anything but take those questions on notice. I understand the direction of your questions, and I see that CSIRO will take that on notice. If I can provide any further information I will.

Senator WHISH-WILSON: Could I ask CSIRO whether they have had discussions with the minister around this issue or sought other avenues of funding for those forward voyage years?

Dr Hilton: We're looking at our forward budgets for the *Investigator* at the moment, and that's something we look at every year. So absolutely we are looking for other sources of funding.

Senator WHISH-WILSON: I'm sure you are, but just from a personal point of view, we worked really hard to get the *Investigator* from 180 to 300 days—and I commend the previous government for doing that—and it

would be a real shame to see the great work that you do and that the scientists do not fully funded. I just wanted to make that point.

This is my last question. I probably have two of them. I follow great white shark research very closely, and I was wondering whether you could tell me how much funding is going into CSIRO's longstanding work on white sharks, especially around population studies. And I see that you've previously funded close-kin programs and other tagging programs through the NESP. But where are we at, at the moment? And how long has it been since you've received funding for this?

Dr Hilton: Again, that's a kind of detailed question on a project. I'd be happy to take that on notice.

Senator WHISH-WILSON: Are you aware of whether there's any ongoing funding or any tagging that CSIRO are doing, either for acoustic receivers or for satellite tagging?

Dr Mayfield: I think most of the work we have done in that space has been around using the genetic techniques to try to do population estimations.

Senator WHISH-WILSON: The close-kin?

Dr Mayfield: Yes. And the intent was to do those every five years or so. So, it's not yet at a point where we're intending to do the next study. I'm not aware of any funding in that space at the moment, but we can check, as Dr Hilton said, to see whether there's any other activity.

Senator WHISH-WILSON: And perhaps you could also take this on notice. I know the population studies have been really important, and the genetic testing, but CSIRO also used to do a lot of satellite tagging, which assisted state governments. Some of them are doing their own. But in the south-west white shark population in Western Australia and South Australia it looks like there's very little work going on with the tagging of white sharks, and of course there have been some tragic and traumatic shark bites this summer. That's raised the profile of this issue. So, I'd also be keen to hear whether you've been approached by any state governments or the federal government to step up research in that area, especially satellite tagging.

Dr Mayfield: We will take that on notice and check, because I'm not aware of anything at this point in time.

CHAIR: Thank you.

Senator Ayres: I think Senator Whish-Wilson's shark questions have brought the proceedings to a 'fin'-ish!

CHAIR: Oh, Minister! Thank you very much, Dr Hilton and the CSIRO team. Thank you very much, Ms Quinn, for your endurance. Did I thank the minister—did I want to? Thank you, Minister! Thank you senators.

Committee adjourned at 23:00