



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public)

TUESDAY, 30 MAY 2023

CANBERRA

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ECONOMICS LEGISLATION COMMITTEE

Tuesday, 30 May 2023

Members in attendance: Senators Bragg, Brockman, Canavan, Colbeck, Grogan, Henderson, Hume, McDonald, McKenzie, McKim, O'Neill, Barbara Pocock, Rennick, Roberts, Shoebridge, Dean Smith, Steele-John, Stewart and Walsh

TREASURY PORTFOLIO

In Attendance

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

Treasury

Dr Steven Kennedy, Secretary

Macroeconomic Group

Mr Luke Yeaman, Deputy Secretary

Dr Sarah Hunter, First Assistant Secretary, Macroeconomic Conditions Division

Dr Angelia Grant, First Assistant Secretary, Macroeconomic Analysis and Policy Division

Ms Christina Garbin, Acting First Assistant Secretary, International Economics and Security Division

Ms Ineke Redmond, Assistant Secretary Macroeconomy Branch

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

Ms Steph Gorecki-Natik, Assistant Secretary Geoeconomics and National Security Branch

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

Ms Riki Polygenis, Assistant Secretary, Fiscal and Monetary Policy

Dr Nathan Deutscher, Assistant Secretary, Data and Structural Analysis Branch

Mr Andrew Dietz, Assistant Secretary Indo-Pacific Branch

Tamara Hartwich, Acting Assistant Secretary, International Engagement Branch

Corporate and Foreign Investment Group

Ms Roxanne Kelley, Deputy Secretary

Dr Angela Barrett, Chief Operating Officer, Corporate Division

Ms Jody Riley, Assistant Secretary, People and Organisational Strategy Branch

Ms Tarnya Gersbach, Chief Finance Officer

Ms Angela Mason, Assistant Secretary, Communications Branch

Mr Simon Writer, First Assistant Secretary, Foreign Investment Division

Ms Amelia Henty, Assistant Secretary, Frameworks Branch

Dr Ben Evans, Assistant Secretary, Compliance Branch

Markets Group

Mr Brenton Philp, Deputy Secretary

Mr Trevor Power, First Assistant Secretary, Financial System Division

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

Mr Tim Baird, Assistant Secretary, Financial Regulators Branch

Ms Nghi Luu, Assistant Secretary, Capital Markets, Payments and Financial Innovation Branch

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

Mr Tom Dickson, Assistant Secretary, Corporations Branch

Mr David Pearl, Assistant Secretary, Competition and Consumer Branch

Ms Emily Martin, Assistant Secretary, Consumer Data Right Policy and Engagement Branch

Mr Aidan Storer, Assistant Secretary, Consumer Data Right Regulatory Frameworks Branch

Mr Warren Tease, Chief Adviser, Climate Disclosure

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

Mr Andre Moore, Assistant Secretary, Advice and Investments Branch

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

Mr Adam Hawkins, Assistant Secretary, Tax and Transfer Branch

Fiscal Group

Ms Sam Reinhardt, Deputy Secretary

Mr Brenton Goldsworthy, First Assistant Secretary, Budget Policy Division

Mr Damien White, First Assistant Secretary, Commonwealth-State and Population Division

Mr Ian South, Assistant Secretary, Commonwealth-State and Population Division

Ms Philippa Brown, First Assistant Secretary, Labour Market, Environment, Industry and Infrastructure Division

Mr Matthew Maloney, 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

Mr Hamish McDonald, First Assistant Secretary, Social Policy Division

Dr Nerida Hunter, Assistant Secretary, Social Policy Division

Ms Marg Thomas, Assistant Secretary, Social Policy Division

Mr Oliver Richards, Assistant Secretary, Budget Policy Division

Ms Catherine Black, Acting First Assistant Secretary, Infrastructure and Commercial Advisory Office [by video link]

Jobs Summit and Employment White Paper Taskforce

Ms Victoria Anderson, Deputy Secretary, Employment Taskforce

Dr Alex Heath, First Assistant Secretary, Employment Taskforce

Dr Louise Rawlings, Assistant Secretary, Employment Taskforce

Mr Nick Latimer, Acting Assistant Secretary, Employment Taskforce

Revenue, Small Business and Housing Group

Ms Diane Brown, Deputy Secretary

Ms Kate O'Rourke, First Assistant Secretary, Small and Family Business Division

Ms Katrina Di Marco, First Assistant Secretary, Tax Analysis Division

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

Mr Martin (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

Ms Kathryn Davy, Assistant Secretary, Corporate and International Tax Division

Mr Nicholas Dowie, Assistant Secretary, Corporate and International Tax Division

Mr Geoff Francis, Assistant Secretary, Personal and Indirect Tax and Charities Division

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

Mr Gino Grassia, Assistant Secretary, Small and Family Business Division

Ms Vera Holenstein, Assistant Secretary, Housing Division

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

Mr Darren Kennedy, Assistant Secretary, Tax Analysis Division

Mr Richard Maher, Acting Assistant Secretary, Tax Analysis Division

Ms Jacky Rowbotham, Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Rob Raether, First Assistant Secretary, Housing Division

Mr Christian Vallenge, Assistant Secretary, Office of the National Housing Supply and Affordability Council

Portfolio Agencies

Australian Taxation Office

Mr Chris Jordan, 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 Matthew Hay, Acting Chief Information Officer and Second Commissioner, Enterprise Solutions and Technology

Mr David Allen, Acting Chief Service Delivery Officer

Ms Janine Bristow, Chief Finance Officer

Mr Bradley Chapman, Deputy Commissioner, Enterprise Strategy and Design

Ms Clare Gunning, Deputy Commissioner, ATO Corporate

Ms Emma Rosenzweig, Deputy Commissioner, Superannuation and Employer Obligations

Mr Grant Brodie, Deputy Commissioner, Client Account Services

Mr Hector Thompson, Deputy Commissioner, International Support and Programs

Ms Jill Kitto, Assistant Commissioner, Enforcement

Mr Nicholas Shizas, Assistant Commissioner, ATO General Counsel

Ms Anita Challen, Assistant Commissioner, Risk and Strategy

Australian Charities and Not-for-Profits Commission

Ms Sue Woodward AM, Commissioner

Ms Anna Longley, Assistant Commissioner, Legal Counsel

Australian Securities and Investments Commission

Mr Joe Longo, Chair

Ms Sarah Court, Deputy Chair

Ms Karen Chester, Deputy Chair

Ms Danielle Press, Commissioner

Mr Warren Day, Chief Operating Officer

Mr Chris Savundra, General Counsel

National Housing Finance and Investments Corporation

Mr Nathan Dal Bon, Chief Executive Officer

Mr Stuart Neilson, Chief Financial Officer and Chief Operating Officer

Ms Robyn Briese, Deputy General Counsel, Government

Mr Hugh Hartigan, Head of Research

Australian Small Business and Family Enterprise Ombudsman

The Hon. Bruce Billson, Australian Small Business and Family Enterprise Ombudsman

Dr Matt Steen, Executive Director, Policy and Advocacy

Dr Craig Latham, General Counsel

Ms Amelia Watman, Director Media and Communications

Committee met at 09:03

CHAIR (Senator Walsh): Good morning, all. I declare open this hearing of the Senate Economics Legislation Committee into the 2023-24 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 people here today. The committee has set 16 June 2023 as the date by which senators are to submit written questions on notice and 14 July 2023 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with the Department of the Treasury Macroeconomic Group.

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 question 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 a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved, also, that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution 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 of the public hearings 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 might not be used; and the directions of the committee secretariat must be followed at all times.

Department of the Treasury

[09:06]

CHAIR: I now welcome Senator the Hon. Katy Gallagher, the Minister for Finance. Good morning, Minister.

Senator Gallagher: Good morning.

CHAIR: I welcome Dr Steven Kennedy. Good morning, Dr Kennedy.

Dr Kennedy: Good morning.

CHAIR: Dr Kennedy, do you wish to make an opening statement?

Dr Kennedy: I do. Thank you for the opportunity to make an opening statement. The Australian economy expanded by 3.6 per cent in 2022, driven by a post-pandemic rebound in consumer spending, with people returning to eating out, travelling and other activities that were previously restricted. This additional spending added to the earlier rebounds in many other sectors, including construction and professional services, and ongoing strength in the care economy. To meet this demand, employers hired almost 500,000 additional workers, and the unemployment rate fell to around its lowest level in almost 50 years. This has had the welcome benefit of bringing more people into employment, particularly younger people and the long-term unemployed, who can struggle to find work.

Notwithstanding these very positive labour market outcomes, the big shifts and changes seen through the pandemic and its aftermath have put strains on economies around the world. Globally these first appeared in goods supply chains, with many struggling to keep up with wild swings in demand. This was then followed by substantial disruption in commodity and energy markets as a result of Russia's invasion of Ukraine. These supply pressures are now easing.

Demand is also easing, with global growth set to slow considerably in 2023. High inflation, sharply rising interest rates and a tightening in financial conditions associated with recent banking sector strains are all putting a strain on households and prompting businesses to delay or scale back their investment plans. The risks to the outlook are tilted to the downside. Overall, we are expecting the pace of global growth in 2023 and 2024 to be the weakest in two decades, outside the GFC and the COVID-19 pandemic. There have been some positive developments in the global economy, most particularly a positive boost from the reopening of China's economy after pandemic restrictions were lifted in December last year. China is now expected to grow by 5¾ per cent in 2023, significantly faster than the Chinese government's growth target of five per cent.

The Australian economy is not immune to these global challenges, but it is well placed to navigate them. Household spending has been supported by the record low unemployment rate, strong labour force participation and rising nominal wages growth. However, as expected in the October budget, momentum is now starting to moderate. The economy likely reached a cyclical peak in the September quarter last year, and is now transitioning to a more balanced position between supply and demand. This transition will be challenging for many people. Interest rates have risen sharply, and are likely to remain elevated for a time, and inflation is unlikely to return to the RBA's target band quickly. High domestic inflation and rising interest rates are squeezing household incomes and weighing on consumer spending. This is now clear in the data we track, with retail sales volumes falling 0.6 per cent in the March quarter.

The impact of rising interest rates and elevated inflation differs markedly across households. For example, some households carrying a large mortgage or with limited savings are likely to be finding conditions challenging. Furthermore, high inflation environments can be more challenging for those on low incomes, particularly if inflation is concentrated on essential products such as food, energy and the cost of housing. The indexation of government payments to inflation will provide some protection.

There are some signs that activity in the established housing market—that is, the buying and selling of houses and apartments—has stabilised. But housing construction has not yet worked through its cyclical downturn. There are still a large number of dwellings under construction, almost 240,000 in the December quarter, which is currently supporting activity. However, approvals for new buildings have fallen significantly over recent months. After the current pipeline of work is completed the downturn in approvals will mean fewer housing starts. This will naturally flow through to construction work done, and we expect dwelling investment to contract 2½ per cent

this year, a further 3½ per cent in 2023-24 and 1½ per cent in 2024-25. We then anticipate a strong cyclical recovery.

The slower pace of growth in domestic demand is projected to take GDP growth from 3¼ per cent in 2022-23 to 1½ per cent in 2023-24. But not all parts of the economy are expected to slow down. The reopening of the international border is driving a significant increase in inflows of international students and visitors. This is flowing through to services exports, and we now expect net exports to provide a positive contribution to growth in 2023-24. The faster than anticipated recovery in migration is also materialising in the labour market, through stronger employment.

While the near-term outlook is for subdued economic growth, the cycle is expected to turn in the second half of the forward estimates. Economic growth is expected to strengthen in 2024-25 as policy settings loosen, inflation returns to target and positive real wage growth continues. The economy is forecast to expand by 2¼ per cent in 2024-25 and 2¾ per cent in 2025-26, largely driven by a recovery in household spending. Further, the continued recovery in population growth and market expectations of interest rate cuts are expected to spur investment in new housing, which will reinforce the expected rebound.

Inflation remains a key challenge for macroeconomic policy. Multiple compounding supply disruptions, combined with the rapid recovery in domestic demand, have resulted in the peak in inflation in the December quarter. For most of the last year inflation has predominantly been driven by tradeable goods such as fuel, food and manufactured products. COVID-related disruptions to supply chains and spending patterns were quickly followed by Russia's invasion of Ukraine, resulting in the price of tradeable goods rising steeply over 2021 and 2022. This shift dramatically reversed the trend of steady or declining import prices prior to the pandemic.

The disruption to domestic energy prices has been particularly pronounced. Dramatic increases in global energy prices flowed into wholesale markets and then combined with temporary disruptions in domestic electricity supply. As a result, energy price rises directly contributed around half a percentage point to annual inflation in the December quarter of 2022.

Goods inflation has eased as the impact of supply shocks has waned. Indeed, the prices of some products such as furniture, clothing and appliances are now falling. But we are moving into a new phase of the cycle. Price pressures are broadening somewhat, as the direct shocks to energy and other input costs flow across the economy and domestic input cost increases are passed into final prices. This has led to a pick-up in services inflation and marks the beginning of a return to more usual inflation dynamics, where domestic costs are the main driver.

The rental market is currently very tight. National vacancy rates are at a near record low of just one per cent, and advertised rents are growing at 10.1 per cent as of April 2023. The lift in advertised rents will gradually flow through to average rental costs, as existing lease agreements are renewed. The government's decision to increase Commonwealth rental assistance will support the most vulnerable households.

After falling sharply in the early part of the pandemic, demand for rental housing has increased sharply over the past 18 months. This is partly a result of local residents choosing to live in smaller households—for example, adult children moving out of their parents' home. We estimate that in September 2022 these adjustments had increased the number of households in the country by 130,000, when compared to pre-COVID trends.

The increase in demand for housing from local residents has been compounded by the return of overseas migrants post COVID. Treasury now expects net overseas migration to be 400,000 in 2022-23 and 315,000 in 2023-24, a cumulative increase of 245,000 since the October budget. It is worth noting that, even with the faster recovery in migration, net overseas migration is still expected to be cumulatively lower than anticipated prior to COVID, by around 75,000 people at the end of the forward estimates period.

The upgrades to the forecasts for net overseas migration reflect both an increase in temporary migrant arrivals and lower temporary migrant departures. The single largest group of temporary arrivals is international students, at 48 per cent of arrivals over the forward estimates. The influx of migrants will support demand for housing investment, particularly medium- and high-density developments. This activity is expected to be a driver of the cyclical upturn in the economy as well as providing additional supply into the dwelling rental market.

To provide support for households and relieve some of the pressures many people are under, the budget outlined a cost-of-living package worth \$14.6 billion over the forward estimates, \$3.6 billion of which is for the 2023-24 financial year.

Our analysis shows that the direct, measurable impact of the package will be a reduction of three-quarters of a percentage point to headline inflation in the June quarter of 2024. The most significant policy within the package is the Energy Price Relief Plan. This is projected to reduce headline inflation by three-quarters of a percentage point in June 2024. Of this, one-half of a percentage point comes from the electricity and gas price caps that were

introduced in December 2022. A further one-quarter of a percentage point will come from the rebates provided to low-income households.

Average national retail electricity prices are now forecast to rise by around 10 per cent in 2023-24, lower than the November 2022 estimate of 36 per cent without the government's intervention. Retail gas prices are similarly expected to see a much smaller increase as a result of these interventions: a four per cent increase in 2023-24 compared to the October budget projection of 20 per cent.

By providing households with some relief from current pressures, consumers will have more money than they otherwise would have had to spend on other goods and services. But we think this offsetting effect is small. The \$3.6 billion package in 2023-24 is modest when compared to the overall size of the economy, now \$2.3 trillion. We also think this indirect channel will work with a lag, and so it will not add to demand when inflation is at its highest.

The reduction in headline inflation from the direct impact of the cost-of-living package will also reinforce other disinflationary channels in the economy. First, the reduction in headline inflation reduces the indexation of CPI linked payments, which dampen the price-income feedback loop. It will also assist in keeping inflation expectations anchored more broadly, which will flow through to business pricing decisions and wage-setting arrangements.

In the near term, annual inflation is expected to fall to six per cent through the year to the June quarter of 2023. Inflation is then projected to moderate further to 3¼ per cent through the year to the June quarter of 2024. Moving through to 2024-25, pressures are expected to ease further to 2¾ per cent by June 2025, as the economy cools and price and wage-setting dynamics normalise.

Growth in the supply of labour associated with a strong participation rate has helped Australia avoid extreme labour shortages and the unsustainable wage growth seen in some other countries over the past two years.

Notwithstanding the increase in labour supply, the labour market remains tight. The ratio of employment to population and the participation rate are both near record highs. Although it has drifted up slightly this year, the unemployment rate remains close to its recent near-50-year low. It has been pleasing to see the underemployment rate fall over the recent past, which implies a larger proportion of people are able to work their preferred hours.

Strong employment growth has lifted prospects for cohorts who face barriers to the labour market. Youth unemployment has fallen below its pre-pandemic level, long-term unemployment remains low and the female participation rate remains at near-record highs. As tightness in the labour market eases, it is important that we maintain these gains for these groups.

As part of our forecast update, we reviewed the underlying dynamics in the labour market. We found that, for a number of cohorts, their participation rate has lifted over the past 10 years. This was particularly the case for prime-working-age people. Upgrades to the structural participation rate projections partly reflect the influences of trends in educational attainment, as well as increased access to child care and paid parental leave arrangements that strengthen workforce attachment.

We are also projecting a further lift to participation as a result of the upgraded profile for migration. Migrants are typically younger than the resident population and as a result have a higher participation rate on average. Overall, the structural participation rate has been revised up by 1¼ per cent by the end of the medium term, 2032-33—three-quarters of a percentage point—since the October budget.

Although we are now more optimistic about the participation rate in the long run, the labour market is expected to go through a cyclical downturn in the near term. As part of this, we expect the participation rate to moderate from its cyclical highs and the unemployment rate to rise.

Consistent with a tight labour market, nominal wage growth has picked up in recent quarters and is expected to rise further. Growth in the Wage Price Index is expected to reach 3¾ per cent through the year to the June quarter of 2023 and four per cent through the year to the June quarter of 2024. This would be the fastest nominal wage growth since 2009.

There are no signs of a wage-price spiral developing and medium-term inflation expectations remain well anchored. And it is usual for wages growth to accelerate during an upswing in the economic cycle. Part of the recent uplift is explained by administered wage decisions. As a technical assumption, Treasury has assumed that the Fair Work Commission employs the same approach as last year in its upcoming minimum wage decision.

Beyond administered wages, market-sensitive individual agreements have been the biggest contributor to the pick-up in aggregate wages to date, but momentum is expected to soften as the labour market eases. A lift in public sector wages growth and the renegotiation of multi-year enterprise bargaining agreements over the next

couple of years will partially offset this. Public sector wage outcomes over the COVID-19 period weighed on aggregate wage outcomes.

Positive annual real wage growth is expected to return by the March quarter of 2024, increasing to three-quarters per cent by the June quarter of 2024. As the labour market moderates and inflation eases, growth in nominal wages is forecast to fall back to a cyclical trough of 3¼ per cent through the year to the June quarter of 2025. Increasing the rate of productivity growth is important to sustaining stronger wages growth over the medium term.

Following internal analysis and consultation with market analysts, participants and other government bodies, we have updated both the glide paths and the long-run anchor prices for commodities—iron ore, thermal coal, metallurgical coal and natural gas. This comes following a series of significant and interrelated shocks that have affected global commodity markets in recent years, the impact of which is expected to persist.

Treasury's forecasts reflect a technical assumption that these prices will return to a conservative assessment of their long-term fundamental levels. We have maintained this general approach and recommended an update to the assumptions. Individual glide paths have been adjusted 12 times since 2016-17, with longer-term price assumptions for metallurgical coal last adjusted in the 2021-22 MYEFO.

There are three key factors that have driven global commodity markets in recent years: the Russian invasion of Ukraine, major weather disruptions in key commodity-producing regions around the world and the significant global inflationary episode since the pandemic.

Russia's invasion of Ukraine has seen a restructuring in global commodity markets—in particular, a significant reduction in global gas supply and a forced restructuring of global oil trade flows.

In addition, Australia is the world's largest coal and iron ore exporter, with Brazil our nearest competitive exporter for iron ore. Major weather disruptions in Australia's coal-producing regions and other major disruptions to iron ore production in Brazil have reduced both the level and reliability of supplies to global commodity markets.

Lastly, the global mining sector has not been immune to the sustained period of cost inflation seen around the world. Import prices for the Australian coal sector, for example, have increased by around 15 per cent since 2021. Strong cost inflation has built in a materially higher cost base across the industry that is expected to result in structurally higher prices over the medium term.

Consistent with these findings, we are now assuming a four-quarter glide path from the current price levels to the long-run anchor, and we have revised up the anchor price for all four commodities. To ensure they remain prudent, we have assessed the new anchor points against market expectations. In all cases our anchors are at the bottom of the range for forecasts from market analysts and other government bodies.

There has been a large improvement in the near-term fiscal outlook. The underlying cash balance is now expected to be in surplus in 2022-23. The improvement in the fiscal outlook reflects the government's decision to return most of the large tax upgrades that have occurred in this and the previous budget. Company tax receipt upgrades account for around 60 per cent of the revenue upgrade across the next two years. Across the forward estimates, personal-income tax collections represent around half of the upgrade, demonstrating the benefits of full employment.

From 2020-21 to 2021-22, as a proportion of GDP, the budget deficit contracted by around five percentage points. This is a record contraction. From 2021-22 to 2022-23 the budget deficit is forecast to contract by 1.5 percentage points. This is the largest two-year contraction on record. The effects of the substantial consolidation in the budget position over the past two fiscal years will still be flowing through the economy in the year ahead. Further, the small widening in the deficit in 2023-24 partly reflects Treasury's prudent approach to projecting commodity prices.

The medium-term fiscal outlook has improved significantly since the October budget but remains challenging. The underlying cash deficit is expected to narrow from 1.3 per cent of GDP in 2025-26 to just under 0.5 per cent of GDP in 2032-33, compared to 1.9 per cent projected in October. The surplus in 2022-23 and smaller deficits across the budget projection period reduce debt accumulation and interest payments—as lower interest payments today reduce the deficit, which reduces debt accumulation tomorrow and so on. Gross debt to GDP is expected to fall from the COVID peak of 39.3 per cent of GDP in 2020-21 to 32.3 per cent of GDP in 2033-34. Compared to the October budget, interest payments will be 0.6 percentage points of GDP lower in 2032-33.

While these developments have improved the fiscal position, the underlying cash balance is still expected to remain in a structural deficit over the medium term. The challenge presented by an ageing population has not gone away and will need to be tackled to ensure sustainable outcomes in the long term. The budget takes some

steps to reduce the structural deficit through the NDIS sustainability framework, but there is more work to be done.

I will conclude with some brief comments on the PwC matter. The Tax Practitioners Board investigated Mr Collins from PwC and found that he failed to act with integrity, as required under his professional, ethical and legal obligations, and terminated his tax agent registration for a period of two years. In addition, the Tax Practitioners Board ordered PwC to take steps to ensure it manages conflicts of interest appropriately. The Tax Practitioners Board published these findings and actions in January 2023. The Tax Practitioners Board's tabling in parliament on 2 May 2023 of emails that were uncovered during its investigation has highlighted the significant extent of the unauthorised disclosure of confidential Commonwealth information and the wide range of individuals within PwC who were directly and indirectly privy to the confidential information.

In light of these recent revelations and the seriousness of this misconduct, Treasury referred the matter to the Australian Federal Police to consider commencement of a criminal investigation. Following consultation with the AFP, I issued a public statement on 24 May 2023 about the referral of the matter to the Australian Federal Police. Treasury is not able to comment further on the AFP referral or on the specifics of any other potential action, so as to not prejudice those options. Evidence that we give today will be careful to avoid prejudicing any police investigation. Thank you, Chair, for the opportunity to provide an opening statement.

CHAIR: Thank you very much, as always, Dr Kennedy, for that opening statement. I also welcome now officers from the department from the Macroeconomic Group and the Corporate and Foreign Investment Group. We'll go now to questions from senators. As is the normal practice in this committee, we'll start off with blocks of around 10 minutes. I'll give you a little bell at about 10 minutes and share the call. Senator Hume, you have the call.

Senator HUME: Good morning, Dr Kennedy. I want to begin by talking about the fiscal stance of the budget, particularly in an environment where monetary policy is clearly contractionary. Are you aware of any economist who has said that the budget's fiscal policy is also contractionary?

Dr Kennedy: I'm aware that there are a range of assessments of the government's fiscal stance. I'm aware of a wide range of views on inflation. Some economists have suggested that the budget will detract from inflation and others have contested that. I'm just trying to think of someone who has written a specific comment. Most of the comments about the stance of fiscal policy have been probably conveyed through whether the budget is contributing to or detracting from inflation, and that's a way of inferring whether they think the budget is contractionary or expansionary. That's probably the simplest way to think through that.

Senator HUME: Have they said that it's contractionary or have they just said it's neutral?

Dr Kennedy: Some have said it's neutral, some have said it will detract from inflation and some have said that it will add to inflation. They are economists—with eight different economists you usually get 16 different views.

Senator HUME: Perhaps on notice you can come back to the committee on which economists have said it's contractionary. I'm now looking at a list that includes Richard Holden from the University of New South Wales. He said:

There is NO question that energy subsidies or cuts in fuel excise are inflationary. It's not a matter of opinion. It's just an economic fact.

Chris Richardson said:

I had thought after the surprise rate rise from the Reserve Bank last month that they were done and dusted. I'm less clear now that that's the case.

Danielle Wood from the Grattan Institute said:

So in essence we trade lower inflation today for higher inflation in the future ...

Steven Hamilton from the Crawford School of Public Policy said that anything that puts a dollar into people's pockets leads to higher inflation and higher demand. Cherelle Murphy from EY said:

Adding additional net spending just makes that worse, whatever its form.

... ..

Without offsetting this multibillion-dollar spend, the cost will potentially be higher interest rates, which households and businesses cannot afford.

Bill Evans from Westpac said:

By our measure this is an "expansionary" budget when compared with the ten budgets preceding the Covid period. Over that period net spending in the fiscal year immediately following the Budget ranged up to 0.25% of GDP; and over the three years

up to 0.5% of GDP. In the 2023 budget net new spending in 2023/24 is \$12 billion or 0.5% of GDP and around \$20 billion or 0.76% of GDP over 2023/24-2025/26.

Secretary, on what basis are these economists wrong?

Dr Kennedy: Our view is as reflected in the government's budget documents. Of course, many of these considerations depend on what you think the counterfactual was. Would the government have saved all these moneys? The revenue upgrade, that is. Would they have spent them? Effectively, what are the alternative outcomes against which you consider the budget's impact? First and foremost, it was very important that the government save the vast majority of the revenue upgrade. The revenue upgrade, in some ways, represents the automatic stabilisers of revenue operating within the budget to lean against the economy.

As I outlined in my opening statements, there's no doubt that in the two years leading up to 2023-24, fiscal policy was contractionary. In fact, significant amounts of public moneys were being removed, as was sensible, reflecting both the design of the previous government's arrangements in response to COVID and, most importantly, in the more recent period, the current government's saving of revenues. I think that's a good outcome. It's a good outcome for the budget, and it's fiscal policy playing its role in respect of current macroeconomic circumstances. In my view, as I outlined recently in some public remarks, monetary policy is the primary tool through which we will manage these types of cycles outside of crises. It's important that fiscal policy doesn't make that job any harder, and I don't believe it does in this budget.

Senator HUME: Can I ask you to turn to page 94 of Budget Paper No. 1, table 3.2. About halfway down, in the last column, it shows receipts and payments of policy decisions: around \$22 billion of receipts versus around \$42.6 billion of payments. That's a net impact of around \$2 to \$1 of new spending to new revenue. How can that be contractionary?

Dr Kennedy: First of all, we are discussing the budget over the four-year period. The economy, as I outlined in my remarks, is actually about to enter a very weak period of growth—in fact, it may have already entered that period. That's just to provide the broader context in which these public fundings are being provided.

Secondly, I tend to think about the decisions that have been made on the spending side falling into two or three camps. Some are discretionary decisions designed to assist people, such as the cost-of-living package I spoke about. Others are matters related to the usual business of government, and some of those matters relate to addressing spending pressures that, frankly, were in the budget and that needed to be addressed over time. And then there are other broader pressures that come into play.

In the context of a \$2.3 trillion economy, these sums look to me to be relatively small sums. I do not take away from the importance of the government over time managing what I described as the structural deficit, which re-emerges in the forward estimates and then persists across the medium term. These spending pressures, set against revenue pressures, are important. All I would contest is that I am less concerned about the near-term cycles in the fiscal policy and more concerned about the medium-term fiscal sustainability.

Senator HUME: If that's the case—you told Australian business economists, 'Payments as a share of GDP are expected to remain elevated and above pre-pandemic levels.' Is that consistent with your position—probably a better way of phrasing it is: how is spending more than the government did before the pandemic consistent with putting downward pressure on inflation?

Dr Kennedy: Once again, I think it's a very important issue that you raise, and it goes directly to the structural position of the budget. If spending as a proportion of GDP remains at these elevated levels across the medium term, which it does, and revenues stay at more than historical levels as a proportion of GDP, that's where the structural budget deficit arises.

The structural budget deficit in Australia is arising out of, effectively, three or four different areas. One is the significant expanding of scope of government services through the NDIS. The second is aged-care decisions, including aged-care decisions made over the past few years. The third is defence spending. You're right to point out that it has elevated to pre-COVID. That's an important consideration for this government and future governments about whether they maintain spending at that level, and they will make that judgement based on community expectations of what's appropriate for government to do. If they do maintain spending at a higher level and they wish to balance the budget, they'll clearly have to raise revenue. Alternatively, they can reduce spending as a proportion of the economy, and the structural deficit will fall. The third way that adjustment happens is that we increase productivity and expand the size of the economy. They're the three ways to resolve that persistent structural deficit.

You're specifically talking about the near-term cyclical impact of the fiscal position. My view is that what's driving the budget through most of this cyclical period is that there's a big commodity cycle running through the

revenue numbers, which is driving us up to this surplus in the near term. As we strip that out through our technical assumption, the revenue falls away. We have a cyclical downturn. Revenue falls, as it will in a cyclical downturn. The deficit widens back out, from memory, to 1.3 per cent of GDP and then narrows back in more to its cyclical position. That's pretty much fiscal policy following the shape of the economy and, by the end of the forward estimates, revealing the issue you raised, which is that there is a structural position that sees spending sitting higher than revenue on an ongoing basis. As I said, that structural position has emerged across the course of the last few years and is mostly driven by the three areas of growth that I spoke about.

Senator HUME: On that issue of growth and spending, there was an article yesterday by Ross Gittins, and he pointed out that real spending in the next financial year alone will increase by 3.7 per cent. Do you have a comment on that figure, because certainly that must be considered expansionary?

Dr Kennedy: There are huge swings, as I spoke about in my opening statement, in spending at the moment. I think, from memory, it fell very substantially in the year we're in. I can't recall, but I'm happy to check. As I said, these numbers are swinging around as we swing back through into what I would regard as more usual circumstances.

Senator HUME: We're not just limited to Australian economists. There are overseas economists that have been weighing in on this issue of managing inflation. I'm sure Olivier Blanchard and Paul Krugman are two that you know. Blanchard stated recently: 'Given how hard it appears to slow down the US economy through monetary policy, maybe fiscal policy could help?' He wrote in the *New York Times* two weeks ago that, when it comes to inflation, while difficult, contractionary fiscal policy along with higher interest rates is a proven solution for bringing down inflation. Do you agree with Mr Krugman that a contractionary fiscal policy is a proven method for bringing down inflation?

Dr Kennedy: I'll just make two points on the global differences. We did present a chart in the budget papers which showed the difference in fiscal positions across the world, and Australia is in a very good position across the world in terms of current deficits and debt-to-GDP ratios. So, while I have drawn some concerns for structural budget positions, we should acknowledge and keep some perspective that we have relatively low debt-to-GDP. There are very few countries—I'm just trying to think of one and I can't, off the top of my head—who are able to report a surplus, even given our particularly good position through the commodity boom. So the type of fiscal settings that you see in the US and other countries, I would just say at the outset, are starkly different to our own.

Secondly, to return to my earlier comment about managing cycles and fiscal policy, I would agree that it's a relevant consideration. I would just caution the government's ability to fine-tune the economic cycle through fiscal policy. I recall the debate through the GFC and post the GFC where those of us advising in that period were criticised heavily for suggesting that fiscal policy could be used to manage that cycle at all, on the upside or the downside. Frankly, there were relevant elements to that debate. It is a little strange to see the debate turn quite so starkly now to whatever the moves are of the government and impact they will have on inflation, particularly for an open economy with a flexible exchange rate.

Putting that to one side, the Reserve Bank meets many times a year. It's able to adjust and fine-tune its policy often. It's much more difficult for the government to do. I think it needs to keep an eye on the medium-term sustainability of the budget. It should be sensible in the way it makes moves and otherwise moves to actively support fiscal policy through crisis, as I've argued in the past. Otherwise, I wouldn't encourage a government to be fine tuning the economy through fiscal policy.

Senator HUME: If fiscal policy is not contractionary over the forward estimates, as you have attested, doesn't that mean that the budget is simply not fighting inflation, and is that the reason why you've removed from the fiscal strategy the phrase 'fighting inflation is an immediate priority'?

Dr Kennedy: The change in the fiscal strategy reflected, simply, the circumstances moving on. We have seen the peak of inflation in the December quarter. We will see inflation bounce around in the monthly numbers. We should be clear about that. While we expect that we've seen the peak—and we do expect inflation to fall from here—it will bounce around, in terms of the monthly numbers. But, having said that, we expect the inflationary pressures to unwind from here.

Secondly, the energy price relief package that we spoke about—there are many elements of inflation. This is a balance between aggregate demand and supply. They also relate to the psychology that develops around inflation. As we outlined, reducing headline inflation does have some offsetting effects to aggregate demand. They have been discussed by economists, such as Richard Holden, the one you mentioned in your comments, but we think the net effect of that will actually be to lower headline inflation. Lowering headline inflation is a useful outcome

for the people who are suffering from those higher prices at this time. So we think that net effect is a downward impact on inflation.

Senator HUME: For clarification on what you've just said, even though we have quite a contractionary monetary policy at the moment, in your view this is not a contractionary fiscal policy budget. If you do believe that there is going to be downward pressure on inflation, what measures are, in fact, going to take the pressure off aggregate demand?

Dr Kennedy: The fiscal policy settings in the budget to reduce debt over time, to stabilise the budget and to allow it to adjust effectively as the cycle runs through, as I said, are consistent with the sensible fiscal strategy both in the short time and the longer term. The downward impact on inflation in the short term is predominantly through the intervention on the energy price measures, which, as I said, we think will take three-quarters of a percentage point off inflation in the near term. A quarter of that percentage point is due to rebates, which will come out in the subsequent years, when inflation is weaker.

I would encourage everyone to keep in mind that the risks around the outlook are not one sided. They are clearly two sided. The risks around significantly lower aggregate demand or lower consumption and concerns that swing in the other direction are—as I said in my opening statement, this will be a period of very low global growth by historical standards. So, in trying to set policy with the balance of those risks, I think it's quite sensible what the government has done in both the near term and the longer term.

Senator HUME: So not having a contractionary fiscal policy is part of that.

CHAIR: Thank you, Senator Hume. Thank you, Dr Kennedy. I'll go now to Senator O'Neill.

Senator O'NEILL: Dr Kennedy, thank you for your opening statement and for the good news embedded in it for the Australian people and the Australian economy. I also want to thank you for your comments on PwC. Can I say how shocking it is to have received the information that we gleaned at the February Senate estimates, with the 144 pages of emails. I just want to table a couple of pieces so that people who have great interest in this can access it through the collection of papers that will necessarily sit with today's estimates. I refer to one of the emails here. It commences:

Hi all

I am emailing you as we are the global team on this one according to a table I recently saw.

Today the Australian Treasury Department shared a copy of the above paper for comment by 17 October. It has been redacted and is confidential so I haven't included a copy but you may have a version from other sources.

I am pulling together some views and wanted to check in with you about how we go about developing a position for the globe and respond to requests like that I have just received.

Sending letters to a group of 'all', including across the globe, is quite remarkable. Attached are documents about the OECD, who were at the time attempting international concerted efforts to make sure there was a minimum payment of tax. I will quote from two more. One is from Mr Peter-John Collins:

famous last words. OK in practice until the ATO gets grumpy and figures out the joke.

This one is from an iPhone, in the name of Mr Peter-John Collins:

Little real chance of anti hybrid rule anytime soon. I spent 3 payneful hours today. BoT has zero idea.

I'm assuming that means the Board of Taxation.

The only thing they get (now) is that it is complicated and perhaps we should not rush. No need to share this because all supposed to be secret.

That is just a smattering of what's in those 144 pages. I am mindful that the people who have undertaken this—PwC Australia and PwC global—need to be held to account. I note that the AFP inquiry is in train, and I don't want to do anything here in estimates today that could compromise the proper following of the evidence that the AFP have been charged with. So I'll ask you this question, Dr Kennedy—firstly for your response to those emails.

Dr Kennedy: I am going to be careful in my comments. I think, by any community standard, one could say they're clearly disturbing, and they are relevant to our considerations. I might also add, having appeared in front of many Senate committees over a very long period of time, that the Senate has done a very good job in exposing these issues. The release of the information on 2 May, from memory, was a crucial piece of information that allowed us to take a step. We did not have access to that information until it was tabled here and released by you. Obviously, the type of information that you just read out was very important to our consideration in subsequently referring the matter.

Senator O'NEILL: Can I just clarify your evidence there, Dr Kennedy: the department did not have the cache of emails until the work of this committee, ably chaired by my colleague Senator Walsh, released the information publicly—is that correct?

Dr Kennedy: That's correct.

Senator O'NEILL: Could I ask a slightly different question: when did the department first become aware of the issue relating to Mr Peter-John Collins and the sharing of information?

Dr Kennedy: We have a time line. We were anticipating some questions along this line, so I might ask my colleague to join the table.

Senator O'NEILL: Is there a document you want to table, or do you want to take us through it first?

Dr Kennedy: I might take you through it first. For clarity for senators across the course of the day, deputy secretary Diane Brown is in charge of revenue group and all matters related to the Tax Practitioners Board and the ATO for senators wishing to ask questions not only of myself. Ms Brown wouldn't normally appear in this session—it's macro and corporate—but obviously I anticipated there would be interest and there would be questions of myself, so I asked Mrs Brown to attend to help me with the timetable et cetera, which we will do. You will get the opportunity to ask questions again of Ms Brown in the revenue section related to this. Also assisting me is Roxanne Kelley, who is responsible for the corporate group, where the legal matters that we referred to earlier are with the AFP. Diane can take you through when we first became aware. If you have such questions about when I first became aware and those sorts of issues, we have brought them along today and are happy to tell you.

Ms D Brown: We were asked these questions in an answer to a question on notice—AET221—where we did outline the response to questions 3 to 3a—the time line of our awareness. Starting at the more recent time, if you want to start there, as to when we became aware of decisions, or are you looking for information—

Senator O'NEILL: If we could just get on the record the response. When did you first become aware?

Ms D Brown: I am hesitating because the word 'aware' suggests a level of knowledge. So when did we become aware that there had been a finding by the TPB of a breach of—

Senator O'NEILL: No, my question was when did you become aware of the issue? On 15 February this year the ATO gave evidence that despite the theft of confidential information and the development of the North America project tax avoidance scheme for monetising by PwC Australia and global, the Taxation Office declared that they were very quickly able to see the scheme being circumvented. They told us in evidence here at Senate estimates that they had interrupted that scheme and that they believed there was no financial loss to the Commonwealth because of that. I will have questions about that when we get to the ATO. But that occurred in what year?

Ms D Brown: I appreciate that clarification. In 2018, we were requested information from the ATO about a possible breach of confidentiality.

Senator O'NEILL: So that was when you first became aware of the issue?

Ms D Brown: We became aware that there was an investigation around this issue, yes.

Senator O'NEILL: Could you take me through the referral then to the TPB.

Ms D Brown: All the way out to our referral in May of this year?

Senator O'NEILL: Yes, the time line matters here. So in 2018, you became aware. My question is: Why wasn't the matter immediately referred to the TPB by Treasury then?

Ms D Brown: In 2018, as I said, we were requested information from the ATO. We could not get further details of their concerns because the ATO is subject to strict secrecy provisions. So we were happy to assist them in their investigation by providing the information they requested but because of the operation of those secrecy provisions, we were not able to ask for further elaboration or reasons for why they were asking for that information. So we left it with the ATO to undertake the investigation.

Senator O'NEILL: Did you seek any further information from them and on what occasions?

Ms D Brown: As I said, there are secrecy provisions in the taxation laws, so, no, we are not able to ask the ATO to detail any further concerns to us.

Senator O'NEILL: So apart from the initial awareness of 2018, what is the time line over further interactions with the TPB?

Ms D Brown: We were then contacted by the TPB in late 2020. I think it was about December 2020. If that is incorrect, I'm sure we can correct that this afternoon. That was for information. That was an informal request, and a formal notice was then provided in January 2021.

Senator O'NEILL: Can you clarify for me the difference between the informal contact in December 2020 and the formal contact in 2021. What constitutes the difference there and why did it occur in that way?

Ms D Brown: A formal request is using their powers. I suppose it allows us to release information that otherwise we may have been prohibited from releasing because of law. So it was just the exercise of formal powers by a regulator commonly just allows people to be more able to comply with the full request that is made. It was only a short period of time that had elapsed between issuing of the informal and formal notice.

Senator O'NEILL: Do you have documentation that you can table?

Ms D Brown: I don't have information with me at the moment and I would be a little bit hesitant because of the AFP investigation to table that information. I imagine it's something they would be wanting to look at.

Senator O'NEILL: Perhaps you can take that on notice, because we do want to step very close carefully around the AFP inquiry yet get as much as we can on the public record in a responsible way. So the informal contact for Treasury was in 2020. What was the nature?

Ms D Brown: The formal request of January 2021—

Senator O'NEILL: No, the informal one in December, what was that—a phone call?

Ms D Brown: It might have been an email or a letter.

Senator O'NEILL: Can you tell me about the nature of that? Did it basically say 'we have a few concerns about what's going on with PwC' or 'what's at the ATO'.

Ms D Brown: It was at a very high level. It was a matter of investigation. They hadn't found any findings. The regulators are always very cautious in what they put in the letters. They are wanting enough information to inform the investigation but it would be wrong for them to assert any particular decisions in those information-seeking activities. So it did indicate—this was from the January 2021 notice—words along the lines of they were seeking information on PwC and their involvement in the BEPS consultation. It was for the purpose of an inquiry into the conduct of Mr Collins.

Senator O'NEILL: Treasury had this information and you serve the Treasurer. Did you advise the Treasurer, as the minister responsible, at the time?

Ms D Brown: I would have to take that on notice. I don't believe that the Treasurer was told but I would have to check that and take it on notice.

Senator O'NEILL: Given that there was rising interest, I am a little surprised that the minister wasn't advised. He may have been, is that what you are saying? Is that what you're saying, Ms Brown, that you check?

Ms D Brown: It may have been. I will check. But again, I would say it was an investigation. Regulators of all types commonly seek a wide range of information in order to inform their investigations, so it is not an uncommon for regulators to serve these notices, not necessarily on Treasury but on a range of bodies, where they seek broad information in order to continue their investigations and come to a finding. They did not come to a finding until 2022, so there were definitely still in the investigative stage.

Senator O'NEILL: I want to talk like an ordinary person in the street. The Taxation Office became aware of what has happened. They raise some concerns. Who did they speak to? Treasury. You get the information about somebody who stole confidential information from the Australian government and there is an email exchange. How serious does it have to be before you draw to the attention of the minister.

Ms D Brown: I think I would be cautious of the way in which you characterised those events.

Senator O'NEILL: Can help me understand exactly the steps—

Ms D Brown: We were asked for copies of confidentiality agreements but we weren't told a wider context.

Senator O'NEILL: So were you at that point aware, in the way that the ATO was clearly, that a scheme had been constructed to rob Australians of the taxation that multinational companies should pay—a fair share?

Ms D Brown: We are policy-making agency. It is the ATO's role to administer those laws, so it was appropriate that the ATO was aware. But, as a policy-making agency, I don't think I could say we were aware.

Senator O'NEILL: They didn't tell you—is that what that means? They did not tell you about what had happened and what they were doing.

Ms D Brown: They have secrecy laws, and the operation of those meant that they could not tell us.

Senator O'NEILL: It's interesting—this confidentiality and secrecy. Mr Peter-John Collins felt confident to breach confidentiality, but the secrecy protection, which is important to protect the identity of people and their interactions with taxation, became an impediment for them advising Treasury that PwC Australia and global were trying to rip off the Australian public. They didn't tell you that?

Ms D Brown: As I said, they couldn't. You're right; there's a balance in all legislation, and secrecy provisions are there to protect the confidentiality of all taxpayers so that all taxpayers can understand that, when they engage with the ATO, it's kept confidential. But it does mean that it sometimes could act as a barrier for what they could tell other people, including bodies like Treasury.

Senator O'NEILL: But, in 2018, a balloon went up, and you could see that there's something going on. Is that correct? You've been asked for a copy of the confidentiality document, presumably the one that Mr Peter-John Collins signed on three occasions when he was invited not as a consultant but as a knowledgeable Australian citizen to serve the nation by bringing his knowledge to the table in order that the parliament might make good laws for the country. Is that a correct description of the confidentiality agreement that you refer to, Ms Brown?

Ms D Brown: The confidential agreement, yes, was created in order to keep conversations confidential, because laws are improved by having the input to the expertise. But I agree with you entirely that that is on the basis that the people participating understand the important role they play in policy-making, which is to protect and improve the public interest to ensure good policy outcomes, and that comes with an expectation that they will keep them confidential.

Senator BARBARA POCOCK: Can I ask a clarifying question?

CHAIR: Sure.

Senator BARBARA POCOCK: The matter in relation to Mr Collins was not likely to have any reflection on his own tax payments, was it? So I'm curious about why there was protection. The ATO was not providing information. This was not about his tax payment. Why was the confidentiality provided to him when it was in relation to his consultation on tax law changes?

Ms D Brown: That's probably a question best directed towards the ATO. They administer those provisions, and so they would better understand the restrictions and constraints in those provisions.

Senator BARBARA POCOCK: So you did not ask that question, though?

Ms D Brown: I was not there in 2018.

Senator BARBARA POCOCK: Sorry, Treasury did not ask that question?

Ms D Brown: I'll take that on notice and see what records we've got, but the records that I've looked at to date suggest that it was a request for confidential information, a confidential agreement. We provided that. We supplied the information as requested. We thought that was the way to support the body with the powers to do the investigation to undertake the investigation.

Senator O'NEILL: Thanks for the clarification, Ms Brown and Senator Pocock. I know Senator Pocock has been trying to find out the information as well. The ATO were in contact with Treasury. You've indicated that you did not inform the Treasurer of this request for the confidentiality document. You don't believe that you did that.

Ms D Brown: I haven't seen any records to that effect so far, but we will check.

Senator O'NEILL: I'm trying to figure out the lines of communication. This is my last question, because I know that the chair is going to seek to move the call. I'm happy that we're getting this information without compromising the AFP, so thank you for that. Given you know about the limitations of the ATO's powers, do they have the capacity to inform the Treasurer directly?

Ms D Brown: I'll have to take that on notice, but I suspect the answer is that there are some cases where they can. I would like to check that formally, and we can advise you of that this afternoon; we'll be with the ATO, so they can clarify if we get that wrong. But that is a matter of looking up the act, and I'm happy to do that for you.

Senator O'NEILL: I'd like to get clarification on that because, clearly, everybody thinks it's going through Treasury, but, if there was direct communication between the ATO and the Treasurer, I think that's important for us to know, to understand the time line and the seemingly very slow movement towards any accountability for a scheme designed to defraud the Australian people.

Ms D Brown: We can find that answer out.

Senator O'NEILL: Thank you.

CHAIR: Thank you, Ms Brown. I note that many of the questions at the moment are going to Ms Brown—as described by you, Dr Kennedy—and that we do have Ms Brown for much of the day. We don't have Dr Kennedy

for much of the day, so I would like the broad agreement of the committee to go back to some questions that are specifically for Dr Kennedy. On that basis, I'll come back to you on the understanding that many of your questions may be for Ms Brown. Senator McKim, do you have macro questions for Dr Kennedy? I'd like to come back to the PwC matter a bit later on.

Senator McKIM: I'll have questions for Dr Kennedy.

CHAIR: Okay. I'm going to go to Senator Smith, who's assured me that his questions are for Dr Kennedy and in relation to the macro area.

Senator DEAN SMITH: Good morning, all, and thank you very much for your participation. Dr Kennedy, I'd like to take you back to some comments that you made in 2009 in a speech that you gave to the Australia-Israel leadership dialogue. I'll read them out to you, but I'm happy to table them. I'm sure you're very familiar with them!

Senator Gallagher: It might be good to get a tabled copy, in the interests of facilitating.

Dr Kennedy: I've been here for too long!

Senator Gallagher: It is 14 years ago!

Senator DEAN SMITH: I'm continuing the inflation discussion that Senator Hume began with. The quote, from June 2009, is:

The consumption aspects of the stimulus package were also designed to be quick acting, with significant cash bonuses paid to pensioners, carers and seniors, and low-income households within weeks of the announcement.

These are household groups that tend to have relatively high propensities to consume out of income. That is, they tend to spend more out of any additional income they receive than do other groups, thus maximising the economy-wide stimulus effects of the package.

Those comments were made in the context of the GFC. When thinking about the marginal propensity to consume, is it still true to say that the marginal propensity to consume for low-income households, which you referred to in 2009, has not changed dramatically in the last 11 years?

Dr Kennedy: No, I don't think it would have changed dramatically in the last 11 years.

Senator DEAN SMITH: So has the consistency between those groups remained from 2009 to 2023, in regard to their marginal propensity to consume?

Dr Kennedy: I think the research would suggest that that would be a group who's often cash constrained and would tend to consume more out of additional income than other groups.

Senator DEAN SMITH: Given your statement in 2009, that increased payments to low-income earners are stimulatory—the reference that you made was 'thus maximising the economy-wide stimulus effect of the package' to low-income owners—can you explain why the key spending items in this budget are stimulatory?

Dr Kennedy: Focusing on the cost-of-living package?

Senator DEAN SMITH: Yes, please—for the moment.

Dr Kennedy: There are a few design features to draw out. The first package in the global financial crisis, from memory—sorry; I'll confirm these numbers as we go along—was around one per cent of GDP, which at that time was about \$12 billion. The payments made to welfare recipients were in the order of—I'm going to go from memory—about \$8 billion, and they were made around, I think, the announcement of the GFC package, which, from memory, was about 12 October. Those payments were made just prior to Christmas. We anticipated at the time that they would have a significant impact on consumption in the period following because (a) they were made just prior to Christmas, which was a good time for spending, and (b) they were all being made quickly in the quarter. With fiscal policy, if you're trying to stimulate demand, the advice back then—which probably persists today—is that you need to spend at least one per cent of GDP to really move the economy and to see subsequent impacts in activity, and then the flow-on to inflation et cetera. There was a subsequent package in February 2009 that was, from memory, over \$40 billion, of which about \$10 billion or \$12 billion were payments made to low- and middle-income households through the tax system that came a bit later. There were two consumption packages put through in a sequence of packages during the GFC.

First, to draw a distinction between that and the current cost-of-living package. The cost-of-living package support that's being provided to households is being spread out across the whole year. In fact, most of those payments won't begin going out until later this year, in September, and then they're spread across the course of the year. They are adding to the income of those people, as they're spread across the year, but they're not going to have anywhere near the same type of impulse that we had in the GFC or, frankly, some of the consumption measures that were developed during COVID, which included payments to welfare recipients. This is, effectively,

because of the profile of that spend and the size. I can't tell you the precise number as a percentage of GDP, but \$3.6 billion as a percentage of GDP in the coming year is a very small number compared to the numbers we put out in the GFC and in the COVID package.

The second element I would add is that part of what was being delivered were the price caps that were coming in this cost-of-living package were coming from the electricity and gas caps. All households benefit from lowering those prices. Those households that qualify for rebates, of course, are the households that you spoke about that, if they can spend less on something else, will have more money available elsewhere. But, once again, those numbers are small and those payments—from memory, though they vary across states—are paid across the course of the year. Frankly, size and design differentiate markedly the current cost-of-living package compared to the design of a stimulus package on the other side.

The third element I would add is that, when the economy is weakening significantly—our income tax take is falling, our revenue tax take is falling, and revenues fell substantially through that period. It's sensible for the government to allow this, because that allows the automatic stabilisers to work in that direction. At the moment, our revenue take is working in exactly the opposite direction because we're in an upswing, and many households, because of the additional hours they're working, are paying more income tax, and our company tax take is higher. Our tax system is leaning in a way that's quite different to the GFC and, frankly, COVID, when revenues also began to fall. Those are the ways I would differentiate this period.

I would concur with your first proposition about which household is more likely to consume additional moneys; I would add that the circumstances are markedly different.

Senator DEAN SMITH: Your comment about the profiling of the measures is that it is—to paraphrase—a design feature.

Dr Kennedy: For policies that were designed to stimulate the economy—absolutely. We are looking to make payments quickly to those households most likely to spend it. In the case of providing cost-of-living support, we are looking to support households over time and not unduly contribute in the manner that you're talking about by putting a lot more money in people's pockets and adding to aggregate demand just to offset, in a targeted way, some of the pressures. I might just add that other bodies, such as the IMF and the OECD, would all say in their advice that it's quite reasonable, in the face of a large shock, particularly an energy price shock, for the fiscal authorities to deal with some of the distributional consequences of those shocks but to do it in a very targeted way to not unduly lean against the monetary policy's capacity to help balance demand and supply. I think the measures made by this government were entirely consistent with that broader advice.

Senator DEAN SMITH: Is it also correct to say that the marginal propensity to consume for aged-care workers and single parenting recipients would be similarly low?

Dr Kennedy: Yes. I think it would be reasonable to say that.

Senator DEAN SMITH: When we think about the \$11.3 billion for wage increases, coupled with the \$14.6 billion in cost-of-living relief and an energy relief package that is targeted to pensioners, Commonwealth seniors health card holders and family tax benefit A and B recipients, how is that not inflationary?

Dr Kennedy: First, to take the aged-care package: with matters of government, we need to think carefully about their cyclical implications, but in that case—

Senator DEAN SMITH: The cyclical implications of the aged-care package?

Dr Kennedy: Of all policies. I'll draw a clear distinction on that policy; I understand it was an expenditure variation, from memory. In that case, a Fair Work Commission has made a decision. It has made a decision based on a relative wage case. The government can make a decision not to fund a decision, but if it does it would have very dire consequences for the aged-care sector. I think it's entirely sensible and can be well managed within the context of the size of the economy and the other pressures for the government to fund that decision. If it doesn't fund that decision, in some ways I'm not quite sure what its options would be. So that's a matter in a sense. Of course, it's discretionary. They can fund it or not, but they chose to fund it, and that seems sensible to me.

Senator DEAN SMITH: Sorry, Secretary, I might just interrupt you on this particular point. Minister, is there any prospect that the government won't fund aged-care worker increases?

Senator Gallagher: That's reflected in the budget. Our position on that has been pretty clear for some time.

Senator DEAN SMITH: So the government will be funding?

Senator Gallagher: We are funding.

Senator DEAN SMITH: For the sake of this exercise, Secretary, I think we can assume that aged-care workforce increases are part of the discussion.

Senator Gallagher: I'm not clear on whether you support the aged-care workers increase, though, because of this line of questioning about the cost-of-living package.

Senator DEAN SMITH: You've been in my position; I've not yet been in yours. I ask the questions; you provide the responses.

Senator Gallagher: You're questioning a cost-of-living package and aged-care workers' wages, that's all.

Senator DEAN SMITH: Sorry to interrupt the secretary's insightful comments.

Dr Kennedy: It's quite a reasonable line of questioning to say there's a \$3.6 billion package and there is additional other spending, which is, I think, the point you're making and a point I tried to address. It's also reasonable to consider who that spending is going to. In other words: what would the stimulatory impact be across—let's distinguish—what's happening now and then what's happening across the forward estimates. If we're thinking about inflation dynamics and the role of fiscal policy, I think the line of questioning is more about the here and now. A point I tried to make in my opening remarks, and I've also made, is that fiscal policy works with lags in the same way monetary policy works with lags. The very significant contraction in fiscal policy that occurred actually under the previous government, the record contraction, and then the subsequent third-largest contraction that has occurred in more recent times under this government—those contractions are driven by automatic stabilisers, but for those stabilisers to work effectively, by which I mean revenue rising or the ending of programs, the government must decide to allow them to work, which the government has done in this case by saving revenue. That impact will still be flowing through the economy in the year ahead and beyond, to be honest. We're trying to think through what's happening today and how that impacts the economy in the future—through monetary policy, for example. These interest rate increases have not yet had their full impact on the economy. That's similar for the previous fiscal contractions. The net position of this budget, by both its size and its timing, we don't assess, because it's in our forecast. We don't assess materially moving the forecast for the inflation to move back. If you want to ask the more open-ended question of whether the government could deliver more swingeing cuts to contract the economy by cutting some other activity over which it had some discretion, that's a matter for the government. I would just refer to my earlier comments. There are reasons to be cautious on both sides of these arguments.

Senator DEAN SMITH: That is where I would like to get you.

CHAIR: This is your last question, Senator Smith.

Senator DEAN SMITH: That's a great shame. I was just reaching my apex.

CHAIR: You were warming up! It's going to be a long day.

Senator DEAN SMITH: I will come back to it. This, I think, is the most important point, and it's one that many laymen out there are struggling to get their heads around. We have a current inflation rate of around seven per cent and a quarter inflation rate of about 6.6 per cent. That \$11.3 billion in aged-care worker increases and the \$14.6 billion in cost-of-living relief come at about \$25.6 billion. If my layman maths is correct, that is about one per cent of GDP—equivalent to the first part of the GFC stimulus package that you mentioned in your earlier comments, to which those 2009 remarks were related. People are struggling to understand how this can't be inflationary. When the call comes to me again, I do want to talk about risks and the level of confidence that the Treasury has that these risks that are talked about in the Australian Business Economists report, which I think you touched on in your opening statement, will not be realised. If those risks are realised, then Australian households are in a very, very, very precarious position. I'll use that as an intro to our next exchange. Thank you very much for the remarks.

Dr Kennedy: My only follow-up comment on that is that timing is crucial. When we talk about one per cent of GDP, we mean in a quarter or two. You're talking about over the course of four years. Let's return to that when we come back.

Senator DEAN SMITH: We will, because I want to talk about vulnerabilities, which you have mentioned consistently in all of your public contributions since the budget.

Senator BRAGG: Good morning, Secretary. I have some questions on productivity today. Just to briefly cover off on the lines from Senator Hume and Senator Smith, table 3.2 in BP 1 does have a figure in there of \$13.7 billion in payments in 2023-24.

Dr Kennedy: That's correct.

Senator BRAGG: Do you have that figure?

Mr Yeaman: Yes, I've got it.

Senator BRAGG: Is that almost \$14 billion in discretionary payments based on new policy decisions, on its own, inflationary?

Dr Kennedy: As I said, we don't believe the budget as a whole is adding to inflationary pressures. The \$13.7 billion you're referring to is made up of the cost-of-living package, which, from memory, was \$3.6 billion. Then there are a range of other decisions—some legacy decisions, some COVID decisions and, frankly, the ongoing operations of government spread across the course of the year. I'm not disputing that public moneys spent add to demand, but, in terms of the overall contribution to substantially moving aggregate demand and leading us to revise up our inflation numbers—and also particularly in the context of the energy measures to lower inflation—the answer is no.

Senator BRAGG: On productivity and wages, can you remind the committee how much of the wages growth in the budget over the next four years will be consumed by increases in mandatory superannuation.

Dr Kennedy: You often ask me that question, but I didn't—I will ask colleagues to come up. We're normally well prepared for that question!

Dr S Hunter: To answer your question, on the previous analysis we've done of the superannuation guarantee: around about 80 per cent of the guarantee is assumed to be forfeited or substituted from wages growth, and the remaining 20 per cent passes through. Of that 80 per cent it's spread over time—so it doesn't all come through in the first year.

Senator BRAGG: So 80 per cent of the wages growth is consumed—

Dr S Hunter: Sorry—80 per cent of the super guarantee increase is assumed to come off wages growth.

Dr Kennedy: I don't think we've changed our estimate. We have re-examined it over time, and we do discuss it with the RBA. You can ask them tomorrow but I think our estimates are similar.

Senator BRAGG: I want to go to this productivity issue. In your opening statement to the committee in February last year, you said:

At full employment, and if we can achieve productivity growth of 1.5 per cent, then nominal wages can grow at four per cent and put no pressure on inflation. However, on the other hand, if productivity is only 0.5 per cent, then wages can only grow at three per cent before they begin to put pressure on inflation.

In this year's budget, page 79 says that underlying productivity is assumed to be 1.2 per cent per annum. Is that the assumption across the forward estimates?

Dr Kennedy: I'm going to pass to Mr Yeaman or Dr Hunter to talk through the detail, but I'll start us off. The 1.2 is our longer-run assumption that we assume productivity goes back to. Productivity has not been growing at 1.2 per cent. Part of the challenge is to implement policies that encourage productivity to return to that level. I will just draw one other distinction before passing to Mr Yeaman. We all remember that productivity is the residual of our understanding in economics—in other words, be careful of overinterpreting what's going on. It's the bit that's unmeasured where we're often unclear about what's driving it. We should be very cautious in the short term not to begin to overinterpret year-to-year movements in productivity. That's why the ABS, for example, focuses on looking at productivity across productivity cycles; it's trying to understand the underlying trends in the economy. I would encourage people to be cautious in saying, 'Look, our productivity is zero per cent this year; that means wages can only grow by inflation next year to be consistent with the inflation target.' That's not what we're arguing. When I talk about what wages can grow on average over the longer term, I'm relating it to what trend productivity growth is. You're absolutely right; the assumption we use is 1.2 per cent. If that assumption wasn't correct, then wages consistent with the inflation target of 2½ per cent in the economic models are lower. I might just pass to Mr Yeaman for a bit more detail on the short term.

Mr Yeaman: To your specific question: we assume trend productivity growth over the medium term grows at 1.2 per cent. In the near term we look at the level of productivity growth as against our single trend productivity growth, then we have a process of closing that gap over time. In the near term, over the forward estimates, we essentially grow productivity at a rate sufficient to close that gap. Once we hit that gap we want to close that gap down, and we then grow at 1.2 per cent over the medium term. It depends on where productivity is in the short term in terms of how it grows over the forward estimates.

Senator BRAGG: I'm trying to marry up how wages growth of four per cent is reasonable when you've got productivity growth at 1.5 per cent, and we're now, in the context of budget projections, talking about a seven per cent increase in minimum wages, and how that computes with a 1.2 per cent increase in productivity growth. How does that marry up?

Dr Kennedy: I would draw a distinction between near-term cyclical movements and this medium-term story. As I said, when I talk about what wages are sustainable—I think, and I hope, I said 'medium-term' in my opening statement—I'm trying to get people to focus on those policies that are going to improve the productivity of their country over the medium term. In terms of wages rising and falling in the medium term with the economy or in the context of a supply shock, the productivity story is a much more complicated story to think through. It's not an irrelevant consideration but it's not a primary consideration. I'll leave it to the Fair Work Commission's considerations about what's a reasonable minimum wage response to this. When you get a supply shock of this nature, in some ways—and demand has to come down—you have lowered the income of the whole economy through the supply shock, and how that lowering of income, if that supply shock is not fully unwound, will get shared between capital and labour is important. Some wage adjustment in the sharing of that income shock is entirely reasonable. As to the Fair Work Commission, I'll leave the seven per cent to them.

Senator BRAGG: It's more than a hypothetical. The question is: if there's a seven per cent wage increase and you've got productivity growth of just 1.2 per cent, what does that do for inflation?

Dr Kennedy: Just to be clear—and I might have to ask Mr Yeaman to help me out on this again—the previous Fair Work Commission decision and the one we just assume as a technical assumption in these forecasts isn't, as I understand, that larger number for everybody; it's a larger number for a small group and then it flows on, so there's an average wage increase.

To go back to your other point: even if that average increase is 4½ or five per cent, how is that consistent with productivity of 1.2 per cent? That's a good question but it's a question, I would say, better aimed at the medium term than the short term, which is, frankly, as I said. If profits can go up, so can wages. The issue is: what are sustainable wages over the longer term? It is quite reasonable to have wages cycles. The wages cycles, as I said in my comments, that have emerged in some countries are much stronger than ours—hitting five per cent, from memory, in the US and other places. To date ours have been quite moderate. We think because there's been a really great supply response from employment, with more people getting into jobs—in other words, labour supply has matched labour demand. Mr Yeaman, do you have any other comments?

Mr Yeaman: Only to draw the distinction, on the numbers you're referring to there, between those genuinely on the minimum wage and broader workers who are in the award category where there may be some spillover between those categories. The higher rate Dr Kennedy referred to would only apply to those on the minimum wage, which is a relatively small group.

Senator BRAGG: I will take you to the medium-term outlook you just described, Dr Kennedy. The government has the *5-year productivity inquiry: Advancing prosperity* report. How many of those measures are in the budget?

Dr Kennedy: I don't know off the top of my head; I'll have to take it on notice for you. In terms of broad areas, there are some. I'm having a bit of a blank; I'll have to take it on notice for you to relate them directly.

Senator BRAGG: You can't remember any of them?

Dr Kennedy: There are a number of measures in the budget that go to the directions outlined in the productivity report—sometimes not exactly; I'm thinking of some of the climate measures. Obviously, government has a different view on how the safeguard mechanism was applied, but that was covered in the productivity report. Child care was covered, as well as other participation. For the efficiency of government services, there were a number of measures in the budget. The NDIS measures are at the top of that to remind senators of why it's important to deliver government services efficiently, not just for value for money but for aggregate productivity. It potentially releases labour to work in more productive exercises elsewhere in the economy.

CHAIR: Thank you. I'll go now to Senator McKim.

Senator McKIM: Good morning. According to Treasury's annual report, you conduct an internal audit to provide independent advice and assurance to yourself on the effectiveness of Treasury's governance, risk, compliance and performance arrangements and Treasury's financial and operational controls. Is that correct?

Dr Kennedy: That's correct.

Senator McKIM: Would that include providing advice to you on how Treasury manages conflicts of interest?

Dr Kennedy: Through the internal audit function, I don't think so. I'm just going to double-check with Ms Kelley.

Senator McKIM: While Ms Kelley is thinking about that, can I just refer you and her to Treasury's *Audit and Risk Committee Charter*, which says that the internal audit should have coverage and alignment with Treasury's key risks, and ask whether you don't think management of conflicts of interest is a key risk for Treasury?

Dr Kennedy: It is a very important—

Senator McKIM: And key risk.

Dr Kennedy: and key risk. In terms of managing conflicts, we would most certainly bring them to the attention of the audit committee and our own governance committee. Whether we would ask them to actually provide us with that advice is a separate matter. But you're absolutely right; they should have oversight of how we manage those risks.

Senator McKIM: Ms Kelley, do you have anything to add to that?

Ms Kelley: It is certainly something that we would bring to the attention of both the auditors and particularly our audit and risk committee as part of what we consider.

Senator McKIM: So your internal auditor would provide advice and assurance on the effectiveness of Treasury's governance arrangements—I'm reading that directly from your financial report—and they may, depending on circumstances, provide advice on conflicts of interest. Is that a reasonable categorisation of what they would do for you?

Ms Kelley: They may. I should note that they are providing advice to us. They are also providing advice to our independent audit and risk committee. So I suppose there are a range of other people who oversee that. Ultimately, it is also a matter for us in terms of the assurance that they provide.

Senator McKIM: But they certainly provide independent advice to Treasury on the effectiveness of Treasury's governance arrangements?

Ms Kelley: They have, in terms of the audits that are carried out—yes.

Dr Kennedy: They could be asked, through an internal audit process, to review any matter.

Senator McKIM: And who's contracted to undertake Treasury's internal audit?

Ms Kelley: Our current internal audit function is provided by PricewaterhouseCoopers.

Senator McKIM: PricewaterhouseCoopers? A company embroiled in a governance scandal is providing advice to Treasury on governance? We're 'through the looking glass' here, aren't we, Dr Kennedy!

Dr Kennedy: They're our internal auditors.

Senator McKIM: I know.

Dr Kennedy: They have been for some time.

Senator McKIM: That's right. They have a \$985,000 contract?

Dr Kennedy: They have a contract with us until the end of this year.

Senator McKIM: It's a \$985,000 contract, isn't it?

Dr Kennedy: In the delivery of those services to us directly in those internal audit functions, we've had no cause for concern across the delivery of that contract. However, your point is well made and understood, about the broader public perception of the company. In some ways, those matters were discussed in detail, around procurement and otherwise, with the finance department.

Senator McKIM: Dr Kennedy, they are providing advice to you as secretary, as your annual report says. How can you have confidence in advice from PricewaterhouseCoopers on Treasury's governance arrangements, given what we now know about PricewaterhouseCoopers' attitude towards governance? How can you possibly have confidence in their advice?

Dr Kennedy: We can only comment on our experience with the auditors that have been engaged with us for some time—the Canberra office here—from PricewaterhouseCoopers. But, as I said, the broader comment about the procurement of these services and their ongoing procurement is a matter we will consider carefully across the course of this contract, which is up at the end of this year.

Senator McKIM: It fails the pub test, though, doesn't it, really, that a company that, let's be clear, has stolen confidential Treasury information and monetised it to help their clients actually avoid paying tax in Australia, that has been exposed as having somewhere between a shambolic governance arrangement and absolute corruption of the highest order, and they're providing Treasury—and you, Dr Kennedy, personally, as secretary—with advice on governance! I mean, it's absurd! It's an absurd situation, isn't it?

Ms Kelley: If I could, I'd just note that we have a process where we seek assurance from PwC about the personnel who are assigned to our audit teams, and we do that on a regular basis. We have sought and received assurance from PwC that no members of our internal audit team providing services to us were involved in the Tax Practitioners Board matter.

Senator McKIM: You are running a firewall argument there, Ms Kelley. Do you have confidence, Dr Kennedy, in the firewall arrangements inside PwC, given what we now know about their internal governance structures and their corporate culture?

Dr Kennedy: As I said, we're going to very carefully consider our future procurement arrangements as they come up, but we're going to act in line with the advice provided to us from the Finance department. This is a significant firm that provides a large range of services to many parts of government. I'm not in any way diminishing the circumstances that have arisen around this firm, and that is reflected in my referral to the AFP. We are carefully working through all these matters and ensuring that we don't feel exposed from a risk point of view or something else in the nature of those services. We're doing that carefully, particularly with our obligation to ensure that we do not impose on the public unnecessary financial consequences.

Senator McKIM: You've mentioned your Audit and Risk Committee. One of the three members of that committee, Carol Lilley, is a former partner at PwC, is she not?

Ms Kelley: Yes, I'm aware that—

Senator McKIM: She is.

Ms Kelley: she was a former partner—

Senator McKIM: Yes. She's a former partner at PwC.

Ms Kelley: a long time ago.

Senator McKIM: I beg your pardon?

Ms Kelley: Quite a while ago.

Senator McKIM: A former partner at PwC. So you've basically got heads rolling out of Barangaroo into Darling Harbour as we speak because PwC sold their access to confidential Treasury information to help their corporate clients minimise tax, and yet PwC has a million-dollar contract to advise Treasury on managing conflicts of interest, with PwC, through a process that's designed and managed in part by a former partner of PwC. Have I got that right?

Senator Gallagher: Senator McKim, it might be useful for you to go and have a look at the discussion we had in Finance and Public Administration Committee last week around the steps that are being taken to strengthen procurement arrangements in light of this—

Senator McKIM: Yes, but—

Senator Gallagher: Well, just let me finish.

Senator McKIM: It's not relevant.

Senator Gallagher: It is relevant. Now, I'm not apologising in any way or protecting PwC. What they have done here, with the breach on the Tax Practitioners Board, is outrageous—absolutely outrageous—and, appropriately, has been referred to the AFP. In light of what has been uncovered, we have taken a number of steps. But this was not a breach of procurement, as I've been trying to say. We've been trying to deal with that through the procurement process. Now, I know people would like us to just go around cancelling existing procurement contracts—

Senator McKIM: I haven't asked about that. Point of order, Chair, I haven't asked about this.

Senator Gallagher: But that is not available at the moment—

Senator McKIM: No, it's not.

Senator Gallagher: without significant financial risk.

Senator McKIM: I haven't asked about cancelling contracts.

Senator Gallagher: Well, that is actually the question you're posing at the moment.

CHAIR: Thank you, Minister. Senator McKim.

Senator McKIM: Dr Kennedy, the Department of Finance's guide on the role of audit committees says that the provider of the internal audit, PwC, should have unobstructed access to the accountable authority. Does PwC have unobstructed access to Treasury?

Dr Kennedy: Our auditors—

Senator McKIM: PwC.

Dr Kennedy: are able to engage and do their job in the manner that you described, in the manner that they're asked—

Senator McKIM: So they have unobstructed access to Treasury?

Dr Kennedy: that internal auditors are able to do.

Senator McKIM: So they do have unobstructed access to Treasury?

Dr Kennedy: Our internal auditors are able to acquit their job fully by the way I think you just described it.

Senator McKIM: Just to be clear, PwC has unobstructed access to Treasury?

Dr Kennedy: Our internal auditors are able to do their job.

Senator McKIM: I'll take that as a yes.

Dr Kennedy: If they're not able to do their job, I'm not acquitting my responsibilities as an accountable authority.

Senator McKIM: What has Treasury done to examine whether PwC—which you've now confirmed have access to Treasury—have used that access for commercial gain or not? What work have you done? And please don't tell me you've just asked them, and they've told you that everything's fine.

Ms Kelley: I might just clarify the term 'unobstructed access'. To facilitate audit processes, the internal auditors are provided with Treasury network accounts. However, they only have access to information relevant to the internal audit that they are conducting. The relevant business area approves the provision of the documentation to PwC auditors. The auditors do not have the ability to openly trawl our document management systems, and they cannot access material more broadly. They are able to view the Treasury intranet page. They are able to access their Treasury email account, and they can access a secure SharePoint site within the Treasury network, which was established specifically for audit purposes. They may be issued with a Treasury laptop for access, but currently no PwC staff have Treasury laptops. Treasury information is shared with the internal auditors via a secure SharePoint site, email or hard copy. For sensitive material or material that exists in hard copy, this is reviewed in person in consultation with the relevant business area, who facilitate access and maintain supervision of the material, and it is subject to the relevant PwC auditor having the required security clearance.

Senator McKIM: Could you just take on notice precisely what information from within Treasury has been provided to PwC in the context of their provision of internal audit surfaces?

Ms Kelley: Is there a time period over which you would want that?

Senator McKIM: Over the course of the current contract.

CHAIR: Senator Pocock.

Senator BARBARA POCOCK: I want to ask some questions about governance of our tax architecture. Within the Treasury portfolio, there is a tax practitioners board, where three out of seven of the board members are current or former partners of the big four—big four being EY, KPMG, Deloitte, PwC. For the Board of Taxation, two out of nine members are current or former partners of the big four; Financial Reporting Council, four out of seven; Auditing and Assurance Standards Board, seven out of 12; Accounting Standards Board, five out of 14. That's the registration and standard setting framework for tax advisers, accountants and auditors: stacked to the hilt with current and former partners of the big four. Many of these former partners, as we know—and it's important to note—are on continuing payments from their previous service in the big four. What impact does this level of dominance by people from the big four, with conflicts of interest, have on the integrity of the regulatory system for tax advisers, accountants and auditors?

Dr Kennedy: Perhaps I'll start us off and then I'll ask Diane to join the conversation. Clearly, in getting advice and designing these arrangements, we need capable people able to provide us with insights to how the tax system works, and we need them to behave in an entirely scrupulous manner, declaring any conflicts they may have, behaving entirely in line with that declaration, recusing themselves where necessary but able to apply, in many cases, their considerable skills. They are a large part of the tax community in Australia and, more broadly, we understand them to have behaved appropriately. This current circumstance is clearly drawing attention to the management of conflicts and our use of engaging with them on confidential information, and we will pursue vigorously any violation or any place where we think people are behaving inappropriately. This is a large, expert community and, frankly, it would make no sense for us not to draw from this large, expert community, but you are 100 per cent correct: in drawing from that community we would want full assurance for the Australian people

that their behaviour is entirely consistent with the public purpose which they are asked to employ in those committees.

Senator BARBARA POCOCK: I think you've answered my question. You're choosing your language very carefully there. You have an understanding. You have a hope that that's happening. What confidence can the Australian public have in these committees, which are so essential to the integrity of the tax and auditing system, and the architecture of regulating the big professional firms? Isn't this a case where we don't actually know what's going on inside? This is a case of putting a very well educated and canny fox in charge of the henhouse, which means that so many people—I can tell you they are contacting us, Senator O'Neill—

Senator O'NEILL: Every day.

Senator BARBARA POCOCK: They are very worried about what they are seeing. What assurance can you give them that this package of architecture is not compromised? I think your language being so careful means that you're not sure. You have an understanding and a hope.

Dr Kennedy: The first thing I would say is that, in understanding your concerns, and Senator O'Neill's earlier concerns, about the timing of matters, these matters have been drawn out through the existing arrangements. As I said earlier, though, the Senate has played a very important role in drawing them out even further, and that's an important part of the checks in our systems. Do we want them to have occurred at all? Absolutely not. Could we do more to ensure they don't occur in the future? Quite likely, yes. That's what we're working on. Do I think they have systematically failed us on an ongoing basis? No. I've dealt with some of these people, and I think the systems have worked well. Do we have cause to more carefully look at these issues, to review and reform the tax practitioners board, to increase the penalties available, and do all those things? The answer to that is clearly yes. That's what the government has asked us to do, and we've begun to do that.

Senator BARBARA POCOCK: The Senate has had access to these emails for three months. The transgression occurred eight years ago. The day after Joe Hockey presented his budget on 11 or 12 May in 2015, PwC took action within minutes, reaching out to the dirty thirty—as I understand they are called—and advising them. It must have broken hearts in Treasury, because Treasury officers are named in these emails as being 'assertively in pursuit of taxing these companies'. And for eight years nothing happened. In three months, Senators have asked questions to reveal that this is on the nose and must stop. It is corrupt, and we are now in the hands of the police. What confidence can we have that this governance structure, for which there is contempt shown in these emails—they are contemptuous of the Board of Taxation, they are contemptuous of officers in Treasury. They say, 'I'll give him a call tomorrow and find out.' They are enmeshed inside a system which the Australian public are not willing to tolerate, and it has gone on for too long. Governance failures have been immense across the sector.

The Treasurer—if I can go to my question—has expressed concern that this chapter might inhibit the government's ability to consult with these experts. I have a different view. Reading through these emails and seeing that contempt—when I read these emails, I don't see a helpful organisation or individual assisting the government in good faith to better design our tax system. I see a case of aggressive harvesting of confidential information and relationships by a predatory group of tax avoiders, salivating at the way in which they can make money out of these very large tax-avoiding multinational companies. They want to lasso them into their client list. That's their sole objective. What confidence have you got that your relationships and consultations with these organisations—their representation across the governance structures—are actually working for the good of the Australian people?

Dr Kennedy: I'm a hundred per cent confident that we and the regulators are working for the good of the country, and, as you said, we vigorously pursue that. As part of doing that, we can't pretend that we have all the expertise within the department. We must talk to others. I feel we clearly have to be able to do that in good faith, and we have to have full assurance that we're able to do that, and that's one of the reasons we are strengthening our own confidentiality arrangements. We do not want to be in an outcome in which we can't talk to people about these issues in developing the policy, because there's genuine expertise for us to be able to draw on.

I do want, firstly, to be careful about the matter itself, given my referral. Secondly, we are working hard to ensure that, in continuing a practice which is important, we have every assurance that that practice is well managed. I think there are many people, probably—and it's up to the tax community to talk for itself—and you would know them, who would be very disappointed in this arrangement. They would all feel affected by this, and it's important that we don't respond in a way that excludes them from engaging in this in an appropriate way. Am I confident that the government is making the right moves to strengthen the Tax Practitioners Board and that the finance department is making moves to strengthen procurement? Yes, I am.

Lastly, I take your point about the amount of time it's taken for this to come to fruition; it's an important point. But it has come. It has come through the system. It is important that now we react in a very diligent, careful and worked-through manner, and we intend to do that at every stage. And, no doubt, we'll be back talking to you about this matter on an ongoing basis. But I just want to leave you with some confidence: this matter is far from over, from our perspective.

Senator BARBARA POCKOCK: There is a real challenge to the confidence the Australian people have. I think about the average nurse on \$80,000 a year, paying 23 per cent in tax with nowhere to go to hide it—it comes out of her pay packet before she gets it. She looks at something like this, the millions of dollars on the table and the millions made by this company. They will be having a crisis of confidence in our tax system, and we owe them a quick response—a thorough and a proper response that actually will work. But we cannot pretend that the current structures are working.

CHAIR: Thank you, Senator Pocock. In the interests of timing—

Dr Kennedy: It turns out, Senator, I might have a bit more sympathy for the average nurse than most people.

CHAIR: Given your previous professional practice. We will now pause for a break.

Proceedings suspended from 11:04 to 11:17

CHAIR: Thank you very much, Dr Kennedy, for returning. We return with the Macroeconomic and Corporate and Foreign Investment Groups.

Senator HUME: I want to ask about core inflation versus headline inflation—specifically, whether core inflation and the inability to get that down leaves us more vulnerable to supply shocks.

Dr Kennedy: The reason central banks, ourselves and others focus on core inflation is we're trying to distinguish the longer-term signal in inflation. If you don't mind, I'll quickly comment on global and then domestic core inflation.

It has been the case that central banks have been worried about the stickiness of core inflation in the US and in the UK—perhaps a little less so in Canada, but in other countries. We don't typically forecast core inflation—we forecast headline inflation—but we look at core inflation because we're trying to understand the signal about whether inflation might be a bit stickier, whether people's inflation psychology has changed, and whether they're thinking differently about their price-setting behaviour. It's why I often make a note about wage-price spirals. One of the ways core inflation could become stickier is if wage expectations were higher, flowing through to prices and back through to wages et cetera. As I said, we haven't seen any sign of that. It's something we're watching carefully. We expect core inflation to come down in line with headline inflation.

Australia's transition through this period has been a little bit behind other countries, and that's why we're watching the stickiness in other countries carefully to see if it begins to emerge here. We don't have headline inflation within the band for a couple of years, but the governor can comment about the central bank's considerations tomorrow. In broad terms, though, I would say it's sensible to give inflation some time to come down so as to not undo the great steps forward we've made on the labour market side. It's worth remembering we were below our inflation target for quite some years, and we can be symmetric about this, though this is a very large short-term shock, hence we are watching core inflation carefully.

Senator HUME: First of all, it is true to say that core inflation in Australia has actually been higher than most comparable nations, at least until recently. I think the UK might have just overtaken Australia in the last month. But that is the case, isn't it, that core inflation has remained persistently high?

Dr Kennedy: I'm not sure persistently, but, in terms of straight numbers, partly because of that timing issue—I'll just ask Mr Yeaman to comment on the current comparisons of core inflation.

Mr Yeaman: There are a couple of differences. One thing we look closely at is there are different methodologies between different countries. How we measure core inflation is different to how some of those other countries do, particularly the treatment of housing. We're a little cautious about making those direct comparisons. As Dr Kennedy said, for core inflation here, we have been lagging somewhat the inflation cycle overall compared to other countries. So I think it's correct to say that core inflation in Australia, as measured, is currently a little higher than some of those other countries—not by much but a little. But there are some reasons, we think, for that as well.

Senator HUME: One of your predecessors, Secretary, Dr Ken Henry, recently gave a very long interview with a well-known business podcast called *The Jolly Swagman*. He was talking about Treasury wargaming scenarios. I assume that is something that has been maintained during that scenario analysis currently. Can I ask where the Treasury's wargame scenarios are for higher inflation?

Dr Kennedy: 'Wargaming' is a dramatic term, isn't it? But I guess the more recent scenarios that we looked at were around the potential for a credit crunch. They were published in the budget, where we looked at the downside risk to activity—how that might flow through to inflation and otherwise. We did note, as a risk to activity, globally—and it would flow on, of course, domestically—that, to go back to your first question, if inflation was persistently higher than currently anticipated—

CHAIR: This might be the moment to make the timely reminder to ensure your mobiles are on silent.

Dr Kennedy: If inflation is higher and interest rates needed to stay stronger, the risk to the downside to growth persists. We haven't—we certainly included it in the budget—run specific scenarios, but we have the normal kind of, say, if interest rates stay higher for longer, then activity will be lower, because that's what it's designed to do. It's trying to slow the economy down to get the balance of supply and demand. For each budget, we think through a couple of scenarios—wargaming, if you like—and then we recommend the government publish them. As I said, the last one actually was about the other risk that we're not talking so much about today, and that is the potential downside risk from a much sharper credit crunch, particularly arising out of the US.

Senator HUME: When you do the wargame analysis, or the scenario analysis, there's a lot of flow-on effects on to things like unemployment, exchange rates, what the fiscal responses might be, the timing of those fiscal responses—is that how they work?

Dr Kennedy: In those scenarios, we usually have to think about what the monetary policy reaction looks like. Typically, for example, in that last scenario we looked at, we didn't anticipate or put in a fiscal response. But, when we've done larger scenarios, in the scenario, for example, that I looked at for pandemics some years ago—prior to the pandemic—we envisaged a fiscal response and then we might model how much of that offsets the change.

Senator HUME: When you do the scenario analysis, that war-gaming—you've mentioned some of the output that's in the budget now from one particular war-game analysis or scenario analysis—is there anything else that you create? Are there briefing documents? Do you do placemats or summaries? What is it that comes out of those scenario analyses?

Dr Kennedy: We brief the Treasurer regularly on, say, if an event arises, like the credit crunch—those types of scenarios. Another example is that with the previous Treasurer—which he spoke about publicly—there were the trade coercion activities, when we ran scenarios and said, 'What is the impact of coercion?' We use that to advise governments, and, from memory, the previous Treasurer spoke about that in a speech. We look closely at other people's scenarios. For example, one that I've drawn people's attention to—and I'd like to again—is that the IMF has looked at trade fragmentation scenarios, the potential for parts of globalisation, if you like, or trade flows to be unwound; at how that reduces global GDP; and at how that would then flow on to domestic GDP. The previous Treasurer was, and the current Treasurer is, always very interested in how any event might flow through the economy, and we usually use that as an opportunity to conduct some form of a modelling exercise.

Senator HUME: Does Treasury conduct them proactively or reactively? Do you do it in response to a request from the Treasurer?

Dr Kennedy: Both.

Senator HUME: What about the Prime Minister? Does the Prime Minister ever request any personal briefings from you on a particular scenario or a particular analysis?

Dr Kennedy: Prime minister have requested it, and I've worked for a few now. So, yes, they have requested a briefing from me specifically. In the vast majority of the time, though, it is done through the Treasurer and might be through a discussion in the ERC or some place like that, where it comes up. It does happen, but, frankly, it's always mediated by my minister, who is the Treasurer.

Senator HUME: Has this Prime Minister requested any briefings from you specifically on the inflation challenge?

Dr Kennedy: No.

Senator HUME: Has he requested briefings from you on any other issue?

Dr Kennedy: Not me. I'll describe what we might mean by briefing. He hasn't asked me to go and see him alone or brief him individually. His own department would consult with us if he's seeking an economic briefing. He's certainly asked many questions of me through the normal cabinet committees directly.

Senator Gallagher: The Prime Minister is a member of the ERC.

Senator HUME: How often, though, would Treasury brief the Prime Minister on inflation?

Dr Kennedy: Quite often. Maybe let me outline a few avenues. The Treasurer, supported by myself, would regularly provide the whole-of-government, and I would provide briefing in those settings and provide the ERC, particularly the Prime Minister, with how the outlook is going. He has his own department, with which we share all our information, and he is briefed through that means. In summary, Senator, frankly, it's no different to usual practice, which I know you're very aware of.

Senator HUME: Veering away from regular practice, I suppose what I'd really like to know is if the Prime Minister has taken a particular interest in the economics of inflation, because clearly it is the No. 1 challenge facing the economy now.

Dr Kennedy: From the Prime Minister and all his ministers, I can assure you that they are all interested in understanding the inflation dynamics and understanding our insights into how they might unfold, and the Treasurer, of course, leads that, with the finance minister, in those discussions.

Senator HUME: Have you produced anything—

CHAIR: Senator Hume, in terms of timing, you've gone well over 10 minutes. Would you like me to share the call and come back to you?

Senator HUME: I think we can do that. Can you let me just follow up with one question.

CHAIR: Sure.

Senator HUME: Can I ask whether Treasury has produced any placemats or documents, potentially provided through PM&C and those advisers, specifically on inflation for the Prime Minister? Or is there a cabinet subcommittee, other than ERC, that's dedicated to the issue of inflation?

Senator Gallagher: The ERC would be the—

Senator HUME: It's the Expenditure Review Committee, but it's not the economics review committee, is it?

Senator Gallagher: Members of the ERC are fully briefed on all aspects of the budget because expenditure is related to the broader economic circumstances that we're facing. I don't think you can separate one from the other. Obviously, the cabinet is also briefed appropriately throughout that process, led by the Treasurer through that.

Senator HUME: I suppose the question is this: is the Prime Minister briefed separately to the Treasurer specifically on this issue, the No. 1 issue that everyone's talking about, which is inflation?

Senator Gallagher: The Prime Minister is fully briefed on inflation.

Senator HUME: Separately to the Treasurer—by the Treasury secretary?

Senator Gallagher: The Treasury secretary has already outlined the ways it gets done: the Prime Minister has his department, which provides him with briefings, and there is the appropriate drawing from all departments across the APS. I can certainly say, from my understanding, that he attends far more ERCs than most prime ministers have and he's absolutely involved in all of the briefings and advice that go through there.

Senator HUME: I understand, but the question was: has the Treasury secretary advised the Prime Minister, at his request, specifically on inflation, which he keeps saying is the No. 1 important issue?

Dr Kennedy: I haven't produced a written brief; let's be clear on that. I have not produced a written brief. Frankly, that would be odd and wouldn't be appropriate. The written briefing material should go through PM&C. I very regularly get an opportunity to orally brief the Prime Minister on these issues, with the Treasurer and the rest of ERC. When I say regularly, I mean that in every meeting there's an opportunity to discuss these issues. I'm always asked, similar to past practice, if I have any issues I wish to raise, and I always do my best to raise them. I hope that helps.

CHAIR: I note, by agreement, that we've got Dr Kennedy for just over 10 more minutes, so I'll go a five-minute block and to you, Senator Canavan.

Senator CANAVAN: This morning, Dr Kennedy, you've mentioned multiple times the risks of a downturn, and obviously we still have persistent inflation. Is there a risk of stagflation?

Dr Kennedy: I think the risk of stagflation is low. Stagflation would be likely to arise with either the emergence of the wage price spiral that we spoke about earlier or the risk that Senator Hume spoke about, in terms of some persistent stickiness in the supply shock. But the circumstances under which stagflation arose in the past are quite different to those of today, including flexibility in markets and, in particular, the independence of central banks not only here but also around the world. My own judgement is that the risk of stagflation is low.

Senator CANAVAN: Have you war-gamed stagflation?

Dr Kennedy: We think carefully about the persistence of inflation. We haven't tried to find a shock; it's very difficult in the current institutional arrangements to generate it because you get a monetary policy reaction if you have persistently high inflation, which leads you, more likely, to the risk of lower activity and lower growth, which is the key difference to the past. It would be fair to say that we've thought carefully about the persistence of inflation. But have we tried to replicate a seventies stagflation shock? I guess the answer is no, because, as I said, the institutional circumstances are such that it wouldn't work.

Senator CANAVAN: Just moving to another topic, you told Australian Business Economists earlier this month:

Together with the rebates to consumers, the electricity and gas caps reduce inflation by around $\frac{3}{4}$ of a percentage point in 2023-24. The caps by $\frac{1}{2}$ a point and the rebates by a $\frac{1}{4}$ of a point. When the rebates stop in 2024-25, their effect is unwound.

Just to clarify, when this measure ends in 2024-25 will that increase inflation by 0.75 percentage points?

Dr Kennedy: No, the cap bit persists. When rebates come off the 0.25 point, that's the bit that gets unwound.

Senator CANAVAN: The cap persists? I thought it was only for 12 months.

Dr Kennedy: The cap's effect has come in and then we anticipate prices will be much lower, so it's lowered inflation and it's lowered the level of prices. We don't expect the level of prices to unwind from that effect, but rebates are paid directly to consumers and when a consumer no longer has that rebate the price they pay goes up, so from a CPI perspective that effect unwinds.

Senator CANAVAN: Just to clarify, the cap is only for 12 months. You're just forecasting energy prices to be below the cap going forward?

Dr Kennedy: The caps are as the policy as announced. The half a point impact we expect to persist.

Senator CANAVAN: And the quarter of a percentage point when the rebates go off—will that increase inflation?

Dr Kennedy: That is the part I referred to that is unwound.

Senator CANAVAN: Does the rebate end in 2024-25?

Dr Kennedy: Yes. Luke, just correct me if I've got that wrong.

Senator CANAVAN: So we will see inflation tick up at the end of these rebates?

Mr Yeaman: If it's corrected that quarter point comes back onto inflation at that point, but at that point inflation, as we've noted before, is starting to come off quite quickly in our forecasts. That is built into our central case forecast already and we still have inflation coming back to the band in 2024-25.

Senator CANAVAN: So really these policies are just shifting inflation around. Dr Chris Richardson said: These policies don't lower inflation, they rearrange it—and cost money while doing so. Is that a fair summary of the policy?

Dr Kennedy: No, I don't think it's a fair summary. As I said, I think the caps are a persistent effect. I think timing matters and our estimate of the energy price policy is as we outlined.

Senator CANAVAN: On the caps, the policy doesn't seem to be working very well. I notice that this time you didn't mention electricity future prices, whereas a few months ago you made a big deal when you last appeared here of saying: well, the government's introduced these price caps and electricity future prices have come down, and everything's hunky-dory. Why didn't you mention electricity future prices this morning and what's happened to them since?

Dr Kennedy: I'm only smiling because I'm sure I rarely make a big deal of anything when I come here.

Senator CANAVAN: I reckon you do.

Dr Kennedy: I apologise for not being able to talk about what that impact is. The one thing I did update today is that in the light of where the default market offer has come out, which is consistent with our forecast and does reflect the impact of the caps, I believe—and I'll ask Mr Yeaman to confirm—this was outlined by the Australian energy regulator.

Senator CANAVAN: While he's doing that can I table this graph?

CHAIR: Sure.

Senator CANAVAN: It's a graph of electricity future prices.

Dr Kennedy: The default market offer was consistent with what we had in our forecast, so the overall impact from the policy we think has been pretty much what we forecast last year. Hence the price increase that is in the

budget—the average increase in prices of 10 per cent, which reflects both the caps and the rebates—is consistent with the default market offer and consistent with our estimate of the impact of the policy.

Senator CANAVAN: Does anyone know what electricity future prices have done in the last few months? Is anyone tracking this?

Mr Yeaman: We do track it closely. For the 2023-24 financial year the futures markets, while there's a lot of volatility between different markets and in recent times they've crept up a little bit, are still around 30 to 40 per cent below when the government intervened in the market.

Senator CANAVAN: That's not true. That is not true, Mr Yeaman. When are you saying—

Senator O'NEILL: Point of order, Chair.

CHAIR: Senator Canavan, Senator O'Neill—

Mr Yeaman: The number I'm quoting here is for—

Senator O'NEILL: Sorry, Mr Yeaman, I've got the call. I just think we've have had a really fantastic outing this morning in terms of information sharing. The chair asked for order, respect and courtesy. I don't think you could consider that that was courteous.

Senator CANAVAN: What's the actual standing order, Senator O'Neill? What's the standing order?

CHAIR: If I can just indicate that we've only got five minutes left—

Senator CANAVAN: Exactly. You're trying to run interference.

CHAIR: with Dr Kennedy. I'd like to go to Senator McDonald, so we'll consider this your last question, if you could just rephrase it, Senator Canavan.

Senator CANAVAN: I have asked this before, and he didn't respond properly last time. What is the base you're using? The government intervened in December. The future prices now are a good 40 per cent higher in New South Wales than they were in December. On what basis, Mr Yeaman, are you saying that future prices have come down since the government intervened?

Mr Yeaman: Two points, Senator, if I may quickly. Firstly, the number I referred to, just for clarity, around 34 per cent here that I have, is that the average weighted spot price for electricity for the three-month period up to 22 May 2023 was 122 megawatt-hours, which is 34 per cent lower than the 2022 equivalent period average price, of 186 megawatt-hours. That's the specific number that I'm providing—

Senator CANAVAN: Is that a year ago?

Mr Yeaman: That's the three-month period to 22 May compared to the same period a year earlier. So that's one—

Senator CANAVAN: But the government didn't intervene in May last year.

Mr Yeaman: I understand, Senator.

Senator CANAVAN: Can I just ask you to reflect on the evidence you've provided. You said that the prices were 30 per cent lower from when the government intervened, but, in fact, the figures you're using are year-on-year from May last year, which is nowhere near when the government intervened—it that correct?

Mr Yeaman: Senator, if I may, I'm seeking to clarify that point.

Senator CANAVAN: Maybe if you could review that evidence, because I don't think that the evidence you provided earlier was accurate.

CHAIR: Senator Canavan, just let Mr Yeaman answer the question.

Mr Yeaman: I've sought to clarify that 30 to 40 per cent number. I've reached into my briefing here and that's the number that I saw. I may have misread read that piece, but that's that number. We've discussed this previously, but we believe that the government flagging intervention in the market saw the prices start to fall prior to the budget, so I think there is a slight difference of opinion between us and you around where we should mark the high points in that baseline.

Senator CANAVAN: They still haven't come down.

Mr Yeaman: Based on that, compared to the peak, which we mark as around November 2022—I'm just reading off a chart, so I'm trying not to be too precise. For New South Wales, the prices were around 225 megawatt-hours at the peak, which was around November 2022. Currently they're at around 155, based on my eyeballing of this chart. That's the figure we're referring to.

CHAIR: I do need to move the call, Senator Canavan. Thank you very much. I'll go now to Senator McDonald.

Senator McDONALD: Secretary, a few questions based on some of your answers from the last estimates, in February. In a response to a question around how the mandatory code would interact with investment, you said:

I will be in a better position to answer questions when that position is settled. ... the issues you are raising about the operation of the code and its interaction with investment are certainly ones we're mindful of and we'll continue to advise the government about.

Secretary, considering an updated code has been released, and presumably consultation with industry was undertaken, does the Treasury have any understanding of how these policy changes may affect future investment?

Dr Kennedy: We do, Senator. We are following the code closely. In the Markets Group section, the new deputy secretary, Brenton Philp, will be here. You may wish to ask him questions about advice we provided on the code to date and are continuing to provide on the code. It's dealt with in that group. I note there were, between the first and second consultation around the code, some significant changes to the code which are still being consulted on. The consultation on the code is being led out of DCCEEW, but we are staying very close to it, of course, and advising the Treasurer and the government more broadly.

Senator McDONALD: Thank you. You did say at the last estimates that you'd continue to advise the government on this. Listening carefully to your words around the code continuing to change, what advice have you provided to government on the operation of the code and its interaction with investment?

Dr Kennedy: Mostly we provided that advice through our support of the process led through DCCEEW, but we also independently provide advice to the government which we share with the other parts of government on how the code might interact with investment. For example, the relevant deputy secretary spoke to the ACCC about the matter last week to understand, from their perspective, how the consultation around the code is going. Does that help to give you flavour?

Senator McDONALD: Thank you. In the last estimates you also said:

... in my last estimates appearance, as long as those measures were temporary, I felt that the longer term outcome for gas and investment could be well managed.

Now that the code has been amended to have ongoing intervention in a new price anchor framework, it is not subject to review until July 2025. Does that remain consistent with the advice you've provided to government?

Dr Kennedy: If we think about the two elements, in very broad terms, of the code, the broader behavioural elements which we'll be enduring and then the other parts of the framework to try bring stability about price, I believe they are consistent. But it is an area of the code's development that Treasury is watching very closely. The point I made in that committee meeting was that often we think of high prices as being the solution to high prices—in other words, to encourage a supply response. I think the government is very mindful that the final version of the code must not stand in the way of that supply response, because a gas supply response is very important for Australia. I recently visited Japan—very important for our trading partners—and I think the government is very mindful that the code does not inhibit a normal market response to strong demand for gas.

Senator McDONALD: Considering that these measures are far less temporary than first outlined, and you just said you are watching closely, have you provided specific advice on the risk of ongoing interventions and the longer term outcome for gas and investment?

Dr Kennedy: The longer term outcome for gas and investment is a crucial part of our consideration on how the policy impact might be. I might add: it's not just us; it's a crucial part of the industry department and DCCEEW. I can assure you it is absolutely central to our advice. We are encouraging a policy that balances the need for stability in this market with the importance of not inhibiting the supply response that I know you're concerned about.

Senator McDONALD: Thank you. You also stated:

It's important that policies are in place that do not discourage investment in the domestic supply of gas particularly and gas more broadly. ... I think the government was mindful of this when it set the temporary cap and, in particular, said it would review that cap at six months.

Now that that review is not occurring until July 2025, has your position on the government interventions changed?

Dr Kennedy: No. I think the activity has been consistent. Gas prices are significantly lower than when we were discussing that matter. I don't know what the latest spot price is, but I think it is quite a bit lower, reflecting on both the demand and the supply side of the market. I think the government is taking its time to ensure the code

is settled and engaging with all stakeholders to ensure that when the code is settled it operates in such a way, as I said, that it doesn't inhibit the supply response. Of course we will provide frank advice around it to government, but I don't have any concern at this stage about the intent or manner in which those consultations are being undertaken. We're not leading on them, but we will advise around them.

CHAIR: Final question, Senator McDonald.

Senator McDONALD: Do you still believe that the success of gas market interventions over the last nine months will not have any impact on future investment and supply?

Dr Kennedy: I don't believe so, but that assertion will be tested over time. It is also, as you've been drawing out, Senator, important that the code is settled in such a way that it does not lean against such an outcome.

Senator McDONALD: I'll refer you to today's spot prices for gas. They are above.

CHAIR: Thank you, Dr McDonald—Senator McDonald! I've just awarded you your honorary doctorate! Dr Kennedy, I'm advised that Senator Smith has one comment or question.

Senator DEAN SMITH: A query, Dr Kennedy. The committee wrote to you last week to confirm that Treasury officials would be able to answer questions in regard to FOI responsiveness and management of the FOI arrangements in the Treasury and compliance with statutory requirements. I just wanted to make sure that those officials will be here during the course of our further—

Senator Gallagher: Everyone stays but Dr Kennedy.

Senator DEAN SMITH: Great. Perhaps we might get you a little bit longer next time, Dr Kennedy.

CHAIR: That concludes the time that we have with Dr Kennedy, though we will be continuing with the Macroeconomic Group. On behalf of the committee, thank you very much for your time and your work, Dr Kennedy, and for extending the time that you've given to us today. You go with our thanks.

[11:50]

CHAIR: The committee will continue with questions for Macroeconomic Group and Corporate and Foreign Investment Group. Can I confirm that the committee tables documents circulated by Senator O'Neill and Senator Canavan earlier in the proceedings. We would like to bring forward Corporate and Foreign Investment Group for some questions from Senator Roberts, if we may.

Senator ROBERTS: Thank you for being here this morning. The Foreign Investment Review Board makes recommendations to the government about approving certain large investments in projects in Australia. One concern of Australians is the seemingly large number of Australian residential homes and residential land that is being purchased by foreign investors, to the exclusion of Australian homebuyers—are you aware of that?

Mr Writer: We are certainly aware that there are publicly reported concerns about the acquisition of property by foreign investors, yes.

Senator ROBERTS: Anecdotal evidence is of land banking, where properties are purchased by foreign interests and then held vacant, in the middle of a housing crisis where thousands of Australians are left homeless. From 1 July 2020 to 30 June 2021, one year, there were 5,310 residential real estate purchase transactions by foreign buyers, with a total value of \$4.2 billion. Eighty-six per cent of those were for new dwellings and vacant land. Minister, why does there appear to be no governance or restriction on overseas ownership of residential property in Australia?

Senator Gallagher: There is, and I'm sure officials can take you through it.

Mr Writer: There are restrictions. Generally speaking, foreign investors, in relation to residential real estate, cannot purchase existing properties. There is only one real exception, which is for temporary residents who need somewhere to live. Generally, they will only receive approval for the acquisition of newly built properties, not existing properties. That's designed to encourage the construction of new residential properties in Australia.

Senator ROBERTS: So foreigners can't buy existing property, but they can build new property?

Mr Writer: That's correct.

Senator ROBERTS: Who gives the approval?

Mr Writer: In general, the residential real estate proposals are considered by the ATO under delegation from the Treasurer.

Senator ROBERTS: The Australian Taxation Office as designated by the treasurer?

Mr Writer: Yes.

Senator ROBERTS: Given that many countries do not allow foreign ownership of their residential properties, why does Australia allow foreign investment in residential property with little or no restriction?

Senator Gallagher: We've just gone through that there are restrictions. The other thing I would point to is the changes that we've put in place to double the penalties applicable to breaches of the foreign investment rules applicable to residential properties, which we implemented on 1 January. We've doubled the foreign investment application fees from 29 July 2022. Fees now start at \$13,200 for acquisitions of residential property valued at \$1 million or less and \$26,400 for acquisitions of \$2 million or less. The settings under the approval process are designed to increase supply, which is essentially the big challenge we've got in the housing market at the moment—we need more supply of housing, and that's why the settings are targeted to increase that.

Senator CANAVAN: Can I ask a quick follow-up, Senator Roberts? I believe our foreign investors can buy established dwellings with approval from the FIRB. Is that correct?

Mr Writer: With approval from the ATO, yes.

Senator CANAVAN: How many approvals have you provided over the past year?

Mr Writer: I'd need to go to the ATO about that question, but what I can say is that in 2020-21 the total number of purchases of residential dwellings in Australia was 588,176. Of those, 4,355 concerned foreign investors.

Senator CANAVAN: Sorry, 355 in total?

Dr Kennedy: Yes, 4,355.

Senator CANAVAN: Sorry, 4,355.

Mr Writer: Yes. It's still less than one per cent of the total.

Senator CANAVAN: Yes. It's still quite a lot. That's of established dwellings?

Mr Writer: No, that's of all residential dwelling purchases.

Senator CANAVAN: Okay, so it includes, potentially, new ones. So you can't tell me how many approvals. How many times did you reject somebody who wanted to buy an established dwelling?

Mr Writer: I'd have to take that on notice. The ATO will be here later this afternoon and may be able to answer that.

Senator CANAVAN: I thought it was FIRB that does that rejection.

Mr Writer: In relation to residential property, no. The ATO manages that.

Senator CANAVAN: Finally, the new penalties the minister mentioned—how many times has a foreigner been penalised for illegally purchasing an established residential dwelling over the past year?

Mr Writer: I couldn't answer that. The ATO would need to respond to that.

Senator CANAVAN: Does it happen? Was there one?

Mr Writer: The ATO certainly took action, I think, last year, and were successful in obtaining a penalty against a foreign investor, yes.

Senator CANAVAN: The issue seems to be—notwithstanding your figures—anecdotally, that the foreigners are always turning up at auctions and buying established dwellings. It doesn't seem to me that hard to get around our rules, to just get someone else to buy it in their name. Does that happen? How do we know? What sort of efforts do you put into making sure people aren't trying to avoid these restrictions?

Ms Kelley: Again, the ATO is responsible for the compliance in that regard. I would also note that Australian citizens and temporary residents are able to purchase as well, regardless of their background.

Senator CANAVAN: Of course, but they could also do so on behalf of others. Is that illegal? Would it be illegal to do so on behalf of someone—

Mr Writer: That would be a scheme to avoid the application of the act. Yes, it would be.

Senator CANAVAN: I'm just asking. I know you're saying the ATO is enforcing it, but presumably you're the policy area.

Mr Writer: We are.

Senator CANAVAN: So how confident are you? You don't seem to understand the details of the prosecutions that go on. How confident are you that this restriction is actually being implemented?

Mr Writer: We rely on the ATO to do this. It administers and enforces the law in accordance with the Foreign Acquisitions and Takeovers Act and the relevant policies that the successive governments have put in place around this area of activity.

Senator Gallagher: And I think the numbers that were read out before give you an indication that that—

Senator CANAVAN: That doesn't go to my question, because it doesn't capture people doing it illegally.

Senator Gallagher: No, but you were saying anecdotally, basically, that foreigners are out buying up all the houses, and I think—

Senator CANAVAN: You can't even tell me how many people you prosecuted.

Senator Gallagher: It's not about prosecution.

Senator CANAVAN: If you were taking this issue seriously, you'd know that, Minister.

Senator Gallagher: That doesn't relate to prosecution, and we can deal with that through the ATO.

Senator CANAVAN: My question did.

Senator Gallagher: That deals to the scale.

Senator CANAVAN: Clearly people are not obeying the law.

Senator Gallagher: And that question has been answered, and obviously your anecdotal information is incorrect.

Senator CANAVAN: No, it's not, because you don't even have any evidence about how many prosecutions you've made.

CHAIR: Order!

Senator CANAVAN: You're obviously not taking it seriously.

CHAIR: Order! I'd like to return to Senator Roberts, who I believe has the call. Senator Roberts.

Senator ROBERTS: I thank Senator Canavan for his questions. Minister, doesn't it mean, though, with the current housing crisis, that the ability for foreigners to buy or to construct a new house crowds Australians out of the market or certainly raises the prices?

Senator Gallagher: Again, no, I wouldn't accept that. Again, it goes to the numbers that Mr Writer has outlined. But the fact is that the settings are targeted, essentially without exemptions, to new housing supply. It's focused on generating that new housing supply to be available for people to live in, and part of what we have to deal with in the housing market at the moment is a shortage of supply.

Senator ROBERTS: According to Mr Writer's figures, 4,355 were bought by foreigners, out of 5,186. That's almost 80 per cent.

Senator Gallagher: No. You've got that wrong.

Mr Writer: It's 588,000.

Senator ROBERTS: I'm sorry. That's my mistake.

Ms Kelley: It's 0.74 per cent, to be precise.

Senator ROBERTS: Quite often, though, foreigners will lock up their houses rather than rent them out. So they're vacant. They're not available to Australians.

Mr Writer: I don't think we can confirm that kind of statement.

Senator ROBERTS: That's widely known. You won't confirm it, because you haven't got the exact numbers. I understand that and I appreciate that.

Mr Writer: I don't think we have any actual evidence of that fact.

Ms Kelley: Part of the ATO's responsibility is also around the amount of time a property is vacant and ensuring that it's not left vacant as well. That is part of the compliance regime.

Senator ROBERTS: That's the ATO's responsibility, is it?

Ms Kelley: Yes.

Senator ROBERTS: So you're just responsible for the policy?

Ms Kelley: In terms of residential real estate, Treasury has a policy responsibility. The ATO implements the policy.

Senator ROBERTS: Minister, wouldn't the widening of the mandate of the FIRB to include residential purchases go a long way to slowing down the sale of residential properties to foreign speculators?

Senator Gallagher: If FIRB were assessing them?

Senator ROBERTS: If FIRB were extending their authority over all residential property.

Senator Gallagher: It would slow it down—is that what you're saying?

Senator ROBERTS: Yes.

Senator Gallagher: I'm not sure how those two things go together. Essentially, we've got Treasury with the policy side of the work and the ATO then enforces those arrangements, so I'm not sure how FIRB extending reach into residential property would slow down the sale. As you've heard, it's 0.75 per cent of residential sales.

Senator ROBERTS: So FIRB would have authority as to whether or not to approve or recommend—they don't approve anything. They make recommendations.

Senator Gallagher: The ATO currently does. We have an approving entity that does that work—

Senator ROBERTS: Which basically has no teeth.

Senator Gallagher: I don't accept that, but, by all means, put those questions to the ATO.

Senator ROBERTS: Isn't it time, though, for the government to start buying back the farm and limiting sales of Australian land to Australian purchasers only, like China and several other countries do?

Senator Gallagher: No. That's not the policy of the government. We have in place an arrangement that allows, under specific circumstances, foreign investors to purchase residential properties in this country. We've got those settings—they're here; we can answer questions about them—but they are the arrangements that are in place.

Senator ROBERTS: I understand they're here, but I'm saying why not change them so that only Australians can buy Australian land, not just Australian residential real estate but Australian land?

Senator Gallagher: That's not the government's policy. We are an open-facing economy. We are a country that has relied on foreign investment. We believe there need to be suitable controls in place to manage that, and those settings are the ones that we've been talking about this morning. That remains the government's policy.

CHAIR: Last question, Senator Roberts.

Senator ROBERTS: This is not a radical thought, Minister, as many other countries protect their sovereignty by not selling their land to foreign interests. Why is it that Australians can't buy land in those countries but foreigners from those countries can buy land in our country?

Senator Gallagher: I'm not sure of the countries that you are referring to.

Senator ROBERTS: China's one of them. There are a number of countries.

Senator Gallagher: We're here, and we do have arrangements in place, through FIRB and through the arrangements with the ATO, to put restrictions and limits on the sale of housing or, in FIRB's case, on foreign investment matters. They are looked at and assessed against the national interest.

Senator ROBERTS: It's a one-way street for foreigners. Australians can't buy property in their countries, but they can buy it in our country.

CHAIR: I'll take that as a last comment in your block, Senator Roberts. We're going to Senator Hume.

Senator HUME: I just want to follow up on a couple of the questions that Senator Canavan asked when we were talking about the energy price relief and the CPI impacts, potentially, of those. The secretary answered that, when the rebates end, the inflationary effect of that, potentially, will be to kick up inflation by a few points. I just want to make sure that we understand the implications of that. It means that the measures that bring down inflation from those rebates are not permanent; they're only temporary—is that right?

Mr Yeaman: That's the design of the policy. The policy has been designed to provide relief for people while inflation is at its highest and while the global energy prices are inflated. It's always for government to consider in future whether they choose to make further interventions in the market down the track. But at this stage the policy is time limited, and so when they take a quarter of a point off inflation in the near term, when inflation is highest, and then they add a quarter of a point back when they're removed later, when inflation is on its downward trend—

Senator HUME: Chris Richardson said that the policies don't lower inflation, they only rearrange it—they were his words, not mine—and that they cost money while they do so. Was he wrong?

Mr Yeaman: The way we think about it is that the government has been focused on trying to bring down pressures on households while they are most acute, and at the moment we have a near-term inflation challenge, and we expect that to decline over time. So, to the extent it's moving, I would call it 'targeted measures'. They're targeted measures that aim to bring down inflation and energy prices while those prices are at their highest and, as

I said, it's a matter for government then as to whether they choose to make further interventions if those pressures are sustained.

CHAIR: Senator Hume, Dr Kennedy did answer exactly that question while you were out of the room, so you might refer to that as well.

Senator Gallagher: What have you got against people—

Senator HUME: I am sorry, am I asking the questions here? Or are we all just having a free-for-all?

Senator Gallagher: I'm intrigued by the line of questioning, because the only thing we can take out of it is that you don't want these measures in place to reduce people's energy bills.

Senator HUME: Minister, I know that the secretary has gone, but I wasn't actually aiming that question at you. I was aiming it at the deputy secretary—

Senator Gallagher: So it's a comment.

Senator HUME: What I'd like to understand is what Treasury felt people were going to do with that money that they saved from the energy price relief. Did they expect them to spend it elsewhere?

Mr Yeaman: The main intent of that policy is to reduce the pressure on vulnerable households in a targeted way. That's what we think it primarily does. As Dr Kennedy said, bringing down the headline rate of inflation also helps to ensure that inflation doesn't become embedded in expectations. So we think there are two positive effects there.

Senator HUME: That's interesting.

Mr Yeaman: Then, to the extent that that provides more income in the pockets of low-income households—as we've discussed numerous times this morning—and to the extent that leads to an increase in demand, we think that's fairly immaterial in the context of a \$2.3 trillion economy.

Senator HUME: But, essentially, because of that marginal propensity to spend, the chances are that they will be spent elsewhere?

Mr Yeaman: Certainly, that could be the case.

Senator HUME: Which potentially would have an inflationary effect, although Treasury are telling us that they think it's inconsequential.

Mr Yeaman: That's not our view.

Senator Gallagher: You can see the inflation forecasts in Budget Paper No. 1. That's all factored in there.

Senator HUME: Thank you, Minister.

Senator Gallagher: It goes down.

Senator HUME: On 11 May the *AFR* reported that Treasury modelling had been conducted on the Energy Price Relief Plan's benefits. Can that modelling be tabled?

Mr Yeaman: I will have to see what exact modelling that refers to. Modelling is used quite widely. The modelling that I'm aware of in that space is to show that the plan will bring down electricity prices by three-quarters of a percentage point. I think that is most likely the modelling that was referred to. We provided advice to government on what impact these measures would have on measured inflation and electricity prices, and that's where the three-quarters of a percentage point that's published in the budget came from.

Senator HUME: Can you describe to the committee how much prices will go up for households that don't receive the \$500 credit?

Dr S Hunter: Yes. So that's the impact of the price caps and, more generally, the market price movements. For those households, we expect their prices to rise by around 20 per cent.

Senator HUME: Around 20 per cent.

Dr S Hunter: Which is consistent with the DMO decision that was announced last week.

Senator HUME: Have you modelled that state by state?

Dr S Hunter: We conducted consultations and worked with our colleagues in DCCEEW in particular and with other government departments, and we consulted with the AER as well, to look at the state-by-state impacts. Certainly, the AER modelling is done on a state level.

Senator HUME: Okay.

Mr Yeaman: The Designated Market Offer, the offer Dr Hunter referred to, has a state-by-state breakdown in it.

Senator HUME: It does have a state-by-state breakdown? And that's the modelling that was referred to in the *AFR* and that you're going to provide to the committee?

Mr Yeaman: To be clear, there's the work that the AER does to set the benchmark price for electricity across different markets. That is around 20 per cent on average, but different markets vary. That is public information available from the AER. What we did was look at what the impact would be of the government's intervention in affecting those prices, and that's what brings our overall electricity price increase down to 10 per cent at the national level, and that's the modelling, I believe, that's referred to in the *AFR*.

Dr S Hunter: As a further point of clarification, the modelling that we've done was specifically looking at the impact on the headline measured inflation in June 2024. The DMO and other analysis that's done will look over the full year, and so the numbers will come out differently because they might be looking at year averages, for instance, rather than a through-the-year level.

Senator HUME: The budget overview document says that five million households and one million small businesses will benefit. But it doesn't say how many businesses or households will miss out. Can you enlighten us on that?

Dr S Hunter: I'd have to take that question on notice to give you that precise number, but it's a minority of households certainly. Five million is less than half the total number of households in the country.

Mr Yeaman: Although, just to be helpful, our colleagues in fiscal group did their policy design. We in macro group look at the impacts through inflation and the macro economy. The policy design of some of those energy supports was done in our fiscal group, who are up in one or two sessions after this, so we can flag those questions for them on the way through.

Senator HUME: So it's less than half. I've got a figure here. The ABS has said that there are approximately 9.9 million households in Australia. Does that mean that essentially almost as many miss out on the benefit as get it? It's about half. It's not more than half, is it?

Mr Yeaman: If we could, I'd like to leave these questions for fiscal group because they have done the work on the policy design of those supports and the distribution analysis and so on. We're really focused here in macro group on the inflationary impacts and the effects through to the broader macro economy.

Senator Gallagher: But it was targeted assistance. I think we've been clear about that from the beginning.

Senator HUME: What about small businesses—is that the same? There are about two million or so small businesses. I think that the ABS says two million, and the ATO says about 3½ million, so that's between one and 2.5 million small businesses that won't get the relief. Is that right?

Mr Yeaman: Again, Senator, I'd like to leave those questions to fiscal group if we can. They've done that work.

Senator HUME: We can leave those to fiscal group.

Mr Yeaman: We'll flag it with them.

Senator HUME: Certainly. I know that Senator Smith has some questions around inflationary expectations.

CHAIR: Senator Smith.

Senator DEAN SMITH: Mr Yeaman, you did make a passing reference to inflationary expectations, and in the Treasury secretary's address to the Australian Business Economists—and I think this is an important point—he made the following point at page 4. He says:

However, persistent higher inflation might cause businesses and households to reassess their expectations for future inflation. If expectations become de-anchored, it can be more difficult to return inflation to target, even once supply disruptions ease.

Also, the Reserve Bank governor, in his statement of monetary policy, talked about inflationary expectations, and at page 63 he said:

The share of households expecting inflation to be greater than 10 per cent over the year ahead has declined over recent quarters; however, the share of households that expect inflation to be above 6 per cent over the coming year remains considerably higher than prior to the pick-up in inflation in mid-2021 ...

Are inflationary expectations, held by consumers and held broadly across the Australian economy, a significant risk?

Mr Yeaman: At this stage I agree with those comments that were made in the speeches and the facts as you presented them. Our view is that we're not seeing any evidence at all at this stage that inflationary expectations are becoming de-anchored, to use the word you described.

Senator DEAN SMITH: That was a quote from the secretary's remarks.

Mr Yeaman: Yes, indeed. But there's no doubt that, when inflation is as high as it is currently, short-term expectations for consumers lift because consumers are looking at the current data and seeing that inflation is higher. The question is whether they consider those inflation rates to be sustained going forward year on year on year, because that's when it starts to feed into their wage expectations and into their broader behaviour. At this stage, all of the indicators we look at and that the Reserve Bank looks at to test longer-term inflation expectations remain very well anchored. So people expect inflation to be higher in the near term, but they expect it then to return back to the RBA's target band over time.

Senator DEAN SMITH: Do you use the same data points as the RBA?

Mr Yeaman: We track the same data, yes.

Senator DEAN SMITH: So you agree, without qualification, with the governor's statement that the share of households that expect inflation to be above six per cent over the coming year remains considerably higher than prior to the pick-up in inflation in mid-2021?

Mr Yeaman: I'll confirm it with my colleagues. I haven't seen that particular data point, but I, in broad terms, don't dispute the general sense that—

Senator DEAN SMITH: The general state of monetary policy?

Mr Yeaman: Yes. I—

Dr S Hunter: And that is an expectation. Given that inflation is currently running at seven per cent—the latest March quarter figure that we have for this year—households can then expect, over the next 12 months, inflation to be considerably higher than the target band. That would be consistent with the evidence that they're seeing and they're facing, which is that inflation is above that.

Mr Yeaman: I agree with that, Senator. If I may just add one point, though: I really emphasise that it's not short-term inflation expectations that we are concerned about. In the opening comments from the ABE speech that you reflected on, when we talked about de-anchoring inflation expectations, what we were talking about was: do consumers think that over time those inflation rates will return to the RBA's target band? At this stage, our strong view is that consumers feel confident the Reserve Bank will do what's necessary to get inflation back to that target band and it will return over time. So that's—

Senator DEAN SMITH: Where is that said?

CHAIR: Senator Smith, this is the last question.

Senator DEAN SMITH: Where is that mentioned in any of the secretary's public statements since the May budget?

CHAIR: Senator Smith—

Senator DEAN SMITH: Oh, sorry.

CHAIR: I'm respectfully attempting to give you the last question before we break for lunch. Macroeconomic Group will be returning after lunch.

Senator DEAN SMITH: So, Mr Yeaman, where is that statement—

Mr Yeaman: The key line we use—maybe it's a little coded, as economists—is that we do not see any evidence of a wage-price spiral in Australia. I believe that's in all of Dr Kennedy's recent comments and I believe the governor has made similar comments. That is our way of saying we do not see evidence that inflation expectations have de-anchored or that wages are starting to play into an unhealthy cycle. That's the line that we use to convey that.

Senator DEAN SMITH: Am I correct to say that a key building block of the budget is the Treasury's expectation that inflation will fall towards the end of this year?

Mr Yeaman: Yes.

Senator DEAN SMITH: Okay. Thank you. What is—

CHAIR: Senator Smith—

Senator DEAN SMITH: I'll come back to it. It's a good question.

CHAIR: Thank you, Senator Smith. In a moment, the committee will break for lunch. The committee notes that we are considerably behind schedule on day one of this round of estimates. We'll be conferring in the break on how we can get the program back on track and try to provide information. To those witnesses waiting patiently in the green room, we will attempt to provide you with further information.

Proceedings suspended from 12:17 to 13:16

CHAIR: We will resume with representatives from the Macroeconomic Group and the Corporate and Foreign Investment Group. I give the call to Senator Smith.

Senator DEAN SMITH: Mr Yeaman, before the break you were talking about the inflation forecasts. Of course, what is critical to that is the reliability of Treasury's forecasts, so for the period from 1999-2000 to the current budget could you provide on notice to the committee the Treasury CPI forecasts and what the CPI actuality was or the real CPI, if that makes sense?

Mr Yeaman: Yes.

Senator DEAN SMITH: Thank you very much.

Senator Gallagher: For the last 25 years, was it?

Senator DEAN SMITH: Since 1999-2000. I want to turn briefly to the temporary skilled migration income threshold, which has risen from \$53,900 to \$70,000, which is a nominal increase of about 30 per cent. I'm curious to know if Treasury has considered or examined that particular initiative in the context of any inflationary expectations.

Mr Yeaman: Not to my knowledge. I can't think of a specific piece of advice or analysis relating to that. We looked across a range of measures in the budget and, as always, we picked out those that we thought were most likely to be significant and analysed those, and that did not come onto our radar, if I can put it that way, as one that would be significant in driving the overall inflation outlook.

Senator DEAN SMITH: So when we think about possibilities of a wage price spiral, Treasury doesn't think to be material that 30 per cent nominal increase in the temporary skilled migration income threshold?

Mr Yeaman: Just so I understand the question, are you referring to the direct impact on inflation of that change in the threshold?

Dr S Hunter: As Mr Yeaman outlined, we haven't explicitly analysed that particular budget measure. As a general statement on how we would, we would consider how migration might respond to that, so how many people may come in on those types of visas, what jobs they would go into and what the market wages are in those jobs, so there are a broad range of considerations that we would have to look at in doing that analysis. We would expect there to be some response from businesses in terms of the types of migrants that they would bring in, but we haven't done that analysis specifically.

Senator DEAN SMITH: We were talking about low-income groups and marginal propensity to spend et cetera. I would have thought that this particular group of people, targeted skilled migrants in that \$70,000 income range, would align with the same sorts of groups that we were talking about earlier today with the secretary. Perhaps not?

Dr S Hunter: In the context of their wage level and their propensity to consume?

Senator DEAN SMITH: Yes.

Dr S Hunter: We'd have to take that on notice and consider where they would sit in the income distribution. It's possible that some of them would align with that group, but, equally, it's possible that some of them wouldn't. Data will tell us, for instance, that some people in that group pay, or remit, some of their wages back to the countries that they come from to support their families. So we would have to do some analysis on what that might look like in the context of their marginal propensity to consume in the Australian economy from their wage.

Senator DEAN SMITH: Could you do that exercise on notice?

Dr S Hunter: We can certainly do some preliminary work on that, and we can report back on what is possible.

Mr Yeaman: We can tell when we analyse it. As you know, and as we have discussed with the committee previously, we don't break down every measure in the budget and look at it. We tend to look, from a macro perspective, at the aggregate drivers of inflation. As I said, this is not one that came across our radar in that sense, of being material in this discussion, but we can see what more we can provide to the committee.

Senator DEAN SMITH: But the budget does talk about a significant increase in migration.

Mr Yeaman: Yes, correct.

Senator DEAN SMITH: This is an element of that significant increase in migration; there's a 30 per cent increase in the nominal income. In the context of the Treasury having said before lunch that the likelihood of a wage-price spiral is not something that you are contemplating or consider to be a potentiality, I'm interested to test that and the conversation we had earlier today with the secretary in regard to the propensity for low-income people to spend their income in the context of this particular measure. Is that an exercise that the Treasury can do, Minister, or has permission from you to do?

Senator Gallagher: Mr Yeaman's already said that he's taken it on notice, to see how the Treasury can assist and to see if there's anything more useful. They don't do individual measures in that sense, analyse it that way, and so this didn't fit through as part of it.

Senator DEAN SMITH: They don't as part of the budget preparation, but that's not the same as that they cannot in the context of this estimates.

Mr Yeaman: I'm looking to clarify. I'm trying to be helpful but just trying to understand the purpose of the question. As I understand it, the measure itself is a change to the income threshold, which is the eligibility at which people can then apply and enter the country under this visa. It's not a direct payment, if you like, to those individuals in any way. We've certainly looked at the aggregate impacts of the overall migration level on the economy, and we've looked at the impact of different spending measures of the government on inflation. I'm just having trouble understanding exactly how this measure comes into that conversation and discussion, and how we might model that. As I understand it, this is a change in the threshold at which people are able to come into the country. I'm struggling to see how that would have a direct impact on wages or the broader economy in that sense.

Senator DEAN SMITH: Surely the workforce type that is attracting this overseas skilled worker is now paying a higher level of income to secure that worker. Is that not how it works?

Dr S Hunter: In doing this analysis we would consider a number of factors. One of the factors that we would look at is how businesses respond to this new income threshold. They may choose to employ more local people, for instance. They may choose to invest in capital because that's a lower cost option for them than bringing people in at this higher income threshold. So there are a number of factors that we would consider that would come into the overall decision from a business on whether or not to bring somebody in. The change in the threshold may change the decision from the business. It's not necessarily true that they just pay the higher threshold and bring in the same number of worker. They may choose to do something else.

Senator Gallagher: This new threshold is reached because of the failure to index appropriately over the last decade. The \$70,000 is where it would have been had it properly been indexed. One of our issues is that we don't want a current, basically, underclass of workers coming into the country and getting paid a lot lower than 90 per cent of workers in this country who are paid above \$70,000. So it's an important integrity measure for our labour market as well.

Senator DEAN SMITH: So, at a minimum, is that something that you can provide some additional information on to the committee?

Mr Yeaman: We can certainly look at what we can provide. I think Ms Hunter covered it well. I was trying to get to the nub of it because it may lead to some shifts in, as Ms Hunter said, the composition of the intake and business behaviour. We haven't modelled that or attempted to model it in our budget forecasts, but we can certainly step through some of those channels and think about how that might play out. But we're happy to take it on notice and see what we can provide.

CHAIR: Last question.

Senator DEAN SMITH: Just to confirm: you have taken the reliability of the inflation forecasts from the 1999-2000 to present budgets on notice as well?

Mr Yeaman: We can. They're all matters of public record, but we're happy to compile that information. I would say that there are always forecasting errors, but we're happy to take it on notice.

Senator DEAN SMITH: On a backbencher's staff, I'd be appreciative of the resources of the Treasury on that point. Thank you.

CHAIR: For the benefit of senators: I'm going to proceed in very strict 10-minute blocks for a little while, and then we'll move to five-minute blocks to try to get back on time. We're more than two hours behind time. Senator Bragg.

Senator BRAGG: I wanted to ask about some recent commentary in relation to inflation. Do you know about a report about profit by the Australia Institute?

Mr Yeaman: Yes, we do.

Senator BRAGG: What's your view on the report?

Mr Yeaman: We look at all the information that's presented by different groups. Our view is that we don't consider the overall conclusions of that analysis to be the same as ours. We would draw different conclusions from the same data that that report drew. We've discussed a number of times in the committee the broader issue of the impact of profits on inflation. We have looked at the report, but we don't find the analysis compelling.

Senator BRAGG: So how does it overstate the role of profits in inflation?

Mr Yeaman: I'll ask my colleague, Ms Hunter, to speak to that.

Dr S Hunter: The report that you mentioned looks at inflation as a metric and uses the GDP deflator. This is a measure, effectively, of price movements for the full production side of the economy, which includes, of course, the mining sector, which is a relatively large sector in the Australian economy. Most importantly, the mining sector is a much larger share of production in the Australian economy than it is of consumption. When we talk about inflation, we're typically talking about consumer price inflation, so what households are facing. If you've got an outsized mining sector in your price measure, which the GDP deflator does, and we know mining sector profits have grown very quickly recently given commodity price moves, the implications of analysing inflation using that metric are that you're going to overstate not only what's happened to inflation but also the driver of it, because so much of it's coming from mining profits.

Senator BRAGG: Okay. I assume you're aware this report has been widely circulated and has been in the media and that it's been cited as an authority for the concept that profiteering driving inflation. Do you think this has the potential to mislead the community and the public's confidence in the economic policy settings?

Mr Yeaman: I will leave that for others to comment on. We, through these committee hearings and other publications—and the Reserve Bank as well, I know, have been looking at this issue closely and putting out information into the public debate. We have a difference of view with the Australian Institute, but of course it's within their right to put out their own research and for others to make judgements. I note that the Reserve Bank put out a recent, quite detailed piece on this which I'd commend to anyone interested in the topic, and we share some of their conclusions.

Senator BRAGG: Has the Treasury contacted the Australia Institute to notify them that their report is, in your opinion, flawed?

Dr S Hunter: We haven't directly contacted the institute as far as I'm aware.

Senator Gallagher: There are a lot of reports that come out from a lot of places without necessarily always being aligned. I don't think Treasury would normally ring up everybody they disagree with. It's out there, and people talk about it.

Senator BRAGG: It's a good question, though, isn't it? It's appropriate.

Senator Gallagher: It's a reasonable question, but I think it's probably not best use of Treasury's time to ring people they disagree with.

Senator BRAGG: I take your lead there, Minister. Have you had to brief any ministers on this report?

Dr S Hunter: We did provide a briefing to the Treasurer on the report. We reviewed it and wrote up a ministerial submission that was provided to the Treasurer.

Senator BRAGG: Are you able to supply that?

Mr Yeaman: We take it on notice and see what we can provide. As I said, a number of economists have come out and made similar comments to ours in relation to that piece of work, but I would commend anyone who was interested in this topic, the Reserve Bank's recent article on this, I think, is a credible piece of work.

Senator BRAGG: Thank you.

Senator O'NEILL: I want to pick up some of the threads from this morning with regard to PwC. My understanding based on the evidence this morning is that the ATO informed the department in 2018 in email or some other form of communication and then followed up with a formal letter requesting a copy of the confidentiality agreement. That was in 2018.

Senator Gallagher: I think this now falls into revenue group, but the Treasury secretary is not here.

Senator O'NEILL: So we'll have to wait for that session?

Senator Gallagher: That's the way the agenda is structured. They appear with the ATO.

Senator O'NEILL: That would make it easy for the TPB-ATO questions together about who knew what when.

This is out of sequence in terms of my thinking, but I want to see if these are the right questions to ask here. Mr Sukkar was the Assistant Treasurer at the time that all of this PwC matter was occurring with the ATO and then with the TPB. I know that there were a lot of appointments in that period of time. Could Corporate provide me with the details of how many appointments Mr Sukkar made in his capacity as Assistant Treasurer?

Ms Kelley: I don't have that information with me today, but we can take that on notice.

Senator O'NEILL: Would you be able to give me an indication of how many of these appointments were, at the time, current or former employees or partners of PwC?

Ms Kelley: We'll take that on notice too.

Senator O'NEILL: Could you advise me of which bodies current or former employees or partners of PwC were appointed to, for how long and with any details about the terms?

Ms Kelley: Yes.

Senator O'NEILL: I certainly will be interested to see what the confidentiality requirements were for them upon taking such a role. Were any concerns raised by any government departments, including Treasury, or by the relevant bodies at the time of the appointments?

Ms Kelley: I will have to take that on notice as well.

Senator O'NEILL: What was the nature of these concerns?

Ms Kelley: That'll have to be on notice as well.

Senator O'NEILL: Given the timeline that we established earlier—that there was a kind of 2018 awakening, if I can put it that way, of the Treasury to the matters now known regarding PwC—between 2018 and the last federal election, I'm sure the Treasury were aware of possible concerns around PwC. Was any advice provided to government in relation to concerns about appointments of PwC staff to a number of roles by Mr Sukkar, the Assistant Treasurer?

Ms Kelley: We'll have to take that on notice because I don't have that information today.

Senator O'NEILL: Okay.

Ms Kelley: I should note that every appointee has to declare in writing their conflicts of interest as well, just as part of the usual process. But we'll take the rest of those questions on notice.

Senator O'NEILL: Yes. I do recall asking Mr Bill Edge in previous inquiries if he thought it was a conflict of interest that he was still getting a pension from PwC. I don't believe that was declared until after I asked him that question, so I'd be interested to see what the declarations were in terms of conflict of interest.

Ms Kelley: Yes.

Senator O'NEILL: If I can go to a broader question: the issue for Mr Peter-John Collins was that he didn't come in as a consultant; he was an individual invited to sign a confidentiality agreement. Do you have a copy of the confidentiality agreement?

Ms Kelley: I don't have it on me, but, again, we might be able to take that up with the revenue group. I'll also be present during that part of the hearing.

Senator O'NEILL: I'm sure that the department's mind has been turned to the nature of that confidentiality agreement and how clear the seriousness of it was to anybody who signed it, when they signed up. Given that, can you outline any changes you've made to the confidentiality process—

Ms Kelley: Sure.

Senator O'NEILL: and what triggered that change?

Ms Kelley: Certainly. We have done a number of things. We've reviewed and strengthened our organisational and individual deeds of confidentiality and secondment agreements to ensure that they are robust, fit-for-purpose and legally enforceable, and we are introducing more accountability at the advisory firm level and with industry bodies by increasing the use of organisational deeds of confidentiality when conducting targeted and confidential consultations. We're using those now, and so we've already done that. We're also updating our internal processes for how we're conducting targeted and confidential consultations, and as part of Treasury's stakeholder engagement strategy, which we are updating, we're including clearer annotation of confidential documents with appropriate warnings, we're having a ratings system to assess non-disclosure risks on a case-by-case basis, and we've improved our record-keeping and storage of confidentiality agreements. My colleague Ms Diane Brown has written to PwC and 25 other organisations concerning Treasury's approach to confidential taxation consultations and seeking information on the extent to which each entity's internal governance arrangements reflect professional and ethical expectations, and we will engage directly with advisory firms and other organisations to discuss their processes for managing conflicts of interest and confidentiality and reinforce our expectations concerning the handling of confidential information.

They're the things that we're doing, and we are also engaging across government with the relevant departments and agencies, particularly in terms of the reforms that are being made to key integrity frameworks so that they apply to contractors, consultants and others who receive Commonwealth information in a trusted and privileged

capacity. For example, this includes the expansion of the current Commonwealth Fraud Control Framework 2017 to become the Commonwealth Fraud and Corruption Control Framework 2023, which is being led by the Attorney-General's Department and the Department of Finance. We're also looking at the whistleblower protection frameworks in the Corporations Act, the Public Interest Disclosure Act and other laws to ensure that there are clear avenues and protections for persons in the private sector to blow the whistle on unlawful or corrupt conduct affecting the Commonwealth. We are also continuing to assess all possible legal avenues that are open to us and getting advice as to what else we can do. But that's a quick summary of what we have done and are doing at the moment.

Senator O'NEILL: There's a fair bit of action there. Ms Kelley, what prompted you to undertake that work? Was it regular housekeeping or was it the Peter-John Collins event? And how frequently do you do this sort of process?

Ms Kelley: Certainly, as the secretary said this morning, the disclosure of the cachet of emails on 2 May did prompt Treasury to look at its processes and make sure that they were as robust as possible. Some of this work has been undertaken in response to that; other work is normal. We have a stakeholder engagement strategy, and we look to update that on a regular basis, too.

Senator O'NEILL: That's fairly significant action out of the public tabling of the cache of emails.

Ms Kelley: That's right.

Senator O'NEILL: This one will probably be on notice. You mention 25 other organisations that are in communication with PwC. Are you referring to the other big four—KPMG, EY and Deloitte, and then I think it was BDO, Grant Thornton and Accenture. Are they among the 25?

Ms Kelley: I can't answer that directly, because I haven't got that list with me, but, again, this afternoon we might be able to answer that for you.

Senator O'NEILL: I'm confident that you'll reveal the list; I'm not so confident that other people are going to reveal lists!

Ms Kelley: I am happy to reveal the list. I just don't have it here at the moment—I'm sorry.

Senator O'NEILL: Thank you for that transparency. On notice—because you referred to contractors—please give an idea of how many advisory firms and the key integrity frameworks there are and what [inaudible] averages across, on notice.

Ms Kelley: Okay.

Senator McKIM: I've also got some questions on inflation and the role of profits in driving inflation. That's probably no surprise to Mr Yeaman. Can I just be clear about the evidence you just gave. Apologies if I've got any of this wrong. Can I just be clear that you gave evidence to Senator Bragg that the conclusions they drew in the Australia Institute report were not the same as yours—is that right?

Mr Yeaman: That's correct.

Senator McKIM: What was it you were referring to when you said something was a credible piece of analysis?

Mr Yeaman: I think it's in the most recent statement on conduct and monetary policy. The Reserve Bank did a Box—if I'm not getting my publications a little confused. The Reserve Bank recently put out a piece of analysis talking through this issue of corporate profits and their impact on inflation. Thank you, Minister; she'll just help me find it. The minister is ready for me; she's seen me coming!

Senator McKIM: Just to be clear, that was the report when the RBA said that between half and three-quarters of the current high inflation is a result of supply-side factors?

Mr Yeaman: Yes. In the Box B *Statement on the conduct of monetary policy* from May 2023, the question is, 'Have business profits contributed to inflation?'

Senator McKIM: Thank you. Are you aware of work done by the European Central Bank which uses national accounts data to disaggregate the relative contribution of wages and profits to inflation?

Mr Yeaman: Yes.

Senator McKIM: Is Treasury aware of similar work by the Bank of England which uses national accounts data to disaggregate the relative contribution of wages and profits to inflation?

Mr Yeaman: I'll check with my colleague. I'm not personally aware of the Bank of England. I am aware of the European Central Bank.

Senator McKIM: It was quite recently released.

Dr S Hunter: I'm also aware of the ECB work. I'm not across the Bank of England.

Senator McKIM: Have Treasury or, to your knowledge, RBA undertaken any such analysis in Australia?

Dr S Hunter: As part of our work on analysing the Australia Institute report, we did undertake some very high-level analysis that's in the same vein that uses national accounts information. I believe the RBA have conducted a similar type of analysis. The analysis in the Box—in the May SOMP—is a different type of data. We have lots of different data that we can have a look at, and it's also helpful for us to interrogate questions from different perspectives. That uses business-level data. But I do believe they've also done data using the national accounts.

Senator McKIM: What did Treasury's analysis show, and is that available somewhere? Is that published or publishable?

Dr S Hunter: The analysis sits in the MS that I mentioned previously; we're going to take on notice how much of that we can provide to you. In the context of what it shows, it was the analysis that I talked about earlier where we were looking at the mining share of GDP versus the mining share of consumer spending. They're obviously very different. That's probably something to keep in mind when looking at international analysis as well. Clearly, for the UK and for most European countries, the mining sector is much smaller and therefore doesn't have an outsized impact on the GDP.

Senator McKIM: The European Central Bank research that you've both said you're aware of showed that profit growth is a significant driver of inflation in Europe. Would you agree with that assertion?

Dr S Hunter: As far as I'm aware, that's the conclusion of the work, but I don't have the work here in front of me, so I'd like to take it on notice to go away and review it again to be sure that that was the conclusion.

Senator McKIM: Thank you. But would you describe the methodology that underpinned the European Central Bank work and their conclusion as flawed?

Mr Yeaman: As Dr Hunter said, there are some pretty strong and compelling differences between the nature of the European economy and the nature of our economy, and we think that needs to be taken account of when you take it into the Australian context. So that's the piece we consider most relevant.

Senator McKIM: I understand that, but, just in terms of the European Central Bank work, would you say that the methodology was sound, or is it flawed?

Dr S Hunter: I think we'd need to take—

Senator McKIM: I'm not talking about it as it might apply to Australia but just in the context of the ECB.

Dr S Hunter: I think I'd want to take that on notice to go away and reread that piece and be absolutely sure before I answered your question.

Senator McKIM: Okay. So you're not sure whether the ECB method is flawed, in your view?

Dr S Hunter: We haven't done and written up a full-piece analysis of that work, so we can't say definitively whether or not we consider the work to be credible, because we haven't done a full analysis of it. We've only read it in passing, as it were.

Senator McKIM: No worries. But you have done an analysis of the Australia Institute work, and it's been reported that documents released by Treasury under freedom of information laws reveal Treasury officials stating that the Australia Institute methodology is flawed. Is that your view?

Mr Yeaman: For the reasons that we described, when we think about answering that specific question—and this is a reason why we look at the European analysis again, because everyone is answering slightly different questions in this space. But, in terms of the specific question of what's the contribution of business profits to inflation in Australia, we would not adopt the same methodology that the Australia Institute did in answering that question. We've adopted different methodology. So, in that regard, we consider that there are better ways of analysing that question than the Australia Institute has done.

Senator McKIM: In your view, is it unhelpful to use national accounts data to try to determine the relative contribution of wages and profit growth to inflation?

Mr Yeaman: We don't think in the current climate, with the cycle that we're seeing in mining profits, that that is the most useful and helpful way to analyse this question.

Senator McKIM: You don't think it is? The national accounts data?

Mr Yeaman: No. We think there are better ways to analyse it.

Dr S Hunter: Specifically as to the methodology that they employed, obviously there are different methodologies that can be applied to the same dataset, so you can still be using national accounts data but taking a different methodology. Indeed, that's some of the work that we did, as part of the analysis of that paper.

Senator McKIM: Could I ask you to, on notice, provide a detailed response as to why Treasury believes that the approach used by the European Central Bank would be flawed if it were applied to Australia? If part of the argument is that we've got a high percentage of mining activity in our economy, could you just flesh that out, please, so that I can understand why it is that you think that method ought not to be applied to Australia? That's your contention, basically, isn't it?

Mr Yeaman: Yes. Dr Hunter canvassed this at the start of the discussion, I think, with Senator Bragg, but we can lay that out for you.

Senator McKIM: Thanks. I appreciate that. Can I just ask: has Treasury analysed at all how corporate profits in Australia have changed during the recent acceleration of inflation?

Dr S Hunter: In the context of the shares of income, yes, we can see that changing and flowing through the system. That's where looking at the mining versus the non-mining sector becomes important, because the mining share has clearly lifted quite significantly. That's entirely consistent with what's happened to commodity prices through that period, which would then flow through as profits to the sector. But, if you take that out and look at the non-mining sector, the movements are much less pronounced.

It's also worth keeping in mind that, as the secretary referred to earlier on, there's a lot of volatility in the data at the moment. We've got some very big shocks still moving through the numbers, so we're very cautious in interpreting too much from one quarter to the next, for instance, for that reason. So we also keep that in mind.

Senator McKIM: Thank you. But the mining sector is part of the Australian economy, right? So why should you take it out?

Dr S Hunter: That's very true, and we certainly don't take it out of the forecast, for instance, with GDP. But, in the context of specifically looking at household inflation and what's happening to consumer price inflation—

Senator McKIM: So you don't think the mining sector profits play any role whatsoever in household inflation?

Dr S Hunter: They do come through in some components of the CPI basket: petrol prices, for instance—though that's not a commodity we particularly export—and through into other components too. But it's a much smaller share of the CPI basket than it is of the whole economy, so it's not quite an apples-for-apples comparison. So that's why we're cautious on the Australia Institute conclusions and why we have questions about them, because implicitly they've assumed that they're the same shares, when we don't think they are.

Senator McKIM: Thanks, Dr Hunter, I appreciate that. Minister, the big four consulting firms donated over \$400,000 to the Labor Party and, I might add, to the Liberal Party before the last election. Do you accept the contention that the big four consulting firms are having a corrupting influence on the government of this country?

Senator Gallagher: I was asked pretty much exactly the same question in FPA by your colleague last Thursday. My answer will be the same: donations to political parties are made in accordance with the electoral laws of this country. In terms of procurement across government, they're not matters that ministers involve themselves in. They do not ever, nor should they. I think if there's a specific allegation that you're raising then raise it. Otherwise, that's my answer.

On the broader question of the use of consultancies across government, it's a massive problem. We've talked about this for years from opposition. We're clamping down on it and we're strengthening the arrangements about how and when to use consultants. There's a big problem across the APS; it has been infiltrated to a level that I think is not right and not acceptable, and we're rebalancing that. We're doing the policy work that's needed after 10 years of the undermining of the APS, essentially, and the use of external labour has played a big part in that. We've been making some pretty significant changes to it in our first 12 months.

Senator McKIM: The Labor Party ran a fundraiser on budget night. I have a copy of the invitation. It says, 'With appreciation to PwC'. The invite was from the Australian Labor Party Business Forum. The CEO resigned on the day, and I understand that the partners from PwC didn't show up, but—

Senator Gallagher: My understanding—I didn't attend—is that the event wasn't sponsored by PwC. Those are matters for the party organisation, they're not matters for me as minister.

Senator McKIM: The point I was trying to make is that it has been reported that Labor will retain the \$80,000 raised by that event which was held 'with appreciation to PricewaterhouseCoopers'. Given the fact that PricewaterhouseCoopers have been granted 45 contracts worth \$36 million across government since the scandal

broke—since the scandal broke publicly—and that they were only ditched as host of the budget night fundraiser for the Labor Party on the day before the budget, wouldn't you suggest that there's a problem here? That's not just with outsourcing of work in the APS and the hollowing out of the Public Service but in relationships between the major parties in this country and the big four consulting firms.

Senator Gallagher: Are you suggesting that ministers award contracts—

Senator McKIM: I'm asking whether you think there's a problem.

Senator Gallagher: Your assertion and implicit allegation in that is that because donations are made, which are declared in accordance with the electoral law, that they results in procurement contracts being awarded. That's the allegation you're making—that's the assertion you're making.

Senator McKIM: I'm asking if you think it's appropriate.

Senator Gallagher: Well, provide me with proof of that.

Senator McKIM: I did: 45 contracts worth \$36 million—

Senator Gallagher: It's just offensive—it's absolutely offensive! We—

Senator McKIM: PwC has—

ACTING CHAIR (Senator O'Neill): Senator McKim, let the minister answer the question.

Senator Gallagher: We have electoral laws in this country about electoral donations. They're followed, as far as I know, by all of us who have to comply with them, including the Greens political party.

Senator McKIM: Nothing to see here. Is that what you're saying?

Senator Gallagher: I'm saying that if you have a specific allegation, make it!

Senator McKIM: I will.

Senator Gallagher: Don't just sit here and sneer from the sidelines, throw dirt and hope that some of it sticks.

Senator McKIM: I'm asking whether you think it's a problem.

Senator Gallagher: It's not a game, the integrity of government!

Senator McKIM: I know it's not a game—

ACTING CHAIR: I'm calling you to order, Senator McKim.

Senator Gallagher: If you've got a specific allegation, make it.

ACTING CHAIR: Senator McKenzie, you have the call.

Senator McKENZIE: I've got some questions on population policy and the Net Zero Economy Taskforce. But, Minister, not on the same line of questioning around donations but on PwC more specifically, in evidence to the RRAT committee last week, when we were going through the big four, PwC had six times the dollar amount of contracts within that particular department and a significantly higher proportion of contracts awarded than the other three. I'm just bringing that to your attention. I know you would have been in F&PA. It was just curious, because usually there's quite an even spread.

Treasury representatives, on population policy, I just heard you say you had done modelling on the aggregate impact of the increase of migration by 1½ million people.

Mr Yeaman: We take account of the changes in migration for our broader economic forecasts, yes.

Senator McKENZIE: Have you briefed the infrastructure department around those aggregate impacts?

Mr Yeaman: The Centre for Population, which sits within the Treasury portfolio as part of the Fiscal Group—and they are due to appear shortly—

Senator McKENZIE: I was going to ask if they were still around.

Mr Yeaman: They are still around. They take carriage of these issues. I will leave it for them to speak in more detail, but they meet regularly with the infrastructure department and other departments around population planning and pressures on cities et cetera. We're much more restricted to the macroeconomic impacts. So broader questions would be best directed to the Fiscal Group.

Senator McKENZIE: The Fiscal Group, which are coming up.

Mr Yeaman: I think in an hour or so.

Senator McKENZIE: Alright. I will hang around for that. The net zero task force?

Mr Yeaman: The same thing. Fiscal Group deals with matters around climate.

Senator HUME: In the Treasurer's first budget speech, he claimed that he returned 99 per cent of revenue windfalls to the bottom line and 92 per cent over two years. So does this budget return the same level of revenue to the budget? That was his first budget speech in October, rather than this one.

Mr Yeaman: Again, those are questions that are best directed to our Fiscal Group colleagues. They do those calculations around payments and receipts.

Senator Gallagher: It's 82 per cent of revenue upgrades in this budget and 87 per cent across the two budgets combined. But, yes, it's probably more appropriate for the next witnesses.

Senator HUME: There was media reporting from John Kehoe in the *Financial Review* that stated that figures of 82 per cent and 87 per cent don't take into account parameter variations on spending and, adjusting for the aged-care workers' estimates, variation is probably closer to 70 per cent of revenue. Does that sound right?

Senator Gallagher: The estimates variations wouldn't be included in that because they are estimates variations. In October, we had estimates variations in the order of \$30 billion, from memory, and they weren't included in that assessment either. So it's not normal because estimates variations go up and down, so it doesn't give you a true picture in a sense of decisions of the ERC in putting the budget together that contribute to that because they are automatically taken.

Senator HUME: So, as far as fiscal rules go, it's a bit of a moveable feast that one, isn't it? If you can—

Senator Gallagher: No.

Senator HUME: have a 29 per cent variation since the budget speech last year, can you call it a fiscal rule? Can you call it a guardrail?

Senator Gallagher: I don't know what the 29 per cent variation is.

Senator HUME: If it's closer to 70 per cent of revenue then—

Senator Gallagher: This is the way budgets go. This is standard procedure. Estimates variations occur. They, in a sense, happen—I'm trying to think of the right word for it. 'Organically' is probably not the right word. There's probably a better word for it. They are taken. We saw big increases for indexation across the payment system, for example. So it impacts the budget, but it's not a specific decision of the government. Where it's a decision of the government to return revenue, that is reflected in that figure that I gave you.

Senator HUME: This was probably the one significant fiscal guardrail that the government repeated over and over again, and it seems to have slipped a long way from where it was when it was first promised back in October.

Senator Gallagher: I don't accept that. Under the former government, I think close to 40 per cent of revenue was returned to the budget.

Senator HUME: We had other fiscal guardrails, like a tax-to-GDP ratio and a balanced budget objective, and all of those things have gone. This seems to be the only one that was left.

Senator Gallagher: But it mattered. You spent a lot more of the upside in revenue through the budget process.

Senator HUME: In the last couple of years—

Senator Gallagher: Well, I think on average—

Senator HUME: We would deny that.

Senator Gallagher: It'd be better to have the appropriate witnesses at the table for this discussion. I know it must pain some senators that we are applying a disciplined approach to the budget. That includes spending restraint, savings and includes returning 82 per cent of revenue upgrades to assist with budget repair. That in turn lowers the amount of debt that we need to borrow and lowers our interest bills. So it's a very responsible and disciplined approach to budget management and is, of course, mindful of the inflation challenge, which has been a very important part of our fiscal strategy in the last two budgets.

Senator HUME: I will come back and speak to the Fiscal Group about that. I have a lot more questions to ask the macro group though.

Senator DEAN SMITH: The population matters are for fiscal. Did I hear that correctly?

Mr Yeaman: Yes, the Centre for Population deals with those estimates.

Senator DEAN SMITH: In the five minutes that I have available, I want to turn to the matter of FOI requests and the Treasury's compliance with FOI requirements. Ms Kelley, you'll be aware that I'm going to ask some

questions because you would have received an email from the committee. At a high level, can you give us an overview of the Treasury's level of compliance and responsiveness to FOI requests.

Ms Kelley: I'll give you some data for our FOI requests between 1 January and 30 April this year. We received 91 new FOI requests in that period. Sixty-six of those were finalised. During that time, Treasury did not finalise eight applications within the statutory time frame, which is the 30 days. Then, of that eight, Treasury did not finalise only one of those within 30 days after the due date.

Senator DEAN SMITH: What was the FOI reference number for the one?

Ms Kelley: I don't have that. I'm sorry. I can take that one on notice for you.

Senator DEAN SMITH: Sorry?

Ms Kelley: I have to take that one on notice. I don't have the reference number for that.

Senator DEAN SMITH: But the secretariat advised you that we were going to have a conversation about FOI compliance and meeting statutory requirements, so I would have thought that the people preparing your note wouldn't have put in any additional information around the 66 that were finalised but might have provided some additional information around those eight that were not finalised within the first 30 days and that one that was not finalised in the second 30 days.

Ms Kelley: We're just being cautious around actually providing that information because it's not public as yet. We are still considering the matters, and the decision-maker hasn't made the final decision.

Senator DEAN SMITH: What excuses or reasons are there for the eight not having been finalised within the first 30 days and the one not having been finalised in the subsequent 30 days?

Ms Kelley: There can be a range of reasons for getting an extension to the 30 days. It can be that there is consultation required with third parties. It can be that we're negotiating over charges, and it can be that we're negotiating over the scope of the request. It also can be with the agreement of the applicant, because we may have uncovered a significant amount of information and 30 days isn't sufficient to go through it all.

Senator DEAN SMITH: In your opening remarks, you provided the time frame. Can you repeat that time frame for me, please?

Ms Kelley: It was from 1 January 2023 to 30 April 2023.

Senator DEAN SMITH: Are you able to provide me with the number of FOI requests that were made for each of those months in that period?

Ms Kelley: I can take that on notice.

Senator DEAN SMITH: I want to turn to my personal experience in regard to an FOI request that I made. I made a request to the Treasury on 21 March 2023, and, despite emails from my office, no acknowledgement was received, despite the fact that section 15 of the FOI Act requires an acknowledgement. Can you confirm whether or not my FOI request was received?

Ms Kelley: I understand it was received, but I'll have to confirm that. I should note that the department supports the ministers' offices in processing FOI requests. We're not responsible for the processing of FOI requests that go to ministers' offices.

Senator DEAN SMITH: What does 'support the offices' mean?

Ms Kelley: We can provide them with advice if required.

Senator DEAN SMITH: So I make an FOI request on 21 March. I receive no acknowledgement until my office calls the FOI officer. Not only did I not receive an acknowledgement but in the first 30 days I didn't even receive a decision. To this day, which is now the expiration of the second set of 30 days, I still have not had a response. You won't be surprised to learn that I've now written to the Information Commissioner asking for an explanation, and you'll also know that the secretary is required to cooperate. I'm just curious to know, of the eight that weren't finalised in the first 30 days and the one that wasn't finalised in the second 30 days—is mine included in those nine?

Ms Kelley: I will have to take that on notice. I don't have the list of them with me, because, as I said to you, we're not going to publicly talk about the ones that aren't finalised, because the decision hasn't been finally made as yet.

Senator DEAN SMITH: Does my experience meet the statutory compliance requirements?

ACTING CHAIR: This is your last question in this round.

Senator DEAN SMITH: No, actually, it's not, because transparency is a key commitment of the new government.

ACTING CHAIR: You'll certainly get to ask the question again, but, in five-minute strict blocks, that was your last question.

Senator DEAN SMITH: Ms Kelley, does my experience meet the compliance requirements?

Ms Kelley: As I said, there are 30 days to process FOI requests, and the act permits extensions to the time frame for a range of reasons, as I noted.

Senator DEAN SMITH: None of those reasons have been communicated to me. Surely I am due an explanation.

Ms Kelley: I'm happy to take that on notice and follow up on that.

Senator DEAN SMITH: I think—

ACTING CHAIR: Senator Hume, you have the call.

Senator DEAN SMITH: during the course of this estimates inquiry process today would be very valuable. For the sake of complete transparency, my questions related to GST documents and GST exchanges between the Treasurer and state and territory treasurers. I would like an explanation.

ACTING CHAIR: Senator Smith, you don't have the call. It's a five-minute rotation that's been agreed. Senator Hume has the call, and you'll get it back very shortly. Senator Hume.

Senator HUME: I know we're doing rotations of five minutes, but we're going to be here until we're finished with macro group, and, with all due respect, you took up an awful lot of time with this group this morning asking questions about the issue around PWC, which we have already gone through. It could have well been done in a reference inquiry of this very committee, so I think that we're allowed to ask questions about the budget. I think that is pretty fair.

ACTING CHAIR: Absolutely. The deputy chair has indicated that we'll continue until you've exhausted your questions, but it's just in five-minute blocks. Senator Hume, you have the call.

Senator HUME: I think that if there's a problem with this we might have to call a private meeting, but we should probably just continue on with the questions that we need to ask. Can I ask some questions first around the Help to Buy scheme that the government took to the election. Minister, has the legislation been drafted for that measure?

Senator Gallagher: That's for later—it's revenue group.

Senator HUME: No, I've got some questions about legislation being drafted, which is corporate.

Ms Kelley: I'll see what I've got, but it's probably easier with the housing people because they're actually the business owners of the legislation.

Senator HUME: I want specifically to understand whether an exposure draft will go to consultation on this and whether this is a priority.

Ms Kelley: That's actually a question for the policy area, not the legal team.

Senator HUME: What about whether this policy has gone to the Solicitor-General for advice, because question on notice 1676 suggested that that was so? When was that advice requested?

Ms Kelley: Again, that is a question for the policy team.

Senator HUME: It's not for the legal component?

Ms Kelley: The policy team actually are the ones who determine what the questions are that need to be answered, and then the legal team assist them in the process of working through getting that to the Solicitor-General or AGS, but the actual detail is best answered by the policy team.

Senator HUME: Is it the policy team that work out whether they are confident of the constitutionality of a policy or is that the legal team in corporate?

Ms Kelley: They work on the concept together, but the legal team assist the policy team in getting those answers.

Senator HUME: Right. So do the legal team have those answers?

Ms Kelley: I don't have those answers here, because it's really a policy issue.

Senator Gallagher: I'm sure they're ready and willing if we want to get to them to answer the questions.

Senator HUME: Don't worry, Minister, we will get to them. Can I also ask a question about the Productivity Commission review? That is for corporate, is it not? Treasury is assisting the Treasurer with that review into the Productivity Commission.

Mr Yeaman: Yes, I can speak to that one.

Ms Kelley: Which review are you talking about, Senator?

Senator HUME: I understand that there is a significant overhaul of the Productivity Commission, yes.

Mr Yeaman: I think the Treasurer has indicated publicly that he has asked Treasury to look at whether there are ways that the Productivity Commission could be, I suppose, refreshed—I think that's the word being used. It's not a review in the formal sense in the way that the RBA review has been conducted, but he has asked us for ideas about how, as part of modernising our institutions, we could make any improvements to the operation of the PC.

Senator HUME: So it's not a formal review?

Mr Yeaman: No, not at this stage.

Senator HUME: When will we understand what those recommendations might be?

Mr Yeaman: As Treasury, we've gone out and spoken to a number of key stakeholders over the past month or two to gather some views. We're in the process. We have a couple more consultations that we'd like to complete, and then we will, shortly after that, provide some initial advice to the Treasurer. Beyond that, it'll be a matter for government as to where they take the advice.

ACTING CHAIR: This is your last one, Senator Hume.

Senator HUME: Is it a transparent public consultation process?

Mr Yeaman: The Treasurer has asked us, as Treasury, for advice. We've spoken to a number of key stakeholders, including existing and former members of the Productivity Commission and a number of academics. As I said, it's not yet at this point a formal review.

Senator HUME: Why not? Why is it an informal review?

Mr Yeaman: The Treasurer has indicated that he wants to see if there are ways that the Productivity Commission could be refreshed and modernised.

Senator HUME: But why is this being done behind closed doors? Surely there would be an awful lot of stakeholders that have an opinion on this.

Mr Yeaman: Yes, and we're having some initial discussions with those, and then it'll be a matter for the government whether they wish to conduct a larger scale review or whether they wish to just take our advice. We haven't as yet formulated our advice or completed our advice for the Treasurer on that.

Senator HUME: Is it unusual to do an informal review on an agency like the Productivity Commission? Normally when Treasury does a review on an agency, it's something that is done with much more formal parameters and an open and transparent submission process.

Mr Yeaman: I've seen a range. I think there are a range of different models that can be adopted, from small incremental improvements to the way agencies operate—which we regularly provide advice to the government on—all the way up to a large-scale formal, independent review of the kind the RBA has.

Senator HUME: How is the Productivity Commission not modern?

ACTING CHAIR: Senator Hume, I'll come back to you for another line of questioning. We're going to go to Senator Rennick and then Senator McKenzie.

Senator HUME: Acting Chair, I feel like you're now just being obstructive to a basic line of questioning.

ACTING CHAIR: I'm happy if you want to negotiate to go back to 10—let me know. But I understood that you were at five, for moving things along.

Senator HUME: Can we go back to 10, please? I just want to get through the group, and we're now slowing things down.

ACTING CHAIR: Okay. You're eight minutes in, so you've got two minutes left.

Senator HUME: Thank you. Why is it not modern, Mr Yeaman?

Mr Yeaman: I was using the term as in thinking about whether there was anything that could be done to improve the operation of the PC. As we've seen across a range of institutions, all institutions should be subject to ongoing refresh over time. It doesn't mean they're not modern; that's my characterisation. But, certainly, are there

good opportunities to refresh the operation of an institution? The context in which institutions operate changes from time to time, and it's important to stay current and test that.

Senator HUME: What is the timetable for providing advice to the Treasurer on this?

Mr Yeaman: There isn't a set timetable. Obviously, the budget has been a heavy focus of the department over the last few months. As I've said, we've undertaken some initial consultation, and my expectation would be that we provide the Treasurer some advice in the next month or so. Then it's a matter for him to decide whether we do further consultation or where we take that process.

Senator HUME: Is Treasury seeking views from external stakeholders on this, or is it entirely internal?

Mr Yeaman: No, as I've said, we've conducted a series of meetings with current and former Productivity Commission members, commissioners and staff, as well as a number of academics and others with an interest in the work of the PC.

Senator HUME: I might put on notice for a request of a list of those that you have held those stakeholder meetings with.

Mr Yeaman: I'm happy to do that.

ACTING CHAIR: Thank you, Senator Hume. Senator Rennick.

Senator RENNICK: Hi, guys. Why is Treasury pursuing a 'big Australia' policy, given that it's a lazy way of growing GDP that benefits big corporations—as they get more customers—and universities but punishes hardworking Australians, as they have to pay higher rents and the higher cost of living? I note you said this morning that you haven't caught up with your initial forecasts prior to COVID in regard to immigration, but, ultimately, shouldn't immigration be tailored towards infrastructure capacity, rather than Treasury forecasts?

Mr Yeaman: I don't agree with the opening proposition. Treasury doesn't have a 'big Australia' policy, and we're not pursuing a 'big Australia' policy.

Senator RENNICK: I reject that, because 30 per cent of Australians weren't even born here. Compared to any other country around the world, we've got the highest rate of immigrants by a country mile. Canada is at 21 per cent or 22 per cent, as is New Zealand, and the UK and USA are at about 10 per cent to 13 per cent. So we are way out in front, and, clearly, our infrastructure is not keeping up with demand.

Mr Yeaman: There's a lot in that, and I would note that—and, Chair, I'll take your advice on where the questions can best be handled—the Centre for Population is due to appear later today in the fiscal group estimates, and they deal with these broader issues of planning and population, as I said to Senator McKenzie. So they're better placed to answer that. What I would say is that we've been very clear in the budget that, in particular, post COVID, the return of overseas students and migrants more generally has occurred much more quickly than we had previously expected. The Centre for Population can explain what those drivers have been and why we've been faced with that set of circumstances. But, as I said, we are not pursuing a deliberate policy, as Treasury, of a big Australia.

Senator RENNICK: You can say that it's not a deliberate policy, but the fact is that we do have a housing crisis in this country, and immigration does add to it. Given that the Treasury secretary said this morning that 49 per cent of immigrants are students—it'd be different if they were builders—students are adding to demand. It's not like the Snowy Hydro project back the late '40s, when the immigrants came in and built more infrastructure. Why are we pursuing an immigration policy that is encouraging and providing greater demand, not greater supply?

Mr Yeaman: As I said, I think that questions of that nature are best directed to our Centre for Population, which is due to appear shortly, and the broader policy aspects of those are a matter for government.

Senator RENNICK: Sure. I'll ask the minister then. Why are we tailoring our immigration towards a high percentage of students who don't pay tax but add to demand? Are you considering taxing universities for foreign student income, given that they're currently exempted under section 50.50 of the Income Tax Assessment Act 1997?

Senator Gallagher: The budget showed that net overseas migration is expected to be—I think we had this this morning—400,000 in 2022-23 and 315,000 in 2023-24, driven by return of international students and working holiday-makers. It will still result in us being cumulatively lower by almost 500,000, compared to what was expected prior to the pandemic.

Senator RENNICK: Yes. Did you not listen to my initial question? It's not about what you initially forecast; it's about having a construction capacity.

Senator Gallagher: This is about addressing some of the content that you had earlier. But, in terms of your question about infrastructure and preparedness, it is a bit hard for us to fix, in one budget, problems that have been created over a decade. But we are working away at it, in infrastructure, in housing, in health, across the board—working methodically through this. But this is largely a wash-through, in a sense, or a result, of the pandemic. We haven't changed the settings. There hasn't been any decision like that.

Senator RENNICK: Thank you. My understanding is that it was Prime Minister Rudd who allowed students, or the parents of students, to buy housing while they were studying here. Will the Labor government reconsider that proposition, given that we do have a housing crisis, and prevent foreigners from buying new housing or existing housing if they have a temporary visa, especially for students?

Senator Gallagher: We had a little bit of a discussion on this before lunch. There are restrictions in place around the purchase of residential property by overseas investors.

Senator RENNICK: But they can get an exemption under FIRB if they're students.

Senator Gallagher: We're coming back, I think, on the exemptions. I'm not sure; did we give those?

Ms Kelley: I think so.

Senator Gallagher: Yes. We're coming back on that. But, based on the evidence this morning, it's about, I think, 0.75 per cent of overall housing purchases that that would contribute to, so a relatively small part of—

Senator RENNICK: Well, that's 75,000 houses. That's still a lot of houses.

Senator Gallagher: No. It wasn't 75,000 houses. It was about 5,000 houses. It was 4,355 of 588,176.

Senator RENNICK: Is that new housing, the 588,000?

Senator Gallagher: That was purchases of residential housing.

Senator RENNICK: By whom?

Ms Kelley: I'll just read it out. The total number of residential dwelling purchases in Australia for 2020-21 was 588,176, and the number of registered foreign purchases was 4,355, which is approximately 0.74 per cent of total purchases.

Senator RENNICK: Does that include temporary visa holders as well?

Ms Kelley: That is the total number of residential dwelling purchases.

Senator RENNICK: By foreigners who aren't residing in Australia or by people—

Ms Kelley: The number of registered foreign purchases was 4,355.

Senator RENNICK: There are two different categories. There is foreigners buying new housing and then there is foreigners who live here on temporary visas, students, who can also buy housing.

Ms Kelley: That's right.

Senator RENNICK: That includes all of it?

Mr Writer: Our understanding is that that's all foreign investors purchasing residential housing, which includes both of those categories.

Senator RENNICK: Just back to universities—

ACTING CHAIR: Last question.

Senator RENNICK: They get an exemption currently on all income. I understand why, if you're educating Australian students. We want our students to be able to go and get a good education. But do you think it's about time universities started paying their fair share in regard to income they receive from foreign students, given that foreign students also add to demand and infrastructure?

Senator Gallagher: There aren't any changes in the budget in relation to that that I can recall, but, again, you'd probably be best asking that to the education department.

Senator RENNICK: But they don't set tax policy.

Senator Gallagher: On specific questions around the arrangements with universities, I'm not sure there's anybody here that could assist you further with that.

Senator RENNICK: They don't set tax policy, though. This is a question about the 1997 tax act.

Senator Gallagher: They have responsibility for the regulation and funding of universities, so they would be the ones that have the relationship, essentially—the close relationship and implementation of the government's policy in that regard. That's not a Treasury matter.

Senator RENNICK: I would have thought it was.

Senator Gallagher: If there were a change, for us to do something that was going to raise revenue, that would be a matter for Treasury, but that's not—

Senator RENNICK: Well, that's what I'm asking you now. Isn't that a way to raise revenue?

Senator Gallagher: The government policy hasn't changed.

Senator McKENZIE: I'll have detailed questions for the population policy, but it's my understanding that dwelling approvals are now at their lowest point since Julia Gillard was Prime Minister. Minister King is responsible for the planning ministers' MINCO. There hasn't been a meeting called for the last 12 months of those planning ministry meetings. Has Treasury provided either Minister King or the department advice around dwelling approvals and planning?

Mr Yeaman: We track approvals from a macro perspective to help with our forecasts for dwelling investment. There's no doubt that housing approvals have come off sharply in response to rising interest rates. I can't confirm—I haven't got the data in front of me to know exactly—whether it was the date you mentioned or not, but certainly housing approvals have come off—

Senator McKENZIE: According to Shane Wright, who usually gets it right—

Mr Yeaman: I'm not saying right or wrong. I can't personally confirm that here, but housing approvals have come off, which is what you expect to see when interest rates rise and the housing cycle turns down. We provide advice to government on the housing cycle generally, but those issues, as I said, go to planning. Advising planning ministers is a question best for our Centre for Population team because they handle those intersections between planning and forecasting, but I can confirm the first parts.

Senator McKENZIE: Thank you. I cede my time to Senator Hume.

Senator HUME: Thank you.

ACTING CHAIR: I think we're going to Senator Pocock next and then returning to Senator Smith.

Senator BARBARA POCOCK: Mr Yeaman, Dr Kennedy indicated this morning that he had sought assurance, in relation to the departmental internal audit, that no-one involved in the PwC breach of confidential data was involved in any aspect of that internal audit. That's in line with the finance secretary's instruction that all PwC staff who knew about the tax leak are not to be involved in any government contracts for the moment. Given that we're talking about a scandal emanating from the tax team at PwC, this ruling will presumably be most relevant to Treasury. Does Treasury have a full list of names of people involved in the breach of confidentiality at PwC?

Mr Yeaman: I'll defer to Ms Kelley, who's head of corporate.

Ms Kelley: Senator, I don't. We'll have to take that on notice.

Senator BARBARA POCOCK: Someone may have?

Ms Kelley: I don't know.

Senator BARBARA POCOCK: Without knowing that list of names, how can you monitor exactly who is involved in what contracts from PwC and their knowledge of the breach?

Ms Kelley: As I stated earlier, we know that the Department of Finance have issued their direction for PwC to stand down people from Commonwealth contracts who were involved. Our understanding is that PwC accepted that recommendation. We have also, as I noted this morning, followed up directly with our internal audit team and have their written assurance that neither of the partners involved in our internal audit team were involved in that matter.

Senator BARBARA POCOCK: My question is not about the internal audit. My question is about all activities involving possible employees of PwC—other contracts, consultations and so on. How can you be confident that—can you see what I'm asking?

Ms Kelley: I can see where you're going. Probably before, in an answer to Senator O'Neill's questions, I detailed some of the other actions that we've taken.

Senator BARBARA POCOCK: I heard those. Thank you.

Ms Kelley: We are being very explicit about our requirements and seeking assurances from people that we are engaging with, whether they're with PwC or anyone else.

Senator BARBARA POCOCK: I must be making myself very unclear. What I want to know is: how can you be confident that no-one involved in the PwC breach is engaged in any aspect of any contract or involvement of PwC unless you have the list?

Ms Kelley: We have done what we can to get assurance without having that list. We've done what we can at the moment. As I noted—I don't know whether I have noted this—we only have four contracts with PwC at the moment. Three of those will be complete before the end of June. The internal audit one goes until the end of this calendar year.

Senator BARBARA POCOCK: I thank you for that, but there are other ways, potentially, where PwC could be involved in the work, in the advice, in the advisory bodies and so on. How can you be confident that anyone from the PwC stable has not had involvement in the matters of the breach?

Ms Kelley: Again, we've taken on notice some questions from Senator O'Neill about the number of PwC people or ex-PwC people who have been appointed to various bodies in Treasury. So we're going to look at that and come back and provide information on notice.

Senator BARBARA POCOCK: Minister, how is the ruling made by the secretary of Finance going to be implemented—that no-one who's been involved in any aspect of the PwC breach is engaged in any matter within Treasury? Without having the list available to you and individuals actively assessed against it, aren't you asking us to trust you to trust PwC to implement this ruling? What confidence can we have?

Senator Gallagher: Like the discussion we had last week when I said the ball is in PwC's court in terms of responding to the very, very clear and unprecedented direction from Finance across the board with requests to stand down and stand aside all of those who—there seems to be different types of lists going around. Some people say 20 to 30, while others say over 50. There's also, in the Finance direction, people who had knowledge of the cover-up, which might be bigger than that. I don't know. I don't think anybody does at this point in time. That was the direction. We are relying on PwC to respond. I haven't been briefed on if they've come back in the last day or so, because I was in estimates until late on Friday and then here again today. But this is a matter that's going to be ongoingly managed by Finance.

Senator BARBARA POCOCK: Wouldn't it make your job easier and that of the department if PwC, who have been aware of this as a matter of a breach for five years—they have known internally that there was a problem for five years. They must have had opportunities to look at those internal emails and work out exactly how, say, 36 individuals were involved or not involved or innocently received or knowingly passed on confidential information. Wouldn't it be useful to you if PwC released that group of names and outlined their particular involvement?

Senator Gallagher: There seems to be all this commentary about a list. I'm not aware of a list that's available. Others may have a list, but I don't know who's on that list or off that list. What Finance has done, in the most responsible way of dealing with this, is write to PwC and say, we want you 'to remove personnel directly involved in or who had knowledge of the breach from all existing and future contracts and that those personnel not be involved in any Commonwealth contract, at least until after the Switkowski review of accountability, culture and governance is complete'. That may be more than just the people mentioned on the email chain. It may be; I don't know if it will be, but it may be.

Finance's approach is, essentially, anyone who directly knew about it or who had knowledge of it. We are relying on PwC in the first instance to respond to us. In their response, they responded advising they've engaged an independent legal firm to complete the investigation. They have confirmed that none of the personnel who appeared on the emails would be involved in the administration of the head agreement and/or performance of any current panel contracts and have taken steps to notify affected Commonwealth agencies of the personnel they have stood down and will work with those agencies to maintain delivery of services, including the provision of any replacement personnel. And they have also advised that they will provide a further response. I haven't been briefed on that. But if a problem emerges around that—there is an element of trust, but I also think there is an element of reputational risk, or further reputational risk, for PwC if they don't comply with that direction. I think they understand how seriously the government is taking this matter. It is in their best interests, absolutely, and I hope they understand this to comply with the direction that Finance has issued.

ACTING CHAIR: That's 10 minutes.

Senator BARBARA POCOCK: Thanks, Minister.

ACTING CHAIR: I give the call now to Senator Smith, who has indicated he has further questions.

Senator DEAN SMITH: Ms Kelley, do you have an update on my FOI matter?

Ms Kelley: Not yet. I have people working on it.

Senator DEAN SMITH: Thank you very much; I appreciate that. For your assistance, I'm happy to table my FOI request, which, as I said, seeks correspondence between the Treasurer and other state and territory treasurers with regard to GST matters and distribution matters. I'm happy to table that.

Ms Kelley: Thank you.

Senator DEAN SMITH: Minister, we were just talking about the 715,000-person increase in net overseas migration over the next two years. Can I explore that a little bit further here?

Senator Gallagher: Well—

Senator DEAN SMITH: You did respond to Senator Rennick.

Senator Gallagher: It's not really this area.

Senator DEAN SMITH: As you know, I'm a very conventional man, so if we don't do it here, I'm happy to maintain customs and traditions and do it the right way in fiscal.

Mr Yeaman: The Centre for Population and Fiscal Group can provide more detailed answers about what underpins those estimates and those broader questions that Senator McKenzie talked to.

Senator HUME: I have one question for the minister. Minister, I assume you would agree that public consultation is a really important part of the legislative process, and ensuring that that's transparent and that submissions are published in a timely manner is imperative to appropriate scrutiny of legislation.

Senator Gallagher: I feel like you're trying to set me up here, so I'm going to hedge my answer there. Maybe. It depends on what your second question is; then I'll answer your first one.

Senator HUME: Well, let me ask you the second question, which is probably better suited to the area specific to the legislation, but this has been raised in previous estimates, and I don't think there was a sufficient answer given then. So in the current context, I suppose, we'd like an update on why Treasury isn't publishing stakeholder submissions to its public consultation process ahead of legislation being debated in parliament.

Ms Kelley: I will have to take that one on notice.

Senator Gallagher: Is there are particular—

Senator HUME: There were two, and they've both been brought up before. Submissions regarding the government's changes to franking credits isn't available despite the consultation closing in October. Also for the improving integrity of off-market share buybacks—the other franking credit legislation—submissions closed in December 2022 and they are not public. Is this deliberate, or are these just two instances where you've slipped up?

Senator Gallagher: I'm happy to take that on notice. I have no knowledge of those.

Senator DEAN SMITH: It was taken on notice last time when Senator Smith asked exactly the same question.

Senator Gallagher: And did you get an answer?

Senator DEAN SMITH: I was given some assurance: 'No, Senator Smith, we are adopting exactly the same process of releasing various documents as part of consultation phase.' So it was taken on notice, and then we get a very bland, 'No, Senator Smith, that's not the case.' And now Senator Hume is here, saying, 'Here are two powerful examples on what are very, very contentious issues', and you're wanting to take it on notice again, and that's just not really acceptable, because Senator Hume now has—

Senator Gallagher: We can definitely see what we can provide throughout the hearing.

Senator DEAN SMITH: We would like to see all of the submissions that were made to the Treasury consultation process. That's the outcome we are looking for.

Senator HUME: And perhaps an answer on whether it is in fact the Treasurer's office that dictates the timetables of the release of the submissions, or whether it's the department that does that.

Senator DEAN SMITH: I would have thought that making submissions available, not just to opposition members but to other members of the parliament, also makes those same submissions available to other people who have made submissions, so the contestability and accuracy of the policy setting process is much improved. So I'm not quite sure why these documents wouldn't be made available as part of transparency, contestability and better policy setting processes. It's sounding like ducks and drakes, and we'd like to bring it to an end.

Senator Gallagher: I can see that.

Senator HUME: Perhaps by the time we get to revenue group you could come back to us with an answer.

Senator Gallagher: We'll try to get an answer for you, yes.

ACTING CHAIR: It sounds like you've made your matters pretty clear.

Senator DEAN SMITH: Is there a standard policy position in the Treasury that all submissions in consultation processes will be made public? Is that a standing policy position in the Treasury?

ACTING CHAIR: Okay, that's a clear question.

Senator Gallagher: There would certainly be occasions when submissions may be withheld.

Senator DEAN SMITH: Is that by exception, because—

Senator Gallagher: Well, I'm going to come back. This is not my portfolio.

Senator DEAN SMITH: If it is by exception—

Senator Gallagher: This is not my portfolio, but what I—

Senator DEAN SMITH: I'm not going to say that's a good way to proceed, but, if it is by exception, then we would like to know when those exceptions are granted and how they are granted—on whose authority those exceptions are granted. Is there a standard operating procedure now—

Senator Gallagher: We got it.

Senator DEAN SMITH: a standard operating procedure—

Senator Gallagher: We got it, Senator Smith.

Senator DEAN SMITH: What's the answer?

ACTING CHAIR: I think the question is very clear—

Senator DEAN SMITH: Is there a standing operating procedure that, for every consultation process, whether or not documents are released—

ACTING CHAIR: and the minister has asked to take it on notice and will provide information this afternoon if possible.

Senator DEAN SMITH: is a decision of someone in the Treasury or in the minister's office?

ACTING CHAIR: Senator Smith, your question is already a matter of record, and I think it was pretty clear.

Senator BRAGG: Could I just clarify a point, Chair? Can I ask questions about corporate law and corporate governance of the next group?

ACTING CHAIR: Markets Group?

Senator Gallagher: Yes.

Ms Kelley: Yes—not corporate group.

Senator BRAGG: I think the questions about your own governance have been exhausted.

ACTING CHAIR: That brings to a close the session that we were scheduled to complete at 11 am. It is now twenty to three. That being the case, I propose that we suspend for a short meeting to consider the timetable for the rest of the day, and then we can advise accordingly.

Proceedings suspended from 14:41 to 14:49

ACTING CHAIR: The committee will resume. We can advise, after that consultation with the committee, that the Australian Small Business and Family Enterprise Ombudsman can be released. They should expect some questions on notice. We are not yet sure about the rest of the program. It looks like it's going to go as printed at this point in time. We are moving on right now to Markets Group. I give the call to Senator Bragg.

Senator BRAGG: I want to ask about the compensation scheme of last resort. Do you know about the Dixon Advisory issue?

Mr Power: The Dixon Advisory collapse did create quite a few complaints and backlogs. That's part of the stimulus and backlog that will be dealt with by the compensation scheme of last resort legislation that's currently in parliament.

Senator BRAGG: Dixon Advisory, according to the court records and the like, charged fees of \$236 million, and there are now claims of losses of over \$300 million. The court finds that ASIC was able to secure only \$7 million in fines. There was a question time brief done for Minister Jones. Did you or your people do that, Mr Power?

Mr Power: It's possible that our group did that.

Senator BRAGG: But you know about it, right?

Mr Power: I know about the issue.

Senator BRAGG: That talks about all these Dixon claims in that QT brief. It makes the point that basically 90 per cent of these claims to AFCA are in relation to the Dixon matter—is that right?

Mr Power: Certainly, as I said, the Dixon collapse is a large part of complaints, and a resolution of Dixon makes up a large amount that would be dealt with by the compensation scheme of last resort. The exact percentage figure I don't have in front of me, but it is a large component, particularly of the backlog of complaints.

Senator BRAGG: The Treasury is the adviser on financial services regulation and corporate law—is it not?

Mr Power: We're the policy owner for that component.

Senator BRAGG: You have a situation where you have a regulated market here, where the regulator has sought a fine of \$7 million and there have been losses of over \$300 million. Is there any prospect that ASIC is going to pursue further civil penalties that will result in some of those moneys being recouped?

Mr Power: That's probably a question for ASIC. What I can tell you is that the legislation that the government has in parliament is the compensation scheme of last resort, which, if you like, will backstop some of the losses that were a result of Dixon. The question about what ASIC's enforcement action is and what it might do in the future is probably best a question for them.

Senator BRAGG: The picture I'm trying to paint here, perhaps in an inarticulate way, is that you have a set of financial services laws which are not properly enforced, it seems, and then there will be a scheme where people can go to receive compensation. What is your view on the moral hazard here?

Mr Power: I'm not sure I can pass you an opinion on the moral hazard. I think what's important in the legislation is that, if there are entities that collapse and consumers are left out of pocket, there's a safety net so that those consumers are able to be made whole as best as possible out of that scheme. That's what the CSLR is about.

Senator BRAGG: Why is Dixon involved in this particular scheme?

Mr Power: As I said, if I understand you correctly, Dixon is a large amount of the claims or backlog of claims that will be processed through the CSLR. That's why, if you like, the collapse of Dixon is related to CSLR, if I understood your question correctly.

Senator BRAGG: Have any departmental employees declared any possible conflict of interest in relation to CSLR or Dixon?

Mr Power: I'm not sure off the top of my head. I'm happy to look at that from our conflict-of-interest records.

Senator BRAGG: You'll check that, will you? You're not sure?

Mr Power: I haven't got it in front of me. I'm happy to take that on notice.

Senator BRAGG: Because there have been other similar collapses which won't be covered.

Mr Power: By the CSLR?

Senator BRAGG: Yes.

Mr Power: Obviously the CSLR commences when the legislation passes. It will pick up the backlog of claims coming out of Dixon. I'm not aware of any previous claims that were also brought into the CSLR. Mr Preston might be able to add.

Mr Preston: The issue relating to the Dixon collapse and the court case that you referred to was relating to the advice in that managed investment scheme as opposed to management investment schemes in general. It was the conflicted advice, which was the key trigger that brought those claims into the compensation scheme of last resort, as advice is one of the four elements that the compensation scheme can cover.

Senator BRAGG: How much money do you think will be paid out of the CSLR to Dixon customers?

Mr Preston: We have a range of estimates at this stage. The CSLR operator will go through a process of estimating that once the entity has been stood up. That is yet to occur. There are figures in the range of \$250 million to \$300 million. If you look at the number of claims and the amounts—

Senator BRAGG: How much?

Mr Preston: There are 2,040 complaints which are eligible to claim on CSLR. 1,843 of those relate to Dixon. I don't have the figure in front of me, but from recollection the average complaint of Dixon was around the statutory cap of \$150,000. That will pull the amount up to the \$250 million limit in one year.

Senator BRAGG: So most of it's going to go to Dixon—to customers?

Mr Preston: Not to Dixon; to former clients.

Senator BRAGG: That's the advice you've given?

Mr Preston: Yes.

Senator BRAGG: Do you have any former Dixon employees working in the Treasury?

Mr Preston: Working on the compensation scheme of last resort in my team, no. In the Treasury, yes.

Senator BRAGG: You're confident any potential conflict of interest has been managed?

Mr Preston: In relation to the compensation scheme of last resort, yes.

Senator BRAGG: But you'll come back on that on notice?

Mr Preston: Yes.

Senator BRAGG: Did PwC provide any advice on the design of the CSLR?

Mr Preston: Not to my knowledge. That was before my time in the role, so I might take that one on notice as well.

Senator BRAGG: The AusTender records show a number of quite large contracts between Treasury and PwC, as you'd know. The title of these services is on many occasions 'management advisory services'. I know we've already discussed that earlier today, but you'll provide all the details of those on notice, will you?

Mr Preston: I'll take on notice whether PwC provided advice in relation to the CSLR.

Senator BRAGG: Thanks.

Senator Gallagher: Going back years, I would imagine, because this is something that has been around for a long time.

Senator HUME: I have some questions around investment, and competition specifically. Obviously if you want your financial sector to be strong, thriving and flourishing, investment is critical to driving productivity. The Treasurer talks a lot about his investor roundtable as part of the solution to this. What briefing material is provided to participants in the Treasurer's Investor Roundtable?

Mr Philp: I might ask the officers who ran those. Typically material provided is before one of those investment roundtables, including the agenda, the topic that the minister or the Treasurer is keen to discuss. The most recent one was to do with renewables and energy, and before that was housing. I'll check if there was a discussion paper or otherwise prepared ahead of those conversations.

Mr Tease: I worked on the second, most recent roundtable which was energy and sustainable finance. We provided the Treasurer with a briefing on some issues related to sustainable finance.

Senator HUME: There were briefing materials and an agenda. Were they provided to the Treasurer and to the other participants in the investment roundtable?

Mr Tease: I believe the agenda was provided to the other participants in the roundtable but I'm not aware of the—

Senator HUME: There were no briefing papers for them?

Mr Tease: No.

Senator HUME: Is it possible to have the information that was provided—the briefing and the agenda—for the first two meetings tabled?

Mr Tease: I can take that on notice, but yes.

Senator HUME: Who determined the agenda?

Mr Tease: The agenda was determined between the Treasurer's office, the office of the minister for climate change and also in conversations with staff members of Treasury and the department of climate change.

Senator HUME: Do the participants themselves have a role in setting the agenda?

Mr Tease: The agenda was discussed with the participants during the development of the logistics of those meetings and that was discussed between the Treasurer's office and also those participants.

Senator HUME: But its logistics as opposed to content or substance?

Mr Tease: It's a combination of both, is my recollection.

Senator HUME: Have any members of the roundtable raised the Australian investment climate?

Mr Tease: Not to my knowledge, but I'll have to take that on notice.

Senator HUME: So in an investment roundtable, wasn't the investment climate in Australia raised?

Mr Tease: The roundtables were both constructed around particular issues rather than investment in general. But as I said, I'll take that question on notice.

Senator HUME: Who were the members of the investment roundtables?

Mr Tease: I don't have a list of the members in front of me, but they were large financial institutions in Australia, so I can take that on notice.

Senator HUME: So, large financial institutions in Australia are not discussing the investment climate in Australia? I find that bewildering. Even if it's not necessarily an agenda item, surely it must form part of the discussion.

Mr Tease: As I said, both roundtables were focused on particular issues rather than a general discussion of the investment climate.

Senator HUME: Have stakeholders engaging with the markets group, whether it be part of those roundtables or not, expressed any concerns about the increasing role of government in the economy?

Mr Tease: I'm not aware of that, but other members here today might be able to comment on that.

Senator Gallagher: The investor roundtable participants are listed on the website on the Treasurer's investor roundtable information.

Senator HUME: Has there been any expression to the markets group about the increasing role of government in the economy?

Mr Philp: As to the increasing role of government in the economy, not to my recollection.

Senator HUME: What about in the area of clean energy? Obviously, state governments are now enormous investors in large-scale renewable energy. What's in it for private investors to back projects when they're competing with government?

Senator Gallagher: From my understanding it's more about working in partnership. I didn't attend the cleaner, cheaper energy or the climate roundtable, but Minister Bowen and Minister McAllister did and there are roundtable outcomes. The whole point of having a roundtable is to talk with stakeholders about how to maximise the opportunities, in this case around the energy transformation and the path to net zero. There were three key outcomes which, again, are available online.

Senator HUME: Did no-one discuss the issue of crowding out? It's a pretty common—

Senator Gallagher: I don't know that we had a steno take down everything that was said at the roundtable. You're saying nobody said something. It's difficult to answer that. We can look at providing you with the agenda. There are the outcomes and the participants.

Senator HUME: Are there minutes?

Mr Philp: There's an outcome statement that's published on the website.

Senator HUME: Are there minutes, though?

Mr Philp: I'll take that on notice. My recollection is it's an outcome statement.

Senator HUME: If there are minutes, could they be shared with the committee?

Mr Philp: I'll take that on notice.

Senator HUME: The *AFR* had an editorial quite recently which talked about concerns around sovereign risk, particularly in the gas industry. Is sovereign risk a consideration that markets group is considering when it puts forward policy proposals?

Mr Philp: When we are considering issues when it comes to investment and policy advice—so this is in the generic—yes, that is a matter that forms part of the advice that we give to government.

Senator HUME: And what about stakeholders when they are engaging with the Treasury? Have they expressed concerns about sovereign risk, particularly through the market interventions?

Mr Philp: Can I just be specific about which market intervention you have in mind there?

Senator CANAVAN: It's a bit hard to be specific.

Senator HUME: Yes, here are a lot of them! There's been a series of policies that involve market interventions. Let's start with price caps; I think that is a pretty serious government intervention in a market. Is that something that potentially stakeholders have expressed concern about, the potential for sovereign risk to become an increasingly dominant factor for investors in that market?

Mr Philp: We have played a role most recently in gas markets. The issue of sovereign risk, as you put it, is one of a number of issues that are raised with the Treasury as part of that work, and particularly as it goes to ensuring supply within that market and market resolution.

Senator HUME: Is it supply or access to supply, or is it concern that, once investments are made, government decisions will then make the original investment unviable after the fact?

Mr Philp: I haven't heard it put that way. I will ask my colleague Mr Dickson to reply to this one as well. The way it was put most recently was, as I've seen it expressed in the media, there's a concern about gas supply to joint-venture partners out at some of the participants in North Queensland or in Queensland. As to a direct comment about government intervention on that kind of risk, I don't think that has been raised in that way.

Mr Dickson: When it comes to questions around sovereign risk, in a normal investment market where conditions are smooth and you are not experiencing market dislocation or any other circumstantial factors, sovereign risk is always something you take into account and is also something you take into account when you have tremendous market dislocation, such as when you have instances such as the war in Ukraine with the pressure that puts on prices as well as supply. Of course, there are always factors you are taking into consideration, and naturally sovereign risk factors are taken into consideration when it comes to policy decisions.

Senator HUME: I know my colleagues have some follow-up questions on this. Has either the Treasurer or the Assistant Treasurer asked for briefings on sovereign risk concerns within the economy or even perceptions of sovereign risk concerns within the economy?

Mr Dickson: We continually provide advice in relation to all range of policy matters where sovereign risk would feature. Our thinking is that, if there was any possibility of sovereign risk arising then, of course, that's something that would form part of our advice.

Senator HUME: But not specifically—they haven't asked for briefings on the issue of sovereign risk specifically?

Senator Gallagher: The Treasurer worked closely with other ministers on the Energy Price Relief Plan that we put in place at the end of last year. That obviously involves briefings and involves discussions and consultation with industry. It also involves discussion and work with colleagues, so all of the issues, including feedback about the government's plans, would have formed part of that.

Senator HUME: The question is, before I pass to my colleagues: at a pure policy level, if you have a perception of sovereign risk that sets in, it's difficult to dispel, is it not?

Senator Gallagher: Is that a hypothetical situation that you are pointing to?

Senator HUME: No, it's an economic question—a basic economic question.

Senator Gallagher: But you're saying 'if this occurs'—that's my understanding—you're not saying 'this is occurring'. You said, 'If this occurs, it's hard to get rid of,' so at a conceptual level.

Senator HUME: There are some very bright economics minds around the table. Perceptions of sovereign risk are difficult to dispel—yes?

Mr Dickson: I think it depends on the circumstances that you're talking about and the specifics. It's hard to answer in very general terms.

Senator HUME: Is it hard to answer because you don't want to get anybody into trouble, or is it hard to answer because it's a basic economic question that no-one has an answer to?

ACTING CHAIR: Senator Hume, that's reflecting on the witness.

Senator Gallagher: It's because it's a hypothetical scenario that you're putting, which is not allowed under the standing orders. That's it, really. If you've got an assertion to make where that risk exists, put it. On the general vibe of the thing, I think it's impossible to answer.

ACTING CHAIR: Senator Hume, your 10 minutes have expired. One clarifying question, Senator Canavan?

Senator CANAVAN: Yes. I'm a little perplexed that you don't seem to be aware of the significant public commentary calling into question the investment climate in Australia. I would have expected perhaps for you to disagree with some of that commentary. There's an opportunity for you to point out why they're wrong, but—

Senator Gallagher: We weren't asked that question.

ACTING CHAIR: Do you have a question, Senator Canavan?

Senator Gallagher: That wasn't the question that was asked.

Senator CANAVAN: It was.

Senator Gallagher: No, it wasn't.

Senator CANAVAN: Multiple times, officials here seem completely ignorant. You've asked for specific examples: I hope you saw the speech provided by the CEO of INPEX in this building only a few months ago. His company is responsible for the largest Japanese company investment in Australia and indeed in the world outside of Japan. He said:

Australia is competing for global investment and the changes we are seeing to Australian policy settings will choke investment and strangle the expansion of LNG projects in this country.

I've got plenty of other examples here as well. Are you aware of this criticism? Have you met with him—has anyone reached out to Ueda-san from your group, from Treasury, and asked him about the situation? His company invested \$60 billion in this country. Has anyone spoken to him following his speech? Minister, have you spoken to Ueda-san?

Senator Gallagher: I haven't spoken to him, but I am aware of the speech.

Senator CANAVAN: Why not?

Senator Gallagher: I haven't been asked to speak to him. As the Minister for Finance, I'd—

Senator CANAVAN: Any of your officials? I mean, it's a pretty big deal.

Senator Gallagher: He obviously doesn't want to speak to me about it. I am aware of the speech. But that was not the question that was being asked by Senator Hume, just to be clear.

Senator CANAVAN: Well, I've asked this question. You're trying to deflect now.

Senator Gallagher: No—

ACTING CHAIR: Hold on for a moment, Senator Canavan. You didn't have the call. It was a clarifying question. Can we get a response to Senator Canavan's question from the minister or the officials from Treasury. Is there a response?

Mr Philp: As to the question about whether I have spoken with the chair of INPEX—

Senator CANAVAN: CEO.

Mr Philp: CEO—no, I haven't. I'm aware of the concerns that have been raised when it comes to engagement with the gas markets. The Department of Climate Change, Energy, the Environment and Water are leading those negotiations. They have been in contact with a lot of those companies, and we've got Treasury officers involved in those consultations as well.

Senator HUME: How does that differ from a perception of sovereign risk—

ACTING CHAIR: That has gone past the time. We'll come back to your questions, Senator Hume. Senator Stewart, you've got the call.

Senator STEWART: Thank you, Chair. My questions are about the consumer data right. The last 12 months have seen lots of Australians being really concerned about their data and their use of their data. So I've just got one question, which is: what are the features of the government's budget announcement on the consumer data right?

Mr Philp: Broadly speaking, the government is making a further \$88 million investment in the consumer data right. That is to continue to work in the banking sector, the energy sector and the non-bank sector, expanding the action initiation and also the cyber uplift. Ms Martin, who is at the table, can provide further details on that.

Ms Martin: As Mr Philp said, the government did continue the investment in the consumer data right in the budget, committing \$88.8 million over two years. There will be a real focus on improving data quality and driving participation in banking and energy; implementing the CDR in the non-bank lending sector; undertaking detailed policy design work on action and payment initiation; making some cybersecurity improvements across all CDR agencies; and expanding awareness of the CDR as a trusted, safer data-sharing model that allows consumers to easily identify CDR-enabled providers, products and services. The budget announcement also acknowledged the work that was undertaken through the statutory review last year of the consumer data right and the fact that there was a lot of feedback through that review that more time was needed for the CDR to be bedded down in banking in particular, so the government made the decision to pause the expansion into superannuation, insurance and telecommunications. This will allow more time to focus on ensuring that the CDR in banking and then in energy is working as effectively as possible, and also extend it into the non-bank lending sector.

Senator STEWART: What does the CDR mean for everyday Australians you are riding in a lift with?

Ms Martin: What does the CDR mean for people?

Senator STEWART: Yes.

Ms Martin: The CDR is a safer way for consumers to share their data. We now have almost 100 per cent market share in banking, so consumers can easily via third-party accredited entities access their banking data—for example, to learn more about their personal finances, to manage their expenses and to have a better idea of how they might manage things like cost-of-living pressures.

Senator STEWART: Thank you. I reckon that was a couple of floors in a lift. You did a good job. Now I have some questions about superannuation. I am keen to understand the current estimate of the amount of unpaid superannuation in the system.

Mr Philp: I'd have to check, but my recollection is that it's in the vicinity of \$3.4 billion. I'll just confirm with my colleague.

Ms Kelly: After ATO action the current gap is \$3.4 billion.

Senator STEWART: So Australians are missing out on \$3.4 billion of super. We know that some cohorts of our community are affected more than others. I am keen for you to articulate which cohorts in our community are more affected by this.

Ms Kelly: The ATO, as regulator of the superannuation guarantee, can provide more information in relation to the breakdown of the gap.

Senator STEWART: Yes. So you don't have any sense of which cohorts are affected?

Ms Kelly: In the budget the government announced some measures around unpaid superannuation. In making those announcements it was acknowledged that those on lower incomes and people in casual or unstable work are more likely to be affected by unpaid superannuation.

Senator STEWART: Have any inquiries recommended mandating the payment of superannuation with wages and salary?

Ms Kelly: There has been substantial commentary around the payment of superannuation in the market. Most recently a Senate committee looked at unpaid superannuation. I believe one of the recommendations of that committee was in relation to increasing the payment frequency of superannuation.

Senator STEWART: Yes, and how will paying superannuation on payday help workers?

Ms Kelly: For employees there will be better transparency when their superannuation is going into their account on a more timely basis. Under the current law, employers are required to pay on a quarterly basis, so it can be quite difficult for employees to look at pay slips that say how much their superannuation is and reconcile them at the end of quarter with what went into a fund. So it will give that transparency. The other main way it will help employees is through better ATO data capability and compliance activities, which will on a much faster basis identify underpayment and unpaid superannuation.

Senator STEWART: That sounds important. Is there a benefit for employers as well?

Ms Kelly: Yes, a couple of benefits have been flagged. It may actually help some employers in terms of managing their cash flow because some of the underpayment of superannuation arises because these liabilities build up over a long period of time and then become harder to pay. We also heard commentary from some employers who feel that they're penalised at times by doing the right thing, against employers who aren't and are then able to be more competitive on bids through not paying their superannuation and lowering their costs as a result. So it will level the playing field.

Senator STEWART: That's great news for employers. We know that superannuation is so people can have the dignity of a decent retirement. I'm just wondering what benefit there'll be. What is the benefit of something like this for young workers in their retirement?

Ms Kelly: One is the more timely payment of the superannuation. As it goes in, it starts earning money faster, and that has a compounding effect over the lifetime of the employee. Also, younger workers tend to often be in lower-paid and more insecure work, so the compliance of ensuring their superannuation is actually paid, and paid for the right amount, will also benefit them.

Senator STEWART: So it sounds like a double benefit for younger workers. One is that they're more likely to be in insecure work, so they're more at risk of having their super not paid, but they also benefit from the compounding interest because super's paid sooner. That's great news.

Mr Philp: If it helps, the cameo that we tend to use here is of a 25-year-old on the median wage who's being paid fortnightly but has their super contributions made on a quarterly basis. Matching those up on a fortnightly

basis means they'll be \$6,000 better off, or 1.5 per cent better off, with their superannuation balance at retirement. So there's a monetary benefit as well.

Senator STEWART: That's great. Six and a half thousand, you said?

Mr Philp: Six thousand.

Senator STEWART: Thank you.

CHAIR: Thank you, Senator Stewart. That concludes your 10 minutes.

Senator STEWART: I did have more, but okay.

CHAIR: We'll come back to you if we can. We're going to Senator McDonald.

Senator HUME: Sorry, Senator McDonald. Can I just ask one follow-up question to that line of questioning?

CHAIR: Senator Hume.

Senator HUME: Then I promise we'll go to you, Senator McDonald. I think everybody likes the idea of getting your pay packet and then your pay going to your bank account and your superannuation appearing in your super account on the same day, but it doesn't work that way, does it? There is a lag between the time your superannuation is paid into your super fund and the time you actually see it in your super fund account. I don't know whether there's any intention to have some sort of compliance rules about how quickly people need to see the superannuation in their account and how long the super fund can sit on it before it unitises it and makes it available to the member. Is that going to be a part of this legislation? Is there going to be some sort of rule for superannuation funds about how quickly they need to act, once they've got people's money, before they actually hand it over in the form of units to their members?

Ms Kelly: That's correct. A key part of the consultation around the implementation of this measure will be to look at the different intermediaries within the system, such as clearing houses and payroll providers, and working with the ATO and co-designing with the different players to ensure that we've got the right time frames, the data and the cash. Also, as part of the government's announcement, there was an announcement in relation to updating the superannuation guarantee charge to reflect the new rules.

Senator HUME: Thanks, Chair.

CHAIR: Thank you. Before I go to you, Senator McDonald, I just want to advise witnesses and those waiting that the committee has decided to release NHFIC, the National Housing Finance and Investment Corporation. Senators do not have questions for NHFIC. Senator McDonald, you have the call.

Senator McDONALD: Thank you, Chair. Good afternoon. Before I commence my questioning: when I was speaking to Dr Kennedy earlier today, he said he thought that the spot price for gas was down currently, and I'm just seeking to table the AEMO report with the gas prices—actually, it's only back till March, because that's the period they have gone back to. Since the introduction of price caps at \$12, the spot price currently is \$19.30, an increase of 62 per cent, as opposed to the Henry Hub price, which would be more affected by the Ukrainian war and any of those other things that are quoted to us and which has gone in the same period—this is in US dollars—from \$5.53 down to \$2.22 currently, which is a decrease of 40 per cent. I just wanted to table that information. The chair has asked for some references on where that data's from, so we'll get those references tabled.

Mr Philp: Senator, just in response to that, one of the things I'd need to check on that is the reference price that the secretary was referring to there. There's quite a difference between the spot price at Wallumbilla and the contracted prices that customers are receiving in the market. I think when I looked earlier it was \$18½ at Wallumbilla, but that's going to vary throughout the course of the day as trading takes place. The US and the Henry Hub are affected by the constraints of their ability to export gas out of the United States, and that's what causes the price differences between them and us.

Senator McDONALD: Because their price has collapsed. It's fallen by 40 per cent in the same period as they bought a massive amount of supply to the market. And European gas prices have also fallen, \$126 down to \$24. And the Australian price has gone from \$12 to \$19.30 in the same period.

Mr Philp: My point is just understanding what that \$12 refers to. I'm very happy to take that on notice and have a look at that.

Senator McDONALD: We're all reliant on using averages for daily prices, and I think that's the one that—and I can bring other evidence to you of manufacturing businesses who are paying well over those numbers because the retailers are not constrained by the ACCC's advice on the price cap mechanism. So the consumer is actually paying greater prices than that—the consumer, the manufacturing companies and so forth. It's not a matter for debate, I don't think. This is just the reality of what's being reported on the government's websites.

Mr Philp: I understand. It's just to draw the comparison between what the wholesale price is—both a spot price and a long-term contracted price—and what a retail price is. I'm very happy to take that on notice and we can look at that.

Senator McDONALD: Thank you. And so the point is that the contracted prices—the rationale for introducing a price cap was to assist with contracted prices, but as winter has appeared and for May the prices have just escalated. I guess that leads me into my questions this afternoon, Mr Philp. This morning, Secretary Kennedy told the committee that you're best placed to advise on the Treasury's response and advice on the gas mandatory code of conduct. Specifically, what advice has the Treasury been providing on the impact of ongoing intervention in the gas market and what effect it will have on future investment in the gas sector?

Mr Philp: We provide a range of advice with regard to our role with the gas code of conduct. That includes ensuring that, as the code is being consulted upon, we advise the impact that has on supply availability within the market. We're particularly concerned to ensure that there's nothing within the code or that any treatments within the code limit the impact it might have a new supply coming to market because that's important over the longer term.

Senator McDONALD: Okay. Senator Hume had some questions previously around sovereign risk. What I'm getting at is the impact of intervention in the market on investment decisions that are affecting supply coming to market. Specifically, is that advice that you have been providing as part of the consultation or advice on the impact of ongoing interventions?

Mr Philp: One of the things we have heard as part of consultation is the want from the sector for certainty in the market, which will enable them to make investment decisions to be able to bring future gas into the market.

Senator McDONALD: You've highlighted the requirement for certainty.

Mr Philp: That is one of the comments that has been made to us or made to the group who's consulting on the code. As I said earlier, I think that's Treasury as well as some of the other departments that are involved.

Senator McDONALD: So, specifically, Senator Canavan asked about feedback from INPEX. Have you had feedback like that from INPEX?

Mr Philp: I'll just check. As I said earlier, I haven't personally spoken to INPEX.

Mr Dickson: In relation to engagement with the sector, it's being led out of DQ. They would be the best people to talk to with regard to all of the contacts that have been made. Personally, I haven't had a direct contact, but because that is being led out of DQ and we have people from Treasury seconded into that agency then they would be the best people to talk to in that instance.

Senator CANAVAN: Someone has just said to me that Dr Steven Kennedy was in Japan last week. Did he meet with INPEX in Japan?

Mr Philp: Yes, he was.

Senator CANAVAN: Did he meet with INPEX?

Mr Philp: I don't know.

Senator CANAVAN: Could you take that on notice?

Mr Philp: I can take that on notice.

Senator McDONALD: Could you also take on notice what other of our Japanese buyers or investors he might have met with?

Mr Philp: I can. For the extent of Dr Kennedy's or the secretary's contact?

Senator McDONALD: Yes, Dr Kennedy's.

Mr Philp: I'll just stress the point that Mr Dickson made: we're one of a number of departments involved in this. I particularly can't discount the Department of Climate Change, Energy, the Environment and Water haven't met up. I know they've been heavily involved, and part of that conversation group also involves Foreign Affairs. I'm happy to take that on notice, but there are other moving parts in this.

Senator McDONALD: I appreciate that. Just given that Dr Kennedy was in Japan, it seemed a likely question. So, have you had any gas producers come to see you at all, consult with you at all? Or has all your consultation and advice been on the basis of Treasury modelling and wherever else you're drawing your data from?

Mr Dickson: Our advice is based on the engagement we have with the other agencies as well. It is very much something that's led out of the Department of Climate Change, Energy, the Environment and Water, so I would

say the best port of call to find out about engagement would be through that. We would always recommend channelling it through one arm of government, rather than having us interfering in that process.

Senator McDONALD: Sure. I appreciate that. Thank you. But nobody has come to you and said: 'We understand that you're an agency that's part of this consultation process. We'd like to consult directly with you?'

Mr Dickson: Personally, no.

Senator McDONALD: Could you take that on notice if anybody else in the division has had that sort of meeting?

Mr Dickson: Sure.

Senator McDONALD: Thank you.

Mr Philp: We can. If it assists, we have two Treasury officers seconded into the task force who are considering these, so the voice of Treasury is well-heard within the room as this being developed.

Senator McDONALD: Okay, I'm trying to understand how informed Treasury is on what industry is saying. So to Senator Hume's point about this concept of sovereign risk and flight of capital, how much feedback Treasury is getting or if you're not hearing that, in which case it's going to other departments. That is what I'm trying to ascertain. Thank you.

The secretary has previously highlighted, 'It is important the policies that are in place do not discourage investment in the domestic supply of gas particularly, and gas more broadly.' I think the government was mindful of this when it set the temporary cap and, in particular, said it would review that cap at six months. Was the Treasury's advice that there should be a review of the temporary cap after six months?

Mr Dickson: Sorry, could you clarify the question?

Senator McDONALD: The secretary has previously said, and I'm paraphrasing, that there should have been a review of the price cap after six months, a temporary price cap. Now that has been extended under the mandatory code, was that the advice of Treasury, that there should be a review of the price cap after six months?

Mr Dickson: Sorry, at what stage are you suggesting that Treasury would have given advice? At the beginning?

Senator McDONALD: Prior to the mandatory code.

Mr Dickson: Prior to the mandatory code was it Treasury's advice that there be a review? So are you asking was there advice about the original review that was scheduled?

Senator McDONALD: Yes.

Mr Dickson: That's something that's handled by a colleague of mine who is not available today, but I can take that on notice.

Senator McDONALD: Thank you. Is it the Treasury's view that the gas market interventions over the last nine months will not have any adverse effect or impact on future gas investment or supply?

Mr Philp: I'm just working my way through a double negative, Senator. The reason we're in market to consult on the code of conduct at the moment is to ensure that the future of supplies is assured, and that's one of the key considerations as part of that. The draft code has four key features: the anchor price of \$12; the incentives for domestic supply commitments; conduct provisions, which are enduring in the commercial negotiations; and then reporting requirements to ensure their transparency. So, ensuring supply under the revision of the code that's out there now is an essential part of that consideration.

Senator McDONALD: Okay, just to clarify: it is Treasury's view that the gas market interventions over the last nine months will have an adverse impact on future gas investment or supply? I'm trying to take out the double negative so that you can answer me clearly.

Mr Philp: I don't think that's our evidence.

Senator McDONALD: I'm sorry, I didn't hear that.

Mr Philp: That's not our evidence, Senator.

Senator McDONALD: That's not your evidence? Okay.

Mr Dickson: In relation to the events that have transpired, you've seen some very unusual market activity. In fact, it's a market dislocation that's been experienced, and you saw an extraordinary rise in prices. You saw the ACCC establishing what it would call a reasonable price—reasonable from the perspective of the market—and established it at \$12. You could then reason from that that, if that's regarded as a reasonable price, you wouldn't

expect investment to be deterred in that circumstance. I suppose that gives one clarifying aspect to the forecast in terms of impact on investment.

Beyond that, the government then has embarked on looking at other ways to improve the market, and, through the mandatory code, it has identified ways of strengthening the market in terms of how it operates, because there are conduct provisions that are being proposed that go to the way that the market is being made more transparent and making sure that both the suppliers as well as the buyers are acting in good faith. That's an ongoing aspect, and then there's this other question around how you anchor a reasonable price going forward. The government has put out a proposition for consultation, which isn't yet finalised, so there are decisions still to be made. I think that would be a characterisation of the intervention.

Senator Gallagher: From the government's point of view, just to finish off, certainly the focus in terms of how we've been dealing with this Energy Price Relief Plan is to ensure that, for households and businesses, we're putting downward pressure on prices, guaranteeing supply and ensuring our commitments internationally were considered paramount to that as well. Those three things have guided the policy decision-making process throughout.

Senator McDONALD: Chair, can I check that the document has been tabled or that you've received it for tabling.

CHAIR: I think I haven't received it back yet, but we'll look at it and table it.

Senator McDONALD: That just demonstrates that Australian prices have increased 62 per cent, American prices by 40 per cent and the European market by even more than that since the introduction of price caps.

Senator Gallagher: We'll have a look when we see it. We haven't seen it.

Senator McDONALD: I'm just trying to make sure that document has been tabled.

Senator BRAGG: I want to ask you about the Levy review. Last time we had Treasury estimates, Minister, you said to me or to one of the other fine senators from the coalition that the review had not been ignored. We've had a budget and some further time has passed, so what's happening with the response to the Quality of Advice Review?

Mr Moore: I'll just refer you to the Assistant Treasurer's comments on 11 May at a webinar at the Financial Services Council, where he indicated that the Levy review would be going to cabinet and the expectation was that, post cabinet consideration, the government was hopeful of making an announcement in late May or early June.

Senator BRAGG: So it's gone to cabinet?

Mr Philp: That's difficult for us to answer without disclosing cabinet.

Senator Gallagher: Yes. We don't really disclose that.

Senator BRAGG: So we don't know whether it's gone to cabinet or not?

Mr Philp: We can't disclose that.

Senator Gallagher: There'll be an announcement following cabinet consideration.

Senator BRAGG: Has Treasury given advice, though, to the minister?

Mr Philp: Yes, we have.

Senator BRAGG: Has there been much turnover in this team inside the Treasury who've been working on it?

Mr Moore: No.

Senator BRAGG: How many people are working on it?

Mr Moore: Around eight. That varies depending on the particular tasks that we're engaged in at the time, but around eight.

Senator BRAGG: When was the review received?

Mr Moore: The review was received by the government on 16 December last year.

Senator BRAGG: What is it now? It is almost June. Is it June now?

Mr Moore: It's 30 May, Senator.

Senator BRAGG: Okay, it's almost June, so it has taken quite a long time. What's the next step? Is it an announcement post the cabinet process?

Senator Gallagher: That's right.

Mr Moore: That's correct, Senator.

Senator BRAGG: And then what are you thinking about doing in terms of legislation?

Mr Moore: That hinges on the decision of government.

Senator Gallagher: Nice try.

Senator BRAGG: I don't think this the official secrets part of the session. That's probably later tonight, after dark. Will you be proposing to achieve something in this term?

Senator Gallagher: I think you're going to have to wait until the government has considered it and an announcement is made.

Senator BRAGG: I'm asking these tedious process questions because this minister has had a few issues with getting things through the Senate. The FAR Bill and the CSLR are still before the Senate, aren't they?

Senator Gallagher: Yes.

Senator BRAGG: Do you have any confidence that this minister can have any of his policies enacted?

Senator Gallagher: We deal with Assistant Minister Jones's legislation all the time.

Senator BRAGG: Do you?

Senator Gallagher: Out of all the legislation that comes before us, his is probably the heaviest legislative workload. Where it's contested obviously, and there have been elements of those two bills that you name that have been contested, it's no surprise that things get stuck in the Senate for a while. It is subject to negotiations, not unusual in the Senate. We have a few things stuck there right now, Senator Bragg. If you'd like to assist us, we could whoosh everything through in a very quick time.

Senator HUME: The CSLR has been bipartisan since you came to government.

Senator Gallagher: There were issues around how we tried to facilitate that passage towards the end of last year, as I recall, and they are still in the Senate. I look forward to your support.

Senator BRAGG: I guess the reason I'm asking about this is that there have been some issues. There was the regulation to cover up the payments to unions, which was knocked off by the Senate. There was one of the weirdest policies of all time—do you remember this one?—the faith-based super carve-out. Is that one dead now? Is that a dead duck? This is one of Mr Jones's other great ideas.

Senator Gallagher: I wouldn't use that language at all, but I remember that was a contested piece of legislation in the Senate.

Senator BRAGG: That one's kaput?

Senator Gallagher: It was contested in the Senate.

Senator BRAGG: So it is cactus.

Senator Gallagher: Until we can get a majority of votes.

Senator BRAGG: Is that still your policy to pursue?

Senator Gallagher: I don't have a complete picture on that; I will come back to you on that.

Senator BRAGG: So we don't know about the faith-based super. I'm not sure about that one.

Senator Gallagher: I just said I would come back to you.

Senator BRAGG: Alright. What about the super-payments-to-unions policy; is that still part of your agenda?

Senator Gallagher: The one that was disallowed?

Senator BRAGG: Yes.

Senator Gallagher: I wouldn't name it that way.

Senator BRAGG: It was one of your policies, wasn't it?

Senator Gallagher: No, that is your language. I'm not accepting your language.

Senator BRAGG: It was your regulation.

Senator Gallagher: The Senate has disallowed that regulation, so we won't be proceeding with that.

Senator BRAGG: Just for the record, with all respect, Minister, that was your regulation, was it not?

Senator HUME: It wasn't ours.

Senator Gallagher: Yes, it was introduced under this government.

Senator BRAGG: And that was disallowed. I'm asking you whether that is still your policy.

Senator Gallagher: The Senate has disallowed it, so it does not exist.

Senator BRAGG: So will you be trying to exhume that policy?

Senator Gallagher: Well, the Senate has formed a view on that, so that's where that ends.

Senator BRAGG: Okay, that's clear. So far, the record is not so flash in this area. What about in relation now to the Your Super, Your Future review? Who can I ask about that—Mr Moore? Someone else? Ms Kelley, how are you going? Last time in fact we had a discussion about this with you, Ms Kelley—and Mr Jeremenko—I think was in November last year.

Ms Kelley: That's correct.

Senator BRAGG: Then there was a statement from Minister Jones, 4 April 2023, and that is the outcome of the review, is it not?

Ms Kelley: That is correct.

Senator BRAGG: Okay. Can I just ask you a couple of annoying questions about this?

Ms Kelley: Certainly.

Senator BRAGG: Thanks. Performance testing is going to be tweaked, is that right?

Ms Kelley: That is correct.

Senator BRAGG: Is that leg?

Ms Kelley: That will occur through the regs?

Senator BRAGG: And the point to have more categories, is it?

Ms Kelley: There are a number of ways it is being changed. There will be extending the look-back period from eight to 10 years, calibrating some of the key benchmarks, adjustments to the notification letter and minor changes to improve accuracy and reduce administrative burden for APRA. Also the test is due to extend to trustee directed products from 1 July for the first time, this year, so the regs needed to be made fit for purpose for trustee directed products, given their nature is somewhat different to MySuper products.

Senator BRAGG: Have you got exposure to regs yet?

Ms Kelley: We have gone out to consult on exposure, yes.

Senator BRAGG: Best financial interest duty—this was reviewed, was it?

Ms Kelley: This was.

Senator BRAGG: What did you decide or what did you recommend?

Ms Kelley: It was reviewed to see if there were any unintended outcomes. There were some concerns raised in relation to the absence of materiality threshold resulting in compliance cost for funds, but ultimately the decision was made that every dollar spent has an impact on members fees, so no change to the best financial interest duty. Any concerns around compliance cost can be addressed through increased guidance from the regulators in APRA.

Senator BRAGG: So the government has no plan to weaken the best financial interest duty?

Ms Kelley: The government has not said they will do anything the review didn't.

Senator BRAGG: Good. That is a very good decision. Does Treasury have a view on how this is being administered by APRA at the moment? Even just last week there were newspaper articles talking about large sums of money being spent by super funds on non-financial activities, so what is the Treasury view on how that very tough test is being enforced by the prudential regulator?

Ms Kelley: It would not be appropriate for us to offer a view on the performance of APRA. What I will say is that APRA's feedback to us is it has been very useful in improving governance within the superannuation system.

Senator BRAGG: That is very good. I have got another line, so do you want me to stop?

CHAIR: Yes, if it is a different line we might come back to you.

Senator HUME: I just want to follow up on some questions around competition. There is some analysis conducted by the e61 Institute of the government's industrial relations reforms, comparing them to laws that exist in France already, and they found that the laws were an impediment to firm growth and that they were anticompetitive. I am wondering if Treasury is aware of this research.

Mr Philp: I will just check with my colleagues for that one, Senator.

Mr Kelly: I'm aware of some of e61's work, including in employment. I'm not aware of that specific aspect.

Senator HUME: Has there been any work done about the competition impacts of pattern bargaining—or that has been requested?

Mr Kelly: Not that I'm aware of within markets group, no.

Senator HUME: Treasury confirmed on notice in previous estimates that, while Minister Leigh has spoken quite vociferously and publicly about the potential for a review into competition, there isn't in fact one underway or one planned. Is that still the case?

Mr Kelly: No review in competition has been announced.

Senator HUME: So there's no equivalent of the Harper review or even earlier ones?

Mr Kelly: There are no statements on this budget. Nothing has been announced.

Senator HUME: Given the frequency with which the Treasurer and Minister Leigh talk about competition's role in the economy, what is it that the government is doing to increase competition?

Mr Kelly: That probably covers quite a range. Within this discussion today, we've had Consumer Data Right—

Senator HUME: Yes, but we heard evidence that that is, in fact, slowing in its rollout, not quickening.

Mr Kelly: That's probably not how I'd characterise Ms Martin's evidence. Also, the ACCC has done a report on competition around the digital platforms inquiry, so that's currently under consideration. We've gone through a consultation process on that, and the government will be responding to that in due course. If you're asking a general questions about what's happening in competition, it touches on quite a few elements of the department.

Senator HUME: Because, potentially—and this is Minister Leigh's line—if you improve competition, you put downward pressure on prices, so I would assume that it would be fundamental to a deflationary policy strategy?

Mr Kelly: Certainly one of the advantages of improved competition is to put downward pressure on prices. You wouldn't see it as part of your cyclical management tools, but, as a longer term structural improvement, it's certainly worth doing. That's one reason it's worth doing.

Senator HUME: What about red tape reduction, in the same breath, as something that can reduce prices? Has the Treasurer been briefed, for instance, on the scope and the volume of red tape in the form of incoming regulation that's being imposed on the financial services industry in the next two years?

Mr Philp: The deregulation agenda is part of the Department of Finance portfolio.

Senator Gallagher: That falls under my portfolio.

Mr Philp: So there is work in that place.

Senator HUME: There is work being done in that space?

Senator Gallagher: But it's in the Department of Finance.

Senator HUME: Why is it not in the Department of Treasury?

Mr Philp: Because a lot of the red tape work, whether it be Commonwealth regulations or otherwise, is focused in that sense, and where it's state based regulations, colleagues elsewhere in the Treasury might be involved as part of the Council on Federal Financial Relations.

Senator Gallagher: But I would say that I was called to attend the Council on Federal Financial Relations to brief treasurers on the work that has been, in a sense, commissioned and is underway, so there are good linkages between Finance and Treasury on that.

Senator HUME: So, in the deregulatory agenda, then, is financial services specifically earmarked as an industry that could benefit from a deregulatory agenda and, indeed, more concentration on the extent and the amount of regulation that's being imposed upon it?

Senator Gallagher: Certainly some of the things we're working on would have an impact. I'm thinking of the digital statutory declaration process that we're trying to deal with. That would have an impact to assist the financial services sector, but it isn't specific to that sector.

Senator HUME: What about things like the cost of compliance? Surely that falls squarely in Treasury's purview.

Mr Philp: To the extent that those things cross over into our space and our role with financial markets or the financial sector then, yes, that's right. For example, the statutory reviews around the way meetings are conducted by businesses and the like are those things we take on in the group.

Senator HUME: Just on that, when you phase in new regulation, are there consultations that are done across agencies to ensure that the imposition of new regulation is workable for business?

Senator Gallagher: Yes.

Mr Philp: Typically, yes.

Senator HUME: Do you track how much additional regulation each agency—or if not each agency, then just Treasury—imposes every year, either through delegated or primary legislation? Is there some sort of tracking mechanism?

Mr Philp: I think that might be more for my colleagues in the Department of Finance. It's a whole-of-government tracking. I'm not aware of Treasury doing that.

Senator HUME: Does Treasury measure the cost of compliance?

Senator Gallagher: That would certainly fit under some of the advice I get through the Department of Finance. The cost of providing services really falls under Finance, but there is close work between relevant areas of Treasury and Finance in all of these areas. It's not done in a vacuum; it's done right across all departments.

Senator HUME: With specific reference to financial services firms—and particularly mid-tier, mid-sized financial services firms—has there been feedback given to Treasury about the scale of change that's required and the resources that they need just to keep up with the compliance burden that seems to be growing for them? Is there feedback that has been given to Treasury on that?

Mr Philp: It's a little difficult to answer in the abstract. On a particular piece of advice, we will often have that conversation with the sector. For example, my recent conversations with the banking sector have discussed getting the balance right between regulation and consumer protection, most particularly in the scam space, for example. So it does come up in that issue-specific sense when we're developing policy and consulting on that.

Senator HUME: Is it something that is done on an industry-by-industry basis? Obviously Treasury would look at the financial services industry, Communications would look at the communications industry, Energy and Environment would look at the energy industry, but it's Finance, you're saying, Minister, that tries to pull it all together to look at the regulatory impacts and the opportunity for deregulation from a whole-of-government perspective?

Senator Gallagher: Certainly the Better Regulation group sits within Finance, but that doesn't mean that other agencies aren't responsible for consultation with their own stakeholders about all of the reform work that's underway.

Mr Philp: So, as these policies come together, other departments will have the opportunity to comment on those, including those who don't have a direct responsibility through the normal cabinet processes, and that will also include the central responsibilities such as Finance that the minister just mentioned, as well as PM&C through the impact assessments and the like.

Senator HUME: Thank you for that. I have some more questions, Chair, on a couple of other issues, but I will cede the call.

CHAIR: Thank you, Senator Hume. I'm going to Senator Smith. We are going to endeavour to conclude at 4.15 and perhaps release Markets if we can. That's our goal at the moment. Senator Smith.

Senator DEAN SMITH: Just going back to the Levy review if we can, on notice, can you please provide us with a list of those consultations that were undertaken by the minister following his receipt of the report from Ms Levy?

Mr Moore: We can take that on notice.

Senator DEAN SMITH: I would be interested in knowing who, when and via what medium. Was it a Microsoft Teams meeting? Was it an in-person meeting? I ask that because I've seen some references to roadshows being held as well. Is my request clear?

Mr Moore: Yes, it is.

Senator DEAN SMITH: There has also been reference to other expert opinion, or second expert opinion, in some of the media commentary. So can we differentiate between, perhaps, consumer groups and industry experts? Is that clear?

Mr Moore: Yes, it is.

Senator DEAN SMITH: Mr Jones, in that webinar of 11 May—which I didn't participate in, but there has been some reporting of it—talked about 'a bunch of recommendations' being taken to cabinet. Are all 13 recommendations of the Levy review being taken to cabinet simultaneously?

Mr Philp: They will all be considered by government.

Senator DEAN SMITH: My question was: are they all being taken to cabinet?

Mr Philp: I'm being cautious not to disclose cabinet deliberations.

Senator DEAN SMITH: I heard that. He also talks about 'a non-controversial pillar of measures', 'non-controversial measures that might be more difficult or time-consuming to implement' and 'a pillar of non-burning-deck issues that will take longer to implement'. Can you give us a sense of which of the 13 recommendations fit those three pillars?

Senator Gallagher: I think you'll have to wait until government has considered that.

Senator DEAN SMITH: Not very long apparently, because it is early June.

Senator Gallagher: Exactly. Hold onto your seats.

Senator DEAN SMITH: Minister, does the government expect to have the regulatory and other legislative changes done by or prior to the next federal election?

Senator Gallagher: On the Quality of Advice Review? Again, I think the timetable at the moment is that it will go to cabinet and then there will be an announcement. I don't want to prejudice discussions that would be had in cabinet, but it's going to go there very soon and we'll be able to provide you with an update not long after that.

Senator DEAN SMITH: So, it is not clear whether it—

Senator Gallagher: We will have a government response at that time, and that will be clear.

Senator DEAN SMITH: So consumers and other participants should be wary, because there is no clear—

Senator Gallagher: No. I think you're trying to build something up here. I'm just saying that it'll be very clear once the cabinet has had the opportunity to consider the review plus the work that the Assistant Treasurer has done, and decisions will be taken and then announcements will be made.

Senator DEAN SMITH: Does the government agree or disagree with Ms Levy's comments that the cost-of-living crisis ramps up the urgency for some clarity around this?

Senator Gallagher: Yes, I did read those comments, and I think you can see from the budget that we are responding where we can—

Senator DEAN SMITH: I think her comments were in regard to the Quality of Advice Review and not about the budget.

Senator Gallagher: on cost-of-living relief. I don't think it's unusual or surprising that the government is considering the recommendations and the further consultations that the Assistant Treasurer has undertaken before responding to that report. It's good process. We're following it.

Senator DEAN SMITH: So it's not urgent enough to have a legislative timetable that you can share with the committee?

Senator Gallagher: What I'm saying is you will know following cabinet's considerations. In my experience, when I had this portfolio in opposition, most of the time there is a range of views about some of these matters, so consultation is key in providing the room to see where we can reach agreement, I think.

Senator DEAN SMITH: Can people with a view expect there to be more consultation after the cabinet deliberations and decisions, or has the consultation process around these matters now ended, or can some stakeholders expect there to be continuing consultations around some of the issues?

Senator Gallagher: I imagine there will be. These issues are always talked about in my experience, but the government will respond to the review itself.

Senator BRAGG: I've one more question. I've just got to remember what it is! That was rather an abrupt end from Senator Smith! I think I've got it.

Senator Gallagher: I've been there!

Senator BRAGG: He's got as far as I was going to get I think. He's a real gentleman. What I would like to ask about is, more or less, on the issue of white-collar crime, which has been the subject of some discussion this morning and, no doubt, will be further probed in these other various references inquiries. Where exactly does corporate law and corporate governance policy sit in Treasury now?

Mr Kelly: That's with us.

Senator BRAGG: How many people work on corporate law? There used to be a minister for corporate law, so it was quite clear that there would be a body of work on corporate law. Now that is not so clear. So who's working on it and how does the reporting structure there work?

Mr Philp: Mr Dickson is the Assistant Secretary of the Corporations Branch.

Mr Dickson: I head up an entire branch that is, my name, corporations law. It includes a team of people that have responsibility for responding to things of a more general nature. We have another team that is responsible for financial reporting. We have a team of people that are looking at the implementation of the government's commitment around beneficial ownership and introducing the beneficial ownership register. That's in two parts. I don't have to go through the details, but they cover beneficial ownership. And then I have a team of people that administer Australia's obligations under the OECD, to provide a national contact point for complaints against multinational enterprises. So we have a fair-sized group of people that look at corporations law.

Senator BRAGG: How do you think it's going?

Mr Dickson: In terms of—how do I think what's going, Senator?

Senator BRAGG: We've generally been thought of as a fairly sophisticated economy with a strong commitment to the rule of law and effective regulation. There is a circular body of reviews and inquiries that happens under every government. I'm wondering how you think our position is going. Do you think that people are fearful of the corporate regulators? Do you think our corporate laws are being taken seriously by the market? I'm just wondering how you think it's going.

Mr Dickson: Senator, I think you're asking for an opinion, which I'm not quite sure is the—

Senator BRAGG: No, I'm asking you how successful you think Australia's corporate laws are.

Mr Kelly: To add to Mr Dickson's answer, the general reputation Australia has is still a high one. When the Financial Regulator Assessment Authority looked at ASIC, it still found that the evidence was that ASIC is held in high esteem by its peers across the range of areas that it regulates. Our corporate law standards and obligations—there are differences between countries—are at par for what you'd expect for an advanced economy.

Senator BRAGG: We heard about the Dixon issue earlier today. There have been a range of cases in the courts—Melissa Caddick, a bunch of insider trading issues and the PwC issue, which was in estimates today. What impact do you think these are having?

Mr Kelly: You are raising questions that are, in some ways, stepping outside of corporations law in the way we've traditionally thought about it. Dixon Advisory is a financial advice related issue. It also goes to managed investment schemes and how they're regulated. If you step back and think about PwC from the regulation-of-entities perspective, it's largely a partnership with corporate elements in it. Partnership laws are the responsibility of the states.

Senator Gallagher: I don't think it's a surprise to anyone that there's vigilance and response. It's one of those things you keep under constant consideration as a government, where you're making sure that your laws are fit for purpose. Reviews help inform that. Unfortunate events, including the ones that you've named, also require you to have a look at that. So it's constant vigilance and assessment, I would say.

Senator BRAGG: The main question I have on the back of that—that's quite a useful segue; thanks for that—

Senator Gallagher: No probs.

Senator BRAGG: do you think the regulatory architecture is right, because there are a lot of different agencies here. There is one agency that does a lot of things in relation to corporate law and corporate law enforcement. There have been periodic reviews of these things by various governments over the years. The general consensus has been that the twin peaks model, even though there are many more than two regulators, has been pretty solid. Is there any process on foot to look at regulatory architecture here, in this space?

Senator Gallagher: Can I come back to you on that, because this isn't my portfolio area. I'm not aware of any, but that's not to say that there hasn't been some consideration of it—unless an official can assist me on that.

Mr Philp: The assessments that the FRAA does assist with this type of assessment. It's a difficult question to answer because corporate malfeasance can emerge in a number of areas, whether it be the work that ASIC does, the cartel and misuse of market power issues that the ACCC considers, or the work that APRA does. If we think about various indicia, we know, in the recent financial issues, that Australian financial markets have been very well placed to weather those things, such as Silicon Valley Bank and the like. On that indicator, things are going quite well. Uncovering malfeasance can mean both that there is an issue there that needs to be solved and that, with the fact it has been uncovered, our regulators are doing a good job. It's a very complicated question to answer.

CHAIR: Thank you very much, Senator Bragg. We've got five minutes. Senator Hume.

Senator HUME: I want to ask some questions about the better targeted superannuation concessions in the budget, on page 15 of BP2. First of all, I want to ask about defined benefit schemes and how they will be appropriately valued and have the earnings taxed under this measure in a similar way to other interest, how far Treasury are along in working out how they will in fact do that and whether that has been factored into the receipts that have been banked in the budget.

Mr Philp: I'll ask my colleagues to intervene in a moment. We have consulted on this and we have a view that we've advised government on. But to the extent to which they're included in the receipts—sorry; in budget documents.

Mr Hawkins: We went through a process of consulting with industry, post the announcement, including with representatives of defined benefit schemes. The government announced in the budget that an appropriate valuation will be applied to those defined benefit interests. Those schemes are quite complex, so the same valuation may not apply to every type of scheme. The legislation that the government will release for exposure in coming months will detail the process that funds will need to go through to land on that appropriate valuation.

Senator HUME: How many different kinds of DBS are there?

Mr Hawkins: DB schemes?

Senator HUME: Yes.

Mr Hawkins: They're hard to characterise into a certain number of types of schemes, but, in the private sector, a number of those schemes might be a lump sum of defined benefit interest, so they only provide a lump sum benefit when you retire. A number of the public sector schemes, however, give you a range of different options when you retire, and, most commonly, people choose to take a lifetime pension when they reach retirement. The valuation of those schemes will differ, depending on the type of benefit that's taken at retirement, and that valuation needs to apply all the way through the accumulation phase leading up to retirement and also needs to flow through to the retirement phase. Because those different types of benefit structures exist, the valuation approach will need to differ, based on the type of scheme it is.

Senator HUME: Potentially, people that have been on a lifetime pension for, say, five years or 10 years may actually see the size of that pension cut as part of the imposition of the superannuation changes on defined benefit schemes. Is that right?

Mr Hawkins: Just to clarify, what do you mean by cut?

Senator HUME: They'll find that the amount of pension they get is smaller because there are going to be, potentially, tax implications on some sort of calculated value of what their defined benefit scheme is—if it were a lump sum, for instance.

Mr Hawkins: The operation of the measure that the government has announced means that the tax liability that's calculated is imposed on the individual, and the individual will have the choice whether to pay that out of their own pocket or to pay it out of their superannuation interest. The pension that someone receives won't change—

Senator HUME: But they may end up paying tax on it.

Mr Hawkins: but there will be that tax liability that they'll need to meet as a result of the calculation that the tax office will do. Depending on where you are in terms of your retirement, the value of your interest might be declining over time, so someone in a defined benefit interest pension may pay tax for a period of time but perhaps not for the entire time of their retirement.

Senator HUME: But you would find that there are some that aren't paying tax on their defined benefit pension now that may end up paying tax on their defined benefit pension, even if it is only temporarily—but it might be permanent.

Mr Hawkins: If the valuation of their interest exceeds \$3 million, then they'll be within scope of the new tax, and that may trigger some additional tax liability in respect of that person. The point I was trying to make is that that valuation won't be static and will change over time. So you'll only pay additional tax for the period that your valuation exceeds \$3 million.

CHAIR: This is your last question, Senator Hume.

Senator HUME: I've just got a couple of questions specifically on this issue and then we can let the department go. Would I know in advance whether I would fall into that net and when, potentially, I would be removed from that net? Will it become very clear in the calculations that are provided by government or by my superannuation fund as to how much I'm going to pay, when I'll need to pay it and when I might not need to pay it anymore?

Mr Hawkins: The valuation approach that the fund will use will be up to the trustee of the fund to communicate with their members around how that's arrived at and communicate it to the Tax Office. The Tax Office will calculate the liability. Individuals can see through myGov what their total superannuation balance is, and the formula used for the measure relies on total superannuation balance. Individuals can refer to that information to get an assessment of where their total value currently sits and whether they're likely to exceed the \$3 million threshold at which the tax kicks in.

Senator HUME: Given this policy isn't indexed and there was some analysis that Treasury did saying that a person aged in their 20s earning, on average, \$90,000 a year will likely hit the \$3 million balance where the tax change kicks in. Was there some analysis done as part of your gender assessment to see what the impact would be on women of different age cohorts?

Mr Hawkins: I can speak just to the question around the gender impact. We did do some analysis showing that 60 per cent of those affected are male and 40 per cent of those affected are female. I might pass to my colleague around the cameo example.

Ms Di Marco: It's important to recognise with that kind of cameo analysis that it is a hypothetical and illustrative cameo only. You don't take those kinds of cameos and imply an impact for an entire cohort. They're designed to be, as I said, illustrative, and with a hypothetical individual. Hypothetically, in that particular case, if there was an individual who was at their working life at the age of 20 on the average weekly ordinary time earnings and stayed on that income for their entire working life then they would hit the cap, but it's not designed to make an assessment over an entire cohort. Indeed, it would be somewhat unconventional to take a cameo type of analysis and seek to apply the impact over a cohort, be it income, age, gender or anything of that nature.

Senator HUME: More young people now will fall into the net of this policy because it's not indexed. Surely that was taken into account when doing a gender assessment? You don't just do a gender assessment without considering—

Senator Gallagher: A gender assessment would look at the difference between women and men at different points of their career, I would imagine. But, like I said to you last week, I think most women in this country would kill for \$3 million in super, frankly.

Senator HUME: I know you said that last week.

Senator Gallagher: Well, it's true.

Senator HUME: The problem is that's not the question that I'm asking. What I'm asking is what were the key findings and conclusions regarding the effects of this policy on that specific demographic?

Senator Gallagher: We'll see if we can find you any more information but it will be very similar to the changes I think you introduced when you did some of your big super changes, which weren't indexed.

Senator HUME: But there wasn't a specific gender assessment conducted on that. Can the government answer why you were unable to take a regulatory impact assessment for this policy but were able to do a gender analysis? I would imagine that a RIS would be a basic requirement for such a significant policy and yet there doesn't seem to be one. Can anyone explain why that is?

Mr Philp: The failure to provide an impact assessment prior to the decision was an inadvertent oversight by the Treasury.

Senator HUME: Has one been done since then?

Mr Philp: Our commitment to the Office of Impact Analysis is that one will be done and provided as part of the explanatory memorandum when the materials are made available to the public and the parliament.

Senator HUME: But it's already been budgeted for and there hasn't been any assessment of regulatory impact.

Mr Philp: There hasn't been an impact assessment. There has been a significant amount of policy work which includes the impact of the policy through a number of briefings since last year and moving into the cabinet process for decisions at this time. The failure on our part was just to do that impact assessment, which would have been published prior to that decision being taken.

CHAIR: The committee—

Senator HUME: So there has been a gender assessment but not a regulatory impact statement?

CHAIR: Senator Hume, thank you. You got some interesting answers there. The committee tables a document provided by Senator McDonald. Senator Bragg has one final question. Senator Bragg.

Senator BRAGG: Just earlier I asked about the Dixon Advisory issue and the CSLR. Was Dixon included in the legislation that was introduced into the last parliament?

Mr Philp: I'm not aware of that. I'm not sure Dixon was specifically included by name.

Mr Preston: My understanding is that the scope has not changed between the bill that was introduced in the last parliament and the bill that's before the Senate at the moment.

Senator BRAGG: So the question time brief that was prepared for this government, which sets out the Dixon Advisory example in detail, including all the examples, was provided to the last government as well, was it?

Mr Preston: I don't have that brief in front of me. I'm not sure of the brief that you're referring to, I'm sorry. I would doubt very much that a question time brief prepared for one government would be provided to a former government.

Senator BRAGG: I'm not trying to play a tricky game; I'm just trying to work out whether Dixon was in by reference or specifically in the last parliament or whether it has been added specifically or by reference in this parliament.

Mr Preston: I think the best way to think about this is that the scope hasn't changed. There was an announcement regarding the liquidation which prompted a large number of claims, and that then led to the change. So more claims fell into the net, if you like, were made.

Senator Gallagher: Not scope, but size.

CHAIR: Thank you all. Thank you very much, Mr Philp and team. We are in a position to release the Markets Group. The committee will suspend for a break and will return with the Fiscal Group.

Proceedings suspended from 16:22 to 16:35

CHAIR: The committee will resume with fiscal group. Ms Reinhardt, are you happy to proceed straight to questions?

Ms Reinhardt: We're happy to proceed. We also have the employment white paper and the deputy secretary in charge of that.

Senator McKENZIE: I have some questions around population policy. I know the deputy secretary earlier in the day was saying that modelling had been done on the aggregate impact of the population intake in the budget—the 1½ million additional people. Mr White is furiously nodding to my question. Mr White, can you take me through that modelling. What impact has Treasury shown?

Mr White: My team is responsible for doing forecasts of the population, so births, deaths, immigration, emigration. We do that as part of every budget MYEFO round and those are the sorts of things that underpin the economic forecasts that Mr Yeaman's team do. We provide them with detailed forecasts of how many people we think will be in the country. They take that and they then apply all the sorts of things they do to say the economy will be this big, there would be this many people in the labour force, all those sorts of things.

Senator McKENZIE: Yes, all those assumptions. Given that work has been done for the immigration figures in the budget—400,000 this year, 315,000 next year and beyond, to 1½ million over five—what were those impacts?

Mr White: They are questions for Mr Yeaman's team.

Senator McKENZIE: I asked Mr Yeaman. Minister, I asked Mr Yeaman and I was told to come here.

Ms Reinhardt: Mr Yeaman is still here, just in case there are questions.

Senator McKENZIE: Let's get Mr Yeaman to the table and while he is making his way—

Senator Gallagher: I think there are certain aspects he could respond to but the ones he was going to ask—

Senator McKENZIE: I was quite specific with what was the impact and he said I had to come and talk to the population unit.

Ms Reinhardt: It depends on what sort of impact you are talking about. If you are talking about standard budget impacts, we would say that the permanent migration program, which is 190, is a standard baseline assumption that is included in budget, so there is very little change from that. In terms of the net overseas migration changes that you have mentioned, they are quite a significant catch up from previous years, so we still remain well below the net overseas—

Senator McKENZIE: I appreciate that. I have all the TPs from the government on why we are here and what it means. I only have a short amount of time, so I would really appreciate, Ms Reinhardt or Mr Yeaman, what is the impact of the additional figures in the budget?

Mr White: The reason that we increased our estimates compared to the October budget last year is mainly because two-thirds—

Senator McKENZIE: Mr White—

Mr White: This will go to help Mr Yeaman's question. Two-thirds of the increase has been tertiary students coming back.

Senator McKENZIE: Yes, we have gone through this.

Mr White: So they obviously go to education exports. Basically, the other third is working holidaymakers—people who come out here for a holiday but get work rights. That goes to the people who are extra who were not here in October last year.

Senator McKENZIE: Yes, we are aware of who they are why they are here. I want to understand the impact of their arrival more broadly. Mr Yeaman, you said earlier that the aggregate impact has been modelled. I want to unpack that.

Mr Yeaman: I will do my best. I did remain in case this occurred.

Senator McKENZIE: Thank you so much—ever helpful.

Mr Yeaman: The best way to describe it is the aggregate increase in migration—estimates that we have discussed—go through to a larger labour force for us. In the budget pages—I'm just trying to find the exact page—where we talk about the medium-term outlook, we have noted in the budget that medium-term growth prospects have been upgraded substantially because of the fact that we have a larger labour force for one, which is mostly the migration numbers. Secondly, we have a high level of participation, which is two things. It is us reassessing our view of where participation sits structurally in the broader economy but also the fact that the migrant profile we are bringing in is younger and therefore has a higher participation rate. I'm just trying to find the exact numbers here. It is in the budget papers under 'medium term'. Those two things left the aggregate level of potential GDP and therefore activity. There is a partial offset for that, which is, as we discussed earlier with the committee, the fact that recent productivity outcomes in the near term have been below our expectations. So we essentially have migration lifting the overall size, in the short-term, growth of the economy. We will have participation lifting again, which is partly migration and partly other factors. We then have productivity coming off and taking some of that back.

Senator McKENZIE: Is any of that drop in productivity as a result of—

Mr Yeaman: No, we have not made a judgement. The drop in productivity that we have seen is observed data. Ms Hunter made the comment earlier we are seeing a lot of volatility in that data right now because of the impacts following COVID flowing both in and out of the economy on the way through. We haven't attributed the increase in migration as a change in productivity anywhere in our forecast.

Senator McKENZIE: In terms of the housing issue, obviously we've seen the lowest dwelling approval data. You and I spoke about that earlier. The planning ministers haven't had a MinCo since the Labor Party came to office. Bearing in mind the group that is involved in the planning, land release, urban development policy area across the country; that responsibility largely sits with states. What modelling has Treasury done to actually look at the flow-on impact on infrastructure and also housing supply when it comes to those additional people's arrival?

Mr Yeaman: From our group's perspective, we have not done any specific modelling that looks at those broader impacts on planning. That has been fed into the planning ministers' process. What we do is, from a macro perspective, look at overall demand and supply in the market. In statement 2 of the budget papers, we have predicted a fairly strong pick-up, particularly in medium-density housing in about 12 to 18 months, so we expect to see the increase in population that we are seeing now—that increase in population and the impact that has on the housing market and the tightness of the housing market—drive a stronger cycle than we previously expected on the way out. But of course, it will take time for that to occur because houses can't be built overnight. It does take some time and there are lags in the system. We have looked at that from a housing investment perspective, but the broader sweep of issues that you are talking about, I have not been involved in; others may have access to information.

Senator McKENZIE: No, I appreciate that.

Senator Gallagher: I will add one thing here because it is relevant to your question. In national cabinet on 28 April, one of the outcomes was that within the next six months planning ministers develop a proposal for national cabinet outlining reforms to increase housing supply and affordability, working with the Australian Local Government Association.

Senator McKENZIE: Thank you, Minister, I have had the national cabinet consider both the migration policy and infrastructure, but the infrastructure department weren't actually involved until well after the fact, and now we

are in a review. How many actual dwellings will be required in your estimation in 12 to 18 months? How many additional dwellings?

Mr White: I'll come back to the question. For students and working holiday-makers, we're back to about the level that we were before COVID.

Senator McKENZIE: I appreciate that.

Mr White: That's fine.

Senator McKENZIE: I'm going to get cut off.

Mr White: I was going to make the point that, pre COVID, all of those people had a dwelling and were already here. I'm not saying there's a whole offset, but those people are not necessarily competing in the same housing market as families, for example. So student accommodation will not totally do that. There should already be student accommodation around that has all those people and working holiday-makers. The population has got bigger since then as well, and the other thing that's happened is that, through COVID, the size of households decreased a little bit.

Senator McKENZIE: Yes, it has been a trend over time.

CHAIR: Last question, Senator McKenzie.

Senator McKENZIE: Mr White, it looks like I'm going to have to hang around for another call, because the obfuscation worked.

CHAIR: I'm concluding too.

Senator McKENZIE: It sounds like from Mr White's evidence that there will be no impact. There won't need to be additional dwellings, because all these people had houses pre COVID.

Mr White: No, I wasn't about to say that. I was meaning that there were some offsets to those sorts of things. So if people go back to having the household sizes that they had pre COVID then that would—

Senator McKENZIE: Is that one of your assumptions?

Mr White: We don't assume that at the moment, but it was a difference in the way things happened. There was a certain structural change during COVID, and presumably driven totally by COVID, that could go back a bit. So that is one thing, as I said. As for student accommodation, there were lots of students who left and who have come back, and there will already be accommodation. There are some things there that are going on that will certainly mean that we shouldn't need accommodation for every one of these people like one-for-one.

Senator McKENZIE: My question was actually how many dwellings will be required, with all the assumptions that you're putting into the thinking. I'm not assuming every new arrival requires their own dwelling at all. But, with all the assumptions and brains that you bring to this endeavour, how many new dwellings will be required?

Mr White: We don't have a number, but it is quite clear that having extra people coming into the country will require some new dwellings. We would not say there is no—

Senator McKENZIE: But we haven't done that work. That's my question.

Mr White: No. Can I just quickly add also that we deal with the national urban policy group, which is run out of the department of infrastructure. We provide all the information that we're talking about here—about population and our forecasts into that—and they look at things like demand for housing and those sorts of things in that process. So we are feeding our information into that process to make sure they have the best information.

Senator McKENZIE: So, post National Cabinet, the infrastructure department, through their national urban policy unit, has that information.

Mr White: Yes. We've met with them at least three times in the last six months, and we provide them with all the information about population that they require to think about these issues.

Senator McKENZIE: I'll have some more questions, and I'll follow up with QONs on those.

CHAIR: Thank you, Senator McKenzie. Senator Steele-John.

Senator STEELE-JOHN: Can you confirm that Budget Paper No. 2, on pages 197 and 198, states that \$15.3 billion will be saved from 2023-24 over the forward estimates due to what is described as effectiveness and sustainability budget measures for the NDIS?

Ms Reinhardt: I might start off and then Mr Hamish McDonald from the Social Policy Division would like to add some detail. In terms of the National Disability Insurance Scheme, there's been significant investment by the

government towards building supports around that scheme so that it can deliver better and more efficiently for participants over the forward estimates. There's \$730 million that's being spent.

Senator STEELE-JOHN: I do apologise. I'm under the clock, and I'm just seeking to establish first of all some basic facts about budget Paper 2, pages 197 and 198.

Senator Gallagher: So on the pages that you specify, the \$15.3 billion in moderating the additional growth in the scheme is part of this budget. It's moderating additional growth. So extra money continues to go in.

Senator STEELE-JOHN: I understand. Can you also confirm that the same pages of budget paper 2 state that \$59.3 billion will be saved through an NDIS financial sustainability framework from 2026-27 over seven years?

Senator Gallagher: The paragraph below?

Senator STEELE-JOHN: Yes, that's—

Senator Gallagher: It's talking about moderating growth in the scheme, so I don't accept the way you put it. It's about moderating the growth that's expected.

Senator STEELE-JOHN: But that's listed to save \$59 billion over the seven years.

Ms Reinhardt: One way of being clear about that is that it was one of the major payment's growth rates in the previous budget. It was at nearly 13.8 per cent over 10 years, which is clearly unsustainable. You can see the changes that have been made in chart 3.8 on page 109—

Senator STEELE-JOHN: Why do you say that, Ms Reinhardt? Why do you say it's 'clearly unsustainable'?

Ms Reinhardt: Because the nominal growth rate and the real growth rate are significantly below that. If we put that on a chart for any significant amount of time we would have no budget money left for anything else. It is undeniably unsustainable at that level.

Senator STEELE-JOHN: So the imposition of the NDIS financial sustainability framework will save \$59 billion over the seven years?

Ms Reinhardt: Relative to those very high growth rates of 13.8 that were in the previous budget—that's correct.

Senator STEELE-JOHN: And we'll achieve that saving through the eight per cent growth target across those years?

Ms Reinhardt: That's correct, but we'll also achieve it through the changes that the government has introduced in the NDIS and the supports which are being provided to deliver that in a more effective and efficient way, whilst still delivering for participants—

Senator STEELE-JOHN: In relation to the eight per cent growth target: it's supported by the NDIA—correct?

Senator Gallagher: I think that's a matter you should put to the NDIA.

Senator STEELE-JOHN: I will be, in terms of Treasury's—

Senator Gallagher: We're not responsible for their evidence. But they have been consulted by the minister, so it's more appropriate that that question be asked there.

Senator STEELE-JOHN: Do you know what role the chair of the board, Mr Kurt Fearnley, had in discussions or decisions when arriving at the eight per cent figure?

Senator Gallagher: That's a matter for the NDIA and another committee.

Senator STEELE-JOHN: Or the CEO, Rebecca Falkingham?

Senator Gallagher: I know for a fact that they were involved, but I can't speak to you about the extent of their involvement.

Senator STEELE-JOHN: So they were involved in arriving at that—

Senator Gallagher: In discussions about this. They've been working closely with the minister about how to ensure the future prosperity, in a sense, and the functionality of the NDIS. They've been working on that, and I don't think that's a secret or a surprise.

Senator STEELE-JOHN: Did the NDIA provide Treasury with any information about which areas of the agency would lose money through the imposition of an eight per cent—

Senator Gallagher: No-one is losing money. There is not a loss of money; this is additional expenditure that will be going in every single year. It will still remain, I think, probably the fastest-growing program outside the

debt management program at the moment—even higher than that. So it would remain the fastest-growing program across the government. We're expecting to invest billions more into the NDIS.

Senator STEELE-JOHN: Let me take you to this: the Senate supported an order for the production of documents on the financial sustainability framework. The response we received stated that the framework does not yet exist. Can you confirm that the NDIS financial sustainability framework in fact does not yet exist?

Ms Reinhardt: The financial sustainability framework already exists to the extent that the National Cabinet and the government have announced that it will be implemented. The states and territories, the NDIA and the minister will work to implement that. We've already introduced a number of measures, as I started to explain earlier on—

Senator STEELE-JOHN: But the framework doesn't exist yet, does it?

Ms Reinhardt: The framework will be underpinned by the measures that already exist, plus additional measures.

Senator STEELE-JOHN: So how does Treasury go about landing at a \$59 billion figure produced as the result of a framework that doesn't yet exist?

Ms Reinhardt: The \$59 billion figure is the difference between the 13.8 growth rate and the 10.4 growth rate that's now projected. It's the moderating of the growth rate and it's the target that has been given to the program.

Senator STEELE-JOHN: In Treasury's view, is there flexibility for that target?

Ms Reinhardt: It—

Senator Gallagher: That's the decision that came out of National Cabinet from all the governments.

Senator STEELE-JOHN: Yes, I know. But in terms of that target figure, have you modelled flexibility? Is it a flexible figure?

Ms Reinhardt: Where we would say there is flexibility is in how that is implemented. That's the really important part of it because the intention is that this remain a demand-driven program that is for the benefit of recipients. So there's definitely flexibility built in.

Senator STEELE-JOHN: There's flexibility on how we get there, but not flexibility on the eight per cent figure, is there?

Senator Gallagher: That decision has been taken and it has been reflected in the budget papers.

Ms Reinhardt: One thing that's probably also worth being aware of is that it's always been the case that in budget papers in the longer term the growth rate of NDIS to some extent moderates as a result of maturation of the scheme. So that is completely consistent with that approach as well.

Senator STEELE-JOHN: In terms of the \$59 billion figure that has been booked in the budget as a saving, can I just confirm that that money is intended to be returned to the general revenue pool.

Senator Gallagher: It's not been booked as a saving. You will not see it anywhere in the budget paper referred to as a saving. It is not seen as that. It is about moderating—

Senator STEELE-JOHN: It is in the budget paper—

Senator Gallagher: the growth in expenditure.

Senator STEELE-JOHN: It says it is a saving.

Senator Gallagher: No. This program will continue to grow very rapidly, requiring billions and billions of dollars, as it should. But we have to ensure that we have it on a sustainable footing going forward. At the moment, it's growing at a faster rate than expected. So the minister is in charge of doing the work, and he has been doing it since the day he was sworn in. He's working with participants to make sure that every dollar that's going into the NDIS is going where it's needed. At the moment, we think there is room to tighten some of that up.

Senator STEELE-JOHN: Do you model the return? In this entire process, has anyone in Treasury modelled the return on investment that comes from expenditure in the NDIS?

Senator Gallagher: I think some of that work has been done—

Senator STEELE-JOHN: By non-government organisations?

Senator Gallagher: I don't think it has been done by Treasury. You would be best placed asking the portfolio department those questions. No-one is doubting the benefits that come with the NDIS at all. No-one is. We want to ensure that it goes from strength to strength. The point we are making is that we can't continue to allow it to grow at 14 per cent per annum.

Senator HUME: I would like to follow up on Senator Steele-John's questions. How does the imposition of a spending growth cap, which is essentially what this is—

Senator Gallagher: We did all this last week.

Senator HUME: But I'm interested in Treasury's perspective, Minister. How does the imposition of a spending growth cap in the budget align with a demand-driven scheme?

Ms Reinhardt: I want to make it very clear that there has already been—I started to say this before and I'll say it again—very significant investment in this budget in ensuring the scheme is sustainable over the next four years. The eight per cent spending cap is a target for the scheme to aim at in the way it implements the program in a way that it remains a demand-driven program.

Senator HUME: Is it a cap or a target?

Ms Reinhardt: It is a target.

Senator HUME: Can I ask whether the NDIS medium-term projections that are presented in this budget line up with the NDIS actuary projections?

Senator Gallagher: I think we took this on notice for Finance—

Senator HUME: Unless Treasury has—

Senator Gallagher: so we won't go into this. There certainly was over the forward estimates, but you are talking over the medium term.

Mr McDonald: The change in the medium-term estimates for the costing measure reflects the change in the estimated costs under the eight per cent target compared to the previous actuary estimates.

Senator HUME: Sorry. Say that again, Mr McDonald.

Mr McDonald: On the \$59 billion change, the new medium-term costing is a costed measure that reflects the eight per cent target. The difference is the difference from the previous medium term, which was the previous actuary estimate.

Senator HUME: Which was 14 per cent.

Mr McDonald: The Commonwealth component—

Senator HUME: It was 13.8 per cent.

Mr McDonald: To avoid a bit of confusion on the 13.8 per cent and eight per cent figures, the 13.8 per cent figure is a Commonwealth component. So the equivalent is down to 10.4.

Senator HUME: The Commonwealth's component is what's represented in the budget, though, isn't it?

Ms Reinhardt: Yes.

Senator HUME: And that's not 10.4 per cent; that's been recorded as eight per cent.

Mr McDonald: Eight per cent is the total cost of the scheme. The Commonwealth bears a higher proportion of the growth in the scheme under the arrangement where the state contributions are capped at four per cent.

Senator HUME: This was not made clear in the Finance estimates last week, so I might have follow-up questions on that.

Ms Reinhardt: If you look at page 99, it's got the chart that has—

Senator HUME: In BP2?

Ms Reinhardt: BP1. It is a chart. That's the 10.4.

Mr McDonald: The text is on page 98.

Ms Reinhardt: I'm told it's in the text as well.

Senator HUME: On the framework: you said that there are some policies that have already been announced, but some have not been, that will take the NDIS spending growth cap back down to eight per cent; is that right?

Ms Reinhardt: The government has announced \$713 million of increased payments over the next four years to assist the agency to bring down the amount of overall spend. Those include things like building capability and systems to improve processes and planning decisions; fraud controls; strengthening supported independent living decisions; a lifetime approach to ensure plans are more transparent and flexible for life events—so a number of changes that make the NDIS more effective in the next four years. They will already be reducing the spend relative to where it would otherwise have increased to over the four years, and those and similar changes will also need to be implemented going forward. There are no further changes—

Senator HUME: But they haven't been articulated yet, so essentially—

Senator Gallagher: We went through this last week. There are the steps in this budget, there's the review that will be handed down and then there's the ongoing work that Minister Shorten is doing in working with participants, in particular, on the scheme going forward. We have covered this off.

Senator HUME: We have covered it off, except the fundamental question wasn't answered—

Senator Gallagher: Yes, it was.

Senator HUME: which is: why was a saving booked in the budget with a \$59 billion difference to the legislated actuary's estimates without any underlying policy detail to back it up?

Senator Gallagher: That's not true. It's simply not true. We've gone through it; we went through it just before. The steps that are being taken now—there's more work to be finalised, and there's agreement across the Commonwealth and the states about an eight per cent growth expenditure target, which comes in, I think, in the final year of the forward estimates.

Senator HUME: Can Treasury recall another time when there has been a cap on spending growth that has been put onto a measure like this without specific policy backing that has been costed?

Ms Reinhardt: The tax cap might be an example of—it's not a spending measure but it's a target and an implementation goal that's included in the medium term. Defence has a similar cap, and I understand there are one or two other ones. This is different in the sense that it is a target that's been given to the NDIA in order to deliver the scheme within that amount.

Senator HUME: Is this then being included as a fiscal guardrail? Is that what we're calling it now?

Senator Gallagher: You're calling it that.

Senator HUME: That's what a tax-to-GDP ratio is called.

Senator Gallagher: I don't know. I don't use the word 'guardrail' at all, and you use it all the time.

Senator HUME: Commentators use it all the time, and they say this budget lacks a lot of them.

Senator Gallagher: We can go into that, but we've tried to not get over the top today; we have a long week of estimates, so I'm pacing myself and trying to keep myself very zen for the duration! We can go through the savings, the revenue, the dealing with the legacy issues—all those issues. This is a very fiscally responsible budget, and, indeed, the changes to the NDIS are part of that. We need to ensure the NDIS continues on successfully, and it can't if it continues to grow at the rate it currently is.

Senator HUME: If the actuary is projecting that the demand-driven scheme is going to exceed the projections contained in your budget, how is the saving actually going to be achieved?

Senator Gallagher: The actuary—I think it's on that page of the budget—have agreed, as is my understanding, with the moderating of the growth across the forward estimates, based on the measures we've just taken you through. They have been—

Senator HUME: I don't think that's the testimony that was just provided, though.

Senator Gallagher: Yes, it was. What we took on notice last week and what Mr McDonald answered is—your question was over the medium term. I'm saying that, over the forward estimates, the actuaries have assessed the changes that are going to be put in place. I don't know what the technical term for actuaries agreeing is, but—

Ms Reinhardt: Endorsed.

Senator Gallagher: Thank you. They have endorsed the moderation in growth across the forward estimates based on those steps.

Ms Reinhardt: It is also worth reiterating what Senator Gallagher said earlier. This is not booked as a saving in any sense you might portray it as. It's not intended to be a saving; it's intended to be a moderation of the growth in the scheme to make it sustainable. It's not booked as a standard savings measure.

CHAIR: Senator Hume, one more question in this block and then I'll go to Senator McKenzie.

Senator HUME: I'm going to have lots of questions on notice on this as well. There were some comments by the Prime Minister in the *Australian* about the states picking up their fair share of the NDIS—sorry, what was the percentage you said?

Senator Gallagher: It is 10.4. It is covered in the budget papers. It's in BP1.

Senator HUME: Do budget estimates reflect the Commonwealth share of NDIS increasing to potentially 82 per cent? That was the comment that, I understand, the Prime Minister made.

Mr McDonald: The budget estimates do reflect the Commonwealth shares increasing.

Senator HUME: To 82 per cent?

Mr McDonald: I'm sorry, I don't have the percentage in front of me.

Senator Gallagher: It's certainly in that order.

Mr McDonald: It's in that order of magnitude.

Senator Gallagher: Because of the cap on the states' growth contribution under the original signatories to the scheme.

Senator HUME: Which was supposed to be fifty-fifty.

Senator Gallagher: The early work on the scheme didn't expect the scheme to accelerate at the rate that it has, so the states signed up to an agreement essentially about sharing growth but that it would be capped at four per cent.

Senator HUME: Can I, on notice—you don't need to have it here today—ask you to provide the annual profile of the Commonwealth's and the states' share over both the forwards and the medium term, please.

Mr McDonald: We can take that on notice.

Senator HUME: Thank you.

Senator McKENZIE: Just to clarify: Treasury has regular meetings set up with Infrastructure to discuss population trends and infrastructure needs, I'm assuming.

Mr White: Yes, we have discussions and meetings with every part of the Commonwealth that cares about population, including Infrastructure.

Senator McKENZIE: We won't make assumptions about how much anyone cares, but we'll add that they're with Infrastructure! Is Treasury aware that the government has not convened a planning ministers meeting in its first 12 months, given the housing crisis we've got? Are you aware that that has yet to be convened?

Mr White: I was not aware, sorry.

Senator Gallagher: I don't think that's a matter for Treasury, to be honest.

Senator McKENZIE: They can say they weren't aware; that's fine. Given two of the key agenda items for National Cabinet were migration policy and infrastructure, has Treasury been providing Infrastructure, since National Cabinet, with data to assist them with setting up a planning MinCo?

Mr White: We've provided them with data on our population forecasts.

Senator McKENZIE: Since National Cabinet? You can take that on notice.

Mr White: Yes, I'd have to look at that further.

Ms Reinhardt: That other thing that's worth being aware of—sorry to put my colleagues on the spot—is that we have our housing and revenue colleagues coming on board. They will also be able to talk about some of the other work that's going on around planning and zoning and working with local government associations. I think there is quite extensive work going on in this space that they are best placed to talk to.

Senator McKENZIE: In various areas. Was Minister King directed by the National Cabinet to convene a planning meeting?

Senator Gallagher: Well, I don't know if it's about a direction. It was an outcome of a range of decisions taken at National Cabinet. I have no doubt she would have been aware of the discussions ahead of that.

Senator McKENZIE: Has work been requested in preparation for that meeting on population trends, settlement data and economic impacts of the increased population?

Mr White: We have provided them with population data. I'm not aware of any other requests.

Senator McKENZIE: I will map that out on a question on notice.

Mr White: There could be other areas that got those requests.

Senator McKENZIE: Other outcomes out of National Cabinet: when was the decision made to maintain the infrastructure pipeline at a nominal \$120 billion over 10 years?

Senator Gallagher: That's a matter for ERC, not National Cabinet.

Senator McKENZIE: So a prebudget decision was made through appropriate government processes to keep the nominal amount of the infrastructure pipeline set. Was that at \$120 billion—

Senator Gallagher: It's a decision of government.

Senator McKENZIE: Irrespective of what the review will find, Minister?

Senator Gallagher: Yes, it's a decision of government.

Senator McKENZIE: Okay. I will have heaps on notice.

CHAIR: Thank you very much, Senator McKenzie. I'm going to Senator Smith.

Senator DEAN SMITH: Minister, I'm trying to be Zen as well, but Deputy Secretary Kelley did give me a commitment that an update would be provided to me in regard to that FOI request that I would say has not met any of the statutory requirements. Is someone able to provide the committee with an update?

Senator Gallagher: I'm sure we will be able to, Senator. Just leave that with us.

Senator DEAN SMITH: Just so everyone is clear, the committee, at my request, wrote to the secretary of the Treasury alerting the Treasury to the fact that there would be some questions with regard to compliance and responsiveness around FOIs.

Senator Gallagher: And Ms Kelley did come and answer a lot of those questions—not specifically to some of yours—

Senator DEAN SMITH: No, not specifically with regard to the FOI that I had tabled. Ms Kelley is here.

Ms Kelley: Senator, are you just wanting an update on where I've got to?

Senator DEAN SMITH: Yes, please.

Ms Kelley: I have spoken with the Treasurer's office, and I understand they have spoken to your office—

Senator DEAN SMITH: And what did they say?

Ms Kelley: about narrowing the scope of your request. That, I understand, is the status of where it's at.

Senator DEAN SMITH: Would you regard that is an informal way with which to deal with FOI requests?

Ms Kelley: Not in terms of discussions around narrowing the scope, no.

Senator DEAN SMITH: For other FOI requests I have made across the government, when they have queried narrowing the scope, it has come in a written form.

Ms Kelley: I'm happy to have another discussion with the office. I'm sure they will be happy to put something in writing to you formally.

Senator DEAN SMITH: Is this exemplary behaviour or standard behaviour since the government came to power, or is this an exceptional circumstance?

Ms Kelley: I think the figures I gave you earlier in terms of how we are responding to FOI requests demonstrate that we take our responsibility very seriously in terms of responding to those.

Senator DEAN SMITH: Because I am required as a parliamentarian to follow strictly the statutory requirements, I think it's a very, very fair—I shouldn't actually be directing this at you, sorry, Deputy Secretary; I should be directing it at the Minister, because we are talking about Mr Chalmers's office. So my apologies—

Senator Gallagher: Dr Chalmers.

Senator DEAN SMITH: We are required to follow the statutory process. I think it's a fair requirement or expectation of all of us that ministers in the government—the Treasurer no less—should also follow those statutory requirements. Do you think that's a fair expectation, Minister?

Senator Gallagher: Yes, and I think the Treasurer does that. I'm certainly aware of circumstances where we've had FOIs where we've reached out and said, 'Can you narrow the scope?' That is not unusual.

Senator DEAN SMITH: Minister, there was no formal acknowledge of this FOI request. I don't want to put words in people's mouths but I'm sure people who are more familiar with this process would call it 'loose', 'unconventional', 'tardy'. I've got to be honest with you, my suspicion is off the radar, because I was asking questions about GST documents between the Treasurer and state and territory treasurers and between the Productivity Commission review process. I'm highly suspicious.

Senator Gallagher: I think the Treasurer has made clear the government's position around GST.

Senator DEAN SMITH: No, no. I would like to—

Senator Gallagher: I think that's where you were trying to go.

Senator DEAN SMITH: If time permits—I'm giving officials a head start—I would like to come to a conversation of the Council of Federal Financial Relations and its most recent meetings. But, Minister, in all seriousness, you have been on this side of the table.

Senator Gallagher: Yes, and we dealt with a lot of delays around FOI, I have to say.

Senator DEAN SMITH: So when can I expect a response? Ms Kelley, what has the Treasurer's office said to you in terms of the status and nature of my inquiry?

Ms Kelley: Just what I said to you before, Senator—that they have contacted and spoken to your office.

Senator DEAN SMITH: That's all they've said to you?

Ms Kelley: That is correct.

Senator DEAN SMITH: And you're satisfied by that?

Senator Gallagher: We have been tied up in here most of the day.

Ms Kelley: Yes.

Senator DEAN SMITH: And they probably have been watching for most of the day. You're satisfied with that?

Ms Kelley: Well, Senator, they have informed me that they have been talking to your office about narrowing the scope of your request.

Senator DEAN SMITH: And that should come in the form of an email in the same way as other FOI requests that I have made, where scope has to be changed or extensions are requested, always come in the form of a written request.

Senator Gallagher: I'm not sure about that, but—

Senator DEAN SMITH: I'd just reinforce the point: it was only when my office made inquiries earlier this week with the Treasury that we even got an acknowledgement of my FOI request of 31 March. The Treasury, Ms Kelley—

Ms Kelley: Yes.

Senator DEAN SMITH: The Treasury the Commonwealth.

Senator Gallagher: Which is dealing with a lot of FOIs, and they deal with them in accordance with the law. Obviously, in this situation you're not—

Senator DEAN SMITH: Well, do they, Minister?

Senator Gallagher: Yes.

Senator DEAN SMITH: Do they deal them in accordance with the law in a hundred per cent of the cases in the Treasury?

Senator Gallagher: I think we've gone through some of the numbers involved with that today.

Senator DEAN SMITH: I don't think that's—

Senator Gallagher: But, in relation to your specific request, if you are requiring that information in email form—

Senator DEAN SMITH: Absolutely I am.

Senator Gallagher: I'm sure we will be able to ensure that that—

Senator DEAN SMITH: which is how I've communicated with AUSTRAC on other matters. I think that is a very fair—

Senator Gallagher: I'm not sure it is a hundred per cent required. I'm aware of where my office has just made a phone call and said, 'Look, could you narrow the scope?'

Senator DEAN SMITH: Minister, this was an FOI request that was lodged on 31 March this year.

Senator Gallagher: Yes.

Senator DEAN SMITH: But the basic statutory requirements have not been fulfilled.

CHAIR: Senator Smith, I don't know whether you want to—

Senator Gallagher: I think we've gone as far as we can go on it in this hearing.

Senator DEAN SMITH: At this particular point in time. I'll just reiterate the point: the committee sent a letter to the Secretary to the Treasury forewarning the Treasury that these issues would be discussed.

Senator Gallagher: Yes, but not specifically. Officials can only prepare to a certain point, Senator Smith, without—

Senator DEAN SMITH: I don't think it takes a rocket scientist to think, 'What is Senator Smith asking?—

Senator Gallagher: No-one knew that you were going to ask about whether or not an email had been—

Senator DEAN SMITH: Oh, here is an answer.'

CHAIR: Senator Smith, I think you've had a good go on that topic.

Senator DEAN SMITH: Okay. Thank you very much.

CHAIR: You've got a couple of minutes.

Senator DEAN SMITH: Perhaps Mr Yeaman can return to the table. Is Mr Yeaman here?

Senator Gallagher: We did release Macro.

CHAIR: I could go to Senator McKim and come back to you.

Senator McKIM: I just want to clarify whether—oh, he's back!

Senator DEAN SMITH: I'm sorry, Mr Yeaman. We can set the clock again after Mr McKim.

Mr Yeaman: I'll wait.

Senator McKIM: With bated breath, I'm sure. I wanted to check whether it's Fiscal Group or revenue group that provides advice to government on disbursement of GST payments to the states.

Ms Reinhardt: That would be us. Well, strictly speaking, it is the Commonwealth Grants Commission.

Senator McKIM: So you don't provide advice to government on—

Mr White: It is us, Senator.

Senator McKIM: Great. Budget Paper No. 3 states that, at the time of the budget, the Treasurer had not yet made a determination of the 2023-24 GST revenue-sharing relativities. Is 'GST-sharing relativities' code for the size of the GST payments received by the states?

Mr White: Yes. The relativities are about how the GST pool is split up between the states. On page 113 there is a formula which has population, the relativities et cetera, and that goes to how much each state gets.

Senator McKIM: But the Treasurer at the time of the budget had not yet made a determination on the 2023-24 relativities.

Mr White: No.

Senator McKIM: Is that still the case?

Mr White: The Grants Commission has provided advice on that, but, yes, at the budget he hadn't made a determination. I'd have to check about whether he has done it.

Senator McKIM: The commission provides advice, so what is fiscal group's role in this?

Mr White: We are responsible for the acts, the legislation that has the way that this process runs in it. The Treasurer provides the terms of reference to the Commonwealth Grants Commission, and we obviously provide advice on him doing that. It then comes back, and the CGC goes out and consults with states and territories and provides that advice to the Treasurer. We then provide advice to the Treasurer about putting out his final determination, which in history has basically been doing what the CGC says.

Senator McKIM: But it's up to the Treasurer for the final determination?

Mr White: The Treasurer is the determiner of that, yes.

Senator McKIM: The budget includes \$305 million over five years for the Macquarie Point precinct in Hobart and the York Park stadium in Launceston. What impact will those payments have on Tasmania's GST payments?

Mr White: When the Commonwealth Grants Commission does its determination, it is basically a fiscal strength determination of all the states and territories. Their calculations go to the revenue-raising capacities of states and the expenditure needs of states, and, as part of those calculations, revenue capacity includes grants given by the Commonwealth to states because, in the absence of those grants, they would need to raise money themselves if they were going to spend on those sorts of things. The CGC does a calculation; it is a three-year average calculation. For the 2023-24 year upcoming, it has the numbers for the year finishing 2021-22, so the previous financial year, and the two financial years before that. On the numbers you are talking about for those measures, they don't start spending money until the 2023-24 year. They won't be in those calculations for another couple of years, so there is zero immediate impact on the GST distributions.

Senator McKIM: Understood, but, regardless of the timing, if you look at medium-term flows of GST payments to the states, would it be correct to say that capital grants from the Commonwealth do sometimes result in a reduction in GST payments to the relevant states compared to what they otherwise would have been?

Mr White: Compared to if they had not received a grant?

Senator McKIM: Yes.

Mr White: Sometimes that can happen, but it is also true that that's only one grant payment amongst many to all states and territories, so there are swings and roundabouts in this sort of system that mean that, until you actually add up all the grants and other revenues that states have in their spending needs, you don't really know the full impact of these sorts of things until two years time when the CGC does its calculations.

Senator McKIM: Understood. Has the Tasmanian government asked for those payments to be exempt from the calculations?

Mr White: Yes. I think the Treasurer of Tasmania wrote to our Treasurer asking for the Treasurer to make a decision to exempt it.

Senator McKIM: When did that happen?

Mr White: Not that long ago—if you bear with me, I will find it. It was only a number of weeks ago, I think—very recently.

Senator McKIM: If you could, once you've got that, Mr White, just confirm the date of the letter. I think your evidence was that it was a letter from the Tasmanian Treasurer to Dr Chalmers.

Mr White: It was certainly a letter from the Tasmanian Treasurer.

Senator McKIM: And it was to the Commonwealth Treasurer?

Mr White: To our Treasurer. Our Treasurer has powers under the law to exempt, or to provide advice to the CGC to exempt, certain payments that they would otherwise count in their calculations.

Senator McKIM: Has the Treasurer provided that advice, to your knowledge?

Mr White: No. The normal course of events would be that the Treasurer would next look at these issues towards the end of this year, when he sends out terms of reference to the CGC for the next set of relativities.

Senator McKIM: Towards the end of this financial year?

Mr White: Towards the end of this financial year, and as I said—

Senator McKIM: Aren't we towards the end of the financial year?

Mr White: Oh, sorry. No, towards the end of the calendar year.

Senator McKIM: The calendar year?

Mr White: Yes. Normally, that would happen towards the end of this year, with the CGC providing advice early in the new year for the next financial year's relativities.

Senator McKIM: Were you able to find that letter?

Mr White: No, but if you would like to go on with something else—ah, excellent. Thank you, Ms Anderson. The ninth of May.

Senator McKIM: So that's the date the letter was written?

Mr White: Yes. It's budget day.

Senator McKIM: Commonwealth budget day?

Mr White: Commonwealth budget day. That's right.

Senator McKIM: Can you provide a copy of that letter to the committee?

Senator Gallagher: I think we would have to consult with the Tasmanian government.

Senator McKIM: Well, it's a letter from the Tasmanian Treasurer to the Commonwealth Treasurer.

Senator Gallagher: Yes, sure, but—

Senator McKIM: There's a strong public interest in releasing that letter.

Senator Gallagher: Sure. I'm just saying we'll just take some advice and come back on it.

Senator McKIM: Okay. I just indicate I'd be appreciative if that advice could be sorted in real time.

Senator Gallagher: Yes. I just think it's appropriate and polite to ask the person who wrote the letter if they're happy for it to be tabled.

Senator McKIM: Even if it's the Treasurer of a state of Australia, you think that—

Senator Gallagher: Yes. But we've been clear that it does ask to have that commitment exempt from GST.

Senator McKIM: Yes. So, Mr White, the letter, as the minister has helpfully reminded me, does contain a request—it's Mr Ferguson, isn't it?—

Mr White: Yes, it is.

Senator McKIM: that the payments be exempt from the CGC calculations. Can I be clear: does that include both the Macquarie Point precinct payment and the York Park payment?

Mr White: It says 'Macquarie Point', but there is an interesting question as to whether that was deliberate or shorthand.

Senator McKIM: Well, I can assure you that York Park is a long, long way, in Tasmanian terms, from Macquarie Point.

Mr White: Agreed.

Senator McKIM: Does it mention a dollar figure there in terms of that?

Mr White: No, it doesn't.

Senator McKIM: It doesn't. So it simply asks for the Commonwealth allocation of funds to Macquarie Point to be exempt from the CGC GST calculations but not for the Commonwealth payment for York Park to be exempt from the calculations? Is that correct?

Mr White: That would be the literal reading of what's written here.

Senator McKIM: That's the literal reading of what's written there.

CHAIR: Senator McKim, do you have a final question in this block?

Senator McKIM: I think this will be my last question. Thanks, Chair. Are there any other requests from the Tasmanian Treasurer in that letter?

Mr White: No.

Senator McKIM: Thanks.

CHAIR: Second last!

Senator McKIM: Just to be clear, there is an alternative name for York Park, which is the UTAS Stadium. That's not mentioned in the letter?

Mr White: No.

Senator McKIM: Thank you.

CHAIR: Thank you, Senator McKim. Senator Hume.

Senator HUME: I want to ask about the government's off-budget funds, the \$45 billion, which is the Housing Australia Future Fund, the National Reconstruction Fund and the Rewiring the Nation fund. At the last estimates, we went through some of the IMF's warnings on these measures. Minister—

Senator Gallagher: You're trying to say there's an IMF warning. I think the IMF said there shouldn't be an overproliferation of funds, from memory. I don't have the IMF—

Senator HUME: Because potentially they were inflationary.

Senator Gallagher: Well, I don't have the IMF's report, but it's not as you say it is. There was no warning.

Senator HUME: Well, it said that potentially those types of funds are inflationary. But that was the last estimates. I don't intend to re prosecute what we've already got on the record. Your argument, though, was that these funds reflect quality spends that build the balance sheet. I think I'm quoting you there.

Senator Gallagher: Yes, that's right.

Senator HUME: So, I'm interested in how that logic follows when the government's net worth is in fact deteriorating over the forward estimates before it flatlines over the medium term, and I'll point you to Budget Paper No. 1, page 117, chart 3.17, 'Net financial worth'. Does that mean—and correct me if I'm wrong—that either assets are becoming less valuable or liabilities are increasing at a faster rate than assets?

Ms Reinhardt: I'll start, and then hand over to Brenton, who's going to have a much better understanding of the off-budget measures than me. First of all, in terms of gross debt, which you've asked about, I think it's pretty clear from chart 3.11 that there's a significant decline in gross debt as a result of the significant savings the government made as part of this budget. That's one of the largest decreases we've seen in gross debt. So, that is not what is driving the table you have referred to on page 117. I'll just get Brenton to talk to the detail on the other side of the ledger, but I'm assuming it's also to do with returns on interest rates.

Mr Goldsworthy: To the first part of your question—you asked about the inflationary impact of some of these special investment vehicles and balance sheet funds—

Senator HUME: I didn't ask about that. I just referred to the IMF's comments.

Mr Goldsworthy: Right. I was just going to draw your attention to chart 3.16, though, on page 116, which shows the profile of the net cash flows from investments for policy purposes. That's quite useful in showing that in the near term the additional activity from these vehicles is actually quite small, and it ramps up over the forward estimates.

Senator HUME: Yes. I've got some questions about that.

Mr Goldsworthy: In terms of chart 3.17, if you look at the text in the second paragraph on that page, it talks about the improvement in net worth and net financial worth over the forward estimates. That's an improvement relative to the October budget.

Senator HUME: That blue line that's heading downwards—that's an improvement?

Mr Goldsworthy: No—yeah—

Senator HUME: It doesn't sound right, does it?

Mr Goldsworthy: It doesn't, no. I might just need a bit more time on this one.

Senator HUME: The commentary sounds very different from the graph.

Mr Goldsworthy: I can assure you there's nothing unusual going on, but I do appreciate your questions.

Senator HUME: So, box 3.5, which you've just pointed me to: overleaf, on page 115, it states that the government borrows to finance new investments, that acquisition of financial assets for policy purposes adds assets to the balance sheet, offsetting debt issuance in net financial worth but increasing gross debt, and that returns from government investments are expected to cover or exceed borrowing costs over the long term, improving the budget bottom line. But that doesn't seem to marry up with that table on page 118, table 3.5, which shows that the value of assets as a percentage of GDP is falling, from 31.2 per cent in 2023-24 to just 30.4 per cent in 2026-27, and liabilities are increasing from 52.9 per cent of GDP to 53.2 per cent of GDP. So, either I'm missing something or you're missing something.

Ms Reinhardt: We might have to take that on notice—apologies—and give you a bit more detail about what's going on between those two tables.

Senator HUME: Yes, because it doesn't look like the assets are actually improving the balance sheet. It looks like the balance sheet is deteriorating and the cost of debt is exceeding returns.

Ms Reinhardt: The assumption with most of those assets is a simple rate of return, not—

Senator HUME: Actual rate of return.

Ms Reinhardt: Either the government bond rate, or the government bond rate plus a couple of percentage points. That's not a reflection of the value of those assets. It's simply the assumption in the medium term.

Senator HUME: Well, it might even be an ambitious assumption on some of those assets. When, for instance, is the National Reconstruction Fund expected to deliver a return to the taxpayer?

Ms Reinhardt: Again, I'll have to take that one on notice as well, but I do know that they have a target rate of return, as I understand it, that is the bond rate plus two per cent. As to when that starts to generate returns for the government balance sheet—

Senator HUME: You've got it in here. It's at chart 3.16, 'Net cash flows from investments for policy purposes', and there is the NRF. So it says that you are actually generating cash flows.

Mr Goldsworthy: That's the activity of the National Reconstruction Fund—

Senator HUME: Not returns?

Mr Goldsworthy: That's right.

Senator HUME: So investment returns are not anywhere to be seen. What about the Rewiring the Nation fund: when is that expected to deliver a return to the taxpayer?

Ms Reinhardt: I think we'd need to take on notice when the actual returns are booked, into the medium term. I assume that once the investments have gone out—and you can see the profile of that, as Mr Goldsworthy has said—then we'd have some sort of assumption around when the returns would start to flow back to budget.

Senator HUME: Do we have the contributions of interest payments of those funds contributing to the growing cost of servicing the debt?

Mr Goldsworthy: We don't separately identify those, but they're certainly captured as part of the profile for interest payments.

Senator HUME: So Treasury doesn't separately assess that cost?

Mr Goldsworthy: Similarly, we don't separately assess the interest associated with a particular government payment program.

Senator HUME: So how do you know that these funds are good value for money, if you don't know what the returns are and you don't assess the interest repayments on them?

Ms Reinhardt: As I've said earlier, those funds do have target returns that are established. Those target returns are reflective of what we expect those returns to deliver to budget. What I need to get for you on notice—and I apologise; I don't have that at the moment—is when those returns start to be booked to budget.

Senator HUME: What about the amount of debt that's paid on the debt to finance the funds before they become operational? Is that booked?

Ms Reinhardt: In terms of the overall debt, I know that you want separate amounts, but it is worth noting that, on page 89, you can see from both of the charts, 3.1 and 3.2—sorry; I don't know that that's the best. I think the best chart for debt is to have a look at 3.11 that I referred to earlier—

Senator HUME: Sorry—what page is that?

Ms Reinhardt: It's 3.11 on page 111. That gross debt number includes any debt incurred as part of those funds and then returns made on those funds. So they are incorporated in all of those figures.

Senator HUME: Perhaps you can take on notice to give me a proper explanation of exactly how our net financial worth seems to be decreasing but all the commentary says the exact opposite. Thanks.

Senator DEAN SMITH: Mr White, before I go to my population/NOM questions, are you or is the Treasury able to provide a list of all of the HFE exemptions that have been provided by various Commonwealth treasurers, or agreed to by various Commonwealth treasurers since the introduction of the GST?

Mr White: We will have a look at that on notice.

Senator DEAN SMITH: Thank you. I just want to turn to the NOM again, to follow up some questions that Senator McKenzie had. Mr Yeaman, again, thanks very much for making your time available and staying back. Page 67 of Budget Paper No. 1 talks explicitly about population and higher rents and higher inflation. It says:

Average rental costs are expected to pick up in the next few years as increases in advertised rents flow through to existing lease agreements when they are renewed. The rental market is currently very tight, with national vacancy rates at near record lows of around 1 per cent and advertised rents growing at over 10 per cent as of April 2023.

So what I am interested in exploring here is the 715,000 increase and what it means for the very near term. So, Mr Yeaman, has Treasury done modelling to support those statements that are in the budget paper?

Mr Yeaman: I always grapple with the term 'modelling'. I'm not trying to be difficult, but, as to modelling itself, we haven't done large-scale CG modelling of that. We've looked at it from our forecasting perspective and the statement there is very clear: at the moment, we have a tight rental market. Vacancy rates are, as the document says, historically low, and we can see in the market now that advertised rents are running at around 10 per cent. It takes some time for that then to flow through to the rents that people pay, and that is captured by the CPI. We can see that, in the near term, tightness in the market is going to remain and that in many ways, as I'm sure Mr White can expand on, a large number of the people that are referred to in that NOM increase are already in country now. They are already contributing to that vacancy rate that we see today, so—

Senator DEAN SMITH: Over the very near term, they are housed.

Mr Yeaman: Yes. One of the things that we think explains some of the tightness that we're seeing in the rental market now is that more people have come back more quickly than we had previously expected, and that is adding pressure to the rental market. I don't have much to add to the statement. We've looked at advertised rents in the market, we've looked at the migration figures that have been discussed and we do think that there is a period of tightness in the rental market in the near term that is going to persist. As I said to, I think, Senator McKenzie earlier: as interest rates are predicted to plateau and as this extra demand in the market becomes apparent to investors, we expect to see a pick-up in construction, particularly in medium-density housing, through the next 12 months.

Senator DEAN SMITH: So does your forecasting of the 715,000 over the next two years suggest that this will lead to rental increases? Do you expect, or does the forecasting demonstrate, that it will provide upward pressure on inflation?

Mr Yeaman: We think the figures that we have now, which, as I said, show advertised rents peaking at around 10 per cent, are close to the peak in those advertised rents. As I said, many of those people are in country now competing for housing and we have seen constraints and supply constraints in the housing market partly as a result of COVID and elsewhere, so we think the pressure is probably greatest in the near term. Then we would start to see some easing of those pressures.

One point we haven't raised, which I'd like to put on the record, is that there is still a large stock of housing that was commenced when interest rates were lower and partly as a result of the HomeBuilder scheme. That housing stock has not yet been completed and made available for people to reside in, but we do expect that to be the case over the next six months.

So there are a few things going on here. We're seeing a backlog of housing supply, which has been slowed down by some of the pressures we've seen in the supply chains during COVID. We think that's now coming through, but it's coming through slowly. Obviously, approvals have dropped off, but we expect to see those picking up as these pressures in the market take effect. So we think that the near term is where the pressures are greatest and then we'll start to see some easing.

Senator DEAN SMITH: When you say—

Mr White: Could I just add to that quickly, Senator?

Senator DEAN SMITH: I've got a series of questions for you, Mr White, which will be complementary or supplementary. Mr Yeaman, when you talk about pressures in the near term, are you talking about inflationary pressures in the near term and rental cost pressures in the near term?

Mr Yeaman: The increases we've seen in advertised rents now are in these inflation numbers that we have put in the budget and our forecasts, and they are making a contribution. There is no doubt that one of the factors that is contributing to inflation now is the tight rental market and housing costs. It's not the largest factor by any means, but it's one factor, and that is captured in these numbers, which show that inflation has peaked and is starting to come off. That is all incorporated into our estimates, but it is true that rental costs are one component of the CPI that is adding to inflation along with a number of others.

Senator DEAN SMITH: Would you put it in the sticky inflationary basket?

Mr Yeaman: That term has connotations. What I would say is that we know that housing construction has lags in it. So, by the time demand is clear, the sector responds, constructs and then provides that housing. It is going to take some time to work through that, but we expect that process to be beginning.

Senator DEAN SMITH: So are rental costs likely to be a more persistent factor in inflation?

Mr Yeaman: We do expect rents to be tight in the foreseeable future—in the near term—but, as I said, that is built into the forecast, which sees the overall inflation rate coming off from here relatively quickly. So there are other factors which are actually driving inflation down more quickly, and rent is one of those ones that we think will continue to contribute for a period of time.

Senator DEAN SMITH: In the *Statement on monetary policy*, the Reserve Bank says at page No. 2:

A shortfall in housing supply, relative to strong demand from a rising population, is expected to result in continued upward pressure on rents, adding to the inflation forecast.

So, is that comment at variance to what you just said, because in your evidence I thought I heard that you thought that rents had peaked?

Mr Yeaman: I don't think it sits at odds with what I said. I think there's a difference between growth and levels here. I'll need to just 100 per cent confirm the exact turning point, but, in our forecasts, we think we are close to a turning point in the growth rates in rents. That doesn't mean that rents won't continue to grow at a reasonably strong rate for the foreseeable future.

Senator DEAN SMITH: Mr White, turning to the matter of the NOM, can you explain why the NOM in the October budget was 235,000 for financial years 2022-23 and 2023-24, and now it's 400,000 and 315,000? I'm trying to understand the variation.

Mr White: Yes. When we were doing the October budget forecast, that would have been through August and September last year, the borders had been opened back up again for six or maybe a few more months than that. We had seen a reasonable rebound in the number of people coming back once the border opened. But, in the months immediately after that—through maybe November and December and then definitely through January—that picked up in a very strong way. The number of students, especially, coming back to study at tertiary institutions was much stronger than we'd anticipated. As I said before to Senator McKenzie, about two-thirds in the increase in the number has been students. What we've also seen is that students are back up to about the level

they were pre-COVID. The other thing has been working holidaymakers, who went down to a very low level during COVID. We always assumed they would come back. They've just come back a bit more quickly. There was a lag, basically. Once the border opened, there were visas being issued for working holidaymakers, but nothing happened for quite some time, and then, around the end of the year again, they started coming into the country in a very strong way.

Senator DEAN SMITH: The point that I'm querying is: what's the level of confidence around the 400,000 and 315,000 figures, given that the 235,000 figure was not accurate? What's the level of confidence from your particular division in the Treasury in those particular budget figures of 400,000 and 315,000?

Mr White: I'll start this answer by saying we're forecasting, so almost inevitably this is going to end up being wrong. But we take into account all the latest data that we have from the ABS and Home Affairs and any other data we can get our hands on. All of the data that's come from that the ABS, which comes a bit of a lag, shows quite strong NOM numbers, and the recent data around people with visas, so temporary visas in Australia, which comes from Home Affairs with much less of a lag, is also very strong. Obviously, we think that 400,000 at the moment is a much better forecast than 235,000 was in October. Of course, there are upside and downside risks with that forecast, as there are all with all forecasts, but it's quite clear that there's going to be a very strong number for the current financial year, and, given we only have a month left in the financial year, most of those 400,000 people will already be here. The 315,000 for next year is really driven by the fact that the number of people leaving is likely to stay low for a bit longer. Temporary migrants will normally here for a little while before they go home, and the closing of the border in COVID means we've got to build up the stocks of people to go again. We had allowed for that in your previous forecast, but it seems to be a bit more persistent than we had thought. Next year, the numbers of people arriving are still a little bit elevated compared to what we'd think is a normal number, but, mostly, it's about lack of people leaving that is driving NOM up next year, and for the years after that we're back to what we'd suggest is a roughly long-term assumption.

Senator DEAN SMITH: When you think about the three most likely factors that could see the NOM increase on the current budget forecasts, what would they be, succinctly? More people deciding to stay and not depart—

Mr White: Yes, so more people deciding to stay. There have been some policy around extending graduate visas and decisions around New Zealand migrants as well, which might make Australia more attractive as a place. Overseas impacts, like the Chinese decision to make students come back, had a smallish positive impact on people coming as well, because people who might have been in their last year of study and who might have liked to have stayed and done that online could not do that anymore. There is still probably a bit of scope for more students and working holiday-makers to come back to Australia. There are some upside risks, but, equally, there are downside risks that are the same sorts of things really.

CHAIR: Senator Hume.

Senator HUME: I just want to ask about the energy bill relief agreement. Last week, Minister Gallagher indicated to the finance committee that payments were still up for negotiation with the states and that was why they were listed as 'not for publication' in Budget Paper No. 2, but we discovered that they were actually, in specific quantum, listed for each state in Budget Paper No. 3 on page 74.

Senator Gallagher: There's an element of that which is not for publication in the energy bill relief component. That's why it's not for publication, but in other dot points the payments to the states are outlined.

Mr White: Yes. There are actually two parts to the energy bill relief, and they're both in Budget Paper No. 3. On page 14, for example, the energy bill relief is listed there under each year as a separate line item, but then there is other part of the energy bill package which is the coal and gas price caps separate one, which is NFP in Budget Paper No. 3 as well. So we have them split out in Budget Paper No. 3 because the coal and gas caps will be separate agreements with the states—on page 92.

Senator HUME: Ninety-two?

Mr White: Yes, on page 92 they are NFP, and it's that component of the measure in Budget Paper No. 2 that makes the whole thing NFP.

Senator HUME: Right. Obviously, negotiations have taken place already with the states to some extent, otherwise you wouldn't have the outline on page 74 of what's going to each state over the next two years. When did negotiations commence, and when did they finish?

Mr White: Just before Christmas, National Cabinet announced that treasurers should look at this question. I think it was early December or late November, and it basically started soon thereafter. There are still ongoing discussions with the states about implementation issues and those sorts of things, but, basically, signing up to the framework around these things happened in late April, early May.

Senator HUME: Is the agreement available on the Treasury's federal financial relations website with the other agreements?

Mr White: I don't think so, but it will be up there.

Senator HUME: It is? It wasn't there as of yesterday.

Mr White: No, I think that's right: I don't think they're up there, but they will be up there.

Senator HUME: How was the \$1.5 billion allocated across the states in Budget Paper No. 3? For example, how many eligible households and businesses are estimated to receive the credits in each state?

Mr White: There are just over five million households for the whole of the country. In rounded numbers, there are 1.6 million in New South Wales, 1.3 million in Victoria, 1.1 million in Queensland, 500,000 in Western Australia, a little over 400,000 in South Australia, almost 150,000 in Tasmania, about 60,000 in the ACT and 50,000 in the Northern Territory.

Senator HUME: Can you talk me through the timing profile? Why do payments not flow until 2023-24 and then continue to 2024-25, and does each state have the same profile?

Mr White: I'll do the first bit of that question first, which is that this is a program that's going to be delivered by the states, and we then pay them in arrears when the program has been done. For almost all states—I'll come back to that in a second—they're actually paying out the money in the 2023-24 year. The only reason there is money in 2024-25 is they'll then bill us for the money, and we'll reimburse them after the event. So the money going to households and small businesses should happen in 2023-24.

Senator HUME: Right, except for Tasmania, which just split it 50-50 across two years.

Mr White: Yes. Tasmania wanted to do things a little bit differently as part of the agreement, so the energy bill relief is being split across two years in Tasmania. Our contribution is being done in the first year and their contribution is being done in the second year.

Senator HUME: And what about small businesses? Do you have a profile by state for them too?

Mr White: Yes. Do you mean the number of small businesses?

Senator HUME: Yes, the number of small businesses.

Mr White: I won't bother rounding these. It might be too hard. There are 322,000 in New South Wales, 236,000 in Victoria, 205,000 in Queensland, 90,000 in WA, 86,000 in South Australia, 35,000 in Tasmania, 18,000 in the ACT and 11,000 in the Northern Territory.

Senator HUME: And what's the definition of a small business? Do states choose their own definition of a small business or is there a standard one?

Mr White: We've used the definition of small business used by electricity retailers, so in each state and territory there's a small business tariff that is part of the energy law process. I don't profess to know exactly how it works, but we obviously chose that because it is the easiest 'small business' definition for electricity retailers to provide rebates to their customers. They normally have a cap on electricity usage, and that differs a bit between states. So any small business that's on that tariff will get that payment. I should mention that, if you're a small business that runs out of a house and doesn't have a small business tariff, you won't be counted in that sort of thing. That could mean that more people running small businesses get some energy bill relief if they qualify under the household scheme, but you have to be on an energy tariff for a small business to be a small business.

Senator HUME: Is the tariff based on usage? Where does the tariff come from?

Mr White: As I said, there's normally an upper limit on electricity usage and you have to be a business.

Senator HUME: So one small business that's theoretically the same size as another small business but has different usage would have different tariffs and would get different relief?

Mr White: Yes, that's right. Normally above these limits the businesses will have a wholesale tariff and so they basically won't be the sorts of businesses that are billed a bit like households. They negotiate with a retailer an individual agreement basically.

Ms Reinhardt: Senator, you are probably also aware of this—and apologies for stating the obvious, if that's the case. All small businesses and all households will benefit from the most significant change, which is the cap on gas, electricity and coal prices which feeds through to lower electricity prices.

Senator HUME: But that's not what we're talking about here. That's not necessarily—

Ms Reinhardt: But it affects the same group or a broader group.

CHAIR: Senator Hume, as we approach 6 o'clock, I really need to move to the revenue group. I really want to release this group. Is there one final question for this group?

Senator HUME: Probably not one final question, but I've got five minutes. Can you give me five minutes and then we can move on?

Senator Canavan interjecting—

CHAIR: Okay. Can we do five minutes in total?

Senator HUME: I think we could probably do five minutes each and we'll be done.

CHAIR: You've got the call, Senator Hume.

Senator HUME: Was there modelling or analysis undertaken to determine the various levels of assistance across jurisdictions and what an appropriate figure might be for households versus businesses or was that really just left to the states?

Mr White: For households there's a two-tier system basically. There's an amount for the five jurisdictions who were estimated to have quite substantial electricity price rises, so basically the east and south-east corner of the country. The amount of that was \$500. And then for three jurisdictions—Western Australia, the Northern Territory and the ACT—estimated to have quite low electricity price rises, there's the lower amount of \$350. That's what was decided under the scheme.

Senator HUME: Is that the same for Victoria, because I know that they're administering their own scheme for small businesses?

Mr White: The idea was that the Commonwealth and the states would go 50-50, so in most states that means that there's one scheme where the Commonwealth pays \$250 and the state pays \$250. In Victoria it's going to be a little bit different. Victoria is going to administer a scheme for \$250 that we've got and their \$250 contribution will be through their Power Saving Bonus.

Senator HUME: Did you conduct any external consultation on the energy relief fund before it was released?

Mr White: We've been talking to energy retailers since probably early in the year, in Januaryish. I can't remember exactly when, but not long after the New Year.

Senator HUME: Just the energy retailers? Are there any other stakeholders that have been consulted?

Mr White: They're the only ones outside government, I think. I will have to take it on notice, but they're the main ones.

Senator HUME: Businesses? AEMO?

Mr White: We've talked to a lot of inside government people, so the department of climate change and energy.

Senator HUME: The regulator?

Mr White: I think so. I can take it on notice and give it to you, but we've had a lot of consultations inside government.

Senator HUME: If you could give us a list of the stakeholders who were consulted, that would be helpful. How's the policy going to combat the 25 percentage point rise in power prices that the Australian Energy Regulator has admitted is going to occur?

Mr White: There are two things that happen with electricity prices. First there are the coal and gas caps, which reduce it from what it would otherwise have been. Then, for the people we've been talking about—the households and the small businesses—they will get this energy bill relief, as I think has been said in other parts. For the country as a whole, that brings energy price increases down to about 10 per cent. For people who are getting the bill relief they will have price rises less than that, and for people who do not get it they'll be above that.

Senator HUME: Did any small business stakeholders point out to you the potential unfairness of having a small business in one state receive relief but a small business in another state with the same usage potentially miss out?

Mr White: We acknowledged that, and a decision was taken that the easiest way to get this administered was to do the normal things that happen, effectively, in states at the moment and have small business schemes. They all use those limits.

Senator HUME: Was there no small business stakeholder that pointed out that it sounds profoundly unfair?

Mr White: We knew that was going to happen. We didn't need stakeholders to tell us. That was an obvious outcome of what's going to happen.

CHAIR: Senator Canavan?

Senator CANAVAN: I have some questions about the government's announced reforms on vaping. Have Treasury—well, the government, really—included any funding in the budget to states and territories to address vaping and help clamp down on it?

Senator Gallagher: I don't believe so. The policy responsibility for this sits with the Department of Health.

Senator CANAVAN: In the health minister's announcement he did say the government will work with states and territories to stamp out the growing black market in illegal vaping. Is there any funding associated with that activity? I presume that would come through the federal financial relations.

Mr McDonald: The government is providing \$511 million over four years to tackle the challenge presented by vaping.

Senator CANAVAN: \$511 million? That's to states and territories?

Mr McDonald: That's not all to states and territories.

Dr Hunter: My contribution will be brief. I think the Department of Health is probably best placed to assist you with these questions.

Senator CANAVAN: I will have questions of them later in the week. I just wanted to drill down here, though, about how much of that money is going to states and territories. I thought this section of Treasury managed federal financial relations.

Mr McDonald: I'm sorry. I don't have the state and territory breakdown, but I can give you more of a breakdown within the \$511 million if you wish.

Senator CANAVAN: Now?

Mr McDonald: I can give you some now. There's \$263.8 million to establish and maintain a national lung cancer screening program, \$141.2 million to expand the Tackling Indigenous Smoking program to respond to vaping, there's \$63.4 million for national public health campaigns, \$29.5 million to establish a national consumer digital cessation hub and \$13.3 million to implement tobacco reform and compliance activities.

Senator CANAVAN: That's a lot of money. I'm surprised the minister wasn't aware of \$500 million being spent!

Senator Gallagher: I'm aware of the programs.

Senator CANAVAN: Well, you weren't.

Senator Gallagher: I thought your question went to the changes that will be needed from a regulatory point of view—the states and territories being responsible for tobacco control and other measures. I thought that's what your question was about, not specifically our program.

Senator CANAVAN: I specifically said the government's policy to address vaping. Don't you have the figure for what of that \$511 million—I think it was—is going to states and territories? Could you take that on notice?

Mr McDonald: We can take that on notice.

Senator CANAVAN: Thank you. These questions might be a little bit irrelevant, but I do note that the New South Wales Premier has said that he would seek support from the Commonwealth associated with the vaping crackdown, and the Victorian Premier has said something similar. He said that he would engage on the issue in good faith, but he was concerned that the Commonwealth would push costs onto the states. Has there been any communication from the New South Wales and Victorian governments seeking funding from the government in regard to the vaping policy?

Mr McDonald: These are probably questions that are best posed to the health department.

Senator CANAVAN: Okay. Could you take that on notice for me, though? It might come through Treasury, then, if it's a costs issue.

Mr McDonald: In a sense, I think we can answer now that we have not received any—

Senator CANAVAN: Great, even better. Thank you. Just specifically, and I'm not sure where this fits into the answer you just gave before, I noticed that in Budget Paper No. 2 under the table 'Vaping Regulation Reform and Smoking Cessation Package', there is a specific line for the Department of the Treasury, and over the four years that's \$15 million. That's on page 154, if you're looking for it. I obviously just want to know what the \$15 million is.

Mr White: If you look on page 27 of Budget Paper No. 3, that actually has that. It states:
The Australian Government will provide funding to scale-up State and Territory Quitline capacity and Quit services ...

That appears in Treasury because it's a payment to the states.

Senator CANAVAN: Yes, that was my question before. That's the \$15 million?

Mr White: That's the \$15 million.

Senator CANAVAN: So \$15 million is to ramp up Quitline?

Mr White: Yes.

Senator CANAVAN: That's probably the only payment, then, to states and territories. But could you still take on notice that question, just to clarify my earlier question?

Mr McDonald: We'll take it on notice.

Senator CANAVAN: Thank you very much. Thanks for your assistance.

Senator HUME: Chair, I promise you we'll let this group go, but I do have a couple more lines of questioning. I do recognise that we are supposed to be finishing by 9:30 tonight. I don't remember an Economics estimates where we've finished before 11.

CHAIR: Is it possible to put them on notice, Senator Hume?

Senator HUME: No, there's a couple that I just want to get on the record, if I possibly can.

Senator Gallagher: To be fair, the program must have been agreed by the committee.

Senator HUME: I understand that. I think that you guys did a very good job of negotiating that program, because I can't remember in the time I've been here an economics or Treasury estimates, immediately after a budget—

Senator Gallagher: But your members of the committee must have agreed to it.

Senator HUME: that has finished before 11 pm on day one.

CHAIR: Let's not spend time on that.

Senator Gallagher: The committee finishes when the committee finishes.

Senator HUME: We'll keep going, then.

Senator Gallagher: That is what it is. If it finishes at 11, it finishes at 11.

CHAIR: Senator Hume.

Senator HUME: I just want to ask a couple of questions around pages 88 and 89 of Budget Paper No. 1, which read:

... a cumulative 87 per cent of tax receipt upgrades ... from estimates variations over the forward estimates across this and the October Budget, including 82 per cent in this Budget.

On notice, can you please show me the calculations underpinning those two statistics? There are also some questions that I had around the Jobs and Skills Summit outcomes from the employment white paper. I've lost my spot on those, but I wanted to—

Senator Gallagher: Do you want an update?

Senator HUME: I'm happy to put those questions on notice. Here we go—how many of the Jobs and Skills Summit immediate action items have been actioned?

Ms Anderson: An additional seven from when we last reported are completed, so 27 of the 36. All are very much well progressed, but there are 27 that we've now marked as complete.

Senator HUME: You confirmed to us on notice that there weren't any plans to take that white paper to consultation or exposure draft. Why not?

Ms Anderson: It's not always the case that white papers go through that process, but, in this case, I would say, in addition to the Jobs and Skills Summit, there was a pretty extensive consultation through a submissions process. We're constantly meeting with stakeholders. We've been to every state and territory. I think there's an issue of need in this regard, but, as to with whom the final product is exposed and discussed, that's really a matter for the Treasurer.

Senator HUME: Okay. Minister, maybe you could answer that one, then.

Senator Gallagher: Sorry?

CHAIR: You might need to restate the question, Senator Hume.

Senator Gallagher: Sorry, I was just slightly distracted for a second.

Senator HUME: Why aren't there any plans to take the white paper to consultation or to exposure draft? Obviously, without that it's very hard to know whether the plans and the final conclusions are workable with business.

Senator Gallagher: I think there has been a lot of work done with interested parties on the white paper, including the Jobs and Skills Summit and the meetings that have happened since then.

Senator HUME: Is the white-paper taskforce involved in the consultations on the government's next round of industrial relations reforms?

Ms Anderson: No, we're not. I should clarify: we're most definitely involved in the government processes that you would ordinarily expect us to be involved in—IDCs that share information about the processes—but that is being taken forward by the Department of Employment and Workplace Relations.

Senator HUME: If the white-paper taskforce is separate, how will it interact with the consultations on the government's next round of industrial relations reforms?

Ms Anderson: Whilst workplace relations is within our terms of reference, that doesn't mean we're assuming all responsibility for the carriage of the workplace relations agenda. That belongs with DEWR.

Senator HUME: How do you make sure that Treasury isn't pulling in one direction and Employment isn't pulling in the other?

Ms Anderson: There are probably two processes. One is the interdepartmental committee, which I mentioned, and the second is the cabinet. Both of those processes, both within the ministry and within departments, are responsible for ensuring those processes are in lockstep.

Senator HUME: Will the white paper be reviewing the proposed laws coming from Employment?

Ms Anderson: No, it won't be reviewing them. We'll be talking about the impact on the labour market to the extent it is relevant to the white paper itself. We're not avoiding workplace relations, but we're talking about in the context of the government's approach to the labour market going forward.

Senator HUME: What about in the white paper? Businesses like BHP and Minerals Council and the BCA and Ai Group have made very clear and very public their concerns about the industrial reforms agenda. Will their evidence be reflected in the advice of the white paper?

Ms Anderson: We received over 400 submissions. Some of them related to the workplace relations proposals that, at the time, were before the parliament. Some of those were in favour and some of those were against. They are things we will consider and look at, but this is a government white paper. It will be reflecting the government's position about the labour market.

Senator HUME: So even if industry universally condemned the measures and said, 'We're going to have to sack staff because of these laws,' the white paper wouldn't recommend that they be altered?

Ms Anderson: No. It's a government white paper. The place for those stakeholders to prosecute their arguments is within the Employment and Workplace Relations portfolio.

Senator HUME: Are there any measurements done on workforce participation that Treasury might do, or the white-paper task force might do, that are a result of the industrial relations changes?

Ms Anderson: I'm just trying to think. Definitely workforce participation is within our terms of reference, and looking at incentives and barriers for people to enter the workforce is definitely within our terms of reference. So to the extent that those matters come up in that context, it could be, but at the moment, we're still developing that work.

Senator HUME: Was the employment white-paper task force consulted on decisions to extend the time that parents remained eligible for parenting payments? Is that something that was included in your thinking?

Ms Anderson: We don't need to be consulted. We are part of government and we're part of the Treasury that developed—well, not the Treasury but the whole-of-government departmental processes that led to that, so we were aware of it. But it is one factor that we will look at in the context of how that might improve participation, as well as other measures that could possibly do that going forward.

Senator HUME: Or detract from participation too.

Ms Anderson: Absolutely, yes.

Senator HUME: I'll put some questions on notice. I have one more question about the *Intergenerational report*. We keep hearing about it, but I'm not entirely sure when it's supposed to be delivered. Do you know when the *Intergenerational report* is supposed to be delivered, Minister?

Ms Reinhardt: The government has made a public commitment to release it once in the term of government. Our expectation is that that will be sometime this year—likely nearer to the end of this year—but that's a decision for the government.

Senator HUME: Is there an intention to do a policy response to the *IGR*, Minister?

Senator Gallagher: That will be a matter for the government to decide.

Senator HUME: How far ahead are you in the process of developing the *IGR*?

Ms Reinhardt: We launch off the back of the budget. The budget, as you know, includes medium-term projections, and much of that work feeds into the *IGR*. It's a fairly extensive process where we look across revenue group, at revenue heads and payments. It is already underway, because it's been undertaken as part of launching off the back of the budget.

Senator HUME: So it's being done concurrently with the budget, but it's not at a point where the draft is ready to go to the Treasurer yet. Is that right?

Ms Reinhardt: We would be sharing information as part of the budget process on the medium term. There would be parts of that information that are already expected to feed into the *IGR*.

Senator HUME: But a draft hasn't gone to Treasury.

Ms Reinhardt: There is no formed draft, no.

Senator HUME: Will the *IGR* incorporate the findings of the Productivity Commission's five-year review?

Ms Reinhardt: In what sense?

Senator HUME: I would imagine that productivity, and ensuring that it is improved, should be a fundamental part of—

Senator Gallagher: Gosh, after the last one, where there was no response year after year!

Senator HUME: Sorry, Minister—

Senator Gallagher: Your government didn't formally respond to the last Productivity Commission review.

Senator HUME: I'm just asking whether your intergenerational review will have an element of productivity that comes from the Productivity Commission's review.

Ms Reinhardt: The *IGR* has never, as far as I'm aware, been linked to a PC report previously, so that would be unusual. I wouldn't rule it out at this point.

Senator Gallagher: Where relevant to the *IGR*.

CHAIR: That concludes your questions.

Senator HUME: I've got lots on notice.

CHAIR: We very much thank the representatives of Fiscal and Employment Task Force. Thank you very much for being here to answer the committee's questions. We are now going to invite into the room representatives from the ATO, the Australian Charities and Not-for-profits Commission and Treasury's Revenue, Small Business and Housing Group.

**Australian Taxation Office
Australian Charities and Not-for-profits Commission
Department of the Treasury**

[18:19]

CHAIR: Welcome, Ms Brown, Mr Jordan, Ms Woodward and teams. Thank you very much for being here. I assume, Ms Brown, you don't have an opening statement or any comments that you'd like to make. I have received written copies of opening statements from Commissioner Jordan and Ms Woodward. Would you be in a position to take them as tabled or to give just a brief precis?

Mr Jordan: I'd normally be happy to table. On this occasion it is extremely brief, so I would prefer just to quickly read it, if I could.

CHAIR: Okay.

Mr Jordan: Thank you for that opportunity. I would like to make some opening remarks in relation to the PwC matter, which I know is of great interest to this committee, to taxpayers, to the tax profession, to the media and to the general public. The ATO has a proven track record of holding multinationals and their tax advisers to account. A major part of our success is that we are ahead of the game when it comes to tax schemes potentially promoted by tax advisers. Our dedicated and well-resourced compliance teams have the skills and training to

identify and thwart schemes designed by advisers to help their clients avoid tax here in Australia. We are not afraid to take on the big end of town. We have, and we will keep doing so.

Our job is to protect the tax revenue that is due to the Commonwealth of Australia—revenue that we all depend on for our vital services. In this context, in January 2016, we became aware of a handful of multinationals suspiciously and quickly attempting to restructure their affairs upon the introduction of the multinational anti-avoidance law—the MAAL. Within days of becoming aware, we commenced reviews and audits of those multinationals and issues three taxpayer alerts in 2016 putting all significant firms and taxpayers on notice. Our immediate action prevented any loss of revenue to the Commonwealth from a scheme to avoid the MAAL. We estimate the revenue at risk that we saved was \$118 million annually.

Another major concern was the issue of legal professional privilege—LPP. It appeared our investigation was being frustrated through false LPP claims. We had to issue further notices to obtain information that was clearly not subject to LPP, such as internal PwC emails. Despite our best efforts, due to the obstacles placed in our path, it took a long time to obtain the information requested. The content received from late 2017 raised a range of significant concerns about artificial schemes being marketed by PwC. A significant concern also uncovered was the Collins matter—a potential breach of confidentiality in a Treasury consultation process. Unlike many other revenue authorities in other countries, we do not have criminal investigative powers. As the confidentiality breach was not a tax offence, we were unable to investigate the matter further. From 2018, we sought to refer this matter to the correct authority after sharing information with the Australian Federal Police over the period 2018 and 2019, providing a number of documents upon their request after our initial sample of the emails. We had to ultimately formally refer the matter to the Tax Practitioners Board in July 2020.

There's been a lot of information and misinformation published about this matter. While I am limited in what I can say due to the ongoing criminal investigation, and due to our very strict taxpayer secrecy constraints, we are keen to be transparent and to assist the Senate as much as possible. So, my main message is to reassure the community that we got on top of this early and stopped any tax loss in Australia from this egregious behaviour. This will only harden our resolve to continue the work we do every day to make sure everybody pays their fair share of tax in Australia as the community expects.

CHAIR: Thank you, and indeed it was a good idea to give that opening statement—

Mr Jordan: I promised it would be brief!

CHAIR: given the public interest—and you were brief. Ms Woodward, do you wish to speak to your opening statement?

Ms Woodward: No, I'm happy for it to be tabled. Thank you.

CHAIR: Thank you. That's very much appreciated by the committee and everyone waiting behind us. I'll proceed now to questions.

Senator O'NEILL: Thank you for your opening statement, which does go some way to clarifying some parts of the time line. But this has just landed, so I'm going to prosecute a few questions, if I can, to make sure I understand exactly how things unfolded. The suspicions you had regarding what's ultimately been revealed as severe misconduct by PwC traverses a number of years before it was shared with Treasury or referred to the Tax Practitioners Board. Could you put on the record for me when the ATO first suspected that PwC had engaged in misconduct?

Mr Jordan: I'll pass over to Second Commissioner Jeremy Hirschhorn, who had the operational control of this. But to give some context, there were multiple issues we were concerned with. Clearly the Collins matter was one of those serious issues. But the marketing of debt dumping schemes, the attempt to have a workaround from the MAAL and the resistance, using LPP claims, about providing information relevant to their clients—thousands of pages of documents.

Senator O'NEILL: And you're referring particularly to PwC there?

Mr Jordan: Yes.

Senator O'NEILL: I do recall, Mr Hirschhorn, when you were last here at estimates you indicated that, while the MAAL became the law here in Australia on 1 July 2016, by April of 2016 you were already aware and beginning action. Is that correct?

Mr Hirschhorn: Yes. Maybe I could give a potted time line.

Senator O'NEILL: Thank you.

Mr Hirschhorn: The MAAL was consulted on and announced in the 2015 budget, and then there was continuing consultation under the Treasury process, until the legislation I think was enacted right at the end of

2015. It was operative from 1 January 2016. As you noted, Senator, by April 2016 we were already alarmed at having come across schemes designed to subvert the MAAL. We issued three taxpayer alerts in relation to the schemes to subvert the MAAL during the course of 2016.

Senator O'NEILL: Were those alerts general to the market at large? Or were they particularly directed to PwC?

Mr Hirschhorn: Regarding the alerts published to the market at large, PwC have themselves acknowledged publicly that those alerts were in relation to schemes they had marketed.

Senator O'NEILL: Okay. So, can you continue for me then? We've got action in April 2016.

Mr Hirschhorn: Yes.

Senator O'NEILL: And we've got a long tail before anything formally starts to happen.

Mr Hirschhorn: Yes. If you give me your indulgence, I'll walk through the time frame up to the present.

Senator O'NEILL: Thank you.

Mr Hirschhorn: In 2016 we were obviously acutely focused, as is our remit, on the taxpayers. So, we were in intense discussions with a range of taxpayers who were proposing to enter into these schemes, and a couple who had already entered into the schemes.

Senator O'NEILL: Is that the 44 companies you referred to on the last occasion you were here?

Mr Hirschhorn: Ultimately 44 companies restructured to become accordant with the MAAL. The whole point of the MAAL was that companies would restructure but restructure in a way that would mean that they booked sales in Australia. If they were doing the selling in Australia, they had to book the sales in Australia. At the time, it was referred to colloquially as the Google tax—Google had people in Australia who were liaising with people around advertising, but, when the bill came, the bill came from Ireland. That was, effectively, the model that the MAAL was designed to stop. The aim was that an Australian entity would do the sales, would effectively buy services from their related parties overseas, but Australia would have the chance to tax the profit attributable to the activities of people in Australia. Forty-four companies did restructure. Not all 44 were clients of PwC.

Senator O'NEILL: How many were clients of PwC, Mr Hirschhorn?

Mr Hirschhorn: I would have to take that on notice. PwC is the largest participant in the Australian tax market of multinationals.

Senator O'NEILL: I won't hold you to the exact number, but roughly how many of the 44 were PwC's clients?

Mr Hirschhorn: In the order of around one-third of those companies were PwC clients.

Senator O'NEILL: Can you name them?

Mr Hirschhorn: I cannot name the taxpayers.

Senator O'NEILL: Because of your secrecy—

Mr Hirschhorn: Because of secrecy.

Senator O'NEILL: agreements, which we've heard today were critical in the delay of this information.

Mr Hirschhorn: Critical in how the matter played out. We were very much focused on the taxpayers in 2016, and we had great success. No companies, ultimately, ended up adopting the schemes. The few which had adopted them reversed them, and the others all, in the end, adopted MAAL-accordant restructures.

Senator O'NEILL: How many had adopted the scheme?

Mr Hirschhorn: A few. I'm very reluctant when I get to very small numbers.

Senator O'NEILL: We've had the number 14 put to us.

Mr Hirschhorn: By this stage two or three had actually implemented the structure.

Senator O'NEILL: There were the keen ones who got on the job more quickly than others?

Mr Hirschhorn: They moved quicker, yes.

Senator O'NEILL: If you could provide on notice a clear time line outlining all of your actions, that would be very helpful.

Mr Hirschhorn: Do you want me to continue? There is quite a bit more to go.

Senator O'NEILL: Keep going if you can. Thank you.

Mr Hirschhorn: We issued notices to acquire information from each of the large firms that we had seen involved or we had concerns might be involved in the three MAAL schemes and eight other schemes which were subject to taxpayer alert in 2016. Throughout 2017 we received information from firms in relation to their client lists and target lists in relation to the schemes. That gave us confidence that we had not missed taxpayers who had implemented the schemes.

Senator O'NEILL: Are you confident that the information you received was the whole truth? There are some questions now about the probity of these entities, particularly PwC.

Mr Hirschhorn: We were very concerned, as the commissioner mentioned, that information was being held back from us using what we might describe as highly ambitious, if not false, privilege claims. Where we felt we were being obstructed, as the commissioner mentioned, we issued a further wave of notices to obtain the information in another way, which was to ask for internal emails.

Senator O'NEILL: Let's be clear about this. This is often cited to us in the Senate, that legal professional privilege is wrapped around all of this information and we can't investigate. That's not true, because this is the parliament, and we can investigate, and we get the information. But legal professional privilege was the barrier between you and the information that you sought, which I understand was the communications between you and the entities that were to be taxed and were trying to avoid the MAAL—is that correct?

Mr Hirschhorn: We have the power to acquire information, to require information from taxpayers and advisers. The only basis on which it can be withheld under our powers is if the information is subject to legal professional privilege, which is—

Senator O'NEILL: Did you challenge that?

Mr Hirschhorn: As mentioned many times in this committee and other committees, we have been challenging this from 2016 to the present day.

Senator O'NEILL: Did you have any success in those challenges, Mr Hirschhorn?

Mr Hirschhorn: Yes, we have had significant success both in the tactics that we adopted at the time to find a different way of asking for the information we needed and—

Senator O'NEILL: Mr Hirschhorn, to be clear, were you able to break the cloak of invisibility that PwC called 'legal professional privilege'? Were you able to break that to get to all the documents?

Mr Hirschhorn: Where legal professional privilege is—the client truly has that privilege. We do not want those documents. What we were able to do was to find sufficient information for our purposes in this process. I was also going to mention that there have been three landmark cases in relation to professional privilege as it pertains to the tax system over the last few years, those being the Glencore case, the Carlton and United Breweries case and, indeed, a case that we brought against JBS and PwC.

Senator O'NEILL: Can I go back to the way in which you got the information that enabled you to make a connection between PwC and the companies that you were interested in, to prevent the loss of fair taxation payments to Australia by these multinationals. Was the way that you got around legal professional privilege prior to these cases that you've indicated—was it to seek copies of the emails that are now a matter of public record?

Mr Hirschhorn: It was to seek emails relating to internal communications within PwC. The emails provided by the Taxation Practitioners Board have been separately, effectively, acquired by the Taxation Practitioners Board. We have some but not all of those emails, but they are emails of a similar nature.

Senator O'NEILL: So, to be clear, the way you found out what was going on inside PwC was that you got a hold of the emails, and not all of the emails that we now have that were provided to us by the Taxation Practitioners Board.

Mr Hirschhorn: That is correct.

Senator O'NEILL: Okay. But you still referred to 'thousands of pages'.

Mr Hirschhorn: Yes.

Senator O'NEILL: What are you referring to when you say 'thousands of pages'?

Mr Hirschhorn: Primarily, internal communications within PwC.

Senator O'NEILL: And do you have them now?

Mr Hirschhorn: The tax office has them, yes.

Senator O'NEILL: When did you acquire those thousands of pages?

Mr Hirschhorn: We started acquiring those thousands of pages throughout 2017 and throughout 2018-19, and we are indeed still seeking to acquire some documents.

Mr Jordan: I should clarify that it wasn't just on the Collins matter. It was to do with the marketing of these other schemes as well.

Senator O'NEILL: So there was a whole suite you could choose from if you wanted to avoid paying tax in Australia. You just had to go to the PwC shop to buy the correct product!

Mr Jordan: Well, what I will say is that—

Senator O'NEILL: Is that a fair way of putting it to the layperson, Mr Jordan?

Mr Jordan: The three companies that Mr Hirschhorn mentioned were, I understand, all PwC clients that we've taken to the court and are public, and that's why we can mention Glencore, Carlton and United Breweries and ABI InBev, and JBS, the Brazilian meat-processing company.

Senator O'NEILL: This would have been extremely shocking, I expect, to you and to the rest of the team at the ATO who were dealing with this. How many people at the ATO knew of this and were working on the matter?

Mr Hirschhorn: Of course, our notices to PwC were with the purpose of finding out information around tax schemes. What happened was that, at the end of 2017, as part of the document production we found hints that there had been a breach of confidentiality by Mr Collins.

Senator O'NEILL: How many people did you say were working on this?

Mr Hirschhorn: Quite a few. By the start of 2019, we actually took an assistant commissioner offline, and an assistant commissioner with a team of, I think, 20 or so staff were solely focused on dealing with these matters.

Mr Jordan: I should, at this point—

Senator O'NEILL: That is a cost to the Commonwealth—a redirection of resources to combat a scheme that was designed off the back of Australia's confidential information, by Mr Peter-John Collins of PwC, and monetised by PwC Australia and PwC global. It took a team of 20 people and an assistant commissioner offline to work on that project solely.

Mr Hirschhorn: Yes.

Mr Jordan: I should also put in context here that, when the compliance side of the Client Engagement Group does investigations for tax, it's very much compartmentalised. It's only on a need-to-know basis that that team provides information, for obvious reasons. It's very sensitive. If you leave aside this one, it's a principle of need-to-know within the compliance investigation area.

Senator O'NEILL: This is a pretty extraordinary circumstance.

Mr Jordan: Yes.

Senator O'NEILL: When did you advise the Treasurer or the Assistant Treasurer that this was happening?

Mr Hirschhorn: Again, may I come back to the time line—but I'll first say that we never advised the Assistant Treasurer or the Treasurer because we could not.

Mr Jordan: We got advice from our general counsel and from AGS that we could not provide that information to the Treasurer or Assistant Treasurer, and, in fact, we could not provide it to Treasury. This is why—

Senator O'NEILL: Can you provide that advice to the committee?

Mr Jordan: Sorry?

Senator O'NEILL: Could you provide that advice on which you relied?

Mr Jordan: I think that's subject to legal professional privilege, to use those words.

Senator O'NEILL: Can you take it on notice, please, Mr Jordan? I think we need to understand the shape of this.

Mr Jordan: Yes, I'll take that on notice. I honestly don't know.

Senator O'NEILL: When one part of the government can't talk to another part of the government, and when you assert that the Treasurer or the Assistant Treasurer were not advised that you were sitting on this information of exploitation of the Australian people, it doesn't sound like things were working too well.

Mr Jordan: It's most unsatisfactory. Secrecy laws about protected information are in place, normally for very good reasons, but we sometimes find that we're seen as maybe defending 'unpopular' taxpayers or matters. But we're not wanting to breach a law. From our point of view—

Senator O'NEILL: We all understand privacy reasons, for good reason, but it seems privacy reasons got in the way of information sharing—

Mr Jordan: Not privacy—the law says we cannot disclose protected information. We can to the AFP, and we did. We're allowed to do that. We can if it's a designated task force under our Serious Financial Crime Taskforce, but I feel it is, in a modern day, very restrictive in sharing information, say, with Treasury. We had advice that we couldn't. It would be a breach of the law.

Senator O'NEILL: Did the advice you received, which you're going to see if you can table, indicate whom you could advise?

Mr Jordan: We could advise the AFP.

Senator O'NEILL: Who else?

Mr Jordan: The Commonwealth Director of Public Prosecutions.

Mr Hirschhorn: And also, ultimately, the Tax Practitioners Board.

Senator O'NEILL: When did you receive notification, the month and year—

CHAIR: Last question, Senator O'Neill.

Senator O'NEILL: This finishes a line of questions for me—thank you, Chair; it's very helpful. When did you receive that advice? Was it from your general counsel? When did they indicate that, with this level of concern, which you couldn't take to the Treasurer or the Assistant Treasurer, you were able to take it to the AFP, the CDPP or the Tax Practitioners Board?

Mr Hirschhorn: I'll see if I can find the date.

Mr Jordan: I mentioned the AGS, as well, so we received that advice both from our general counsel and from the Australian Government Solicitor on this point—and, as I say, it's very restrictive. One would have to question whether that's the right situation for the future. Clearly we need it for the integrity of the tax system, but it could be, in hindsight, looking at what's happened, a better ability to share with Treasury.

Senator O'NEILL: And the date?

Mr Hirschhorn: I'm going to have to take the exact date on notice, but it was very rapidly after we received the information.

Senator O'NEILL: When did you receive the information?

Mr Hirschhorn: We got the first information at the end of 2017—actually, sorry, I can tell you the date. We got advice from general counsel in around March 2018. At that point we shared the information with the AFP. I might just go back a step. When there are potential multiple courses of action, or consequences for an action, there is generally a principle which is called deconfliction. Deconfliction at its highest says you look at the most serious ones first because if you do a less serious one first you might stop the ability to do a more serious action later. For example, if we went to the Tax Practitioners Board first, which is a licensing body, that might have prejudiced the ability of the Federal Police to do their investigation. This was a unique situation for us; this is the first time we've come across it, and we were horrified when we came across it. Our path was to first explore with the Federal Police with the information we had, noting, as the commissioner said, that because this is not a tax offence we could not use our powers to investigate further; we just had to sit on the information we had and provide that to the police. When that path proved unfruitful, we then explored tax offences—things like promoter penalty. When that proved unfruitful—

Senator O'NEILL: That was with the CDPP?

Mr Hirschhorn: Not with the CDPP. Promoter penalty is a tax offence, so we look at promoter penalty. When that was not looking fruitful, we referred it to the TPB.

Senator O'NEILL: Thank you.

Senator BARBARA POCOCK: Thank you for being here and thank you for your very punchy opening statement, which I see as signalling to the Senate that we are looking at a broken system—that is what I read from your statements about the absence of criminal investigative powers—and that you were unable to investigate the matter further. It is, and it will be, shocking to many people watching this that we are talking about events from five years ago and that have only surfaced not because of what the Senate has done here but because of journalism, active journalism, and stumbling upon documents. It is an appalling state of our regulatory system

that this randomness is part of the exposure of what you're putting before us. The balloon goes up in 2016, and you're very aware of it, and then two years later you refer the matter to the Australian Federal Police. When exactly did you make that referral?

Mr Hirschhorn: We did not do a referral in the way the police would call it a referral. We shared information with the Federal Police in March 2018.

Senator BARBARA POCOCK: What did the AFP say in response to your sharing of a very significant problem? You went to them because you thought the police should be involved?

Mr Hirschhorn: Yes.

Senator BARBARA POCOCK: How did they respond?

Mr Hirschhorn: Here, I'm going to have to start getting very cautious because I don't want to prejudice the current police investigation. It's fair to say that the information in our possession was indicative that there may have been an offence, but it was considered, after a year's consideration—so this was not a frivolous decision—that there was insufficient information to move to a—

Senator BARBARA POCOCK: Who made that judgement?

Mr Hirschhorn: That was a joint decision between the Federal Police and the tax office.

Senator BARBARA POCOCK: You felt you did not have enough information, despite what your investigations were revealing—a potential loss of \$180 million of taxation revenue. Between you, you and the AFP thought, 'There's nothing to see here. There's nothing to be done.'

Mr Jordan: We could not get the additional information the AFP wanted. I'm told that emails are circumstantial information, and because we don't have criminal investigative powers we had no power to request—

Senator BARBARA POCOCK: But the AFP have those criminal investigative powers. Did they initiate an investigation?

Mr Jordan: No.

Senator BARBARA POCOCK: Why not?

Mr Jordan: They felt they didn't have sufficient evidence at that time to pursue that.

Senator BARBARA POCOCK: Isn't that shocking, that here we are—when did the investigation happen?—in May of 2023 and we finally get an investigation? They were dragged screaming to it, and finally the Federal Police are involved. What's your view about that delay, and your reflection on that history?

Mr Jordan: I don't offer views here.

Senator BARBARA POCOCK: Yes. I mean 'please explain'—

Mr Jordan: I can't offer views, but I can't also—

Senator COLBECK: [inaudible]

CHAIR: Senator Pocock has the call. Commissioner Jordan?

Mr Jordan: I'd offer two comments. I need to be very careful. I can't offer views. I think we're really butting up against a problem around potential prejudice of the criminal investigation that is happening now—

Senator BARBARA POCOCK: Aren't we butting up against a failure of the Federal Police to take action?

Mr Jordan: But it comes back, again, I would say to the restrictive nature of our secretive provisions that it is an offence under our laws for us to provide information that we're not allowed to do so by law. That is a real strong—it's a necessary thing in 99 per cent of cases; it's very necessary. But clearly this is an example where maybe we should have been able to disclose that at least to Treasury.

Senator BARBARA POCOCK: So, you're clearly making a case—and this experience makes a case—for renovation, at minimum, of the confidentiality provisions which have prevented you, from your account, from doing things that you wanted to do.

Mr Jordan: Well, that's a matter for Treasury and the government, but—

Senator BARBARA POCOCK: Yes, but you're putting the problem squarely in the middle of this Senate estimates consideration of a very sizeable amount of money.

Mr Jordan: It wouldn't be the first time I've raised this as an issue.

Senator BARBARA POCOCK: You've raised it before? With who?

Mr Jordan: Oh, just as a general notion of our inability to share information with other departments, like the Department of Home Affairs. We've got to be very, very careful, even under our Serious Financial Crime Taskforce, to properly designate the participants in a task force to allow us to share information on particular projects—very, very careful.

Senator BARBARA POCOCK: Mr Jordan, I'll take you to your third sentence on the second page of your statement, where you say: 'After sharing information with the Australian Federal Police over the 2018-19 period, we ultimately formally referred the matter to the Tax Practitioners Board in July 2020.' Is this the fallback position, having failed to get satisfaction and real action on something that was of deep concern to you? As the collection authority for our country, you fall back to taking it to the TPB? Is that a fair assessment of what happened here—because you could not get satisfaction through the Federal Police?

Mr Hirschhorn: I'll make one comment—

Senator BARBARA POCOCK: You're nodding, I note, Mr Jordan.

Mr Hirschhorn: You've probably seen more—

Mr Jordan: There's nowhere else to go. We are not allowed to refer—

Senator BARBARA POCOCK: I understand.

Mr Jordan: to their professional associations. It was literally the AFP, CDPP—which would only take it on advice also from AFP—and the TPB.

Senator BARBARA POCOCK: So, were there any other tax practitioner bodies that were of concern to you in this period? Or is this simply a matter of PwC and its failures?

Mr Hirschhorn: This is the only instance—like the Collins breach of confidence—that we've seen anything like it.

Senator BARBARA POCOCK: And you never had a discussion with a minister or a member of the government for this five-year period, when you knew this system was broken—bad things were happening, revenue was lost, a huge amount of your effort, as Senator O'Neill's questions have shown us, was spent trying to deal with a complex matter—and you never spoke to a minister of the government? Is that correct?

Mr Jordan: We've already answered that, and the answer is no.

Senator BARBARA POCOCK: So, the answer is: you never did.

Mr Jordan: We did not.

Senator BARBARA POCOCK: And say again: explain to the listeners—and there are a lot of them—why the government was never advised of this very significant failure of regulation in our tax system.

Mr Jordan: Because it would've been a breach of our legislation that requires protected information to be kept by us and not shared with unauthorised people. We are not allowed to share protected information with ministers.

Senator BARBARA POCOCK: And did you make a proposal to the government to amend specifically, formally? Is there correspondence which tells us, 'This is broken. We can't give you the details, but something needs to change here'?

Mr Hirschhorn: Senator, I will take that on notice, but to my knowledge I do not think we did a ministerial submission on that topic.

Senator BARBARA POCOCK: No ministerial submission about something which is clearly, would you say, one of the major failings on your watch? Yet nothing happened. Why no proposal for amending, dealing with or fixing a serious problem? What was holding you back, I'd like to know, from making that proposal for a reform?

Mr Hirschhorn: Senator, I would say from our perspective, because our responsibility is tax and tax paid by taxpayers, we felt that, in terms of the tax side, the revenue at risk, we had fully addressed the problem by the end of 2016. We had stopped the risk to the revenue system. As I said, this is the only time we have seen anything like this sort of behaviour. Ordinarily we would be talking with Treasury about potential legislative change if something is systemic rather than a one-off.

Senator BARBARA POCOCK: But the failure was not simply in revenue that might have been prevented from being lost; there was clearly a failure in terms of confidentiality and a range of matters in relation to Peter Collins. But I want to ask you specifically around that: Peter Collins signed a confidentiality agreement with Treasury in early 2018, two years after you were aware that there was an avoidance scheme being marketed, as you very clearly stated to us, creating great risk for revenue in our tax system, to PwC's overseas clients. Why did

the ATO not alert Treasury and allow Treasury to continue to sign confidentiality agreements with Peter Collins, knowing that he was leading this ring of tax avoidance—a conspiracy of tax avoidance, in fact?

Mr Hirschhorn: Senator, I will talk about what we did. In October 2017 we asked Treasury for a standard confidentiality agreement, which we obtained. Later on, in 2018 we asked Treasury for a specific confidentiality agreement, the agreement with Peter Collins. We expressed general concerns to Treasury, but due to secrecy we could not share specific information or share specific concerns.

Senator BARBARA POCKOCK: It is just embarrassing, it is implausible and it is absurd that you knew that a breach of confidentiality was underway, knew the individual involved and could not make any comment to anyone in Treasury about that. That is unbelievable. It's gobsmacking.

Mr Jordan: That is what the existing law requires. It is interesting: some people say we should not have any more powers to share information more widely with other government bodies. I do not agree with that. I think we should in appropriate circumstances be able to, but some people say we should not have criminal investigative powers and we should not have extended powers of sharing information amongst other government authorities.

Senator BARBARA POCKOCK: Clearly things have gone the wrong way. How often do you meet with the secretary of Treasury?

Mr Jordan: Not often.

Senator BARBARA POCKOCK: Not often?

Mr Jordan: No. We tend to deal with Diane Brown, the head of the revenue unit, which is more specifically relevant to our activities.

Senator BARBARA POCKOCK: What would have been the consequence if you had said, 'I am concerned about a specific confidentiality agreement, and I want you to communicate with me and have a look'? What would have been the consequence for you if you had breached your secrecy, what you're describing as these iron laws?

Mr Jordan: I am not sure of the penalties under that.

Mr Hirschhorn: Senator, it is actually a criminal offence for us to breach our secrecy laws.

Senator BARBARA POCKOCK: So the public servants are bound by criminal charges, but we can't get the Federal Police on the beat? There is something wrong with this system. The wrong people are being prevented from talking about the really important things that need to be done.

Senator O'NEILL: Can I ask some clarifying questions?

CHAIR: Senator O'Neill, it has reached seven o'clock, and we will break for dinner now. We will return with these representatives, and we will have ASIC later in the evening as well.

Proceedings suspended from 19:00 to 20:04

ACTING CHAIR (Senator Grogan): The committee will resume with representatives from the ATO, the ACNC and Treasury's Revenue, Small Business and Housing Group. Senator Bragg.

Senator Gallagher: Just before we go to questions, I think Ms Brown has a couple of follow-ups from previous sessions, if we could just get them done? Sorry, I should have given you a heads up.

ACTING CHAIR: Great, absolutely.

Ms D Brown: I'll try and keep it brief. There were some comments before we went to dinner around secrecy offences and secrecy provisions. I wanted to make three points. The first is that those secrecy provisions are not unique to the tax legislation. A survey done by the Commonwealth Attorney-General's Department found there were 11 general secrecy offences and 487 specific secrecy offences in Commonwealth legislation. Those secrecy provisions need to balance a number of considerations. As we heard before dinner, we don't want laws that frustrate regulators, but those laws are necessary to protect the reputation of people being investigated in the event they turn out to be innocent. We need to balance that when we are thinking about how those laws should be designed. We also want those laws to give people confidence in the regulators and that the information will be properly used. That is also to the benefit of regulators. If people have confidence that their information will be respected and appropriately protected, they are more likely to engage constructively with regulators. That helps achieve a better regulatory outcome.

It is apparent, though, from the conversation that we had before dinner that there are concerns about the operation of those provisions. There is in fact a review currently being conducted by the Attorney-General's Department of the secrecy provisions right across the Commonwealth laws. The review will seek to address concerns raised by multiple reviews about the number, the inconsistency, the appropriateness and the complexity of Commonwealth secrecy offences. The review will cover relevant provisions under tax laws. The public

consultation period opened towards the start of the year and has now subsequently closed. The review's final report is due to government by 30 June. The government will then consider next steps for reform to secrecy laws following consideration of the final report. For the senators' information, I'm very happy to table a copy of the terms of reference of the review of secrecy provisions to assist. It is available publicly on the website, though.

Senator BRAGG: I have some questions about franking credit reforms. There was significant evidence given to the Senate economics committee when it inquired into the TLAB which contained measures on capital raising. As you know, there was significant evidence that these changes would incentivise companies to raise debt rather than to raise equity capital. The corollary of that is also that major established organisations, like banks, may also enjoy an advantage because of the way that the test is drafted around established practice for dividends. What do you say now having had the time to receive that evidence about those two points?

Ms D Brown: Can I come back to that question and, firstly, just make one further very short clarification on evidence earlier in the evening on a question from Senator Hume. Senator Hume had asked questions about chart 3.17 on page 117 of Budget Paper No. 1. I need to advise that the line titles in that chart were incorrectly printed in the budget. The top line in the chart should read '2023-24 budget'. The bottom line should read '2022-23 October budget'. They should be flipped.

Senator HUME: So the red line and the blue line should be flipped. What about the chart on page 113?

Ms D Brown: We will confirm if that that one is correct.

Senator HUME: And chart 3.11 on page 111, which again has a red line and a blue line? I just want to make sure they're not mixed up as well.

Ms D Brown: I don't believe that they're incorrect, but we'll have the team correct that.

Senator HUME: Alright. Can we just do a little double-check on each one of these charts that have a red line and a blue line for the October budget and the May budget, just to make sure that we're all singing from the same song sheet.

Ms D Brown: Sure. I can say the data in the table on page 118 of Budget Paper No. 1 is accurate, as is the text on pages 116 and 117. So basically net financial worth is projected to improve over the medium term. Those tables are correctly labelled. Sorry, Senator Bragg—franking credits.

Senator BRAGG: There were two questions. One was about debt versus equity, and the other question was about larger companies enjoying an advantage because of the existence of established practices on dividend payments.

Ms D Brown: I might ask Mr Robinson to answer that, just while I tidy up some leaking ink.

Mr Robinson: I think, if we step back and have a look at the drivers here, what this measure is targeting is cases at the egregious end, where firms are using equity raisings in order to then immediately pay a dividend, where there's no change in the economic outcome for the entity for the purpose of releasing franking credits. So, in that sense, a distinction between debt and equity in terms of what the measure is targeting is not that relevant.

Senator BRAGG: But you didn't answer my question, with respect, Mr Robinson, so what about the debt and equity point?

Mr Robinson: In terms of the difference for large and small business being able to raise debt?

Senator BRAGG: Well, the market is saying that, if this change goes through, organisations will be more likely to raise debt, because using equity will be less advantageous for their shareholders and therefore debt may be more attractive.

Ms D Brown: I think this measure is intended to be cast very narrowly. It's intended to address the situation, as highlighted in the tax alert, of instances where shareholders and companies are agreeing to issue equity for the purpose of immediately paying a franked distribution. That's not the case for most companies. With most companies, the shareholders and the directors would never come to that kind of arrangement.

In relation to debt—doing it via debt rather than equity—there are new considerations that come into a decision as to whether to do that. The issuing of equity to fund those franked distributions comes at almost no cost to the company. The shareholders provide capital to the company, and the company just channels it back out as the payment of franked dividends. If it's done by debt, the company would raise debt. They could then use that to pay the dividend, but they would have on their books an outstanding debt which they would need to service. So the first issue is whether someone would lend them debt in that instance. They need to be a company that can meet the ability to repay that debt, and they need to be a company that wants to accrue that extra debt and make the repayments. So I actually think there are commercial considerations that mean that the situation that we were

concerned about actually doesn't arise in relation to debt. It really is aimed at that very narrow casting of a company issuing equity to pay back a franked distribution.

I will say we do need to be careful with the legislation. The legislation does need to make sure that companies are able to still issue and pay dividends, including franked dividends. It's not intended to stop that. It's just intended to capture that very narrow casting that I described earlier. In the exposure draft bill that went out, we cast that net too wide, and changes were made to the bill between the exposure draft and the bill's introduction to make it much, much narrower. I think a few people at the hearings that you had with the committee raise some other edits or amendments that could be made to the bill to make sure it really is directed at the very narrow set of circumstances that we're worried about that would risk revenue. I think we're waiting for the report to see whether there are further amendments that are necessary to make sure the bill does achieve its intended purpose.

Senator BRAGG: I'm sure it'll be a very good report, but, effectively, you're saying that you think there could be scope for improving the drafting?

Ms Brown: We'll wait and see your comments. There were definitely some suggestions in the amendments around some tightening that could be considered.

Senator BRAGG: The point here is that Treasury gave evidence to the committee that there had not been any new activity of note which may have been causing them mischief in the past. That was occurring around 2016 or 2017. The question is: Why put in place a risky measure like this? The market is telling the government that this is a very risky measure.

Ms Brown: I think the ATO—who are here and could answer this—found some instances of tax planning that were not consistent with the intent of the imputation system. The ATO acted very quickly and issued a tax alert. The former government was sufficiently concerned to announce that they would be amending legislation, and they announced that that legislation would apply retrospectively.

Senator BRAGG: That's a very bad idea.

Ms Brown: Any company that decided to do it knew that there were laws coming in that would apply to them. That acted to prevent any further action.

Senator BRAGG: Okay. Let me ask the ATO, because they're here. You've issued taxpayer alert TA 2015/2 in relation to capital-raising and the paying of frank dividends. Has that measure been effective?

Mr Hirschhorn: Yes. When the taxpayer alert was first introduced, it was effective. It did have an effect. It's fair to say that, as the alert grew a little longer in the tooth, the rumblings were not positive. We worked with Treasury on the recommendation to government that a legislative measure would be beneficial in addressing this mischief.

Senator BRAGG: I want to ask you about the costing, because I don't see how the costing of this measure is right. The 2016 data that you acquired from taxpayers they provided voluntarily—is that right?

Mr Hirschhorn: I understand that the Treasury costings were based on extrapolating from a couple of transactions.

Senator BRAGG: In 2016, there are a couple of transactions. That's extrapolated, and there's an estimated gain to the budget of \$10 million.

Mr Hirschhorn: Yes. That is the Treasury estimate.

Senator BRAGG: That was the case in 2016, when there was market activity. Now, in 2023, there is no market activity like that. The Treasury costing comes back at \$10 million. That's the same revenue gain, even though the activity and the market dynamics are totally different. I may not be very smart, but I can't work that out.

Mr Hirschhorn: I might make an observation on the difference between this side of the table and the other side of this table. The number in the budget is set according to the budget rules, which are based on a certain approach. Our experience would be that, if one transaction of this nature happened, the revenue cost could be significantly greater than \$10 million.

Senator BRAGG: This is my last question. Are you saying that the number in the budget is wrong?

Mr Hirschhorn: I'm certainly not saying that the number in the budget is wrong. I'm saying it is a number calculated in accordance with the budget rules. I'm saying that our lived experience in the tax office would be that one transaction would have the potential to have an impact of the budget of much more than \$10 million.

Senator BRAGG: I'll have to come back to this.

Senator HUME: Can I ask [inaudible] of the ATO, first of all about whether you were aware of the recent tax changes that were announced in Victoria's 2023-24 budget? There are land taxes, levies on property investors and that sort of thing.

Mr Jordan: We're aware of that from the media.

Senator HUME: It is reported:

Daniel Andrews has rejected claims a new levy on property investors will lead to rent increases, urging those who use negative gearing to instead claim the expense through the federal tax system.

Premier Andrews said his new tax was 'fully tax deductible' for Victorians who negatively gear. He said:

I'd encourage anybody who can lawfully, legally make claims against that federal tax system to do so. I'm sure that accountants will provide advice to that end.

It does depend on the individual circumstances, how you have things structured, but those costs are tax deductible. That's the advice I have and I'm sure that people will make those claims.

I ask the ATO: will Victorian citizens be able to claim the cost of Victoria's new taxes on land, like the increase to the absentee owner surcharge or the land tax change, against their federal income tax as a deduction?

Mr Hirschhorn: Senator, my first comment is that I would caution those who are not registered tax agents or tax advisers from giving tax advice.

Senator HUME: Including premiers?

Mr Hirschhorn: Secondly, if you have a property which you rent out for income, so it is being used for the purpose of earning income, then generally the costs of holding that property can be deductible. In the context of a rental property which is truly held to rent, it is likely that things like land taxes are tax deductible. To the extent that a levy is on property which is used as a holiday home or in a mix, if it is a holiday home you will get no deduction and if it is used for a mixed purpose you might get a partial deduction.

Senator HUME: Will the ATO then release guidelines either to the public or to tax practitioners or update existing guidance on how these state taxes will interact with federal taxes—so, whether they can or can't be claimed in the way that the Premier has suggested?

Mr Hirschhorn: In the ordinary course, when a significant thing happens we would provide advice to the community as to how the tax law applies. I'm not sure exactly of the status of those new laws, but we would expect in the ordinary course to provide guidance to the community.

Senator HUME: This is probably a question better directed to the department, but I am wondering whether the impact of these new taxes and the announcement on tax receipts has been modelled—whether Treasury or the ATO has been asked to model the impact of this either by Treasury or by Treasury ministers.

Ms D Brown: Senator, it would be a matter we would consider as part of the updated forecasts in MYEFO.

Senator Gallagher: The states make their own revenue decisions, and how that interacts with the Commonwealth would be just in the next economic update, which in this case would be MYEFO.

Senator HUME: Minister, on that, do you have a view on the commentary that the Victorian government is attempting to improve its fiscal balance by asking Victorians to essentially cost-shift their taxes by paying new taxes and then reducing their federal tax bill?

Senator Gallagher: I'm not going to express a view on it tonight. My answer is as I have just answered previously, which is that it is not unusual for states to make their own revenue decisions.

Senator HUME: Is it unusual for states to make their own revenue decisions that directly affect the federal budget bottom line?

Ms D Brown: I am wondering, Senator, whether we can take that on notice. I am conscious that the Commonwealth Grants Commission and those relationships between the states and the Commonwealth actually are managed by the fiscal group, and whether these state taxes might be a consideration for any other payments to the states I would want to take on notice.

Senator HUME: Can I ask the minister and actually the department too whether the Treasurer of Victoria discussed this proposal with Dr Chalmers?

Ms D Brown: We can take that on notice, Senator.

Senator HUME: Could you perhaps also take on notice to determine whether that consultation took place pre the announcement or post the announcement?

Ms D Brown: Certainly.

Senator HUME: Is it Treasury's intention to provide briefings to the Treasurer or to Treasury ministers on this as a matter of urgency?

Senator Gallagher: I think Treasury would brief on these matters routinely. Yes, they would—I would imagine—provide advice to their ministers as required.

Senator HUME: That's a yes—Treasury will be providing advice to the Treasurer or to Treasury ministers as appropriate, as a matter of urgency, on this announcement?

Senator Gallagher: No, that's your language, 'as a matter of urgency'.

Senator HUME: I asked the question 'as a matter of urgency' and you said—

Senator Gallagher: What I said is Treasury will be working through the details. It is routine that they brief their ministers about matters relating to revenue and movements within the budget, if there are any, and any changes that need to be reflected—I'm not saying they do need to be reflected—would be reflected in MYEFO.

Senator HUME: Could I ask you to then take it on notice about a specific briefing, if you don't know about the possibility of one? For the *Hansard* record, that's a nod. Can I ask the department or the ATO whether there have been, for either the Treasury or Treasury ministers, any briefings, discussions, calls, meetings or contacts at a ministerial level with the Victorian government on this issue already or whether there are any planned?

Ms D Brown: We would have to take that on notice, Senator.

Senator Gallagher: You want to know whether there have been any discussions already to date and whether there are going to be any discussions in the future?

Senator HUME: Yes, on an announcement from the Victorian government that the rest of Australia can pay for their tax decisions.

Senator Gallagher: I'll see what can be provided.

Senator HUME: I have some questions on the stage 3 tax costings. They should be brief. At the last estimates we discussed in detail on what basis the stage 3 personal income tax plan would be re-costed on the latest economic parameters. It seemed unusual to re-cost a policy that was already legislated. Minister, could you confirm whether it was considered that the cost of removing the stage 3 tax cuts was in fact in this budget?

Senator Gallagher: Sorry?

Senator HUME: Did you cost it again?

Senator Gallagher: The cost of removing it?

Senator HUME: Why would you cost something that you are not intending to remove, already legislated?

Senator Gallagher: I am not going to go to questions of things that were prepared for consideration during the budget process. That would go to advice being prepared for ERC, which I'm not going to confirm.

Senator HUME: The reason I ask, Minister, is that in the October budget it clearly was costed, and it was mentioned. Even though it is already legislated and there were no indications that you were going to remove it, it was included in the commentary on the October budget. In the May budget it was also clearly costed; the Treasurer mentioned it on 9 May. He stated that the updated estimated cost of the changes was around \$69 billion over the forward estimates.

Senator Gallagher: He was asked a question. I was there.

Senator HUME: But it wasn't in the budget papers.

Senator Gallagher: It is reflected in the budget papers.

Senator HUME: It wasn't specified in the budget papers.

Senator Gallagher: That's a different thing.

Senator HUME: You had the policy costed, and it wasn't in the budget papers.

Senator Gallagher: The stage 3 tax cuts, when they kick in, do factor into the budget forward estimates. That's one thing. He was asked a question about the cost of those when they come in, and the answer was \$69 billion over the forward estimates.

Senator HUME: Why would he have that policy costed again, already legislated, if it wasn't going to be considered for potential removal? It's already legislated. It's already built in.

Senator Gallagher: You're trying to build up a big thing here. They kick in on 1 July 2024, so there is another year in the forward estimates where those tax cuts kick in. That information was part of finalising the budget.

That answer was given to a question that was asked, just as we would answer a question you would be asked on that.

Senator HUME: Is it normal practice to re-cost existing policies that are already built into the budget?

Senator Gallagher: It's a matter of updating the forward estimates as those changes come through, and that is the cost of them over the forward estimates, because there's an extra year of them in, so it does change the number, and I think we probably, and rightly, suspected that we may be asked that question, which we were at the first press conference where the budget was discussed—

Senator HUME: Are there any other policies that you update the costs of, prior to the budget, that you don't intend to touch, you don't intend to remove?

Senator Gallagher: I think all of the policies would have an impact, as they come through and add an extra fiscal year in. There would be an understanding of what the cost of that is, because it's reflected in the forward estimates.

Senator HUME: Was it considered? Did you re-cost stage 1 and stage 2 of the tax cuts, or just stage 3?

Senator Gallagher: I'm not going to advise that was prepared for the ERC.

ACTING CHAIR: I'm circulating the call, Senator Hume. We'll go to Senator O'Neill.

Senator O'NEILL: I've so many questions and I don't know that there's going to be time to get them all on the record. In the last session, you were giving some information to Senator Pocock. I certainly want to follow up on the detail of those last couple of dates that were under discussion, but perhaps Senator Pocock might pick that up.

Can I just jump to some consideration of PwC's knowledge of their being investigated. As to Project North America, to enable tax evasion by some of the biggest multinationals companies in the world, when did PwC become aware that they were being investigated by the ATO in relation to that matter?

Mr Hirschhorn: They would have become aware of that when we sent them notices at the end of 2016.

Senator O'NEILL: So, at the end of 2016? The law came in on 1 January 2016, and you became aware of the issue in April?

Mr Hirschhorn: Yes.

Senator O'NEILL: Why did PwC receive nothing from you until the end of 2016?

Mr Hirschhorn: As I mentioned before, our focus was on ensuring that companies did not adopt these schemes and those that had adopted them reversed them—that was our first focus. Then, towards the end of 2016, we commenced our strategy of sending notices to each of the large firms associated with the three MAAL tax alerts and the other eight tax alerts.

Senator O'NEILL: What were the large firms that you were referring to there, Mr Hirschhorn? Did you just do a general mail-out to all of the big assurance companies, or were you targeting your awareness-raising?

Mr Hirschhorn: Yes. The alerts are publicly available. As to the notices that we sent to the firms, if we had intelligence that a firm was associated with a particular scheme, we sent them a notice in relation to that scheme.

Senator O'NEILL: Was PwC the only firm that you gave such a notice to?

Mr Hirschhorn: No. Notices were sent, covering—fewer or more of the taxpayer alerts were sent to all large firms.

Senator O'NEILL: As a sort of broad-spectrum antibiotic, or as a target because you had suspicions?

Mr Hirschhorn: On a particular alert, we only sent the notice in relation to that alert to a firm where we had intelligence that that firm was associated with that scheme.

Senator O'NEILL: So how many firms were involved there?

Mr Hirschhorn: All of the large firms. So the big four firms all received notices.

Senator O'NEILL: Did any others receive such forms?

Mr Hirschhorn: No other firms received forms because we had not identified other firms associated with those 11 schemes.

Senator O'NEILL: At this point of time, at the end of 2016, PwC was certainly the focus of your attention, but you also sent letters about tax avoidance to KPMG, to EY and to Deloitte. Is that correct?

Mr Hirschhorn: Yes, it is.

Senator O'NEILL: So, while we are completely aware of the transactions that happened with Mr Collins that are now a matter of public record, you're providing new evidence that you had concerns about all of the big four

providing anti-avoidance advice and schemes to a range of participants in the Australian economy who were seeking to avoid paying their fair share of tax?

Mr Hirschhorn: I wouldn't say it's new evidence; they are things we've spoken about in this committee before. Yes, each of the firms was associated with at least one of the alerts, and so we sent notices to the firms to check their clients and targets and, indeed, to see if our intelligence was correct as to whether they had been promoting particular schemes.

Senator O'NEILL: Did they respond to those notices from you?

Mr Hirschhorn: Yes, they are compelled to respond.

Senator O'NEILL: In those letters, did they all deny or accept—or were there a range of responses?

Mr Hirschhorn: I think it's fair to say that the firms responded with the information that we requested.

Mr Jordan: I should say, subject to correction, there was no blanket claim for legal professional privilege; they responded to the notices in the way we would have expected them to.

Senator O'NEILL: When, to the best of your knowledge, did PwC become aware that the matter was subject to formal investigation, in addition to receiving this notice from you?

Mr Hirschhorn: We were, it's fair to say, in fairly intense conversations with PwC from the middle of 2017. I mean, they were fully aware of our interest right from the start, but it's fair to say that it escalated throughout.

Senator O'NEILL: You've already put on the record the limitations on your communications, because of the privacy agreements. We've had further evidence of that from Ms Brown. Was there any legal prohibition from PwC discussing their issues with anyone?

Mr Hirschhorn: They might have their ethical duties of client confidentiality in relation to the affairs of their clients, but they are not subject to taxpayer secrecy laws.

Senator O'NEILL: So they could have been sharing this information, and probably were, with legal counsel—is that correct?

Mr Hirschhorn: It was entirely within their power to share it with legal counsel.

Senator O'NEILL: Is it within their power to share it with former colleagues? Is there anything to prevent them from sharing the information with anyone?

Mr Hirschhorn: As I said, probably the main prohibition for them is their duty of confidentiality in relation to clients.

Senator O'NEILL: We know their attitude to confidentiality; that's been well revealed by the evidence we've got. We've got a cultural practice of confidentiality meaning nothing. Is it possible that people from PwC could have easily shared what was going on with the then Assistant Treasurer, Mr Sukkar, or, indeed, the Treasurer, Mr Frydenberg?

Mr Hirschhorn: This is a question better for PwC.

Senator O'NEILL: But there was no restriction on them doing that. It's information for them to do with as they choose. Is that correct?

Mr Hirschhorn: It's information in relation to their client, so they have ethical duties to keep it confidential.

Senator O'NEILL: You do say that with a straight face, Mr Hirschhorn, but we are discussing a company where there's been a profound breach of trust of confidentiality with the Commonwealth. There'd be nothing to stop them having a conversation with a good old mate about a problem that they've got with regard to supervision by the ATO and an interruption to a business practice that they were committed to, is there?

Mr Hirschhorn: Again, I've answered to the best of my ability. That's a better question for PwC.

Senator O'NEILL: Okay. You've acknowledged that ATO staff would never have engaged in any sort of conversation about your inquiries into the North America tax evasion scheme, but, given what's happened in the ensuing period, do you know if any of the ministers or their offices ever sought to initiate a dialogue with the ATO regarding this issue?

Mr Hirschhorn: I am not aware of, and I would expect to be aware of, any approach from a minister. It would be extremely unusual, and I am not aware of any conversation touching on this at all.

Senator O'NEILL: So no informal channels of communication at all that you're aware of?

Mr Hirschhorn: There were no informal channels.

Senator O'NEILL: And no ATO staff ever report having been approached by ministerial staff about this matter and your pursuit of PwC?

Mr Hirschhorn: That is correct.

ACTING CHAIR: We'll rotate the call, thank you. Senator Pocock.

Senator BARBARA POCOCK: I have a few more questions following along the line I was pursuing earlier. If the AFP rejected an investigation of PwC in 2017-18, which you said earlier you did by mutual agreement, why has the referral now been successful? What is different? Is it that the old evidence is getting the attention perhaps that it should have had from the beginning, is there new evidence, or is it simply public pressure which now sees us, many years later, with a referral to the Federal Police?

Mr Hirschhorn: Can I make one comment before I pass over to my Treasury colleagues, who have made the referral. But, also, some of these questions may be for the police rather than for us. At the start I said we had some information that we'd obtained as an incident of notices that we asked around the taxpayer alerts. We were not able to investigate further. The Tax Practitioners Board, of course, was able to investigate further because it went to the purposes of the TASA, the Tax Agent Services Act, which are as to whether people are fit and proper people to be tax agents. We do not know what information the Tax Practitioners Board has obtained; indeed, we know that they have received some extra, over what we had, because we see it in the emails that they tabled. So it is entirely possible that there is more evidence now than there was in 2018-19.

Senator COLBECK: Senator Pocock, I wouldn't want to disrupt your line of questioning, but I want to ask a question that's complementary to your questioning.

Senator BARBARA POCOCK: Please do.

Senator COLBECK: In your investigations initially, through your notices, you were able to glean a certain amount of information. Would it be correct that the AFP did their initial assessment on that initial information that you were able to glean without doing any further search?

Mr Hirschhorn: Senator, I'm going to get a little bit cautious here because I don't want to prejudice the current investigation.

Senator COLBECK: And I'm on the program with that.

Mr Hirschhorn: It's fair to say that they were aware that we could not use our information powers to obtain more information.

Senator BARBARA POCOCK: But the Federal Police—

Senator COLBECK: Where I'm going is that the Federal Police in their initial investigation used the data that was already available and only that data to do their initial assessment. Of course, now there's been an assessment by the Tax Practitioners Board, which has elicited further information, it gives them more information now.

Senator BARBARA POCOCK: I think we have a further picture here of an inadequate desktop assessment, probably. That's what I feel I heard. I feel we've also heard, essentially, a powerful case for a referral of this entire matter to the National Anti-Corruption Commission. Something has gone wrong, something has taken years longer than it should've, and we really need to make this move along. For me, this experience, this account, has demonstrated the importance of that. Would the ATO perhaps have referred this matter to an anticorruption commission if there'd been one in place? Have you had thoughts about that?

Ms D Brown: I think hypothetically, yes.

Senator BARBARA POCOCK: Sorry?

Senator Gallagher: There wasn't one.

Senator BARBARA POCOCK: No, there wasn't. Fortunately, we can do that now. Your evidence points very squarely at failings within the existing system of regulation and to failures, within the processes at least, of the Federal Police: a failure to investigate, a failure to see corruption or its possibility and failure to act. I think that's all very clear, but is it also a failure that the ATO shares, in that it was a joint decision and it took a year without a referral happening? What's your comment about the limitations and why that action didn't proceed further? I've heard about the secrecy but—

Mr Hirschhorn: Senator, can I clarify the year's delay that you mentioned? I'm not sure what your—

Senator BARBARA POCOCK: Sorry. The earlier evidence, I thought, suggested you took a year of consideration and came to a joint decision with the Federal Police.

Mr Hirschhorn: Yes. So, Senator, I would say that we disclosed information to the police within a few months of receiving the information as a result of the notice. There is discipline in that process for us as well

because we cannot just refer any information to the police. There is a threshold before we can refer information to the police. Indeed, there was a year spent considering the information. I would say in hindsight that I wished that process had been faster, though you can be too fast on these things. These are serious matters and they need to be given due consideration. Further than that, I'd really prefer not to comment.

Mr Jordan: Could I just add one thing to that. It was mainly the AFP considering it over that period, asking us for further information, which we gave. And, as I understand it, when we say 'a joint decision', we weren't in a position to get any further information that the AFP said they needed. We acknowledged, I suppose—rather than a joint decision not to do anything more—that we couldn't provide information that they needed to further their investigation.

Senator BARBARA POCOCK: But they could have found the information. Their own investigative powers were there to do that.

Mr Jordan: I think that's a question for the AFP.

Ms D Brown: I don't think we can comment on the AFP—

Senator BARBARA POCOCK: I think we get the point. Can you provide all the notes of meetings, emails, reports or other relevant documents in relation to that period of consideration and discussion between you and the Australian Federal Police?

Ms D Brown: I don't think that's appropriate either, Senator. There is a current AFP investigation going on, and that level of detail could be prejudicing that investigation. We have to be very careful not to—

Senator BARBARA POCOCK: I'm with everyone on the table that we don't want to prejudice that investigation, but I'm sure there would be materials there that would not prejudice it that should be made available to us. I ask you to consider supplying us with those items.

Mr Hirschhorn: We'll take that on notice.

Senator BARBARA POCOCK: Thank you. Mr Jordan, has the ATO compiled a list of names of partners and employees in PwC who are included in the redacted emails and the further trove of emails that you've indicated you are holding?

Mr Jordan: I'm not aware of such a list.

Mr Hirschhorn: The short answer is no, Senator, and, until they were released, we had not seen some of those emails. Of course, for those emails we only have the redacted version, as do you.

Senator BARBARA POCOCK: Mr Jordan, you're on the Board of Taxation. Has the Board of Taxation the suitability of all members of the advisory panel, particularly those who are partners at PwC?

Mr Jordan: I'm not aware of such a consideration, but I'm sure that the chair of the board will have addressed her mind to that.

Senator BARBARA POCOCK: Based on all that you know about the PwC players from the emails and discussion and background, are you comfortable with PwC's Hayden Scott and Nick Houseman, as well as PwC's Anthony Klein, Steve Ford and Ken Woo, all being members of the Board of Taxation's advisory panel?

Mr Jordan: It's really a matter for the Board of Taxation to comment on their suitability.

Senator BARBARA POCOCK: So you have confidence—I'd like to hear your view; you've clearly got deep experience in this—that Hayden Scott and Nick Houseman, who are currently sitting on the Board of Taxation's advisory panel are not involved in the tax leak scandal?

Ms D Brown: Maybe I could just interject. The Treasurer did write to Treasury, the ATO and the Board of Taxation around these matters. The board of tax did do a response to the Treasurer. I can table that or I can give it to you—probably after this so I don't lose my copy. But it was the subject of an FOI, FOI 3269, so it's available on the Treasury website, which went through the processes that the board of tax takes to manage conflicts of interest, and that includes not just the board members but also members of their advisory panel.

Senator BARBARA POCOCK: Could we have that given to us this evening. Thank you.

ACTING CHAIR: We're going to rotate the call, Senator Pocock; we can come back to you. Senator Smith.

Senator BARBARA POCOCK: No, I'm done.

Senator DEAN SMITH: I have some questions for the ACNC, so I hope to get there this evening. But, before that, I want to ask some questions of the Treasury with regard to the cyberwardens program. Good evening, Deputy Secretary, and thank you for your attendance. At budget paper No. 2, on page 156, \$23.4 million is set aside for a small business cyberwardens program to be delivered by COSBOA to support small businesses to

build in-house capability to protect against cyberthreats. Why was this program supported in this budget but not in the previous budget?

Mr Grassia: I'm not aware that this issue was brought forward in the previous budget.

Senator DEAN SMITH: COSBOA did make a 2022 budget submission, and the cyberwardens initiative was part of its submission. But you're telling me that it was not part of the formal budget proposal as part of the last budget?

Mr Grassia: Not that I'm aware of.

Senator Gallagher: The October budget was, essentially, to fund election commitments and to deal with some of those urgent pressures, but it wasn't a full budget process. This was the first full budget process that we've gone through.

Senator DEAN SMITH: The \$23.4 million commitment to this particular initiative is quite sizeable when compared to the small business initiatives in the previous budget. This is a \$23.4 million program. I think the cumulative value of small business initiatives in the previous budget was \$15.1 million. Have I understood that correctly?

Mr Grassia: That's correct.

Ms D Brown: I think it's correct. There has been support for small business in both budgets. But you're right: in the last budget \$15.1 million over two calendar years was provided for the purpose of extending the Small Business Debt Helpline and also for NewAccess for Small Business Owners. This budget, as the minister has said, is a fuller budget and there's a range of additional programs and support provided to small business. I'm happy to go through those, but there's a considerable number of programs.

Senator DEAN SMITH: I think they're all at page 156—that's right, yes. At page 156, this is the second-largest small business initiative in the cybersecurity space, the largest being the \$46.5 million over four years to establish the coordinator for cybersecurity initiative. Was the decision to fund the program in this budget advised by the department or directed by the government?

Senator Gallagher: I think that goes to our decision-making around this. It was a decision of government to fund this.

Senator DEAN SMITH: Were the budget processes for consideration of this particular initiative the standard budget processes, or was there anything different for this particular initiative and the way that it moved through the budget process?

Ms D Brown: No—

Senator Gallagher: No.

Ms D Brown: Measures move in many ways!

Senator Gallagher: It was part of the standard budget process.

Senator DEAN SMITH: That's quite okay—that's the answer I'm looking for! Thank you very much. Was there a tender process undertaken to determine COSBOA as the recipient of the \$23.4 million?

Senator Gallagher: I don't believe so, but you would go through a process to finalise arrangements around the grant.

Mr Grassia: We're still in the process of finalising the arrangements for the grant.

Senator DEAN SMITH: But the budget paper at page 156 makes it very clear:

23.4 million over 3 years from 2023-24 to the Department of the Treasury for a small business cyber wardens program delivered by the Council of Small Business Organisations Australia, ...

Was COSBOA chosen through a tender process?

Mr Grassia: No, Senator.

Senator Gallagher: It would be—

Senator DEAN SMITH: How was COSBOA chosen?

Senator Gallagher: As you pointed out, this has been one of the issues they raised. They've certainly raised with me in meetings previously that this a priority for their members. They're the peak small business group and they run a number of programs. In this instance, they're the obvious choice to run a program like this. But there is a process to go through to agree on the particulars around that grant, and that's still to be finalised.

Senator DEAN SMITH: Why are they the obvious choice?

Senator Gallagher: As the peak body for small business, and they deliver a range of services, I would say that they are the obvious choice.

Senator DEAN SMITH: So they have a very strong reach into rural centres and smaller population centres?

Senator Gallagher: Yes. Well, certainly in my dealings with them they have a broad reach across small business.

Senator DEAN SMITH: So, Treasury officials didn't think it necessary to test or contest other possible providers in the market that could deliver a \$23.4 million program?

Senator Gallagher: Well, it's a government decision, and the government has decided—

Senator DEAN SMITH: So, the government decided to give it only to COSBOA, without a tender process?

Senator Gallagher: This is not an unusual way of working with stakeholders. Organisations across the board will raise ideas through their budget submissions. The government considers those. We don't fund all of them, but where there are good ideas and it stacks up and we have knowledge of that organisation—its ability to deliver, its reach, its expertise in a particular area, and I would think COSBOA ticks all those boxes—and now we go through a grant, formalising it through the grant guidelines, about how that money is to be administered. That is the process that will be finalised once the money has been appropriated.

Senator DEAN SMITH: Again, to Treasury officials: was any analysis undertaken on various or alternative government organisations or non-government private organisations that could have delivered such a program?

Senator Gallagher: The measure is about giving a grant to COSBOA. There it is, in the budget papers. You've read it from their budget submission.

Senator DEAN SMITH: I'm interested to know what due diligence the Treasury went through to make sure COSBOA was in fact the best, most able organisation, with the greatest reach across the country, to deliver this cyber wardens program.

Senator Gallagher: Measures are assessed and considered as part of the budget process, and that is the result of the government's decisions on that.

Senator DEAN SMITH: Obviously, Minister, you must have been heavily involved in this. You're very conversant on it.

Senator Gallagher: Well, yes; I'm the finance minister.

Senator DEAN SMITH: So, in discussions with COSBOA—

Senator Gallagher: I haven't had discussions with them through this budget process. Certainly in the past couple of years, whenever I've had a meeting or talked with them, they have made it clear that supporting small business with cyber threats—

Senator DEAN SMITH: That's not what we're disputing here. We're talking about how the Treasury—

Senator Gallagher: No, I'm telling you the discussions I've had.

Senator DEAN SMITH: got to a decision that it would be—

Senator Gallagher: The Treasury didn't get to a decision; the government got to a decision.

Senator DEAN SMITH: So, the government accepts complete responsibility for the decision to choose COSBOA and not test other government organisations or other private organisations about their capacity—

Senator Gallagher: I think we're getting hung up on something. This is not unusual where there is essentially an organisation where government has decided that this organisation should run this program—that you would go through a process like this, which is that the grant agreement is what gets finalised. But COSBOA has been selected to deliver this.

ACTING CHAIR: This is your last question, Senator Smith.

Senator DEAN SMITH: Who selected—

Senator Gallagher: The government.

Senator DEAN SMITH: No, let me finish. Who selected the other partners—Telstra, CommBank and 89 Degrees East?

Senator Gallagher: I would have to check the records on that, but if it was part of the same measure it would have come through that same process.

Senator DEAN SMITH: So, why is Telstra there and not Optus? Why is CommBank there and not NAB?

ACTING CHAIR: Thank you, Senator Smith. We are going to rotate the call.

Senator DEAN SMITH: To who?

ACTING CHAIR: Well, I might just add one question. I'm interested in this COSBOA thing. Am I right to say there was a pilot project that was running prior?

Senator Gallagher: Yes. COSBOA were running the pilot.

ACTING CHAIR: Thank you.

Senator Gallagher: I'll see if there's more information I can get to you on that.

ACTING CHAIR: We'll rotate the call.

Senator DEAN SMITH: Were the procurement rules followed?

Ms D Brown: The procurement rules will be followed.

Senator DEAN SMITH: No: were they followed.

Ms D Brown: There's no procurement yet.

Senator DEAN SMITH: Fair point. My question still stands: why is COSBOA engaged with CommBank, Telstra and 89 Degrees East, and not perhaps NAB or Optus? No, it doesn't say it there. It says it on the websites.

Senator Gallagher: I will have to come back to you on that. It may be that they are involved in the pilot.

Mr Grassia: They are.

ACTING CHAIR: We'll go to Senator Hume.

Senator HUME: I have some questions around some questions on notice, particularly regarding superannuation tax changes. The Treasury's consultation paper on the measure revealed that the methodology for calculating the tax liability will require an assessment of unrealised capitalised gains, and Senator Bragg had a question on notice asking whether Treasury were aware of any other country in the world that taxes unrealised capital gains, and the answer provided says, 'There are examples of the taxation of unrealised capital gains in other jurisdictions.' I'm wondering whether Treasury could elaborate on which countries tax unrealised capital gains and how.

Ms D Brown: Superannuation, including tax matters in relation to superannuation, is done in Markets Group, so we can take that on notice and Markets Group can elaborate.

Senator HUME: Taxation of superannuation?

Ms D Brown: Yes.

Senator HUME: Surely we can talk about that in Revenue—surely.

Ms D Brown: Taxation of superannuation is done in Markets Group. We do the costings in our group, but taxation matters related to super are done in Markets Group.

Senator HUME: For the sake of interest then, the Revenue Group and maybe even the ATO can enlighten the committee as to whether they know of any jurisdiction anywhere that taxes unrealised capital gains.

Senator Gallagher: That's a question for Markets.

Senator HUME: I'm sure that there are some tax experts at the desk. Is anybody aware of anywhere else that taxes unrealised capital gains? Mr Jordan? Mr Hirschhorn?

Mr Jordan: No.

Mr Hirschhorn: In fact, Australia does tax some unrealised gains.

Senator HUME: How does that work?

Mr Hirschhorn: Under the taxation of financial arrangements provisions there are some gains which are taxed on an unrealised basis. If you have trading stock you can elect to have it taxed on an unrealised gain basis, but off the top of my head I couldn't tell you other jurisdictions which tax unrealised gains.

Mr Jordan: I was specifically referring to within super funds. Financial TOFA—taxation of financial arrangements—are mainly for large institutions, on the market values of certain instruments, but that's pretty narrow. But in terms of superannuation funds, it may be—obviously Treasury said there are; I'm not aware of them.

Senator HUME: Has the ATO been asked to provide any advice on how taxing unrealised capital gains might work, whether it be within superannuation or outside of superannuation?

Ms Rosenzweig: Treasury is conducting the consultation on that measure at the moment. Other than being participants in that, we have not been asked to provide any advice.

Senator HUME: From the tax office's perspective, what would be the complications that would inevitably arise from taxing unrealised capital gains?

Ms Rosenzweig: My understanding of the consultation is that it's looking at the mechanism by which to calculate the super balance and to try to do that in a way that balances simplicity of reporting with equity and getting the measure right. I think that's still up for consultation.

Senator HUME: If there was a tax on unrealised capital gains—it doesn't necessarily have to be on superannuation; it can be outside of superannuation too—the expectation from the ATO would be that if that tax was due but there was no income with which to pay it then the owner of that tax liability would be forced to sell something to pay for their unrealised capital gain. Is that right?

Ms Rosenzweig: Like other superannuation taxing arrangements, I understand the consultation paper for this discussed that a tax liability would be able to be released from the superannuation environment, the amount of the liability. There are other super measures, like division 293, where a liability arises, and someone can actually release that amount of liability from their super fund to pay.

Senator HUME: So you can pay it from your super fund, but that means if your super fund doesn't have liquid assets it would have to sell something—well, it would have to sell something anyway, unless it was just sitting in cash—to pay. Is that right?

Ms Rosenzweig: Yes, but there are very few super funds that have such a concentration of assets that they wouldn't have some level of liquidity.

Senator HUME: Except for self-managed super funds that may not have that level of liquidity that was required.

Senator Gallagher: They're required to have liquidities to meet their tax obligations.

Senator HUME: But their tax obligations would be very hard to predict, Minister, because potentially you could have 50 per cent of your capital gains occur in the last week of the financial year. Is that correct? There is nothing precluding that. You could have a bull run market in the last couple of days of the financial year, and that would give you an enormous capital gain for which you would need to—

Senator Gallagher: For people who have balances over \$3 million.

Senator HUME: Yes. It doesn't really matter what the balance is; we're talking conceptually here.

Mr Hirschhorn: I'm not sure if it would be helpful, but we do publish statistics—they're publicly available and we can table them—around concentration of assets in self-managed super funds to show different levels of concentration.

Senator HUME: That would be helpful but not necessarily relevant to the question I'm asking. If you have unrealised capital gains, and that raises a tax liability in one year, but in the following year you have losses, what happens then? Do you carry forward those losses for yet another year? Is that right? You don't get a refund from the tax office, do you?

Ms D Brown: Those cameos are set out in the consultation paper that was put out by Markets Group. They went through various scenarios, and I believe one of the scenarios they looked at was the carrying forward of—

Senator HUME: How do they do it in other jurisdictions where they have unrealised capital gains? That's the answer to the question on notice.

Ms D Brown: I apologise, I will need to ask Markets Group to answer that. That research and analysis was undertaken by the superannuation team in Markets Group.

Senator HUME: Thank you.

Ms D Brown: Senator, while I've got you, you asked about whether charts 3.11 and 3.14 in Budget Paper No. 1 were correct. I can confirm that they are correct.

Senator HUME: Thank you. Ms Brown, before I let you go, my understanding is that you're named in that FOI that was cited in the question which was around the jurisdictions. So you've seen this before and the cameos that have been provided. In fact, it was an email that was to you. Is that right?

Ms D Brown: I don't recall, Senator, sorry. I was involved for a very short period of time in and around the announcement of the measure. So I'm not questioning it, but I can't recall it. I did see early drafts of the consultation paper, but it was finalised when I was no longer working on the superannuation tax.

Senator HUME: Thank you.

Senator BRAGG: I just wanted to finish off where we were before on franking. I put a question on notice to the Treasury on the costing of the policy on capital raisings. Treasury said:

This confidential taxpayer data was the basis of the estimated gain to revenue of \$10 million per year. This revenue gain arises from the imputation system operating as intended in the absence of contrived arrangements.

So that's a revenue gain arising from the absence of contrived arrangements, in the Treasury's words. Then at the public hearing on 2 May, Treasury said:

It is a costing. It's not a forecast of activity, or it's not an estimate of the activity should there not be a measure in place.

So I'm just trying to nail down exactly what is this \$10 million costing that was in the budget in October. Who did the work on this costing?

Ms D Brown: I might ask Ms Di Marco to answer these questions.

Ms Di Marco: That work was done in my team.

Senator BRAGG: When was it done?

Ms Di Marco: I'd have to get the precise dates for you, but it would have been done when the decision—I think the important thing to note is the costing that was in the October budget was not a costing of the policy; it was a costing of the change to the start date.

Senator BRAGG: Hang on. This policy was announced in 2016-17 MYEFO, was it?

Ms Di Marco: Correct.

Senator BRAGG: Was there a costing done then?

Ms Di Marco: Yes.

Senator BRAGG: And this is the same costing that was relied upon in last year's budget, is it?

Ms Di Marco: I think, as Ms Brown alluded to before, when the costing was undertaken it was undertaken on the basis that it would commence from MYEFO night—I think that's the right way to describe it—and, when it was finally legislated, it would operate retrospectively. Unsurprisingly, we haven't seen that activity continue since the announcement on MYEFO night in 2016-17. As a result, you haven't seen that activity occur, and therefore the measure is taken to have been preventing those contrived arrangements and the activity, as it was intended.

Senator BRAGG: Hang on. Is the measure retrospective?

Ms D Brown: It was retrospective when it was announced.

Senator BRAGG: But it's not now, is it?

Ms D Brown: It remained retrospective even when it was then released as an exposure draft.

Senator BRAGG: And now?

Ms D Brown: I might have to get Mr Robinson to confirm the commencement date. It will have some retrospective application still. It's just not as long a retrospective application date. So it's not backdated to 2016. It's a much earlier date.

Ms Di Marco: I think the revised start date is 15 September 2022.

Ms D Brown: Thank you. Yes.

Senator BRAGG: Okay. The costing is the same regardless of whether or not the policy is retrospective?

Ms D Brown: People have always thought it was going to come in, and so they acted accordingly. Because it was retrospective, because government had made a commitment to introduce it when they made it a budget measure and because the budget was never altered to remove it as a budget measure, there was an expectation from all market participants that that was the intention—that this measure would be introduced.

Senator BRAGG: Let me ask you a really dumb question. If this measure goes ahead, will there be a \$10 million gain to revenue each year or once off?

Ms Di Marco: That is the cost estimate—that it would protect around \$10 million of revenue per year.

Senator BRAGG: So there'll be a gain to the budget each year if this measure passes?

Ms Di Marco: That's correct.

Senator BRAGG: What if it doesn't pass, given you said it's already been factored in?

Ms D Brown: People would then believe it's no longer not permitted and would engage in the activity, and that would see the revenue lost.

Senator BRAGG: How reliable do you think that costing is?

Ms D Brown: I believe it's reliable. It was based on the information that we had at the time to make the costing.

Ms Di Marco: Correct. At the time that the cost was originally undertaken in 2016-17, it was based on a range of confidential taxpayer data provided by the ATO and relied on ATO cases. I think, as Mr Hirschhorn alluded to before, that, by utilising those cases, an estimate of \$10 million was generated. Mr Hirschhorn, you can jump in and correct me if I'm wrong. It is the view that the measure could in fact protect substantially more revenue if large, one-off transactions occurred that would cost far in excess of \$10 million a year.

Senator BRAGG: I don't want to take any more time, but the key point here, I would have thought, is that you've now got a bill before the parliament which has, based on the industry view, quite a punitive test and is going to have much broader application than many would have expected. Therefore, the implications for the budget are quite unpredictable, I would have thought. So given your earlier testimony, Ms Brown, that there's a potential for improvement, I guess my question is: are you really sure that that policy costing is right?

Ms D Brown: Maybe if I can just correct: the bill in parliament is much narrower than the exposure draft. But the intent when drafting it was the same—to target a particular narrow area. That is what the costing reflects.

Senator BRAGG: Thanks.

Senator McKIM: I've just got one quick follow-up on the PwC matter, and that is to the ATO. An Australian Federal Police spokesperson has said this evening in response to the comments that you made, Mr Jordan, in this committee earlier this evening, that the ATO only provided 'representative sample documents' for assessment to the AFP. Would you concur that that's an accurate statement?

Mr Hirschhorn: I'm happy to take things on notice on this, but I think it's unhelpful to do a running commentary through the press.

Senator McKIM: You've been very open, Mr Hirschhorn, about—

Senator Gallagher: I haven't seen what you've got.

Senator McKIM: Alright. I'll ask you. Did you provide all of the documentation in your possession to the AFP when you provided information to the AFP?

Mr Hirschhorn: 'All of the information' is a tricky thing to talk about because we received an extraordinary amount of information. Under the notices we were seeking information in relation to multiple taxpayer alert schemes. Some information we received indicated that we had concerns that Mr Collins had breached a confidential Treasury process.

Senator McKIM: Did you provide all—

Mr Hirschhorn: So we provided particular information—

Senator Gallagher: Senator McKim, he's trying to answer your question.

Mr Hirschhorn: We provided information to the AFP. I don't want to get into more than that, Senator.

Senator McKIM: I ask you to take this on notice please. You said that some of the information you obtained led you to have concerns about Mr Collins's behaviour. Can you take on notice please whether you provided all of that particular information to the AFP when you provided information to them? Can you take that on notice?

Mr Hirschhorn: I'll take that on notice and see what we can respond—

Senator McKIM: All right.

Mr Jordan: I did say earlier that my understanding is that they asked for two additional lots of information that we did provide. Again, we could only provide what we had. We couldn't use our taxation powers to get things—

Senator McKIM: I just thought it was worth putting to you what the AFP have said publicly in the last little while to give you an opportunity to respond, which you've now done. I have some questions about the PRRT and some questions on the process of arriving at the proposal contained in the budget, but, firstly, can I just ask the ATO—and it's usually Mr Hirschhorn—

Senator Gallagher: Can I just jump in? We've been here for just over three hours roughly with the lovely representatives of the Australian Charities and Not-for-profits Commission. I'm just wondering if there are any questions for them. I just don't want them to sit here for four hours and not have a question.

ACTING CHAIR: I'm afraid there are.

Senator Gallagher: Okay.

Senator McKIM: I don't have questions for them. This is my last block of questions for the evening. My first question is to the ATO. Do you have an updated figure on the value of carried forward deductions under the PRRT?

Mr Jordan: It wouldn't be Senate estimates without that question.

Senator McKIM: Indeed, although I do believe, Mr Jordan, I abjectly failed to ask it at the last estimates.

Mr Jordan: Yes.

Senator McKIM: So I think the last base figure we have is for the 2020-21 financial year. I hope that either you or Mr Hirschhorn are able to provide an update.

Mr Hirschhorn: Indeed, we can. From the information that we have received as of now in relation to the 2021-22 year, the carry forward expenditure in total is 277—sorry, I'm just trying to work out where the millions are—

Senator McKIM: That will be a billion.

Mr Hirschhorn: It's \$277 billion.

Senator McKIM: I've got some questions for Treasury on how we have arrived at where we are today. I presume that this is for you, Ms Brown, and your officers. Out of the Callaghan review Treasury was tasked to review the gas transfer pricing arrangements. That's accurate, isn't it?

Ms D Brown: That's correct.

Senator McKIM: But the proposal we have got today is not a change to the gas transfer pricing arrangements; it's the introduction of a 90 per cent cap on deductibility, which is very different in concept to a change in the gas transfer pricing arrangements. Would you agree with that statement? It's conceptually very different to a change—

Ms D Brown: We have adapted the PRRT.

Senator McKIM: It's conceptually quite different, isn't it? A 90 per cent cap on deductions is conceptually quite different to changing the gas transfer pricing arrangements. In your report on the review of the GTP arrangements you said:

... Treasury canvassed a change to the PRRT design outside of the GTP arrangements with industry participants ...

Who were the industry participants that you canvassed that change with?

Ms D Brown: I'll see if Mr Robinson can answer that question.

Mr Robinson: We undertook quite a comprehensive process of consultation in developing the gas transfer pricing review report. That actually kicked off with a public consultation process in 2019. We also started engaging with industry at around that time.

Senator McKIM: Just to be clear, I'm not talking about the GTP changes; I'm talking about the 90 per cent cap.

Mr Robinson: I understand that. We started engaging with industry on the gas transfer pricing review. That was the Australian Petroleum Production and Exploration Association and a number of, essentially, companies involved in LNG production, in offshore LNG production. It was that same group that we consulted with through that process that we also consulted with on the 90 per cent deductions cap.

Senator McKIM: Could you take it on notice, please, to provide a list of the actual organisations that you did consult with?

Mr Robinson: Yes, happy to do that.

Senator McKIM: And on both of those matters—firstly, on the GTP proposals and then, subsequently, on the proposal to put a 90 per cent cap on deductions. Ultimately, was it industry or Treasury that came up with the idea of walking away from a change to GTP arrangements and going to a conceptually very different proposal, which is the 90 per cent cap on deductions? Where did that come from?

Mr Robinson: The way I would describe it is: as we were undertaking the review under the gas transfer pricing rules in line with the terms of reference that we were set, through the course of that review we realised that, in looking to address the valuation of gas at the taxing point and where the extra excess profits are and how they're split between the extraction and the downstream liquefaction process, any change to those gas transfer pricing rules was essentially not going to see revenue gained until sometime down the track. The reason for that is, as you were just discussing with Mr Hirschhorn, related to the large stock of carry-forward expenditure that those LNG projects, in particular, have, although that figure that Mr Hirschhorn mentioned earlier was for the entire PRRT system, of course. We were then also considering options that might address the timeliness of when

PRRT payments would be made, and that was just an option that we introduced into our consultation that was initiated by Treasury.

ACTING CHAIR: Last question, Senator McKim, and then we'll rotate the call.

Senator McKIM: Did Treasury officials fly at any stage to Western Australia and meet with gas companies and consulting companies to discuss capping deductions at 90 per cent?

Mr Robinson: No, we did not.

Senator McKIM: Did you meet at any stage with PricewaterhouseCoopers, who are a member of APPEA?

Mr Robinson: No, we did not. I would hasten to say that the consultation that we did with industry was a confidential consultation process, so I did sign confidentiality agreements.

Senator McKIM: But you didn't meet with PwC?

Mr Robinson: And we did not engage with PwC in the course of that. We did discuss the deductions cap at a meeting on 10 March, which was a meeting in Canberra. Industry members came to the Treasury building for that meeting.

Senator McKIM: I'll come back to that when the call comes back to me.

ACTING CHAIR: Thank you. Senator O'Neill.

Senator O'NEILL: To the ATO, Mr Jordan or Mr Hirschhorn: you've indicated that you were in contact with PwC on a number of occasions in an ongoing way from 2016 through 2017, 2018 and 2019. Who were you in contact with at PwC?

Ms D Brown: Again, I really think that's going into levels of detail that might be the subject of inquiries by the AFP in our referral to the AFP.

Senator O'NEILL: Okay. Can I ask a general question? If you were to be in contact with any of the big four, not specifically PwC, who would a letter coming from the ATO come from—you, Mr Jordan or Mr Hirschhorn?

Mr Hirschhorn: As a general rule, most taxpayer correspondence will be under the signature of a deputy commissioner of taxation, but generally on a proxy basis. So it will come from the decision-maker but generally be under the cover of the deputy commissioner's name.

Senator O'NEILL: Given the seriousness of the nature of the communication with all of the four firms that you indicated earlier that you communicated with, who would such a letter be addressed to?

Mr Hirschhorn: Generally, a notice to a firm would be addressed usually to the—it's tricky with a partnership, of course, because who do you send it to?

Senator O'NEILL: Yes.

Mr Hirschhorn: It would normally be sent to the head of tax as effectively the representative of the tax practice.

Senator O'NEILL: In the case of Mr Peter-John Collins, the head of tax at the time was Mr Seymour. Is that correct?

Mr Hirschhorn: I'd have to take on notice the structure of PwC. There were various people in different roles at different times.

Senator O'NEILL: Yes.

Mr Hirschhorn: I would have to take that on notice.

Senator O'NEILL: Both of you have experience with working with KPMG—is that correct? You were both at KPMG before coming to these roles?

Mr Jordan: Yes.

Mr Hirschhorn: Yes.

Senator O'NEILL: When were you appointed to the role, Mr Jordan?

Mr Jordan: On 1 January 2013.

Senator O'NEILL: And Mr Hirschhorn more recently?

Mr Hirschhorn: I joined the tax office in about mid-2014.

Senator O'NEILL: So you know how these companies, these partnerships, work. If a letter of such significant import from the Australian Taxation Office were to arrive, sent to the head of tax et cetera, would that

be kept from the partnership board? Would the CEO be made aware of such a communication because of its seriousness?

Mr Jordan: Not necessarily, no, if it was—

Senator O'NEILL: So there's a chance that the taxation section could just keep this communication completely to themselves?

Mr Jordan: Yes.

Senator O'NEILL: Do you think that that's likely what happened, Mr Jordan?

Mr Jordan: I don't know what happened. That's a question for PwC.

Senator O'NEILL: Right.

Mr Jordan: If it's a tax matter from the tax office addressed to the head of tax, it could quite well just stay within that practice. I think we're talking potentially more than that, if we're referring to the Collins matter, but as a matter of course that could actually be the case.

Senator O'NEILL: When we are referring to the Collins matter, it's a serious matter. My expectation would be that people would have been communicating quite quickly, especially given the context of what's happened with your interruption of their Project North America. People at the highest level would know that this inquiry was being made by you. That is a very likely outcome, isn't it, Mr Jordan?

Mr Jordan: I don't know. I was not involved in any of those meetings. I'm not in a position to say whether that was the case or not.

Senator O'NEILL: Can I just put on record that I find it hard to believe that a CEO would not be advised. The CEO of PwC at the time that this occurred, between 2012 and 2020, was Mr Luke Sayers. Mr Sayers would be unlikely to have not known about your action with regard to Project North America at the very least. Is that correct?

Mr Hirschhorn: Again, taking Ms Brown's warning and speaking in very general terms, the more serious our concern, the more likely we are to have discussions at a more senior level.

Senator O'NEILL: Thank you. I'm happy with that response, because that just seems like common sense to me.

ACTING CHAIR: Thank you. We're going to take a break now, for 10 minutes.

Mr Jordan: Are we excused?

ACTING CHAIR: No, I'm afraid not. We're just going to do a little pow-wow to see where this is going and whether we are going to get to ASIC tonight or not, and we will provide you with an exciting update in 10 minutes.

Proceedings suspended from 21:29 to 21:40

ACTING CHAIR: We will resume. Just to keep everyone up to date with where we're at, we've let ASIC go. We will not be getting to them this evening. I'm sure they've had a great time listening in.

Senator Gallagher: Are they coming back tomorrow, then?

ACTING CHAIR: No, they're not available tomorrow. There'll be a further conversation about where that session will land. But we are going to go to the questions from Senator Smith to the ACNC so that we can allow those people to leave. Senator Smith.

Senator DEAN SMITH: Good evening, Ms Woodward and Ms Longley. I want to start with a discussion in regard to the preparation and effort that the ACNC is taking to prepare charities for the referendum that will happen later this year. I understand that some advice has been issued, but I thought it might be a good opportunity to get on the record all the things that the ACNC is doing to prepare charities in terms of what the extent of their participation is, and then I've got some questions arising from that.

Ms Woodward: Yes, we have done several things. We have issued guidance, which is on our website, and we've kept that up to date with the additional requirements for the Australian Electoral Commission requirements. I recorded a podcast, which I then promoted in our monthly *Charitable Purpose* column that goes to 60,000 participating charities. I was also involved in a webinar that was organised by two sector peak bodies. There was a live webinar where I presented and there were quite extensive questions and answers, and the AEC also presented at that. I've been at quite a lot of fairly large conferences with 300-plus people attending, and often as part of my presentation I've also mentioned the guidance that we have available.

Our advice line has taken some phone calls after we issued the guidance, but I would say that there were a total of about 11 inquiries, and some of those were before the guidance. We haven't been hearing lots of concerns or confusion from charities, so we're hoping that that is getting the message out wide and far, and we're ready to respond if there are concerns.

Senator DEAN SMITH: Have you done an internal exercise to guess a referendum date that you might gear up towards?

Ms Woodward: We haven't guessed a date. We do know that we are ready to provide additional guidance should that be necessary. There are ongoing speaking opportunities in the diary already, and, in the same way that we responded when those peak bodies did approach us to say that they had had some feedback from their members wanting more information, we were very quickly responsive to them organising the webinar and us attending. So we would certainly make that a priority.

Senator DEAN SMITH: Once the formal campaign begins, a date is set and the bill passes the Senate, do you expect there to be an uptick in the level of inquiries coming to the ACNC?

Ms Woodward: I have thought about this, but, because we don't have referendums very often, I guess there's not a lot of precedent there to help me with that. We do know that in elections there's sometimes an uptick in inquiries or concerns being raised. All I can say is that we are ready to make it a priority in the way that we would if other issues came to our attention that charities were concerned about.

Senator DEAN SMITH: Like what?

Ms Woodward: Like if we hear that the sector is concerned about issues like cybersecurity. In the example that I think I gave in the last appearance, people were asking what our view about cryptocurrency was—for example, charities receiving donations in cryptocurrency. So those topical issues come up from time to time, and we try very much to respond.

Senator DEAN SMITH: Following the referendum, the ACNC specifically talked in its annual report about the uptick in activity as a result of the federal election campaign. In October 2022, which I think coincided with the release of the annual report, it said:

The ACNC received 2,522 concerns about charities, a 26% rise on the previous year. In the lead up to the Federal election, the ACNC received 490 concerns that charities were engaging in political advocacy. Of those, 19 were identified as being at risk of non-compliance.

When I look at that, thinking about the approaching referendum, my guess is that there will be quite a significant uptick, because there's already a high level of public discourse about the referendum. Have you been provided with any extra resourcing? Have you more formally started to consider how you might actually deal with an increase in queries? Because, of course, there's the advocacy piece, but there's also the AEC financial disclosure regime.

Ms Woodward: I think that's the best guide we have in terms of the possible uptick. Obviously, that's for an election as opposed to a referendum. The commission used its existing resources to respond to that uptick, and I fully expect that we will do the same. It's a point-in-time issue, and we would just redirect our existing resources as needed and would very much take an education approach to those concerns unless we needed to take them further.

Senator DEAN SMITH: There are two elements. There is a query, coming from a charity, 'How do I participate?' or, 'What guidelines do I need to be aware of?' Then there could be a complaint or a criticism. What is the mechanism for people raising queries about the conduct of charities that they might donate to, volunteer for or even be employed with?

Ms Woodward: We have a process for people lodging their concerns. It's advertised on the website. There's a complaints process and an email address that they send their concerns to. We would look at every one of those concerns in the way that we currently do. So you're right that there's the concern part, and that would be the process. That's what is described in the report from the previous year. In terms of if charities are trying to work out what to do—if there's an uptick in our advice line—the advice staff have that guidance to direct people to. If there are more complex inquiries, then the advice team refer those through to, for example, the legal team. We will do our best to meet our normal performance standards to address that.

Senator DEAN SMITH: Imagine for a moment that we're in the referendum campaign. Do you have an internal KPI, where you expect queries or complaints to be responded to within a certain period of time—a day, week, a month?

Ms Woodward: We do have performance standards. We have performance standards for the time in which we answer the phone line, and we have a performance standard also around dealing with email requests. Yes, those standards exist. They're taken over a year. We do have busy periods already, for example, when annual reporting is due. There are peak periods. We always plan as best we can to staff certain areas to respond in those peak periods. Possibly, as you suggest, once we have a referendum date known, we might be able to anticipate a bit more about how to direct our resources at that point.

Senator DEAN SMITH: When the advice was originally provided, the statement—well, it was in various paragraphs, but the paragraph I want to read out says:

If a charity plans to undertake advocacy activities, it must be able to demonstrate how it believes its advocacy furthers its charitable purpose—the purpose set out in its Constitution.

When you use the word 'demonstrate', does that mean that a governing body of a charity must formally have a discussion about its participation in the referendum—about whether or not it complies with its charitable purpose—and it must be written down? The word 'demonstrate' is quite clear. Is that because you might ring the charity and ask them to demonstrate that these discussions have happened or that they've consciously thought about the alignment with their charitable purpose?

Ms Woodward: With 60,000 charities, we won't be ringing every charity. We've tried to show that, as with any activity that the charity conducts, at that high level, they need to be able to link their activities with the charitable purposes for which they're registered. In terms of whether that one word was meant to in any way prescribe a set thing for every charity to do—

Senator DEAN SMITH: That's what I was going, yes.

Ms Woodward: no, that wasn't the intention of that word. Certainly, it is always helpful, and I think we gave that as a tip as part of the guidance. When you're considering what your position is, if you can keep some sort of record, that is always going to be best practice, but we haven't sought to prescribe a set course like that for every single charity. Some are so small, some are very large, some will not be involved in any of these activities and some will be wanting to do a very active involvement. The level and the significance of the activities relative to their size and their particular charitable purpose would determine what might be appropriate in their particular case.

Senator DEAN SMITH: We haven't had a referendum for a period of time, but we have had large-scale public debates with plebiscite mechanisms. Having read the materials, seen the information go out of the website and heard your evidence today, it sounds to me as if you have a high level of confidence that Australian charities, by the time we get to the referendum campaign and referendum day, will know about their responsibilities and will conduct themselves in a way that meets the ACNC guideline.

Ms Woodward: Our experience has shown us that the vast majority of charities try to do the right thing and, to the extent that they don't, it's often to do with the fact that they don't understand their obligations or have the resources. That's why our regulatory approach is very firmly grounded in that 'education first' approach, always being willing to take it to a more serious compliance approach where it's warranted. I think in this matter the more that we can do to keep getting this information out, as we've already started to do and we can increasingly do through the forums that we have, with sector consultation and adviser forums, spreading the word that way—I do have a fairly high degree of confidence that the vast majority of charities will comply with their ACNC governance standards, including in this respect, linking their advocacy activities with their charitable purpose.

Senator DEAN SMITH: When can the ninth *Australian charities report* be expected?

Ms Woodward: Very soon.

Senator DEAN SMITH: Can I get an update on the advisory panel, if I could, Ms Brown. I don't remember, and I may have missed it, but—

Ms D Brown: The members haven't yet been announced. It's still under consideration.

Senator DEAN SMITH: On 24 October last year, an expression of interest process was announced. There were 295 expressions of interest lodged, many of them with pitches. In the estimates we last had, I think the impression was given to me that the matter had been forwarded to the minister's office for his consideration. Now, on 30 May, we still don't have an expert panel appointed.

Ms D Brown: I think that's consistent with the evidence I gave last estimates.

Senator DEAN SMITH: Is the decision still with the minister?

Ms D Brown: Yes.

Senator DEAN SMITH: How has the delay been communicated to the 295 people who expressed an interest in being on the advisory panel?

Ms Woodward: Most people are aware that these matters can take a considerable period of time. I think the minister got the advice in February. It was a lot of names to go through; I think we agreed that at the last estimates round. Ms Berger-Thomson may have something to add.

Ms Berger-Thomson: I don't have that information to hand, but I'm happy to take it on notice. We provided our advice to the assistant minister in January.

Senator DEAN SMITH: On 18 January 2023.

Ms Berger-Thomson: Yes.

Senator DEAN SMITH: Thirty to 40 names were provided to the minister?

Ms Berger-Thomson: That's correct. At the moment, we are helping the assistant minister to formalise that process.

Senator DEAN SMITH: Helping the assistant minister formalise the process?

Ms Berger-Thomson: Yes.

Senator DEAN SMITH: The assistant minister has staff. He has a ministerial office. What does 'helping the minister formalise the process' mean? On 18 January was when the information was originally provided to the minister.

Ms Berger-Thomson: These appointments need to go to cabinet, so we help with the preparation of those materials.

Senator DEAN SMITH: It will go to cabinet in June?

Ms Berger-Thomson: I don't think I have a date for that.

Senator DEAN SMITH: So it hasn't gone to cabinet yet. So it could go to cabinet in June or July? That sounds like a very drawn-out process, Ms Brown, given that 24 October is when expressions of interest were asked for. What is the delay?

Ms D Brown: I would say it is not unusual for appointments to take between six and 12 months. It varies. This one had a large number of people to consider. So putting that—

Senator DEAN SMITH: There are only 30 or 40 names that have been provided, or shortlisted, to the minister.

Ms D Brown: That is a large number of names to go to any minister.

Senator DEAN SMITH: That is less than one a day.

Ms D Brown: I can't say anything on—

Senator Gallagher: It's not the only matter on the desk, but I will see if there's anything we can provide you on the timetable.

Senator DEAN SMITH: Ms Woodward, has the expert advisory panel met in recent times?

Ms Woodward: Yes. It met last Friday.

Senator DEAN SMITH: Were any concerns expressed? I suppose the existing panel is probably quite keen to stay there. Was it a point of discussion?

Ms Woodward: They did discuss it. They were concerned to know what was happening, yes.

Senator SHOEBRIDGE: As I understand it, in answers to Senator Smith you were saying that charities need to demonstrate that their activities are meeting the charitable purposes for which they've been registered. Is that what you mean by 'demonstrate'? That's what they had to demonstrate—that their activities are for charitable purposes?

Ms Woodward: Yes.

Senator SHOEBRIDGE: How do they demonstrate that to you?

Ms Woodward: They can demonstrate it in a variety of ways. I'm now thinking the word 'demonstrate' was perhaps not the best word—

Senator SHOEBRIDGE: I don't want to trap you on 'demonstrate'. You can tell me what it means.

Ms Woodward: They might demonstrate it in terms of they might have a minute on their board. Or they may simply do it in the sense that they do any advocacy activities. They work out what their mission is, what their

particular focus is and how they can best achieve and deliver for the particular services that they do. They will always want to be able to explain if asked by the ACNC or by their members and stakeholders how they do their work to deliver on their charitable purposes.

Senator SHOEBRIDGE: Recently there has been a raft of documents released by a whistleblower from Hillsong which would demonstrate that, far from working towards their charitable purpose, they have been working towards giving expensive watches, expensive travel, expensive hotels, huge executive remunerations and benefits that would seem to demonstrate they are not meeting their charitable purpose. Have you undertaken an investigation of Hillsong since they have demonstrated that through those leaked documents?

Ms Woodward: In relation to the Hillsong matter, we did make an exception. I made a statement. We released a statement in March on that matter. That was primarily to correct the public record that the ACNC is not able to provide whistleblower protections. As part of that statement, with the consent of the charity, we said we were investigating the Hillsong Church.

Senator SHOEBRIDGE: Have you asked Hillsong to demonstrate whether or not that kind of activity, that largesse to its executive branch, demonstrates their compliance with the purposes for which they are a registered charity?

Ms Woodward: Hillsong is a current investigation.

Senator SHOEBRIDGE: I might ask the ATO: given what we've seen with those documents and given the scale of the commercial enterprise that is Hillsong, is there any consideration of whether or not the low-doc-no-doc basic-religious-charity process for Hillsong is at all appropriate? Do you have any capacity to review that in ATO?

Mr Hirschhorn: We are very aware of the public commentary in relation to Hillsong and, under our secrecy provisions, I cannot confirm or deny whether we are taking action in relation to Hillsong.

Senator SHOEBRIDGE: But, under a basic religious charity model, which is what Hillsong uses, they don't have to give any part of government audited accounts or the kind of financial transparencies we'd expect of a corporation, for example, do they?

Ms Woodward: Perhaps I can respond, because the basic religious charity is an exemption under the ACNC Act. Not just Hillsong but any organisation that meets the criteria can claim that exemption. That exemption means they do not have to answer financial questions on our Annual Information Statement and they do not have to comply with the governance standards.

Senator SHOEBRIDGE: So, in the course of investigating an entity that has basic religious charity status, do you have the capacity to compel the production of that type of material?

Ms Woodward: I might check with my Assistant Commissioner, Anna Longley, to be sure on the legal counsel question.

Ms Longley: We have secrecy provisions within the ACNC Act, and they can require charities to provide any information under sections that are subject to monitoring, so that is the range of requirements for charities.

Senator SHOEBRIDGE: But, when it comes to basic religious charities, there's no monitoring of their financials, there's no monitoring of their audited accounts. Does that mean you can't compel the production of information of that nature from a basic religious charity?

Ms Longley: That is not the ACNC's position.

Senator SHOEBRIDGE: What is your position?

Ms Longley: The ACNC's position is that it can require the production of information even from entities that have self-assessed as a basic religious charity.

Senator SHOEBRIDGE: Have you looked at the increasing number of institutions that are failing to treat survivors of abuse in line with the royal commission's recommendations into institutional responsibility for child sexual abuse because they are using the concept of a permanent stay to prevent providing fair compensation to victims? Have you looked at this use by charity after charity after charity in the last 12 months? The Catholic Church, the Marist Brothers, the Scouts, Geelong Grammar—have you looked at any of these charities for whether or not this is consistent with their charitable purpose?

Ms Woodward: Under our act, our primary function is to look at eligibility to be registered as an ACNC charity. If there are concerns raised about the activities of any charity, then we look at those concerns and take them seriously.

Senator SHOEBRIDGE: Do I understand the ACNC hasn't looked at that issue as an across-the-board issue or hasn't considered whether or not charities might be acting inconsistently with their charitable purpose, not demonstrating compliance with their charitable purpose, because of that kind of unethical behaviour?

Ms Woodward: I'll hand to my Assistant Commissioner in a minute, but one thing I would say is, when we look at our compliance activities, we do have a very detailed risk matrix that does prioritise areas where we would be, for example, concerned about safeguarding of vulnerable beneficiaries, where we would be concerned about private benefit and a range of other sorts of key high-risk indicators. So that is factored into our risk assessment of which investigations we conduct. But I'll ask my colleague to contribute.

Ms Longley: The point that I was also going to add was that governance standard 6 has been added into the ACNC legislation. That speaks to any charities that have been named as part of the National Redress Scheme and have failed to sign up to that scheme. So we would work with the Department of Social Services, under the National Redress Scheme, if there are any charities that are failing to take steps to join the National Redress Scheme.

Senator SHOEBRIDGE: Have you investigated Gymnastics Australia and Gymnastics New South Wales for their failure to sign up to the Redress Scheme under governance standard 6?

Ms Longley: We generally don't comment on whether we have or have not investigated a particular entity.

ACTING CHAIR: Senator Shoebridge, do you have a great deal more?

Senator SHOEBRIDGE: I have another two or three minutes, depending on the answers.

ACTING CHAIR: Okay—as quickly as you can and anything put on notice would be great, thank you.

Senator SHOEBRIDGE: But, apart from governance standard 6, there's nothing specific that you can point to? If a registered charity is abusing their position of power and authority against survivors of abuse by using permanent stays to prevent fair compensation, there's nothing apart from governance standard 6 that comes to mind that might impact upon their ongoing registration as a charity?

Ms Longley: I suppose what I would say is that we use a range of mechanisms to gather intelligence around how charities are or are not complying with the requirements under the ACNC legislation. So, if information were to come to us that indicated that they were not complying with their requirements either under the act or in relation to the governance standards, or, where appropriate, the external conduct standards, then that's a matter that we may look into and may investigate.

Senator SHOEBRIDGE: To be clear, it's your position that you believe that, if individuals came to you with that information, they would be protected by whistleblower provisions?

Ms Woodward: No. That was the clarity that I tried to do—

Senator SHOEBRIDGE: You said they won't be.

Ms Woodward: by issuing that statement when the whistleblower documents were tabled in parliament for Hillsong. Under our legislation, we cannot provide whistleblower protection.

Senator SHOEBRIDGE: Going quickly to the ATO—

ACTING CHAIR: If you've got an ATO question, I'm going to lap around because you're over your 10 minutes. If that's all to the ACNC, we will thank you very much for coming along. We really appreciate it and we will release you. Thank you kindly.

**Department of the Treasury
Australian Taxation Office**

[22:07]

ACTING CHAIR: We will go to Senator McDonald.

Senator McDONALD: Ms Brown, I have a few questions with regard to the budget measure 'Clarifying the tax treatment of "exploration" and "mining, quarrying and prospecting rights"' on page 16 of Budget Paper No. 2.

Ms D Brown: I might ask Mr Robinson to come to the table, in that case. This is a matter well known to Mr Robinson.

Senator McDONALD: Were the PRRT changes in response to Commissioner of Taxation v Shell Energy that were also discussed with industry the same consultation that occurred on the transfer pricing measure announced by the Treasurer on 7 May?

Mr Robinson: You mentioned the transfer pricing measure. I think you mean the petroleum resource rent tax measure.

Senator McDONALD: Yes.

Mr Robinson: Yes, we did discuss those with industry.

Senator McDONALD: Can you explain how this measure will change the PRRT?

Mr Robinson: The treatment of exploration under the PRRT was clarified to be consistent with the treatment set out in taxation ruling 2014/9 by the commissioner. Essentially, the measure preserves the treatment in line with how it had been treated since that tax ruling.

Senator McDONALD: What kind of retrospective tax liability will that create? Or is there an impact on forgone revenue in the future as a result of the decision?

Mr Robinson: I think it's probably more a case of reducing the risk of forgone revenue to the extent that there was any uncertainty around the taxation ruling.

Senator McDONALD: Sorry, could you just say that again, please?

Mr Robinson: As I said before, the measure was putting legislation in place to confirm the treatment that was set out in the taxation ruling.

Senator McDONALD: That was 2014-9?

Mr Robinson: That's right.

Senator McDONALD: So that's not creating a retrospective tax liability? We had long discussions earlier about whether or not the impact of the tax ruling maintained its power. Will there have been people who have taken action where this will create a retrospective tax liability, or is it just the future tax? I'm just trying to clarify that—the future tax forgone.

Mr Robinson: To the extent that there might have been any cases in the past, that would probably be a question for the ATO. But it was also to give that certainty going forward.

Senator McDONALD: What's the expected cost to the Commonwealth of not making that change?

Mr Robinson: I think the costing in the measure was listed as unquantifiable.

Senator McDONALD: Will this measure require further amendments to the Income Tax Act or the PRRT Act beyond what was undertaken in 2014?

Mr Robinson: What was undertaken in 2014 was a taxation ruling issued by the ATO; that indicates guidance as to how they interpret the law. This measure will require a change to legislation to confirm that effect.

Senator McDONALD: Are you happy that this puts a line under it? There won't be any future legislative changes that will be required; this is it?

Mr Robinson: That's right. We're engaged in the development of the draft legislation. In the ordinary course of events, as we normally do with a tax policy change, we'd consult publicly on that draft legislation and it would be introduced into the parliament in the normal way.

Senator McDONALD: Ms Brown, was this clarification done at the request of the government or on advice from the department?

Ms D Brown: I believe it was advice from the department in consultation with the ATO.

Senator McDONALD: Ms Brown, what consultation was undertaken for this change? I actually think that this is a question that Senator McKim asked earlier, about taking on notice the list of people you consulted with. That was the question you asked, wasn't it, Senator McKim?

Senator McKIM: Yes.

Senator McDONALD: So you can direct that answer to me also.

Ms D Brown: There was some discussion on this measure, but I wouldn't say it was a consultation paper that was issued or anything in that regard. It refers to a High Court case, and it's restoring the position that existed prior to that. I think it was the High Court—it might have been the full Federal Court, sorry.

Mr Robinson: The Federal Court.

Ms D Brown: But there were some discussions with industry in relation to this measure.

Senator McDONALD: And this was the consultation that was subject to the—

Ms D Brown: It came up in the context of the discussions around the PRRT.

Senator McDONALD: And there were confidentiality restrictions on those consultations?

Ms D Brown: There were confidential agreements signed.

Senator McDONALD: And the most recent one was 10 March—was that what you said to Senator McKim?

Ms D Brown: I might check with Mr Robinson to see if that's right.

Mr Robinson: I was referring to a particular roundtable meeting that we had on 10 March.

Senator McDONALD: Perhaps on notice, could you lay out the number of pieces of consultation, who was engaged and anything else that you think would be—

Senator HENDERSON: Give us everything!

Senator Gallagher: Fair enough! It's a general catch-up.

Senator McDONALD: So that was when the consultation occurred. What was the feedback provided by industry throughout the consultation process?

Mr Robinson: Do you mean through the consultation process more generally?

Senator McDONALD: Yes.

Mr Robinson: We were obviously talking about the operation of the gas transfer pricing rules. We had quite a number of issues that we were considering. As you would have seen, there were 11 recommendations that were put to government in our final report. We received feedback on a number of those.

Ms D Brown: The consultation on the PRRT is summarised in the department's report to the Treasurer on the PRRT and that is a publicly available report.

Senator McDONALD: Was there any specific feedback that you recall on sovereign risk, on retrospective changes, on risk to project investment?

Mr Robinson: One of the things we were very keen to understand as part of the consultation was how any changes that we might have been contemplating might impact investment.

Senator McDONALD: Do you understand that impact on investment decisions?

Mr Robinson: Yes, I think we had a pretty good understanding, as was reflected in the report.

Senator McDONALD: I am sorry I have not read that report, so what does that say about your understanding of risk for investment?

Mr Robinson: One way we would summarise it would be that changes that would increase the tax burden on projects could reduce the after-tax rate of return and that could have a flow-on impact for investment. I guess that is a fairly basic conclusion that we identified, but that was also what was taken into account in the government weighing up its final approach to responding to the recommendations that we put forward.

Senator McDONALD: Minister, do you think that this change will make it more difficult for companies to invest in exploration?

Senator Gallagher: Do you mean the changes to the PRRT?

Senator McDONALD: Yes.

Senator Gallagher: I think where we have tried to land with these changes is balancing a range of things. One is about ensuring some certainty for the industry. We have listened through the consultation processes to industry feedback. Yes, I am confident that it balances investment certainty with the need to return some money to the Australian public to repair the budget and this does that.

Senator McDONALD: Despite that is not what industry is saying.

Senator Gallagher: Sorry?

Senator McDONALD: Industry is not agreeing with you, so I guess we'll see, won't we, if that is right.

Senator Gallagher: Well, I think there are certainly elements of industry which would like you to support the changes that are being proposed.

Senator McDONALD: I look forward to seeing the legislation, Minister. You know that we have not seen it or been consulted on it. I look forward to that, thank you.

Senator Gallagher: We know they have been asking you to.

ACTING CHAIR: We will rotate onto Senator Brockman. Senator Bragg and I have looked at the time and agreed that questions should be pithy and that questions on notice are a great idea. We will move to five-minute blocks and will finish at 11 pm.

Senator BROCKMAN: If the answers are pithy, I can get this done in three.

ACTING CHAIR: Pithy answers would be great too.

Senator BROCKMAN: Small business clearing house—Mr Hirschhorn, is that you?

Mr Hirschhorn: I will call up my colleague Deputy Commissioner Rosenzweig.

Senator BROCKMAN: This issue has been reported to me. I just want to assess its accuracy. There has been a number of super fund merges in the last few years resulting in USI number changes, ABN number changes. I am told that when one number in a batch of employees is incorrect in a submission to the clearing house, that can result in the entire batch being rejected, even though there is only one number of one employee that is incorrect. This obviously can be pretty embarrassing for employees, if a whole batch of employees are rejected when there is one mistake in the batch. First of all, is that correct? If not, then I can disappear.

Ms Rosenzweig: I don't know off the top of my head, I am sorry, so I will have to take it on notice to check if that is correct.

Senator BROCKMAN: Okay. Then I will get you to take on notice—

Mr Hirschhorn: To clarify, this is in relation to the ATO clearing house that you are asking this question?

Senator BROCKMAN: Yes, the small business clearing house for super. We are on the same page. I am surprised you can't tell me, to be honest. Can you take on notice what the actual problem is, and if things are being done to address it if it is a problem. I would also like you then to take on notice if a small business failed to meet its super guarantee because of the result of an error of this sort, what would be the consequences for the employer and who does the obligation fall upon—the clearing house, the super fund, the employee or the employer?

Ms Rosenzweig: I can definitely take it on notice to check what the issue is and what is being done about it. The consequences generally are if an employer has paid to the ATO-run small business super clearing house then at the point that clearing house has received the payments, they will have met their obligations under super guarantee law.

Senator BROCKMAN: Even though it hasn't been—

Ms Rosenzweig: If it is bounced then generally they won't have, so they would then be subject to the super guarantee charge. We do have some very limited circumstances where if an employer has done everything they can and there has been an error that we can actually not require them to lodge a charge statement. I'm not sure whether that scenario has arisen in relation to our clearing house though.

Senator BROCKMAN: If there have been cases where that scenario has occurred, could you give me the number of those cases—the number of small businesses affected and the number of employees affected.

Ms Rosenzweig: I can take that on notice and check.

Senator McKIM: Mr Robinson, I want to take up the issue that we were discussing when I previously had an opportunity. When we left off you said something along the lines of on 10 March you had a meeting here in Canberra—I think you might have even said it was at the Treasury building—to discuss with organisations the proposed changes to the PRRT. Were you there?

Mr Robinson: Yes, I was chairing the meeting.

Senator McKIM: So were you the senior Treasury official at that meeting?

Mr Robinson: That's right.

Senator McKIM: Can you remember which organisations were there? Not necessarily a complete list, but which ones can you remember were there?

Mr Robinson: I should be able to tell you that. As I mentioned before, the Australian Petroleum Production and Exploration Association was there, as well as BP; Chevron; ExxonMobil; INPEX; MIMI, which is Japan Australia LNG, which is part of Mitsubishi Australia; Santos; Shell; TotalEnergies; and Woodside.

Senator McKIM: Specifically, was that in regards to changes to the GTP arrangements or, by then, had the proposal morphed into what we now have, which is the 90 per cent cap on reductions?

Mr Robinson: We were consulting still at that stage on the full range of options.

Senator McKIM: Did that include the 90 per cent cap?

Mr Robinson: It included the 90 per cent cap but it also included the changes to the GTP arrangements.

Senator McKIM: Did the representatives of those organisations sign nondisclosure agreements or confidentiality agreements?

Mr Robinson: We recommenced work in late 2022 on the gas transfer pricing review. I think it is on the public record that it was paused under COVID. At the point that we recommenced that work and started engaging

with industry again and consulting with them, we ensured that we had confidentiality agreements in place for all members who were participating in that consultation.

Senator McKIM: So the representatives of all those organisations you just listed would have signed confidentiality or nondisclosure agreements?

Mr Robinson: That's right.

Senator McKIM: Thank you. I'm happy if Ms Brown wants to answer this: I'm asking whether Treasury would accept that requiring people to sign nondisclosure agreements signifies at least an element of co-design work and information sharing, as opposed to a simple consultation process. For example, if you consulted with ACOSS on whether it was a good idea to raise JobSeeker by \$2.85 a day, you probably wouldn't require ACOSS to sign a confidentiality agreement for that. Would you accept it's beyond a basic level of communication that there would be a threshold above which the requirement for a nondisclosure agreement would kick in?

Ms D Brown: I can see your point. I think it varies from situation to situation. In some it is about the very sensitive nature of the information that might lead to behavioural changes if it was communicated more widely, so you would want to restrict it. For some occasions, yes, the co-design you've raised might be more relevant. I think it depends on the situation.

Mr Robinson: I think that's right. In some respects as well, from a policy development process it would be unhelpful to have speculation around options under consideration in great detail out in the public arena.

Ms D Brown: It might depend, too, on who is involved if it's a listed company. They have continuous disclosure obligations, so sometimes it's a way of managing compliance with listing rules.

Senator McKIM: That's a valid point. In this case, would you characterise this as a co-design, and exercising co-design?

Mr Robinson: No. We put options to industry and sought their feedback.

Senator McKIM: Final question: on the seven-year grace period, which in my view has more than a whiff of rent seeking about it, who proposed that grace period, and, as a corollary, whose idea was it and who proposed exempting the North West Shelf project from the changes?

Mr Robinson: Both of those were proposed by Treasury.

Senator McKIM: Thank you.

Senator HENDERSON: I want to table an article published in the *Australian Financial Review* on 27 May 2023. The article is entitled, 'ATO accused of sitting on HECS repayments'. Commissioner, are you aware of this issue, particularly that, in light of the cost-of-living crisis, so many Australians are paying—given there are some three million Australians still carrying a student loan?

Mr Jordan: I am aware of it, mainly through the media and from inquiring about it. Mr Hirschhorn can probably go into more detail. As I understand it, the issue is that some people have HECS amounts withheld as their normal fortnightly pay—it's a pay-as-you-go additional withholding. We can't apply that as a credit until they do their tax return, and we get the totality of the income and tax and then apply the additional amount.

Senator HENDERSON: I want to raise an issue from a constituent. She wrote to me and said that a family member in her final year of paying off her HECS debt had compulsory repayments withheld from her salary. Her complaint is there is no real-time accounting of the repayments made during the year, and, as a result, the tax department reconciles this not in real time but only once a tax return is lodged. In this particular case this person's niece had actually paid off her debt completely—it should have been zero—but because they had not been recognised in real time there was in fact an indexation rate applied. It will be applied on 1 June—frankly, a horrific rate, the highest in 30 years, of 7.1 per cent. In this case, this young person will attract a charge or an indexation rate of nearly \$1,000 on a debt that she has already repaid. So why can't the ATO reduce debts in real time so that people like this young woman are not being penalized and being levied an indexation rate on a loan that had actually been repaid during the financial year?

Mr Hirschhorn: The point is absolutely as your constituent says, which is that amounts are withheld from salary. There's a higher withholding tax rate for students. The challenge here is that the legislative scheme is absolutely clear; it is just pay as you go withholding. It is not HECS withholding. So it is not pay as you go withholding until the return is lodged.

Senator HENDERSON: So can you fix this and reduce the debts in real time?

Mr Hirschhorn: That would require legislative change.

Senator HENDERSON: Have you made any recommendation to the government to do so? This is going to hit perhaps thousands of students in a couple of days time.

Mr Hirschhorn: This is a very longstanding feature of the system. The tax office has not made a representation to Treasury.

Senator HENDERSON: Is this capable of being fixed? Do you have the technology to reduce debts in real time so that Australians with a student debt don't get hit so savagely? It's like paying off your mortgage and then six months later the bank turns around and says, 'By the way, we're going to charge you interest on a loan that no longer exists.' It's incredibly unfair, and the reason this is such an issue is that we are now seeing a skyrocketing indexation rate driven by, might I say, Labor's very high inflation rate of 7.1 per cent.

Mr Hirschhorn: Of course, I won't comment on the latter aspect of your question—

Senator Gallagher: Because it's wrong.

Mr Hirschhorn: but what I would say is that it would not be a trivial system solution. If the government were minded to change the rules, we would have to consider what system changes were required and likely also include extra system requirements for employers to separately disclose. So it may well require changes to the way that STP works, which is itself not a trivial system change.

ACTING CHAIR: Last question, Senator Henderson.

Senator HENDERSON: As I understand it, the account balance of the student loan is not available to either the individual or the ATO in real time. PAYG deductions are being made throughout the tax year, including in relation to a debt that may no longer exist. So, if you are able to, provide me on notice what would be required to make this change. I appreciate that it's a longstanding feature, but it is particularly an issue because of the very high indexation rate. I would also like you to take on notice how many Australians this impacts. This generally would impact Australians who are paying off their debts in this financial year, but could you provide some understanding of how many Australians are being affected by what is a pretty unfair system?

Mr Jordan: We just need to be a little bit careful that we're not trying to design policy, because that's a matter for Treasury and the government. But we can provide the more mechanical numbers and that sort of thing.

Senator HENDERSON: Thank you, I'm interested in the mechanics. I'm not asking you to design policy; I'm asking you to provide information as to what would be required to fix this and whether the appropriate systems are in place or could be put in place to address this.

ACTING CHAIR: Thank you, Senator Henderson. Senator Smith?

Senator DEAN SMITH: Progress on the harmonisation of fundraising laws—is that in markets?

Ms D Brown: I believe that's in Markets Group.

Senator DEAN SMITH: I'll get it right next estimates! Mr Hirschhorn, I just want to take you back in time to 2021. I asked you some questions with regard to the tax scam across the Kimberley region of Western Australia. We had a discussion about that, and you provided some responses to me on notice. I'm just keen to understand what progress has been taken in regard to recovery actions. In your written answer, you said: 'Recovery actions, including arrangements to pay, are being considered on a case-by-case basis, per our usual processes.' Can you provide me with any information about what recovery actions have actually taken place now?

Mr Hirschhorn: Yes. I'm sorry; I'm going to have to take that question on notice, and I'll come back with what we can.

Senator DEAN SMITH: Okay. I'm very comfortable if you provide it in the detail—so numbers of recovery actions, moneys recovered et cetera.

Mr Hirschhorn: Yes, we'll see what information we can get you.

Senator DEAN SMITH: Thanks very much.

ACTING CHAIR: Senator Hume?

Senator HUME: No, I don't have anything.

ACTING CHAIR: Senator Bragg—all done? Senator Shoebridge.

Senator SHOEBRIDGE: It's like all the dominoes are falling at this point. It must be the hour!

ACTING CHAIR: So all eyes are on you, Senator Shoebridge.

Senator SHOEBRIDGE: I know the minister wants to stay, so I will try and make this as long as possible!

Senator Gallagher: I'm here until 11 o'clock Friday night, so it doesn't bother me! I'm booked in.

Senator SHOEBRIDGE: Well, it should hopefully be quick. It's either to Mr Jordan or to Ms Brown. The Police Association of New South Wales have repeatedly raised a concern about their members, particularly senior women in the New South Wales Police Force, who have their superannuation payments unfairly treated because moneys that they are required to pay for a compulsory workers' compensation insurance product, that they are bound to pay and obliged to pay, are treated as concessional contributions for the financial year, for which they're getting significant tax bills. I see, Ms Brown, you're nodding. Are you aware of the issue more broadly?

Ms D Brown: I am aware of the issue more broadly, and I'm afraid I have to disappoint you again. It's done by our superannuation team, which is in Markets Group. The superannuation team and Markets Group cover both super policy and super tax.

Senator SHOEBRIDGE: Did I miss Markets?

Ms D Brown: Markets were earlier.

Senator Gallagher: They were a few hours ago now.

Senator SHOEBRIDGE: So are you able to take the issue on notice, then—

Ms D Brown: We can definitely take it on notice for you, Senator.

Senator SHOEBRIDGE: I'll put a couple of questions on notice if that would be acceptable. First of all, do we know how many resources your department or the ATO have had to apply to deal with this issue? I'm told it's very labour-intensive and requires a significant number of resources at a federal level. Secondly, what is the solution—the current temporary-patch solution—that's provided for these New South Wales police who are effectively being double taxed? My last question is: are you aware of the proposed legislative amendment that was provided to the minister by the police association, and have you been asked to provide advice on it? And just to make it easier, I'll table a copy of that.

Ms D Brown: Okay, that's great. That's appreciated. Thank you.

Mr Jordan: Senator, I'll just make sure I understand this. Life insurance is often covered in a super fund, out of your concessional contributions. Are you saying that the level of workers' comp charged, that the super fund charge or pays on, is significantly relevant to the concessional amount? The same applies for life insurance, for example, in the super fund, but it's significantly higher. Is that what you're—

Senator SHOEBRIDGE: The specific concern in the New South Wales police is: there's a very high insurance premium, to cover the risk that they have because of their dangerous occupation—

Mr Jordan: That their super fund pays?

Senator Gallagher: It's about 22 per cent.

Senator SHOEBRIDGE: No. They are required to make the payment out of their wages and out of the payments that—they're just required to make the payment themselves. It's then treated as though it was a payment for a life insurance kind of product and blows their cap for superannuation. They get whacked with a big tax bill—

Mr Jordan: Yes, got you.

Senator SHOEBRIDGE: and then there's a huge amount of double handling between the Commonwealth and the state to try and recompense. It is a horrible longstanding mess.

Senator O'NEILL: That could be a question for New South Wales Treasury.

Senator SHOEBRIDGE: Well, it's a huge resource sink.

Mr Jordan: No. I wasn't aware of that as an issue. It sounds like Treasury is.

Senator SHOEBRIDGE: Yes, and there is a proposed legislative solution that has been handed—and I wonder where that's up to—which I think you have a copy of now, Ms Brown.

Ms D Brown: We are getting a copy now.

Senator SHOEBRIDGE: Finally, are you aware of the fact that this particularly impacts senior female police, who are seeking to provide, with often-substandard existing superannuation benefits; they can't top them up, because they're just getting whacked and whacked and whacked. Are you aware of the gender—

Ms D Brown: Why don't we add that to the questions on notice?

Senator SHOEBRIDGE: Thanks, Ms Brown.

ACTING CHAIR: A great idea. Thank you. Senator Bragg.

Senator BRAGG: I've one final question. I'm sorry about this. I have been very nice for a while—

ACTING CHAIR: You have.

Senator BRAGG: unusually! Minister, can you please confirm that the company called 89 Degrees East will be a delivery partner and stands to gain funding from the \$23.4 million commitment in the budget as part of the Cyber Wardens program?

Senator Gallagher: I think this goes to questions Senator Smith was asking—

Senator BRAGG: Yes. I'm just chasing up—

Senator Gallagher: My understanding is: they are a partner in the pilot that's being run by COSBOA with a couple of other partners, and the funding that we're allocating is to move that from a pilot to a program. I think the earlier advice was that the deed of the grant hadn't been finalised, but they are certainly partners in the pilot that the measure is based on.

Senator BRAGG: Was there a proper tender process for the allocation?

Senator Gallagher: We did go through all of this with Senator Smith earlier.

Senator BRAGG: Yes, and?

Senator DEAN SMITH: Senator Bragg might be more—

Senator Gallagher: This is essentially a pilot program; it's moving it to a program that's being run by COSBOA, in response to a budget request from them, through the budget engagement consultations, and it hasn't been subject to a procurement process at this point.

Senator BRAGG: Can you just take on notice whether all the appropriate risk-management, conflict-of-interest arrangements are in place? I think there might be some additional concerns there.

Senator Gallagher: Yes.

Senator DEAN SMITH: I think also that the COSBOA submission had an ask for \$23 million, and the budget commitment is \$23.4 million, and I was just curious to know: was any assessment done on the accuracy of those original numbers in COSBOA's submission? They are highly aligned with—almost identical to—the funding commitment that was provided for in the budget.

Senator Gallagher: As to measures, in general, as they go through the ERC process, advice is provided on the costings for those. That informs the government's decision-making.

Senator DEAN SMITH: So it's highly, highly similar? I don't want to be unkind to COSBOA, but you need to have gone through a process, and then the government's decided to match exactly the ask. I'm curious to know: was there some sort of due diligence run over those costs?

Senator Gallagher: There would have been an assessment of the costs, yes, as part of the budget process.

Senator DEAN SMITH: And that information is not publicly available?

Senator Gallagher: Subject to cabinet processes.

Senator DEAN SMITH: So the delivery partners that are identified—they are the ones that are expected to be part of the \$23.4 million delivery?

Senator Gallagher: I'm not sure if we can answer that. Maybe Mr Grassia can assist. But my understanding, since you've raised the question, because I hadn't got a full line of sight on the delivery partners, was that those are the partners that have been involved in the pilot.

Mr Grassia: That's correct, Minister. They are basically identified in the pilot, but, for the grant arrangement, those details haven't been settled with COSBOA.

Senator DEAN SMITH: So it's COSBOA plus other delivery partners that have not yet been confirmed?

Senator Gallagher: I imagine our engagement would be through COSBOA. They may have other partners involved in it, but I would imagine the grant would be from the Commonwealth to COSBOA.

Senator DEAN SMITH: So do you have any visibility? The \$23.4 million goes to COSBOA. Do you expect to have any visibility about what portion of that \$23.4 million stays with COSBOA and goes to the delivery partners?

Mr Grassia: As I indicated earlier, it would be settled as part of a grants process to outline exactly what the nature of the delivery of that program would be.

Ms D Brown: So it would be usual for a grant program to have milestones. It's about the delivery of milestones that proves the value for money and the performance of the contract. As Mr Grassia said, that will be finalised as part of finalising the grant.

Senator DEAN SMITH: This is not a grant program though, is it? This is a grant to an initiative.

Senator Gallagher: That's right; it's a grant.

Ms D Brown: Yes, it's a grant.

Senator DEAN SMITH: Right. Thank you.

ACTING CHAIR: Senator Roberts.

Senator ROBERTS: Thank you for being here tonight. My questions are in two streams: registration information for the Australian Taxation Office and foreign investment in real estate. I'll get on with the first one.

Senator Gallagher: Senator Roberts, FIRB are no longer here.

Senator ROBERTS: No, it's to the ATO. You referred me to the ATO this morning.

Senator Gallagher: That's right; I did. That was a long time ago.

Senator ROBERTS: A very long time ago. I understand the registration information for the ATO was displaying incorrectly on the business and company registers. It displays a record named 'ultimate holding for all company'. This was updated in early March. Can you please explain when this error was brought to your attention and what part you had in correcting that?

Mr Jordan: Is this on the Australian Business Register for the ABN?

Senator ROBERTS: I think that's where it was, yes.

Mr Allen: I'm not aware of that issue, but I can take it on notice and come back to you.

Senator ROBERTS: Okay. Could you also answer these questions then please? How did that information come to be displayed on the registers in this way?

Mr Allen: Again I'll take that on notice.

Senator ROBERTS: Yes. And also take on notice what information the ATO supplied to the business registry service or ASIC that caused the registration to be displayed in this way. Can you take that on notice?

Mr Allen: Yes.

Senator ROBERTS: Was it an error from ASIC or the business registry service or the ATO that caused the information to be displayed in this way?

Mr Allen: I'll take it on notice.

Senator ROBERTS: How did BlackRock come to be displayed as the owner of 'ultimate holding for all company'?

Mr Allen: I'll take it on notice.

Senator ROBERTS: Thank you. Can you please take on notice to provide a full chronology of this incident, including data and correspondence—who it was sent to, who it was received from and what was addressed in it? I'm raising it because it suggests that there may be other errors for entries that are not as high profile that are still there. What routine audit of this database do you have in place to detect such errors? After this embarrassment, have you gone looking for more?

Mr Allen: I'll take that on notice.

Senator ROBERTS: Thank you. That's all on that thread. Now I'll get on to housing. Minister, why does there appear to be little governance or restriction on overseas ownership of existing residential property and newly constructed residential property?

Senator Gallagher: I think we answered this earlier today. Weren't the issues that were to be referred to the ATO over essentially the approval for foreign investors to buy—

Senator ROBERTS: I want to put it in context that the ATO understands. Many countries do not allow foreign ownership of their residential property. Why does Australia allow foreign investment in residential property with minimal restriction?

Senator Gallagher: Is that to the ATO?

Senator ROBERTS: It's to you, Minister.

Senator Gallagher: As I think I went through this morning, there are restrictions in place. It is something the government—

Senator ROBERTS: On older properties, but not on newly constructed or first residencies; isn't that correct?

Senator Gallagher: No. For foreign investors it is targeted at new properties, unless you get an exemption. That's my understanding. We don't have that group of officials here—they've gone—

Mr Jordan: We have a deputy commissioner of international here.

Senator Gallagher: but that was the evidence this morning.

Mr Jordan: He's responsible for the registers that we maintain. He will try to answer any questions.

Senator ROBERTS: So you're purely a registry?

Mr Thompson: No. As was touched on this morning, in the residential property space the foreign investment regime essentially seeks to promote the growth and development of housing stock. The way it does that is by restricting foreign investment to new builds, development of existing builds or vacant land. There's only one circumstance in which approval for an established dwelling would be granted under that regime, and that's for temporary residence. Those properties will need to be divested when that person ceases to be a temporary resident.

Senator ROBERTS: Established properties cannot be purchased by foreigners?

Mr Thompson: The scenario where an established property would gain approval to be purchased by a foreigner is where they're a temporary resident.

Senator Gallagher: It's also when it's their primary residence, isn't it?

Mr Thompson: They will be required to live in that—

Senator ROBERTS: But, other than that, they can't purchase existing residential properties?

Mr Thompson: That's correct.

Senator ROBERTS: Can they build a new property?

Mr Thompson: Broadly speaking, there are three classes of properties that a foreign resident might get approval to purchase. One would be vacant land. One would be redevelopment of an existing property—so you could perhaps subdivide and convert a single dwelling into two dwellings. One would be a new build, yes.

Senator ROBERTS: Thank you. Doesn't it still mean that the system is fairly unregulated, since people can come in and develop?

Mr Thompson: There'll be conditions around our approval, so there'll be a time period. If you were to seek approval to develop an existing property, there would be time periods around that approval being granted, if it's not an open-ended approval.

Senator ROBERTS: Do you know how many properties are being developed or redeveloped every year with foreign ownership?

Mr Thompson: I don't have that level of detail. We have a register of foreign ownership of residential land that we publish every year. That actually breaks down transactions between vacant land, established dwellings and new dwellings. That would probably be the most disaggregated split I can provide.

Senator ROBERTS: I'm being asked to wind up. Minister, wouldn't the widening of the mandate of ATO to include all residential purchases by foreign purchasers go a long way to slowing down the sale of residential properties to foreign speculators?

Senator Gallagher: They do.

Mr Jordan: I think we do. Some are not allowed—

Senator ROBERTS: Do you register all?

Mr Jordan: and some are allowed, depending on their circumstances. All purchases asked by foreigners to be made are looked at and regulated.

Mr Thompson: I know there was conversation this morning. It is a requirement to seek approval to purchase properties if you're a foreign resident. We do undertake compliance activity. We do, in some cases, force a divestment of properties. There was a reference made to a civil matter in 2022 where the court imposed penalties of \$250,000 on an individual for purchasing four properties without approval.

Senator ROBERTS: How many existing residential properties have been bought by foreign purchasers in each year over the last five years?

Senator Gallagher: We'd probably take that on notice.

Mr Thompson: Yes. We can take that on notice.

Senator Gallagher: We certainly had some figures that we gave you for the 2020-21 year. But if you want us to go back five years, we'll take that on notice.

Senator ROBERTS: What monitoring is in place to keep track of foreign purchases of existing residential properties?

ACTING CHAIR: Can I ask you to see if you can put questions on notice? We need to wind up.

Mr Thompson: I have four years.

Senator ROBERTS: That'd be good. I can put most questions on notice. How many residential properties, new or existing, are sitting vacant after purchase by foreign purchasers? Do you track things like that?

Mr Thompson: There is a regime that is known as the 'vacancy theme'. Under that regime, foreign owners are required to notify us if the property is vacant. If they fail to notify us in a given period we deem the property to be vacant and there is a vacancy fee charged for that.

Senator ROBERTS: Thank you. I will put the rest of my questions on notice.

Ms D Brown: Senator Bragg had a question that we took on notice. My apologies, but when I was cleaning my folder I found my notes. It was around the number of submissions received in relation to the franking credits and the off-market share buyback legislation. So 1,918 submissions were received on the franking credits and 297 submissions were received on the off-market share buyback. There isn't currently a standard policy for when submissions get published. It has varied over ministers, over time and over different governments. We are in the process of regularising that process now. These submissions can't be published until we have gone through and removed ones that are confidential, we have looked at them to see if anything is defamatory or offensive and we have redacted personal details or any references that third parties have followed up. We are in the process of doing that. We're very close to finalising that process. So I hope that will be made public shortly.

Senator O'NEILL: Ms Brown, do you curate the ones that are form applications?

Ms D Brown: We go through all of them because sometimes they are not quite—

Senator O'NEILL: But do you count them? If there were 300 of the same kind, you would still—

Ms D Brown: Yes, that's right.

Senator O'NEILL: That gives shape to those numbers. Thanks.

ACTING CHAIR: There being no further questions, the committee's consideration of the 2023-24 budget estimates will resume tomorrow. I thank Minister Gallagher and all of the witnesses that have appeared today and given evidence. Thank you Hansard, Broadcasting and the secretariat.

Committee adjourned at 22:56