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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION
COMMITTEE

Estimates

Public

THURSDAY, 31 MARCH 2022

CANBERRA

BY AUTHORITY OF THE SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Thursday, 31 March 2022

Members in attendance: Senators Antic, Ayres, Chandler, Gallagher, Lines, McAllister, Molan, O'Sullivan, Paterson, Patrick, Small, Marielle Smith and Watt

WITNESSES

PRIME MINISTER AND CABINET PORTFOLIO**In Attendance**

Senator Birmingham, Minister for Finance

Senator McKenzie, Minister for Emergency Management and National Recovery and Resilience

Senator Payne, Minister for Foreign Affairs and Minister for Women

Senator Stoker, Assistant Minister to the Attorney-General, Assistant Minister for Women and Assistant Minister for Industrial Relations

Department of the Prime Minister and Cabinet**Governance and Australian Public Service Reform Group**

Ms Stephanie Foster PSM, Deputy Secretary Governance and Head of Australian Public Service Reform

Mr John Reid, First Assistant Secretary, Government Division

Ms Leonie McGregor, First Assistant Secretary, Cabinet Division

Ms Ali Jenkins, First Assistant Secretary, Australian Public Service Reform Office

Ms Celeste Moran, Acting First Assistant Secretary, Jenkins Response Implementation Team

Ms Petra Gartmann, Assistant Secretary, Legal Policy

Mr Peter Rush, Assistant Secretary, Parliamentary and Government

Mr Alistair Campbell, Assistant Secretary, Priorities and Deliveries Unit

Ms Angie McKenzie, Assistant Secretary, National Cabinet

Mr Paul Hupalo, Assistant Secretary, Cabinet Secretariat

Mr Hugh Cameron, Assistant Secretary, National Security and Cabinet Systems

Social Policy Group

Ms Alison Frame, Deputy Secretary, Social Policy Group

Ms Genevieve Quilty, First Assistant Secretary, Social Policy Division

Ms Lee Steel, First Assistant Secretary, Intergovernmental Relations and Reform Division

Mr Shane Johnson, Acting First Assistant Secretary, Policy Innovation and Projects

Ms Gayle Milnes, National Data Commissioner Designate

Ms Rachel Lloyd, Assistant Secretary, COVID-19 Response Taskforce

Mr John Neil, Assistant Secretary, COVID-19 Health Priorities

Ms Kimberley McDonald, Assistant Secretary, Mental Health and Suicide Prevention Reform

Ms Victoria Pullen, Assistant Secretary, Social Services, Indigenous, Veterans Affairs and Disability

Economy, Industry and G20 Group

Mr Simon Duggan, Deputy Secretary, Economy, Industry and G20 Sherpa

Mr James Chisholm, First Assistant Secretary, Industry, Infrastructure and Environment Division

Mr Jason McDonald, First Assistant Secretary, Regulatory Reform

Mr James O'Toole, Acting First Assistant Secretary, Economic Division

Ms Michelle Dowdell, First Assistant Secretary, Digital Technologies Taskforce

Ms Kristin Tilley, First Assistant Secretary, Office of Supply Chain Resilience

Mr Jason Lange, Assistant Secretary, Office of Best Practice Regulation

Mr David Pullen, Acting First Assistant Secretary, Clean Energy Summit Taskforce

National Security and International Policy Group

Mr Scott Dewar, Deputy Secretary, Quad, AUKUS and Naval Shipbuilding

Mr Rod Brazier, Acting Deputy Secretary, National Security and International Policy

Mr Lachlan Colquhoun, First Assistant Secretary, National Security Division

Mr Trevor Jones, Assistant Secretary Disaster Preparedness, Plans and Incident Management

Ms Elizabeth McGregor, Acting First Assistant, Secretary International Division

Ms Carolyn Patteson, First Assistant Secretary, Critical Technologies Policy Coordination Office

Chief Operating Officer Group

Mr Tom Gilmartin, Chief Operating Officer

Mr Gerard Martin, First Assistant Secretary, Ministerial Support Division

Ms Michelle Crowther, Chief Financial Officer

Ms Samantha Portelli, Chief Information Officer

Ms Alison Green, Assistant Secretary, Protocol and International Visits

Office for Women

Ms Alison Frame, Deputy Secretary, Social Policy Group

Ms Kaylene Zakharoff, First Assistant Secretary, Office for Women

Ms Chantelle Stratford, Assistant Secretary, Women's Economic Security

Ms Hope Peisley, Assistant Secretary, Women's Safety and International Engagement

Ms Clancie Hall, Acting Assistant Secretary, Programs and Engagement

Workplace Gender Equality Agency

Ms Mary Wooldridge, Agency Head

National Recovery and Resilience Agency

The Hon Shane L Stone AC, QC, Coordinator-General

Mr Nico Padovan PSM, Deputy Chief Executive Officer and Chief Operating Officer

Ms Viv Johnson, Executive Manager, Policies and Programs

Ms Katrina Tonkin, Chief Financial Officer

Ms Alison Sommerville, Executive Director, Recovery Operations Branch

Ms Hannah Wandel OAM, Executive Director, Policy and Design Branch

Mr Gary Shipway, Executive Director, Communications Branch

Ms Elyse Herrald-Woods, Executive Director, Community Programs Branch

Mr Charles Broughton, Acting Executive Director, National Capability and Governance Branch

Ms Sophie Cartwright, Executive Director, Resilience Programs Branch

Mr Paul Gloyne, Executive Director, Data and Technology Branch

Committee met at 09:02

CHAIR (Senator Chandler): I declare open this meeting of the Senate Finance and Public Administration Legislation Committee. Today the committee will begin its examination of budget estimates for 2022-23 for the parliamentary departments, the Prime Minister and Cabinet portfolio, the Finance portfolio and cross-portfolio Indigenous matters. The committee may also examine the annual reports of the departments and agencies appearing before it.

Senators, departments and agencies have been provided with advice on the arrangements in place to ensure the budget estimates 2022-23 hearings are conducted in a COVID-safe environment. This guidance is also available from the secretariat. The committee appreciates the cooperation of all attendees in adhering to these arrangements.

The committee has before it a program listing agencies and outcomes relating to matters for which senators have given notice. The committee's proceedings today will begin with the Department of the Prime Minister and Cabinet and its agencies as listed on today's program. On Monday 4 April the committee will examine the parliamentary departments followed by the Department of the Prime Minister and Cabinet and its agencies again. On Tuesday 5 April the committee will examine the Department of Finance and its agencies. Finally, the committee will examine the National Indigenous Australians Agency, other Indigenous agencies and the Department of Health on Friday 8 April at the hearing on cross-portfolio Indigenous matters.

Under standing order 26 the committee must take all evidence in public session. This includes answers to questions on notice. The committee would appreciate it if senators could provide any written questions on notice to the secretariat by Friday 22 April 2022; however, it reminds all senators, as well as departments and agencies, that written questions on notice can be provided at any time. The committee has fixed Friday 20 May 2022 as the date for the return of answers to questions taken 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 to a committee.

The Senate, by resolution in 1999, endorsed the following test of relevance for questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised.

The extract read as follows—

Public interest immunity claims

That the Senate—

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

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

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

(1) If:

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

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

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

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

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

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

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

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

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

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

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: Witnesses are specifically reminded that a statement that information or a document is confidential or consists of advice to government is not a statement that meets the requirements of the 2009 order. Instead,

witnesses are required to provide some specific indication of the harm to the public interest that could result from the disclosure of the information or the document.

The Senate has also resolved that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers are requested to keep opening statements brief or seek to incorporate longer statements into the Hansard.

Finally, the committee has agreed to allow media into the hearing room. In doing so, the committee reminds the media that they must follow the directions of the committee and the secretariat and remain within those areas clearly marked for the media. In addition, recording must not occur from behind the committee or between the committee and the witnesses, and computer screens and documents belonging to senators must not be filmed, photographed or recorded. Witnesses are reminded that they can object to being recorded at any time. The committee thanks the media in advance for maintaining a COVID-safe approach while in the hearing room.

Department of the Prime Minister and Cabinet

[09:07]

CHAIR: I welcome the Minister for Finance, Senator the Hon. Simon Birmingham, representing the Prime Minister; Ms Stephanie Foster, Deputy Secretary, Governance and APS Reform; and other officers of the Department of the Prime Minister and Cabinet. Minister, do you wish to make an opening statement?

Senator Birmingham: Good morning Chair and senators. Happy budget week, although it feels slightly peculiar to be doing PM&C estimates on a Thursday. But the days are all blending into one, anyway. I have no opening statement. I'm happy to discuss the budget.

CHAIR: Very good, Minister. Ms Foster, do you wish to make an opening statement?

Ms Foster: Thank you, Chair. In addition to the members of PM&C's executive in attendance at Parliament House for this session to answer your questions, other senior officials are here at APH to assist the committee. A detailed list of witnesses attending has been provided to the committee secretariat. Since the last estimates, in February, there have been no changes to the executive. I have PM&C's organisation chart here for the committee should you wish it to be tabled.

CHAIR: Thank you, Ms Foster.

Senator AYRES: Good morning, Ms Foster and Senator Birmingham. It doesn't seem very long ago that we were together downstairs. I have a few questions that go to the budget papers and veterans' affairs. I've followed—although it's been covered, essentially, in the regional media—Mr Gee's threat to the Prime Minister to resign. Page 49 of Budget Paper No. 2 lists the budget outcomes for decisions taken but not yet announced. I might give you a minute to grab a copy. That shows a reduction of expenditure in 2023-24 of \$916.6 million, in 2024-25 of \$1.168 billion, and then \$892 million in cuts in 2025-26. That's \$3 billion, essentially, over three years that just happen to fall after the election. Those cuts to the Department of Veterans' Affairs, as I say, fall after the election, but they relate to decisions already taken but not yet announced. What has been cut here, Senator Birmingham?

Senator Birmingham: Senator Ayres, I'm sure you were paying close attention during question time yesterday when Senator Gallagher asked me a question on this issue. The effect here is, basically, around the accounting treatment of a number of decisions that the government took and provisioned for in MYEFO last year—providing for functions such as the \$1.3 billion women's safety package—for which, then—in terms of the accounting approaches within the finalisation of those packages—essentially, the government reversed out the DTBNYA line—the 'decision taken and not yet announced' line—and provided the additional funding in terms of the women's safety package, which you'll find elsewhere in Budget Paper No. 2. There are other measures for which a similar approach was taken. So it is, essentially, those decisions for which we had provisioned money previously. And I remember facing extensive questions at the last estimates about some of those, as to what was in the decisions taken but not yet announced lines. The government has finalised its consideration of those and made those public in the budget papers. So there are no 'cuts', as you put it, Senator Ayres; there is simply a publication now of the final decisions.

Senator AYRES: So decisions were taken around expenditure cuts, but you're not prepared to indicate the nature of those cuts?

Senator Birmingham: No; they're not cuts, Senator. The budget line for decisions taken but not yet announced comes down, because the decisions have been announced. The budget line for decisions taken but not yet announced shows the negative there—as you can see—because elsewhere in the budget there are positives now against specific program items, women's safety being the example that I've used.

Senator AYRES: How do you get a negative though? You provisioned for more spending on some of these items. Is it that you provisioned for more spending than you actually announced on those items, and now you're not proceeding with it? It's pretty opaque, isn't it? So you've made decisions that you've not yet announced to provide for funding for some items, and now you're not proceeding. How is that not a cut?

Senator Birmingham: Because of where it is reflected in the budget papers, Senator Ayres. It is no longer reflected simply in the aggregate line of 'decisions taken but not yet announced', so there's less money in that budget line. It is reflected in the women's safety area of the budget, so there is more money in that area and budget line. It's simply the shift, essentially, from the aggregate of the contingency reserve and elements of that, which has the decisions taken but not yet announced line in there, moving across that into actual program spending allocated specifically against a department and an outcome and a program.

Senator AYRES: That's one possible explanation, isn't it?

Senator Birmingham: It's the explanation in this regard.

Senator O'SULLIVAN: It's been announced. That's why it's now in the actual line items.

Senator AYRES: I reckon he can handle it. You'll be alright, Senator O'Sullivan. He can probably answer. There are two possible explanations, though, aren't there? One is the rather benign outline that you've just given; the other is actual spending cuts to decisions that you've made but not yet announced. Are you saying there have been zero cuts in this area? Is that right? There's nothing for veterans to worry about and nothing in any of these other line items—it's 100 per cent just items that have been moved out, having been announced?

Senator Birmingham: Even if I took your alternative scenario, a decision we may have taken to provision some funds internally for something that was never announced and never provided is hardly a cut, Senator Ayres.

Senator AYRES: Just because you've kept the original decision a secret—

Senator Birmingham: Even though you don't see into the contingency reserve, that doesn't mean it's a cut. It's a contingency reserve.

Senator AYRES: I understand that you're anxious to—

Senator Birmingham: I do note that, in relation to that particular question about the decisions taken but not yet announced line, following the comments that Mr Chalmers and others made yesterday, even the *Guardian*, I think, did a fact check on it and found that the explanation I've given you stacks up.

CHAIR: Goodness me!

Senator AYRES: I look forward to you relying upon the *Guardian* in future discussions, Minister!

Senator Birmingham: When Finance officials are here as well, I'm sure we can take you through the very precise elements of that treatment, if you like.

Senator AYRES: Thank you. I have some questions about the PM&C budget. Page 163 shows an extraordinary additional allocation of just under \$96 million over four years from 2022-23 and then \$21.3 million ongoing to the department. How much additional money is Mr Morrison allocating to this department every year? It might be that I'm a bit slow on the uptake this morning. The payments shown in the budget measure don't quite line up with the suggested additional \$5.5 million in 2021-22. Can you help me interpret this, Ms Foster?

Ms Foster: Senator, I'll ask Ms Crowther, our CFO, to do that for you.

Ms Crowther: Good morning. You're asking about the increase of funding for PM&C's additional resourcing?

Senator AYRES: Yes.

Ms Crowther: Overarchingly, the department received \$107.7 million across the forward. The \$5.5 million in 2021-22 relates to money provided for the Sydney clean energy forum. It also relates to a small amount relating to the deregulation—

Senator AYRES: Sorry; that's \$8 million for the Clean Energy Supply Chain Forum? I think it's referred to as the 'Sydney energy forum' in some places. That's the same thing, isn't it?

Ms Crowther: It is. There is \$8 million across 2021-22 and 2022-23.

Senator AYRES: And what's that for?

Mr Chisholm: The forum was announced by the Prime Minister in the context of the Quad meeting last year. Essentially, it's focused on finding ways to ensure that we can as a nation, and working closely with partners in the region, best leverage opportunities in the new energy economy, particularly with really critical inputs like critical minerals and renewable energy. The forum will be held later this year. The funding is to organise the forum—to facilitate venues, support for participants and that sort of thing. It will have a strong international representation—

Senator AYRES: And it is \$8 million for that?

Mr Chisholm: Yes. I can ask my colleague Mr Pullen, who is the first assistant secretary leading the task force organising the forum, to take you through some of the details of the funding. We do have a task force in the department comprising a number of officials from key Commonwealth agencies who are helping to pull the forum together. But we can take you through what the money will be spent on in some detail.

Senator AYRES: I'm not sure I want a lot of detail. A short outline would be helpful. Thank you.

Mr Pullen: As Mr Chisholm outlined, the department will receive \$8 million to deliver the forum—and \$3 million has previously been reported in the portfolio additional estimates statement. This is consistent with past practice to provide funding for international events. For example, the department was provided \$37 million to host the ASEAN special summit in Sydney in 2018. In terms of the funding, it is needed for a number of aspects of the event. Firstly, there is a component to fund the IEA as a voluntary contribution, which is a co-host with Australia. There is also a component for venue hire, catering, ground transport and communications. There is a component to support the travel associated with speakers who are attending the event, including from Pacific island countries. There is also a component for technical advice, as well as a contingency should there be COVID related events.

Senator AYRES: How much is the contingency?

Mr Pullen: There is a 10 per cent contingency. It will obviously depend on the nature of the event—should we need to go digital, should there be a number of guests who get COVID and we need to provide additional support.

Senator AYRES: The average staffing level is going to lift by around 50?

Ms Foster: That's correct. I'll get Ms Crowther to come back but, in essence—

Senator AYRES: Sorry, we've interrupted your train of delivery. Thank you.

Ms Foster: In essence, there are a number of new functions or new initiatives that the department is managing and the additional ASL is associated with those new functions or new initiatives.

Senator AYRES: Essentially, the additional five in the budget measure is to deal with the energy forum that we were just discussing. How much of the additional allocation of \$95.8 million is going to the additional 50 staff?

Ms Crowther: A number of the measures relate to staff. On that basis, it would probably be about 70 or 80 per cent relating to staff. A number of the functions were funded, because they are continuing important functions.

Senator AYRES: So, 70 to 80 per cent on the additional staff. How much of the additional money will be spent on consultants?

Ms Crowther: As I said, most of the funding relates to the continuation of the Digital Technology Taskforce and deregulation. I would ask the general managers to expand on that. However, most of that relates to staff already in place so it's a continuation of existing ASL.

Ms Foster: Senator, when I said they were new initiatives, I actually misspoke. I had forgotten that a number of that ASL was to fund the continuation of existing functions that were not funded beyond last year.

Senator AYRES: So, what does that mean—ASL that wasn't funded last year is now being funded?

Ms Foster: No, Senator. It's continuing the ASL for functions that are continuing. An example of that is the National Office for Child Safety. So, we have those staff—

Senator AYRES: So, in the absence of that additional allocation, there would've had to have been a cut in the ASL?

Ms Foster: That's correct, Senator. The function was funded until this point, and we are now funding it and the ASL to continue that function.

Senator Birmingham: There is, Senator Ayres, though, an increase in portfolio ASL overall. I draw your attention to page 24 of the portfolio budget statement where it shows a lift of 50 ASL in terms of the ASL

estimates for the portfolio from 1,147 to 1,197. There are, in addition to the areas that have been touched on to date, extra pressures following, for example, from the AUKUS announcement in terms of policy advice and international engagement that the department is being resourced for.

Senator AYRES: What is it? \$95.8 million falls into three categories. Additional ASL which would not be reflected in a lifting of the cap, Ms Foster, but as a rolling over of some functions that it's been determined are required to stay in the department?

Ms Foster: If the ASL was not provisioned for in the outyears then that will be a lifting of the ASL to provision for it in the outyears.

Senator AYRES: But I think, from what the minister's saying, there is, additional to that, a lift in the cap.

Ms Foster: There are some new functions. For example, Senator, for the Jenkins task force, we have a small group of people within PM&C to assist with the implementation of the Jenkins recommendations. That's a new function for us or has been augmented in the coming year.

Senator AYRES: And the third category is other things—if I can put it that way.

Senator Birmingham: PM&C has a broad range of other things that it engages in for this government.

Senator AYRES: So, rolling over programs, additional staff in some areas to support the Jenkins review and post Jenkins review activity and then other things, largely consultancies—all that sort of stuff?

Ms Foster: No. There's some additional staff to deal with freedom of information increases. There's been significant increasing in the department with those. So, there are some staff that are included in that increase in ASL to cover that function. As mentioned, there's staff associated with the Quad and AUKUS partnerships in establishing a new group within the department. There's also an extension of our COVID-19 support for government.

Senator AYRES: Out of interest, Ms Foster, how much has the department spent on consultants this last financial year?

Ms Foster: We're just looking for the figure, Senator. If you'd like to perhaps ask the next question and we'll get it as quickly as we can.

Senator AYRES: I have some questions that move to another topic. I'm happy to wait for a tick.

Ms Foster: I'm sorry; we're going to have to take it on notice and come back to you.

Senator AYRES: Come back to us later in the day if you can. I have a series of questions that go to the international section.

CHAIR: Senator Ayres, you've had about 20 minutes, and I want to share the call around a bit. I'll give the call to Senator O'Sullivan, and then we'll come back to international.

Senator O'SULLIVAN: I have some questions about the cost-of-living measures in the budget. Are you able to tell us how many individuals will be supported by the government's cost-of-living tax offset?

Mr Chisholm: I will ask my colleague Mr O'Toole to come to the table and help take you through that question. As we are waiting, if you have any follow-up questions, I'm happy to take them.

Senator O'SULLIVAN: The total amount, looking at the budget paper, is 3.9 and then 200 in the following year. That's because the payments have been paid; there's a bit of a trail, is there?

Mr Chisholm: He has now joined us.

Senator O'SULLIVAN: Mr O'Toole, I am just interested in understanding the actual number of people that you're expecting that the cost-of-living tax offset will impact.

Mr O'Toole: The one-off cost-of-living tax offset is the part of the package you're interested in?

Senator O'SULLIVAN: Yes.

Mr O'Toole: As you know, the government is providing \$4.1 billion to increase what we call the LMITO, the low and middle income tax offset, by \$420 for 2021-22. It is forecast to benefit over 10 million individuals earning up to \$126,000.

Senator O'SULLIVAN: How many pensioners, welfare recipients, veterans and concession card holders will be eligible for the cost-of-living payment?

Mr O'Toole: The cost-of-living payment will be eligible to age pensioners, veterans, other income recipients and eligible concession card holders. I'll just see whether I've got the number here. We might have to take that one on notice, I'm afraid.

Senator O'SULLIVAN: Okay.

Senator Birmingham: That was 'How many pensioners'?

Senator O'SULLIVAN: Pensioners, welfare recipients, veterans and concession card holders.

Senator Birmingham: I think it is around six million, if my memory is correct.

Mr O'Toole: It's certainly in excess of five million, because the indexation arrangements that the government announced in terms of the cost-of-living payment are in addition to the indexation of the pension and other arrangements which occurred in March, which benefited five million people. They're also eligible for that, so it's certainly in excess of that.

Senator O'SULLIVAN: What will be the effect of the temporary fuel excise relief?

Mr O'Toole: As you're aware, the government announced a temporary halving of the existing 44.2c per litre fuel excise, down to 22.1c. The benefit for individuals will obviously depend on their fuel usage, but if you take an average vehicle—say, a small hatchback with a 40 litre tank—then that's a saving of about \$10, or \$9.70, per fill-up, ranging right up to, for a four-wheel-drive with a much larger tank of 80 litres, for instance, a saving of \$19.45 every time they fill up their tank.

Senator O'SULLIVAN: We legislated for that yesterday in the Senate. When can people expect to see that reduction at the bowser?

Mr O'Toole: It commences on 30 March. It would be expected to flow through relatively quickly. Of course the government has asked that the ACCC monitor it, to make sure that that is passed through as quickly as possible.

Senator O'SULLIVAN: I was just about to ask that. Minister, do you want to elaborate on that? So there is an expectation that the full amount will be passed on to the consumer?

Senator Birmingham: We expect every cent of the 22c per litre reduction in fuel excise to be passed through to the consumer. The Treasurer spoke personally with the chair of the ACCC on budget day; they had an extensive discussion. The ACCC issued a statement in relation to their authority and abilities to monitor and act, if they detect any inability or failure to pass through appropriate savings, or any profiteering that comes from it. We have strong confidence that the ACCC, which has had extensive experience in relation to fuel price monitoring, has expertise and a dedicated unit that can act in this area. They have penalties that can range into the millions of dollars, to be applied should anybody do the wrong thing. Pleasingly, even in advance of the legislation passing last night, in some pockets of the country a little bit of competitive tension in the marketplace seemed to see some players reducing their fuel prices yesterday. While noting that excise is not paid at the retail point, so there is a slight delay in terms of it passing through the supply chain to those retailers, we expect it should flow right throughout the country over the next couple of weeks.

Senator O'SULLIVAN: Very good. I know it's impacting people, so this relief is very important. More broadly, how has the situation in Ukraine caused cost-of-living pressures in Australia? Obviously, fuel is one of them.

Mr O'Toole: Yes. The situation between Russia and Ukraine is having a number of impacts. Fuel is the obvious one. There are also some supply disruptions, for instance, and obviously an impact on the global economy more broadly, which is potentially a drag on not just Australia but other economies. As the Prime Minister has previously noted, however, our trade exposure—with the exception of the global oil market—is relatively limited as to Ukraine, relative to some of our other trading partners. The number of imports that we receive from Russia, Belarus and Ukraine is a relatively small proportion, relative to other countries—say, those in Europe.

Senator O'SULLIVAN: So the impact is obviously broad, across other countries. Australia is not the only country facing these pressures.

Mr O'Toole: No. I think that's a fair comment.

Senator O'SULLIVAN: Thank you.

Mr O'Toole: Sorry—if I could just have your indulgence: one of my colleagues has just passed the information, and I would just like to confirm, in relation to your earlier question, that it is around six million people who will benefit from the cost of living payment.

Senator O'SULLIVAN: Great. That's for pensioners, welfare recipients, veterans and concession card holders?

Mr O'Toole: Correct.

Senator O'SULLIVAN: Thank you.

CHAIR: Thank you, Senator O'Sullivan. Senator Ayres?

Senator AYRES: I do have international questions which will take us up, probably, for quite a while, so what I would like to do is to deal with some of those and then I think Senator Watt has some questions; we might break for him, and then I will resume, if that's okay.

Ms Foster: I now have the total spend, year to date, on consultants: it is just over \$1 million. It's \$1.098.

Senator AYRES: I'd like to start with the Solomon Islands and its security treaty with the People's Republic of China. Good morning, Mr Brazier. Could you provide an overview of the new treaty?

Mr Brazier: Good morning, senators. A point of clarification: the draft that has been in the media is allegedly leaked and is a draft. I would encourage you to bear that in mind as I talk through some of the concerns that the Australian government has about it. It has at least two—

Senator AYRES: Sorry, Mr Brazier. It's not an early draft, is it? Where would you characterise it as being up to?

Mr Brazier: That's not a question I can answer. It's a negotiation between Solomon Islands and China, and such negotiations take as long as the two parties need.

Senator AYRES: Mr Sogavare has been quite bullish about it, hasn't he?

Senator Birmingham: I think that's asking for an element of commentary, Senator Ayres, which, on a sensitive matter relating to dialogue between two other sovereign states, would not be an area that Mr Brazier—or any of us, frankly—should probably step into.

Senator AYRES: Mr Brazier? I'm not insisting on an answer.

Senator Birmingham: Well, you're asking for a comment on—

Senator AYRES: I'm not insisting on an answer. What I'm trying to get to the bottom of is this. I understand characterising it as a draft is consistent with how the document was described when it came into the public domain. I want to know if there is an assessment that you're aware of, Mr Brazier, about where that draft is up to in the process of discussions between the two governments.

Ms Foster: I think Mr Brazier has indicated that until an agreement becomes final we really can't know whether or not this is well advanced and close to final, because we can't know how those negotiations will progress and how much change will be made.

Senator AYRES: Tell me about the agreement, Mr Brazier—or an overview of what it means.

Mr Brazier: Broadly speaking, the draft that has appeared in the media makes it possible, if it's signed in the form it is now, for China and Solomon Islands to cooperate in the security realm and for Solomon Islands to call on assistance from China in that security realm if the Solomon Islands government requires it.

Senator AYRES: So it's very serious indeed?

Mr Brazier: As I said earlier, it's a draft. We don't know whether that's the final form. We don't know for sure when or if it will be signed.

Senator AYRES: When did Australian officials first become aware of a push from either Honiara or Beijing to establish a security treaty, or a defence and security cooperation arrangement?

Senator Birmingham: Senator Ayres, I will let Mr Brazier of course add as much context as he can. I would indicate, in terms of your question around when we are aware of certain matters, that it's important to appreciate that we don't publicly comment on the dialogue that we may have directly with foreign governments and disclose discussions that would jeopardise their willingness to share information with us; nor do we customarily comment on security or intelligence information that we may have obtained that provides information. I make that observation just as a general statement across all spheres of our intelligence and security operations. But I think it's important to note, in terms of understanding on this particular issue, that, whilst we fully respect the right of any nation, especially of our Pacific family and friends, to make sovereign decisions in relation to their engagement with the rest of the world, we have regularly and respectfully raised concerns in general with the Solomon Islands about its deepening security engagement with China and ensuring that Australia's perspective there is understood.

Senator AYRES: I think my question is really at a higher level than that, isn't it? I mean, it's been publicly reported that the opposition leader in the Solomon Islands advised the Australian high commissioner in August last year that this was in prospect. Was the Australian government aware of these developments prior to that event?

Senator Birmingham: We've been aware of discussions between parties for some time in that high-level context, in terms of—

Senator AYRES: Sorry, is 'some time' some years or some months?

Senator Birmingham: Well, discussions have been evident in a general sense around relations between those two countries for some years. In terms of the specifics of such matters, they're areas where, as I say, if we start going down the track of whether we knew something before it was raised by one individual, it then leads to, 'Was it part of either discussions with the government of the Solomon Islands or information obtained by other means?' and that's perhaps where areas of sensitivity become of greater concern to maintaining our ability to engage effectively with the Solomon Islands, which Australia has demonstrated an ability to do very well. We were the first country that they called upon to provide serious support during the recent troubles, as we have before, and our police and other officials did that very successfully to help them in responding to their civil unrest. And, of course, we have extended, at their request, our own bilateral security arrangements with the Solomon Islands.

Senator AYRES: Again, at a slightly higher level, you said aware 'for some time'. I think you said 'some years'.

Senator Birmingham: Of general discussions, Senator Ayres. They're all in the public domain in terms of the Solomon Islands engagement internationally.

Senator AYRES: What steps has Australia taken to respond to warnings that such an arrangement—treaty or otherwise—was in prospect?

Senator Birmingham: We have regular dialogue at various levels with all of our Pacific island family, including the Solomon Islands. Obviously you're welcome to ask about particular instances of or the nature of the engagement, prime minister to prime minister, minister to minister, through officials. I'm sure DFAT, as well, will be in a position to talk about that, in terms of the general aspects of the relationship and dialogue, without breaching the confidences of those government-to-government discussions.

Senator AYRES: So there is a treaty in prospect—and I want to come to what the next steps are—2,000 kilometres off the coast. Beyond dialogue, what other things has the Australian government done to respond to or avert what is clearly an arrangement that is not in our national interest?

Senator Birmingham: Well, across the Pacific island family of nations we have, as part of the Pacific island step-up, pursued a number of initiatives in support of Pacific nations. In the case of the Solomon Islands, we are far and away the largest development assistance partner for the Solomon Islands. Through the course of the Pacific Step-up, we have also engaged in new and innovative policy responses such as the financing facility that we have put in place to help with areas of infrastructure development in the Pacific for economic development needs.

We continue to engage extensively through the Pacific Islands Forum and other fora in relation to areas of shared cooperation and understanding, especially those that relate to the ways in which we can, as nations, ensure the peace and stability of the Pacific. Our view is always put very clearly that we believe Pacific solutions in our region are the best way for us to maintain that peace and stability. Engagement with the Solomon Islands and engagement with fellow regional partners across the Pacific family is extensive. We can step through some of those, if you wish. DFAT will be able to step through many more of them.

Senator AYRES: We will have questions for the Department of Foreign Affairs when we see them. So there is no sign at this stage that the Solomon Islands will not proceed. What is the department's understanding of how the treaty would be approved? Does it require parliamentary approval? How would it be operationalised?

Mr Brazier: Under Solomon Islands constitution and the law, treaties do not require parliamentary approval. It's a prerogative of the executive.

Senator AYRES: Like in Australia, essentially? It is a function of the executive and there is a treaties committee process.

Mr Brazier: In Australia, I understand the treaties can be tabled. I don't think that applies in the case of Solomon Islands.

Senator AYRES: How would we know when it's being operationalised?

Mr Brazier: There would be an announcement, I would assume, by the two governments. Typically, a public event of some sort accompanies finalisation or signature of treaties of this nature. But I would also expect that our high commission would, in the course of its discussions with officials and ministers, have some notice of—

Senator AYRES: You would anticipate that we would be advised in advance of an announcement?

Mr Brazier: That would be typical in the case of Solomon Islands, but not guaranteed. Of course, when this is made public is the prerogative of the two governments.

Senator Birmingham: I don't think that would be an expectation unique to Australia. Other Pacific island nations would have an expectation that, if this were to proceed, there would be some advice or further dialogue from the government of Papua New Guinea, who of course have all of the sovereign rights to make these decisions and undertake that dialogue. But if it were to proceed, there would be some engagement from them prior to its finalisation or public announcement.

Senator AYRES: Article 1 of the draft framework agreement that has been reported, without qualification, says, 'China may according to its own needs and with the consent of the Solomon Islands make ship visits to carry out logistical replenishment in and have stopover and transition in Solomon Islands.' And it goes on to say, 'and the relevant forces of China can be used to protect the safety of Chinese personnel and major projects in Solomon Islands'. What is the department's assessment of the meaning of 'relevant forces of China'? Does that include military and naval assets?

Mr Brazier: I'd start by saying this is, to an extent, hypothetical, given it's a draft that's been leaked and may change. The language that you refer to and which I have seen is quite vague, in my view, and could encompass any disciplined force that was described as relevant to the task given to it.

Senator AYRES: So military, naval, police or Ministry of State Security officers could all be incorporated as those kinds of relevant forces?

Mr Brazier: My reading of the treaty is that the two governments—the two parties—would be able to determine what was and wasn't relevant.

Senator AYRES: And do you have any assessment of the—

Senator Birmingham: Senator Ayres, there is, in the statement from the draft that you read, an important qualifier, which, of course, is 'with the permission or authority of the Solomon Islands'. Noting that, given the nature of the questions that you're asking, is important. While the document itself is, as we said, still a draft and still unsigned, it does have that qualifier as to the rights or engagements that you're asking about.

Senator AYRES: Yes, there are some qualifiers, but it does contemplate 'relevant forces of China'. I accept that you say that it's a draft, Mr Brazier, but it's hardly hypothetical, is it? Prime Minister Sogavare has said it is ready to sign. I suppose we can't exclude the possibility that there have been some amendments to it in the interim, but he says it is ready to sign. So questions about what kind of relevant Chinese forces will be stationed in a nation not very far from us aren't hypothetical questions, are they?

Senator Birmingham: Well, Senator Ayres, questions about the content—

Senator AYRES: I don't know why we're pussyfooting around this issue. The government hasn't—

CHAIR: Senator Ayres, the minister was providing a response.

Senator AYRES: The government didn't pussyfoot around in its language just a few weeks ago. I want to understand exactly what is in prospect here.

Senator Birmingham: Senator Ayres, the government is very conscious of ensuring that we respect the sovereignty of every Pacific island nation; that we maintain the best possible position for our dialogue and engagement with every Pacific island nation; and that we retain, from that position, the best potential to achieve the optimal outcomes for Australia and the region from our dialogue with those nations. That means that there are areas of diplomacy that have to be handled sensitively. As I said before, we have made our concerns about potential areas for deepening security engagement clear. We've done that over a period of time, and we continue to engage bilaterally, as a participant in Pacific Islands Forum dialogue and through other means. The view we make clear is that Pacific solutions and engagements are best left as Pacific led in that sphere. Stepping outside of any particular engagement with other governments, yes, we would be very concerned were there to be permanent basing or such things that could destabilise peace and potentially undermine the sovereignty of any nation within our region.

Senator AYRES: Six weeks ago, the language the government was using was very different. Now we're dancing on the head of a pin, with diplomatic language. Has that got anything to do with the fact that as Mr Sheridan has said—I'm paraphrasing him, not directly quoting him—this is a very significant strategic and foreign policy blunder?

Senator Birmingham: Senator Ayres, I don't—

Senator AYRES: I don't think he said 'blunder'; I think he said 'policy failure'.

Senator Birmingham: I do not accept that. I am not sure whether you are suggesting that a better form of diplomacy would be for the Australian government to hector and lecture Pacific island nations.

Senator AYRES: I'm just interested in the change of language—that's all.

Senator Birmingham: That is certainly not the approach that we take.

Senator AYRES: What sort of protection of Chinese personnel does the department expect to see as a result of this agreement—embassy security and physical security for Chinese businesses and staff in the Solomon Islands? I want to get a sense of what the department's assessment is. You're in receipt of assessments from the Department of Foreign Affairs and some of our agencies. I want to know what the department's assessment is of the scale of the Chinese security force presence that we're likely to see?

Senator Birmingham: I think that is a hypothetical question, Senator Ayres.

Senator AYRES: How is it hypothetical? The Prime Minister of the Solomon Islands has said that he's ready to sign.

Senator Birmingham: You're asking Australian government officials to hypothesise—

Senator AYRES: I'm asking: what is the assessment of the department?

Senator Birmingham: on what two foreign governments may agree in relation to the positioning of personnel—

Senator AYRES: So we don't know?

Senator Birmingham: from within those governments or across those governments.

Senator AYRES: If the answer is 'Don't know'—

Senator PATERSON: Chair, on point of order—

CHAIR: Yes.

Senator PATERSON: In fact, Richard Maude, a former national security adviser to Prime Minister Gillard and a former head of ONA said in the media just today that we have to be really careful about the language that we use publicly. Senator Ayres is of course entitled to pursue these matters with the minister, but I think he should at least allow the minister an opportunity to answer without badgering him so that the answers given can be accurate and appropriate, given the sensitive circumstances around it.

CHAIR: Yes, certainly. I have reminded you once, Senator Ayres, to listen when the minister is providing a response and I would remind you to do so again. Minister, did you have anything more that you wanted to add or shall we go back to Senator Ayres for his next question?

Senator Birmingham: Happy to continue questioning, Chair.

CHAIR: Okay. Senator Ayres, your next question?

Senator AYRES: How many Chinese personnel are currently based in the Solomon Islands? How many Chinese government personnel, not people of Chinese background?

Mr Brazier: China has an embassy in Honiara which is staffed. But I don't know the number of staff at the Chinese embassy in Honiara.

Senator AYRES: No other government, military or defence staff that you're aware of beyond the embassy?

Mr Brazier: I don't know the composition of the Chinese embassy staff.

Senator AYRES: The agreement refers to 'major projects'. I think that is the terminology. What sort of protection of major projects would you expect to see as a result of the agreement?

Senator Birmingham: Senator Ayres, again, you're asking PM&C officials to hypothesise about what might occur under the signing of a currently draft agreement between two other sovereign governments, not an agreement that the Australian government is party to. Australia, under our agreements and arrangements with the Solomon Islands, helps to provide protection to a number of areas of critical infrastructure and government assets, most recently during the civil disputes that were occurring there. We would anticipate the Australian government being in a position to continue to do that, having proven time and again our ability to do so and having been the partner of choice to respond alongside Papua New Guinea, Fiji and others during those recent disputes.

Senator AYRES: In plain English, what does that mean—you don't know?

Senator Birmingham: Senator Ayres, you're asking for, as I said, a hypothesis on something that is not in the control of the Australian government and goes to potential actions between two other foreign governments that could occur under a draft agreement that is not yet finalised or signed. It would be reckless for government

officials to simply hypothesise in ways that you're inviting, and it would be unhelpful in terms of the outcomes that I suspect you would wish to see occur, as I know government wishes to see occur, in terms of the management of this situation. We have intelligence analysis and advice that comes through, as I said at the outset. That's not something publicly shared or disclosed. There are processes for parliamentary scrutiny and assessment of that through the committee that Senator Paterson chairs, and we respond and engage carefully in relation to that intelligence analysis.

Senator AYRES: Yes. I'm not asking for a hypothesis and I'm not asking for material that should not be released into the public domain to be released here to the extent that Mr Brazier's across those issues either. I'm asking what the department's assessment is. If the answer is, 'We don't know,' or if the answer is, 'We can't give it,' those are two possible answers, and we would consider those, but this is not a hypothetical situation. It's not an agreement that hasn't been contemplated; it is an agreement that the Prime Minister of Solomon Islands says that he is ready to sign. The outgoing or recently departed head of ASPI, Mr Jennings, said:

If China establishes a military presence in the Solomons, we could ... see People's Liberation Army maritime surveillance aircraft using Honiara to keep a permanent surveillance cap over our east coast.

Beijing could have installed signals intelligence systems able to suck up electronic emissions from Cairns to Melbourne and an over-the-horizon radar system to track ship and aircraft movements.

He's being quite direct about these issues publicly. The questions I'm asking have a narrower focus. I just want to know if there is an assessment available that the department can provide.

Senator Birmingham: How actions may evolve under a potential agreement are very broad. Australia has our relationships and our agreements in place with the Solomon Islands, as we do with many other countries. The nature of how we activate elements of those agreements evolves with ongoing dialogue and circumstances between those countries, as evidenced by our recent security cooperation and engagement in the Solomon Islands. Whilst following the conclusion of the RAMSI mission, we went for a period of time with much lesser presence of police or military personnel in the Solomon Islands. That changed following agreement between our nations as part of our operations under the structures and agreements that we have. The same range of spectrums can be hypothesized about in a whole range of scenarios of relations between other countries, but I don't think it is helpful for Australian government officials, in our dialogue with other nations, to hypothesise publicly about what they might do under a range of scenarios.

Senator AYRES: I have a series of other questions that I would like to ask about what this means in terms of physical security being provided to Chinese-funded projects, how security would be provided and whether it is likely that PRC police or other security officers might be allocated to this work. I'm assuming that the answer to those questions will be the same, but, to the extent that you can provide an answer, Mr Brazier, perhaps you might come back to us later in the day. Does China have any other similar security arrangements with countries in the Pacific?

Mr Brazier: Not that I'm aware of—

Senator AYRES: So this is the first arrangement. Are you aware of other countries outside the Pacific with which China has a bilateral security treaty?

Mr Brazier: I can't give you an exhaustive list, but I understand that places where China has a military and logistical presence, such as Djibouti in the Middle East, may have one.

Senator AYRES: You might be able to provide us on notice with a list of those kinds of arrangements. On the defence agreement with Djibouti: I assume you're aware that in 2016 China began to build support facilities for naval ships and resupply? You aren't?

Mr Brazier: I haven't updated myself on the Djibouti agreement lately, but I'm broadly aware of the arrangement between China and Djibouti. Djibouti also has similar agreements with the United States and France, I understand.

Senator AYRES: Similar agreements with who?

Mr Brazier: I'll check on this for you, but with other countries, including the United States and France.

Senator AYRES: Yes, but they're not building support facilities for naval visits and resupplying the United States or France, are they? They're doing that in Djibouti.

Mr Brazier: Details about that may be best directed to DFAT.

Senator AYRES: It's not irrelevant to how we might consider the arrangement that we've just spent some time talking about, is it?

Senator Birmingham: Senator Ayres, that's asking in part for a statement of opinion. But the full picture of intelligence understanding is not something that PM&C is specifically responsible for collecting. That's—

Senator AYRES: But this isn't an intelligence understanding, if you just open a newspaper it's there—

CHAIR: Senator Ayres, it's—

Senator AYRES: The Chinese government then signed a 10-year lease on a port facility in Djibouti. That's right, isn't it?

Senator Birmingham: Senator Ayres—

Senator AYRES: So they now have a fully-fledged military base in east Africa, the first overseas base for the People's Republic of China, just years after the signing of a security cooperation agreement that, in its essence, promised to safeguard the local and regional security needs.

Senator Birmingham: I don't think officials present from this department are well placed to talk about specific actions in Djibouti. If you want to pursue that at foreign affairs then you may. In terms of—

Senator AYRES: Well, I raised it because—

CHAIR: Senator Ayres—

Senator Birmingham: In terms of the broader concerns about militarisation of other parts of the world or in our own region and about the more aggressive and assertive stance taken by China in a range of ways internationally which do threaten areas in international rule of law, or threaten peace and stability in our region or elsewhere: Australia has stated its concerns very clearly. We do that in international fora and we do that, where possible, bilaterally, with China. We discuss these matters clearly with our partners around the world and with other nations. But these matters all need to be handled in a careful and sensitive way in terms of the public dialogue about them and also the manner in which we approach other sovereign governments in seeking to ensure they understand our views and our concerns.

Senator AYRES: I'm just going to pass over the irony of a request for sensitive dialogue, given what we saw just a few weeks ago. The reason I'm asking about a Chinese military base in east Africa and this agreement is not too hard to understand: this is a very serious matter for our national security and regional security. What I want to know is: what has the Australian government been doing about this? When was last time an Australian Prime Minister visited the Solomon Islands?

Senator Birmingham: The Solomon Islands was the first country Prime Minister Morrison visited after the last election.

Senator AYRES: In about August 2019, I think.

Senator Birmingham: You might realise that COVID has been a rather significant disruption to international visits—

Senator AYRES: Sorry, it was in June 2019.

Senator Birmingham: I'm just underscoring the symbolism and practical importance of the fact that, following that last election—

Senator AYRES: And before that—

Senator Birmingham: when the Prime Minister determined where he would make his first international trip, it was to the Solomon Islands.

Senator AYRES: And before that? When was the previous Australian prime ministerial visit?

Mr Brazier: I'm aware that Mr Howard visited during the RAMSI period.

Senator PATERSON: What about Mr Rudd or Ms Gillard?

Mr Brazier: I'd have to take that on notice.

Senator PATERSON: It would be interesting to know whether they visited.

Senator AYRES: I think I can tell you that Mr Rudd was there in 2008, so there has been quite some time between prime ministerial visits.

Senator Birmingham: There's been a visit in this term of parliament, Senator Ayres. Given COVID disruptions to international travel, there are actually a fairly limited number of countries you can say that about, but there has been a visit and it was the first in this term of government.

Senator AYRES: I'm not being critical of that visit. I'm wondering about the gap in between. It was more than a decade.

Senator Birmingham: I'm responding on behalf of the current Prime Minister at these Prime Minister's estimates, and he was there, but only a couple of years ago, and he made it his priority at the time.

Senator AYRES: There's been some media reporting that the Prime Minister has exchanged text messages with Prime Minister Sogavare since the treaty became public; is that correct?

Mr Brazier: The Prime Minister has been in contact with Prime Minister Sogavare, yes.

Senator AYRES: By text?

Mr Brazier: I'm not sure whether it's appropriate for me to reveal the exact nature of the communication, but the Prime Minister has been in direct contact with Mr Sogavare.

Senator AYRES: Have they spoken? It's been publicly reported that there's been a text exchange. Have they spoken?

Mr Brazier: To the best of my knowledge, they have not had a telephone conversation, but as I said earlier, there has been direct contact between the two prime ministers.

Senator AYRES: Sorry, say that again: 'There's been no direct contact between the two prime ministers'?

Mr Brazier: There's been no telephone conversation—

Ms Foster: But there has been direct—

Mr Brazier: But there has been direct communication between them.

Senator AYRES: There's been no phone call. What other forms of direct communication have there been? You didn't want to concede text messages.

Ms Foster: I think Mr Brazier, as he said in his answer, is unsure about whether it's appropriate for him to comment on the form in which the Prime Minister communicates.

Senator AYRES: I might be being a bit thick about this, but given the tyranny of distance, there's telephone calls, I suppose videoconferencing and texts. I'm not quite sure what other modes of communication there are—emails, sending a letter. I'm not quite sure.

Ms Foster: Senator, perhaps we can confer and come back to you on that question?

Senator AYRES: Yes.

Senator Birmingham: Senator Ayres, I'm going to try and answer your question. I am advised that there has been some text exchange, that there has been correspondence as well and that Australia's head of mission has also met with Prime Minister Sogavare in the rather short window you are talking about—obviously there has been substantial prior engagement.

Senator AYRES: Has there been a reluctance of foreign leaders to have text exchanges with the Prime Minister since last year?

Senator Birmingham: Senator Ayres, you are asking me to state an opinion on the mood of foreign leaders, but the evidence in this case would suggest no.

Senator AYRES: If the Prime Minister leaked text message exchanges with a foreign leader it's going to make people less likely to text the Prime Minister, isn't it?

CHAIR: Is that a question, Senator Ayres?

Senator Birmingham: The evidence, as I understand it, in this regard, and others that I'm somewhat aware of, would suggest the answer to your question is no.

Senator AYRES: Can you tell me—and this is my last question, Chair—how many times the Prime Minister has spoken to Mr Sogavare in the last 12 months? Are you in a position to answer that now or is it after the break?

Mr Brazier: Can I come back after the break? I do have that information.

Senator AYRES: Thank you.

CHAIR: Thank you very much, Senator Ayres. I have some questions about the government's response to the Ukrainian situation. What support is Australia providing to the Ukraine in terms of humanitarian assistance, military assistance and consular assistance, given the situation that is currently playing out there?

Mr Brazier: In the order that you asked, on humanitarian assistance first Australia has announced support of \$65 million for Ukraine, which will be dispersed through United Nations agencies, other multilateral agencies and non-government organisations, such as the Red Cross. On defence assistance the government has announced support of \$91 million—\$70 million of that was announced on 1 March, the balance on 20 March—

CHAIR: Is that for what we call lethal aid?

Mr Brazier: It is for the defence of Ukraine. It consists of a number of elements. There was a cash contribution of \$4½ million to a NATO trust fund for Ukraine. There has been equipment delivered directly from Australia to Ukraine. There have been cooperative arrangements entered into between Australia and our allies and like-minded to provide equipment from there. You mentioned consular I believe. The government has, as you know, had to move the embassy staff from Kyiv to a town across the border in Poland, where they are based now. They're providing consular support to Australians, permanent residents and their dependants as they leave Ukraine for Poland. DFAT has also established crisis response teams in other neighbouring countries, such as Moldova and Romania.

CHAIR: I certainly look forward to hearing from the Ukrainian President this afternoon as to how that support has been effective on the ground. I certainly hope it has been. In terms of the Ukrainian community in Australia, what sort of response has there been from government to ensure that that community is well looked after, given the circumstances? I'm sure it must be a very trying time for them, seeing what is happening in their home country.

Mr Brazier: The Ukrainian community in Australia is about 40,000 strong. There's been consistent dialogue with that community at ministerial and officials levels. There is a high degree of distress, of course, for those with relatives who remain in harm's way in Ukraine, have been displaced internally or have left Ukraine entirely.

The government has announced support in the form of a grant for Ukrainian community organisations. I believe that's \$450,000. Also relevant to your question is the visa treatments of Ukrainians that are here on visas that will expire. There is the ability for Ukrainians to extend those visas or obtain a different class of visa very readily. The government has also expedited the processing of existing visa applications to ensure that any Ukrainian applicant had that visa processed and, if appropriate, approved as quickly as possible. I believe around a thousand have actually arrived in Australia under those visas.

CHAIR: That's great. Notwithstanding the comments that we just had about getting too far into specific conversations that might have happened between world leaders, I am interested to know how the Prime Minister has engaged with Ukraine as well as the broader international community and broader international partners to ensure we are all doing what we can to support Ukraine.

Mr Brazier: The Prime Minister has been in direct contact with President Zelenskyy and with Prime Minister Shmyhal. He had direct contact with President Zelenskyy on 5 March and with Prime Minister Shmyhal on 23 February and again on 16 March. As you say, Senator, without revealing the details of any specific leader-to-leader discussions, this has been a consistent theme of the Prime Minister's discussions with many world leaders since the Russian invasion of Ukraine.

CHAIR: Thank you very much, Mr Brazier. I know colleagues will probably ask about these issues again after the break, so if I have any other questions I might jump in while my colleagues are asking theirs as well.

Proceedings suspended from 10:28 to 10:47

CHAIR: The committee will now reconvene, and I will give the call to Senator Watt.

Senator WATT: I've got a series of questions about the national emergency declaration that was made after the floods, and PM&C's role in that. But, before I start on that, I want to ask you a question, Minister, given you're here representing the Prime Minister. A couple of days ago the Prime Minister was interviewed—I think it was on *AM*—and he talked about the flood relief that the government is providing. One of the quotes was:

I know I've got critics who say you shouldn't be spending money on helping people during these crises. But we do because we know Australians need it ...

I haven't heard anyone saying that the government shouldn't be spending money on helping people during the flood crisis. Have you?

Senator Birmingham: I'm certainly aware of what you perhaps might describe as permanent advocates of smaller government, and especially those who focus on questions around the Federation and areas of pushing of expanded responsibilities between the states and the Commonwealth. For example, when some of the provisions around emergency declarations and the role of the ADF were being put through there were certainly those in the commentariat who believed that the Commonwealth was taking on a role that should have been left with the states. We view these matters as partnerships. The states have a frontline coordination and response responsibility in the main but, clearly, where we can provide assistance through the ADF and where we can provide financial assistance, especially through the established disaster response frameworks, we do. We've enhanced and improved that over the years, particularly in response to recent natural disasters.

Senator WATT: I ask that because the Prime Minister's obviously on many occasions effectively put up a straw man argument: 'I know people say this, but I'm not doing that,' when no-one has ever actually said the thing

he claims in the first place. I honestly don't remember seeing anyone say after these floods that the federal government shouldn't be spending money on helping people during these floods, which is what the Prime Minister claimed. Is he talking about the comments Shane Stone made, as the head of the NRRRA, effectively blaming flood victims for their choices about where they live? Can you identify one person who said this?

Senator Birmingham: Senator Watt, I'm happy to come back with some examples of those who have criticised the increased roles that the Commonwealth has played in disaster response over recent years. It's a statement of fact that, if you cast back to earlier times, the Commonwealth played a lesser role in many areas of disaster response than it plays nowadays. We have developed the framework for disaster response with the states and territories that provide some automatic areas of response. We've developed payment systems for financial relief for individuals and we've enhanced the ways in which the ADF can provide practical assistance complementing that first responder role of the states and territories.

Senator WATT: Can we turn now to the declaration of a national emergency, which happened for New South Wales on, I think, 9 March. Do you have the date there at all?

Mr Brazier: May I just begin by way of explanation. Given the seriousness and the breadth of the crisis, several officials may have to come up to the bench, and I will just explain very briefly. The initial crisis response and early recovery measures such as the disaster recovery funding arrangements are led by the Disaster Preparedness Plans and Incident Management Branch led by Mr Trevor Jones, who is at the table. Longer term recovery and resilience policy sits with the Industry, Infrastructure and Environment Division. Mr Chisholm and his colleagues will be witnesses in that area. Responding to natural disaster events also requires a strong social policy response, and questions in this area will be answered by PM&C's Social Policy Division.

Senator WATT: Thanks. I suspect probably most of my questions will be about the emergency declaration so that sounds like it's Mr Jones's area. Can I just confirm: it was 9 March that the declaration was made?

Mr Jones: No, Senator. The Prime Minister announced on 9 March that he intended to approach the Governor-General with a view to making a declaration. That was the sequence of events.

Senator WATT: That's right, and that was a Wednesday—the day that he visited Lismore was 9 March?

Mr Jones: That's correct.

Senator WATT: And I think it was the Friday, so that would be 11 March?

Mr Jones: It was 11 March when the Governor-General made the declaration in relation to New South Wales.

Senator WATT: Thank you. What date did—and I presume that, prior to the Prime Minister announcing his intention to declare a national emergency, PM&C would've provided him with advice about that?

Mr Jones: This is the first time that the Australian government has employed the National Emergency Declaration Act legislation, which as you know, Senator, came into effect on 16 December 2020. Both our branch, within PM&C, the Attorney-General's Department and the Director-General Management Australia, as the event unfolded, worked around the national emergency declaration. Briefs were provided to the Prime Minister as part of the normal flood situation awareness update and officials, through those three departments but also through the forum known as the Australian Government Crisis and Recovery Committee, also discussed the unfolding situation and the applicability of the National Emergency Declaration Act as the floods unfolded.

Senator WATT: On what date was the Prime Minister first briefed about the possible need for a national emergency declaration.

Mr Jones: PM&C did not give a direct brief to the Prime Minister, specifically, on the national emergency declaration. We facilitated the regular briefings to his office from Emergency Management Australia, and they were led by the Director-General Emergency Management Australia. I do know that the Prime Minister, in managing government responses to crises such as these, often reaches out to all of his senior officials to help him understand the situation that's unfolding on the ground. They would include the Director-General Emergency Management Australia, the Chief Executive Officer of the Bureau of Meteorology and any other senior official that the Prime Minister thought could offer him relevant information to give him a clearer understanding of what was going on.

Senator WATT: I understand that in this kind of situation it's a multiagency approach.

Mr Jones: It very much is.

Senator WATT: I think what you said was that PM&C facilitated briefings from a range of agencies for the Prime Minister. What I'm trying to get to is: when was the Prime Minister first briefed, whether it was by PM&C or another agency, about the potential need for a national emergency declaration?

Mr Jones: This is the interesting part of the legislation. The officials' role in this legislation is important both in terms of doing the administration of it in informing, particularly for the Director-General Emergency Management Australia, and providing advice to the Prime Minister that would support his declaration. Ultimately in the legislation, however, there are two key thresholds to be met. First, the Prime Minister must be satisfied that an emergency has occurred, is occurring or is likely to occur. The second part of that is that that emergency is likely to cause, has caused or is causing nationally significant harm. Those are the two basic tests. Whilst officials will discuss the relevance of the national emergency declaration with a view to providing a recommendation, in this particular case it really doesn't matter because it's ultimately the Prime Minister's decision, and the Prime Minister must be satisfied that the conditions have been met in order for that declaration to be recommended to the Governor-General.

Senator WATT: The national emergency declaration ended up being made on 11 March, and I've forgotten the exact geographic boundaries, whether it was just the Northern Rivers—

Mr Jones: It was for New South Wales.

Senator WATT: New South Wales as a whole.

Mr Jones: But clearly with a focus on the flood affected regions.

Senator WATT: Lismore, of course, was the very centre of it all, along with the communities around it. The flood levee in Lismore was breached on 28 February, which was a Monday. What I'm trying to establish is the time line between then and 9 March, which is when the Prime Minister announced his intention to declare a national emergency, and at what point he was informed, whether it be formally or informally, that this might be needed.

Mr Jones: It's important that I explain the sequence of events as they unfolded from that very first day, 22 February, when the rain event first started, both in Queensland and as it migrated to New South Wales, and how the officials within the emergency management architecture of the Commonwealth responded to those events.

Senator WATT: I'm conscious of time. I'm happy to hear that, but can we just focus on the steps leading to the national emergency declaration?

Mr Jones: That's what I'm going to do. There are a number of Australian government crisis and recovery committees. I recall distinctly at three of those the Director-General Emergency Management Australia raising, at the beginning of each of those committee meetings: do we think we have reached the threshold yet for a national emergency declaration?

Senator WATT: Do you have the dates of those meetings?

Mr Jones: I do, and I was about to give them. I can take it on notice if you're pressed for time.

Senator WATT: I wouldn't mind getting those dates if you've got them handy.

Mr Jones: I think I do.

Senator WATT: You said it was the head of EMA, Mr Buffone, who raised that.

Mr Jones: Because we're in the response and relief phase of the crisis, the Director-General Emergency Management Australia has responsibility for chairing the Australian Government Crisis and Recovery Committee. Often you will find that the Coordinator-General or his appointed deputy from the National Recovery and Resilience Agency will co-chair that. That's important later on in understanding the national emergency declaration as well, and how it plays out. I've got a time line here of all our AG services. I can tell you, Senator, that on 28 February 2022, the Australian Government Crisis and Recovery Committee considered for the first time the net thresholds. We reconsidered them at the meeting on 2 March and we reconsidered them again on 8 March. It's important to understand here that this is the first time officials have ever had to go through the process of making such a recommendation. In any event, the final decision doesn't rest on that recommendation, because the PM himself has to be satisfied.

Senator WATT: Sure. But the potential need for a national emergency was first considered—

Mr Jones: On 28 February.

Senator WATT: on 28 February, being the day that Lismore flooded, effectively?

Mr Jones: Formally. From the outset, as we watched the persistent nature of the weather event unfold, we realised we were watching something that might lead us down that path, but we just weren't certain. Of course, making a recommendation about nationally significant harm is not a decision to be taken lightly, even for officials in advising the Prime Minister.

Senator WATT: I suppose the big question then is: if the potential need for a national emergency declaration was being discussed at the latest on 28 February—

Mr Jones: At the earliest.

Senator WATT: why did it take another nine days before the Prime Minister announced his intention to declare one?

Mr Jones: It is important to understand the nature of the national emergency declaration legislation. I would contend, and I've discussed this with my colleagues, that, in its current form, the greatest benefit of the national emergency declaration is not in the response and relief phase but in the recovery phase. When you talk about the appropriate timing, either early or late, it doesn't have quite the same relevance because a lot of the emergency powers of the National Emergency Declaration Act that are listed in the annex to the act are focused upon cutting red tape to really rebuild those community and reconstitute their livelihoods as quickly as possible. That's another area of focus in terms of minimising the nationally significant harm element.

Senator WATT: I absolutely accept that a lot of it is about the recovery effort, but I remember the statements made by ministers at the time that these powers were first conferred, and it was also about being able to get Army support out earlier—

Mr Jones: That's incorrect, Senator. You should be aware that, non-financial support from the Commonwealth to the states and territories, is mobilised by the Australian government's disaster response plan, COMDISPLAN. That is managed by the Director-General of Emergency Management Australia, Mr Joe Buffone. COMDISPLAN on 25 February—three days after the rain event commenced. Once COMDISPLAN was activated, it triggered a range of Commonwealth support being offered to the states and territories.

But the Commonwealth has to balance what it can deliver to the states and territories to support their response effort with the capacity of those states to receive those resources and effectively redeploy them to achieve the outcome that is in the best interests of the affected community. So, in that sense, the Commonwealth must be—and the PM has been very clear on this—forward leaning so that the states don't feel that we're dragging our feet in terms of offering support. In fact, it's a worthy question to the Department of Defence. Under their Defence Assistance to the Civil Community arrangements, local area commanders can, for short periods have time, reach out and provide assistance in their immediate areas.

Senator WATT: Coming back to the time line: the Prime Minister announced his intention to declare a national emergency on Wednesday 9 March.

Mr Jones: That's correct.

Senator WATT: There were three meetings of, I think you said, the Australian crisis—

Mr Jones: Amongst officials of the Australian Government Crisis and Recovery Committee, the AGCRC.

Senator WATT: So there were three meetings where this matter was discussed prior—

Mr Jones: Formally discussed.

Senator WATT: Formally discussed. And there were other conversations presumably as well.

Mr Jones: Officials are always conversing behind the scenes on this.

Senator WATT: It doesn't sound like there was a formal briefing provided to the Prime Minister saying, 'You should declare a national emergency.'

Mr Jones: The way I would characterise it is that the Prime Minister himself—and this is very important—must be satisfied. Whilst I can't speak for the Prime Minister on this, because it's a very personal and subjective decision on his part, going to Lismore the day after he came out of COVID quarantine resonates with me in terms of the decisions you need to make and the correctness of those decisions in terms of the course of action you're about to take. Often you need to get eyes on the problem.

Senator WATT: I accept that the Prime Minister was in isolation; I never made a political issue out of that. But he did have the power to declare a national emergency at any time, whether he was in Lismore or elsewhere.

Mr Jones: That's true, but that's his decision. Moreover, I would go back to the comments I made to you earlier about the phase of the response. We were still in the response and relief phase, and that was in Lismore. But it wasn't homogeneous in terms of the way that weather system affected various parts of both Queensland and New South Wales. It was a cascading event, and so, while the declaration was made for New South Wales, we were still required to look at the totality of it from a more national perspective.

More importantly, I made it clear that the Director General of Emergency Management Australia chaired the AGCRC when we were in the response and relief phase. The way the Commonwealth formally flags that we're

moving from a response and relief phase to a recovery phase is when the chairmanship of that committee changes, and that occurred on 16 March.

Senator WATT: Okay, thanks. What I'm trying to establish is whether this was through a formal briefing or through discussions with officials or other ministers: when did the potential need for a national emergency first get raised with the Prime Minister?

Mr Jones: Formally?

Senator WATT: Formally, informally—

Mr Jones: PM&C did not raise it formally with the Prime Minister. You would have to speak to the Director General of Emergency Management Australia about any recommendations he may have made.

Senator WATT: We can probably do that later today. No national emergency declaration was ever made about the floods in Queensland. Why not?

Mr Jones: One of the other conditions that's required is that the Prime Minister consult with the premiers in the affected states. In his announcement on the ninth, the Prime Minister made it clear that he had done so. I'm not privy to the substance of those conversations, but what fell out of that was that the Prime Minister made the decision that he would apply the declaration to New South Wales and not to Queensland.

Senator WATT: I'm glad you raised that, because this has been a matter of debate. On several occasions, the Prime Minister and other ministers have claimed that the Prime Minister needs to consult with the premiers. But section 11 and subsection 3 of the legislation clearly gives the Prime Minister power to declare a national emergency without consulting with the government of a state or territory, if certain conditions are met. So—

Mr Jones: Senator, that's true: that's within the provisions of the act. With the nature of this crisis I don't think it would be appropriate for the Prime Minister to make that—I think the Prime Minister was in conversation with both premiers as this event unfolded and I think it was right and proper that he continue to engage with them.

Senator WATT: But, again, that's really a matter for him.

Mr Jones: Yes.

Senator WATT: I think you've described the decision as a subjective and personal one for the Prime Minister—

Mr Jones: It's very much the Prime Minister's decision to make.

Senator WATT: So, equally then, was it the Prime Minister's subjective and personal decision to consult the premiers and not declare one, as he could have done under the legislation?

Mr Jones: I would contend that there's nothing to—you're going back to the urgency of making the declaration, and I disagree with that premise. What I'm saying to you is that, certainly for this major flood event, the declaration has its greatest effect in the recovery phase. I don't see that urgency existing.

Senator WATT: On that: I went back and had a look at the royal commission post Black Summer, which was—

Mr Jones: I remember it well.

Senator WATT: arguably, the beginning of creating this power to declare a national emergency. It flowed out of it, anyway—

Mr Jones: It did, yes.

Senator WATT: Page 136 of the royal commission report talks about the potential benefit of the Prime Minister getting a new power to declare a national emergency. The report said:

A declaration would signal to communities the severity of a disaster early, act as a marshalling call for the early provision of Australian Government assistance when requested, facilitate coordination with state and territory emergency management frameworks, ...

Et cetera. o the intent around this power to declare a national emergency was to allow for early action, yet what we've learned today is that a possible declaration was being considered by officials as early as 28 February, nine days before the Prime Minister got around to announcing an intention.

Mr Jones: I disagree with that.

Senator Birmingham: I think Mr Jones was pretty clear in terms of officials discussing at different meetings whether they believed the threshold had been reached in that regard.

Mr Jones: That's correct.

Senator Birmingham: Let's not mischaracterise it in ways that would start to suggest that they were providing official advice or the like that was not acted upon. That would be a mischaracterisation of what I've heard Mr Jones say this morning.

Senator WATT: My point is that the royal commission made clear that the whole idea around giving the Prime Minister power to declare a national emergency was to allow for early action, and it can hardly be said to be early action when it's happening nine days after Lismore flooded—let alone what happened in Queensland before that.

Mr Jones: Senator, when you talk about Commonwealth action, you're missing the fact that the ADF was already moving forward. On 5 March, the ADF and the non-financial—

Senator WATT: We could have a debate about how much ADF support was there, because I was actually there and saw it with my own eyes, but that's for another committee.

Mr Jones: I'm sure you did, Senator. You need to talk to the Department of Defence about that. What I will say is that the Commonwealth, from the activation of COMDISPLAN, had already started to move forward. It's not just the ADF through which the Commonwealth provide support; you've got the National Recovery and Resilience Agency providing field offices into the region, as well, to assist. The point I would make is that the Commonwealth assistance was quickly on the ground, through COMDISPLAN, in the response and relief phase. I'd go back to the point that the legislation in this particular crisis has its greatest effect for us in the recovery phase of a crisis. By 9 March, when the PM made the declaration, we were certainly not fully into the recovery phase. We were still in the response and relief phase for many areas of the flooded region, including in New South Wales.

Senator WATT: As one example of the things that can be done as a result of declaring a national emergency, there are a range of things that it allows or speeds up, including matters to do with telecommunications services. Would it not have been helpful, in terms of the immediate flood response, to have greater powers to deal with the breakdown in telecommunications, which affects emergency warnings and information about evacuation centres?

Mr Jones: That requires conjecture on my part. I don't want to go there. What I will say is that we had a National Coordination Mechanism yesterday with the telecommunications industry, with a view to looking at what the preparedness of that industry is as we move forward with the remainder of the high-risk weather season. It was evident from those conversations—to me at least—that the telecommunications industries had robust plans and they managed their own requirements there reasonably well. So services were quickly recovered by virtue of those industries themselves and those companies.

Senator WATT: Going through this, Minister, what we've learned this morning is that there were three meetings of the crisis coordination committee—

Mr Jones: The AGCRC.

Senator WATT: of officials, beginning on 28 February, which considered whether a national emergency should be declared. The Prime Minister didn't do it until 9 March, nine days later, which just happened to be the day he came out of isolation. Isn't the reality that the Prime Minister held off declaring this until he could be in Lismore with TV cameras around him, when he could have done it on any day leading up to that point?

Senator Birmingham: No, Senator, I don't accept the way you're characterising it. Yes, the Prime Minister was in isolation related to COVID. The Prime Minister certainly was receiving briefings and making decisions during that time in isolation. The Prime Minister was engaged in discussions about the role of the ADF and was actively ensuring that the disaster payments were being made and processed as quickly as possible and that Human Services and other staff were being repositioned to assist in that regard. In terms of the timing of discussions about that particular declaration, the advice the PM may have received on that and the discussions had with officials, as Mr Jones has indicated, there's a time to explore that more fully later today.

Senator WATT: But, let's face it, this is a Prime Minister who is well known for his addiction to marketing and making announcements. You're telling me it is just a coincidence that he waited until the day he came out of isolation, when he could be in Lismore surrounded by TV cameras, before he declared a national emergency, which he could have declared at any time while he was in isolation and which his officials had been considering for nine days before that?

Senator Birmingham: Senator Watt, there's a completely alternate characterisation I could put on it, which is that the latest of those three meetings you spoke of occurred on 8 March and the declaration was made on 9 March, so depending on the analysis, the advice, the information flows and so forth you could equally contest that it was made very rapidly following the last of those three meetings at which it was discussed between officials.

Senator WATT: I think everyone who has followed the Prime Minister's activities will come to their own conclusions about this.

Senator Birmingham: Not everyone is as cynical as you are, Senator Watt.

Senator WATT: I think we all learned that Scotty from marketing likes a bit of TV action, so it was rather convenient for him to have the TV cameras on him when he declared that national emergency, rather than being stuck in isolation.

CHAIR: Senator Watt, I don't think that was a question.

Senator Birmingham: And we all know that you like a cheap shot, Senator Watt.

Senator WATT: I don't think that's a cheap shot. These people really needed help and weren't getting it.

CHAIR: Thank you, Senator Watt. Senator Patrick.

Senator PATRICK: Madam Chair, I ask to table a document. It's a decision of the South Australian Ombudsman. It is an FOI matter. I would like to put that before the witnesses.

CHAIR: Yes, thank you.

Senator PATRICK: My questions relate to FOI and national cabinet. Senator Gallagher might want to listen to this because I know she has been frustrated as the chair of the COVID committee.

CHAIR: I'm sure she can read the *Hansard*, even if she—

Senator PATRICK: Well, she's sitting there. She'll probably get frustrated at this. I'm happy to walk you through it. Do you have it, Ms Foster?

Ms Foster: Thanks. Yes, I have.

Senator PATRICK: This is a very recent decision—28 March 2022. It states, 'The determination of the agency is varied.' This is the South Australian Police. There was an FOI put to the South Australian Police. Paragraph 1 gives the scope of the application. I'll help you out. It was an application for documents related to the COVID response. The department claimed that the documents were national cabinet documents. In South Australia the Ombudsman issues a provisional decision and then goes to a final decision. Sorry, they don't have page numbers on this, but could you turn to paragraph 21, which I've highlighted for you. It says:

As per the agency's schedule of documents, document 1 and 2 relate to matters involving National Cabinet.

In paragraph 22 the Ombudsman says:

... I refer to the decision made by The Honourable Justice White on 5 August 2021. Contrary to the submissions of the Department of the Prime Minister and Cabinet, His Honour concluded that the National Cabinet is not a committee of Cabinet. Accordingly, I formed the view that regardless of my interpretation of 'Cabinet' in the context of clause 1—

that is of the South Australian FOI Act—

it is clear that the documents cannot be exempt pursuant to clause 1(1)(e) on the basis that they contain information concerning a deliberation of National Cabinet.

Subsequent to the Ombudsman issuing this as a provisional decision, the Department of the Prime Minister and Cabinet provided the Ombudsman with a notice under another section of the act. Basically that's a formal notice that says to the Ombudsman that it's the Commonwealth's view that these documents are subject to cabinet. You'll see that in paragraph 28 he says:

The agency has provided me with a notice from the Commonwealth Department of the Prime Minister and Cabinet advising that documents 1 and 2 are exempt from disclosure under the Commonwealth *Freedom of Information Act* ... Specifically, the notice states that page 3 of document 1 is exempt pursuant to section 34(1)(d)—

which is a cabinet deliberation. Again it relates to national cabinet. Who issued that notice for the Commonwealth?

Mr Reid: I'm not sure that I would characterise that as a notice. We certainly—

Senator PATRICK: It's a formal notice, and I know a little bit about this because I've got another matter before SACAT which I might refer to later. It's a formal notice, and you can see—I'll take you back to paragraph 26:

Significantly, clause 3(b) relevantly provides that a document is an exempt document if 'notice has been received ... that the information would be protected—

under Commonwealth law, basically.

Mr Reid: That communication came from the department. I can't recall exactly whether it originated from my division. It almost certainly would have been approved by my division, however.

Senator PATRICK: A notice is issued by someone. I have a matter before SACAT, and Ms Leonie McGregor issued that notice. I just wonder whether she did that as well in this instance?

Mr Reid: I'm not aware.

Senator PATRICK: Ms McGregor is here, so that's very helpful.

Ms L McGregor: Yes, I believe it was a letter, but I've just asked people to find a copy of that.

Senator PATRICK: And you issued that letter? You signed that letter?

Ms L McGregor: I believe I signed that letter.

Senator PATRICK: Have you seen this decision?

Ms L McGregor: Not the most recent one, no.

Senator PATRICK: I would hate for you not to have it before you, so I wonder if someone might share that with you.

Ms L McGregor: Thank you.

Senator PATRICK: The Ombudsman, at paragraph 29, of that decision, states in the very last sentence, which I've highlighted:

To this extent I consider the notice received from the Department of the Prime Minister and Cabinet to be defective.

'Defective' is a legal word. I will take you down to paragraph 31:

Noting that I specifically made reference to Justice White's ruling in my provisional determination, I query whether the notice of the Department of the Prime Minister and Cabinet was in fact issued as a result of genuine assessment of the documents and provisions of the Cth Act, or merely an attempt to sidestep that ruling. The clear misapplication of section 34(1), together with the agency's assertion that I must accept the notice at face value might indicate the latter intention.

That is scathing. That is scathing of the department, and everyone knows that I've had issue with this in the Senate—people inside PM&C usurping the law and making stuff up to avoid releasing information which people are lawfully entitled to.

Ms Foster: Senator, I think we traversed this ground in previous estimates.

CHAIR: Extensively.

Senator Birmingham: I'm not sure there was a question, either, actually.

Senator PATRICK: This is a ruling by the South Australian Ombudsman, and he couldn't be more scathing without being impolite. He says that he believes you are sidestepping the ruling of Justice White.

Ms Foster: As we've indicated before, the decision by the AAT was made in respect of a particular set of documents, and it has no precedent in a legal sense—

Senator PATRICK: Quite seriously, the whole way the FOI system works—

Ms Foster: Senator, could I just finish my answer, please?

CHAIR: You may, Ms Foster.

Ms Foster: and so it is absolutely appropriate for the department to consider each case on its merit and to provide its advice, and our advice has been consistent that we consider documents of national cabinet to be covered by cabinet-in-confidence.

Senator PATRICK: I actually think Justice White is a very good Federal Court justice—

Ms Foster: Senator, it is—

Senator PATRICK: and I think it's disgraceful what the department has done here. The whole principle of FOI in terms of precedents basically holds the whole system up. You have precedents that come from the AAT down through the Information Commissioner to decision-makers, and, if you have decision-makers just ignoring those higher-level decisions, it undermines the entire administrative decision-making process.

Ms Foster: The department did not ignore Justice White's decision. In fact, we responded to the terms of that decision in the specifics of that case.

Senator PATRICK: And the template argument that you're pushing in all of the cases now is that Justice White didn't consider the terms of reference when in fact he did. You're suggesting that Justice White didn't consider statements by prime ministers and premiers, who don't get to make the law. They don't get to suddenly change the meaning of a statute. And Justice White's decision didn't just go to the issues that are being raised by the department. It went to things like cabinet solidarity, cabinet responsibility and the fact that the membership of the—

CHAIR: Let's get to the question, please, Senator Patrick.

Senator PATRICK: I just can't understand how the department—the Department of Home Affairs doesn't accept your position. They've released information to me under FOI that is clearly a national cabinet document. This is politicisation of your office. I'll go to the evidence—

Ms Foster: I reject that assertion—

Senator PATRICK: Well, you can reject it as much as you like.

CHAIR: Senator Patrick, your question.

Senator PATRICK: I think you're being dishonest with yourself.

Senator Birmingham: Senator Patrick, it's fair game as always to come after me, to come after members of the government—

Senator PATRICK: No, not when public officials are behaving so inappropriately that—

CHAIR: Order! Senator Patrick, order! The minister was attempting to answer your question, and I think some of the assertions that were in that question require a response. Senator Birmingham, you have the call.

Senator Birmingham: Thank you, Senator Chandler. Again, I'm not convinced that there's been a question in any of Senator Patrick's points today. He has come in clearly seeking to have an argument—

Senator PATRICK: This is a serious, serious matter.

Senator Birmingham: on the speech and the series of statements that he's making.

Senator PATRICK: It's a serious matter.

CHAIR: Order!

Senator PATRICK: You're not complying with the rule of law.

Senator Birmingham: You're asking—

Senator PATRICK: and I know that that's what this department does—

CHAIR: Order! Senator Patrick! Please listen to the minister's response to your question before you ask another one.

Senator Birmingham: It's fine, Chair. Let's just see whether Senator Patrick actually has a question.

Senator PATRICK: Alright. Ms McGregor, you've issued this notice that the Ombudsman clearly doesn't accept. He says it's defective—

Ms L McGregor: Senator, someone has just brought to my attention the actual notice, and it was signed by Ms McKenzie, who is a member of the Cabinet Division, so I'm happy to continue to answer questions, but I just wanted to make that clarification.

Senator PATRICK: Alright. I know you personally signed a notice in another matter that is before SACAT. Are you aware of that notice that you signed?

Ms L McGregor: Yes.

Senator PATRICK: I'm interested to see that the Ombudsman makes the observation that the notice asserts—and I've seen your notice, Ms McGregor—that the notice must be accepted by the Ombudsman or, indeed, by the tribunal or by an official in another state. You'll be aware that, since 2009, conclusive certificates under the FOI regime were removed from the federal act and conclusive certificates in the South Australian act were removed in 2005. On what basis does the department assert that notices that they issue are conclusive?

Mr Reid: I don't have the notice in front of me. If I could, I just want to check the terms of what was said.

Senator PATRICK: Sure.

Ms Foster: Senator, we will attempt to answer at the table, but, if we need to actually consider, then we'll come back to you.

Senator PATRICK: I don't mind you coming back. I think this whole thing is a sham, and I'll come back to it. The reality, Ms McGregor, is that in the case that is before SACAT, you signed the notice. I've looked at Justice White's description of your evidence and how it should be treated. I just wonder: when you were so intimately involved in Justice White's decision, how could you possibly sign off on a notice, that national cabinet documents were exempt.

Ms Foster: I think we go back to the discussion that we've been having in successive estimates that Justice White's decision related to one specific decision, and it is absolutely open to Ms McGregor and other officials to consider the facts of any other case on its merits and to provide advice.

Senator PATRICK: Okay. I'll ask my final question, then. In relation to the matter that is before SACAT—and I want to be fair about this—I will probably subpoena Ms McGregor, and maybe I'll have to get Bret Walker to represent me, to have the subpoena enforced, but in that matter, I can tell you, I have presented about five or six decisions where you have used the template reasoning. I suspect Justice Hughes, or whoever hears that matter, will examine that and indeed the Ombudsman's decision. I've made an assertion as to that decision. It is cascading, but the first assertion is that the notice issued by Ms McGregor has been issued in bad faith. I'm not going to try to prejudge what happens here, but, in circumstances where a tribunal—potentially, a judicial officer—finds that an official has operated in bad faith, is that grounds for administrative discipline or for people to be fired?

Ms Foster: It would be inappropriate for me to speculate.

Senator PATRICK: No, it's a general question.

Ms Foster: It would depend on the circumstances. Every issue around conduct of public servants is considered on the circumstances of the case and against the Public Service Act—

Senator PATRICK: But, in the context of a judicial officer finding that an official has operated in bad faith, surely—

Ms Foster: I couldn't—nobody could—give you an answer without actually considering the circumstances of the case. It would be wrong of us to do so.

Senator PATRICK: I guess we'll have to see how that plays out. Maybe, Ms McGregor, I'll see you at SACAT, under subpoena. Thank you.

CHAIR: Thank you, Senator Patrick. Senator Gallagher.

Senator GALLAGHER: My question is: do the Prime Minister and his department maintain the nonsense that national cabinet is a part of the Commonwealth cabinet?

Senator Birmingham: I don't accept the characterisation of part of your question there—

Senator GALLAGHER: But is it still considered a subcommittee?

Senator Birmingham: It remains the case that all state and territory first ministers, together with the Prime Minister, agree the importance of confidentiality for the effective working relationship of the national cabinet—

Senator GALLAGHER: It's a different question that I'm asking, though.

Senator Birmingham: and it remains the view of the Commonwealth that the national cabinet was established as a committee of the federal cabinet.

Senator GALLAGHER: But it's not bound in any way, like other committees of the Commonwealth cabinet, presumably?

Senator Birmingham: There are protocols that operate in relation to the operation of national cabinet but, clearly, its members, in terms of state and territory first ministers, also have other responsibilities as the chairs of their own cabinets.

Senator PATRICK: It just goes to the Prime Minister's secrecy—

CHAIR: Senator Patrick, you don't have the call.

Senator GALLAGHER: Are there other committees of cabinet that are able to operate the same way as the national cabinet, in the sense that membership of that committee of the Commonwealth cabinet—national cabinet—under your argument, are then not bound by decisions and can make their own decisions, through their own cabinets? Are there other committees of the Commonwealth cabinet that can operate like that?

Senator Birmingham: I would take your question on notice, in terms of considering the roles that all of us, in our ways, as members of cabinet committees, have responsibilities that we fulfil that are part of those cabinet deliberations but also then responsibilities we undertake that are not subject to those cabinet deliberations. So, depending on how you look at those matters—

Senator GALLAGHER: But they're all bound, aren't they? Other subcommittees or committees of cabinet aren't able to go and do their own thing outside of the Commonwealth, of cabinet?

Senator Birmingham: Not in relation to a decision taken of that cabinet, but pretty much every minister has decision-making powers and authorities that are not always subject to cabinet deliberations or decisions.

Senator GALLAGHER: I understand that. This may have been answered before, but were state and territory leaders informed that they were actually members of a committee of the Commonwealth cabinet? Did they sign up to that? Were they ever told that that's the approach that the Commonwealth was going to take?

Ms Foster: I'll ask Ms McGregor to clarify that, but my memory is that the terms of reference, which were agreed to by all members, specified that it was a committee of cabinet.

Ms McGregor: That's correct, Senator. The terms of reference were specific in that sense.

Senator GALLAGHER: What did they say?

Ms McGregor: Just off the top of my head, they did set out the operational arrangements for that committee, which included that it would operate under the rules related to Commonwealth cabinet committees—for example, that the Prime Minister would be the chair. We'll just track down a copy of the terms of reference.

Ms Foster: My memory is that it actually specified that it would be established as a committee of cabinet.

Senator GALLAGHER: Of the Commonwealth cabinet?

Ms Foster: That's correct, Senator.

Senator GALLAGHER: And that was at the beginning, and they signed up to that?

Ms McGregor: That is correct, yes.

Senator GALLAGHER: You may have tabled the terms of reference earlier, in another hearing. Are they public?

Ms McGregor: They are public. We can get them for you, Senator, if that helps?

Senator GALLAGHER: Okay. I find that absolutely astounding. But anyway—I actually don't know how individual governments who are sovereign in their own right can then become a part of another government, in a sense, and be bound by that. Under the federation, I don't know how that can happen. It might be written in your terms of reference, but it just seems incredibly odd to me that the Commonwealth cabinet can make them a subcommittee of the cabinet with the rules that surround that. And then, what—no-one's followed the rules and nobody cares. Is that what's happened, in the end? They have signed up to it and said, 'We're going to do our own thing anyway, regardless of the operations of the national cabinet.'

Ms Foster: Senator, I think in the statement that all first ministers signed much more recently, they reaffirmed their commitment. That was on 17 September last year. They, essentially, reaffirmed their commitment by saying things like: 'All members have participated on the clear understanding that these meetings were conducted according to longstanding cabinet conventions, most importantly the confidentiality applied to discussions, papers and records of meetings'.

Senator GALLAGHER: I understand that people want to keep it like COAG, which operated in a similar way, with the discussions around the table. You could go out with your own opinion afterwards. But COAG was never a committee of the Commonwealth cabinet. That's the difference here that I'm trying to understand. And it seems like this hasn't operated as a committee of cabinet. What did the states and territories get for being a committee of the cabinet? Was it access to briefings that they wouldn't have otherwise got? What did it give them?

Ms Foster: Senator, it gave them a framework to operate together in, which has allowed them, as you know, to operate quite differently from the old COAG meetings.

Senator GALLAGHER: I'm not sure I do understand how it operates differently from COAG, to be honest. Based on when I sat at COAG, it doesn't seem to operate any differently at all.

Senator Birmingham: It operates and has operated far more dynamically than COAG did—

Senator GALLAGHER: So it had more meetings?

Senator Birmingham: That has included access to public officials in a more contemporary manner than the very formal processes of COAG, and the opportunity to engage with the Chief Health Officer and other relevant public officials.

Senator GALLAGHER: But at COAG we would have people come and give briefings on particular issues. Sure, it didn't operate in a pandemic, but Commonwealth officials would come and give briefings to COAG. It's probably for another day, but I don't understand why it was structured that way, other than to avoid the provision of information, transparency and accountability by having this blanket cabinet-in-confidence. It seems to me that it's a farce that it's actually a committee of the Commonwealth cabinet, because you can't bind other governments—and they've gone out and done their own thing, and there is no consequence. It's not like you breach a national cabinet position—which has happened, as people have made their own decisions about their jurisdictions—and then the *Cabinet Handbook* applies, and the Prime Minister can say, 'You've breached the *Cabinet Handbook*; therefore you're off.' It doesn't work like that. It seems to me that it's just a way of avoiding transparency through the blanket use of cabinet-in-confidence.

Senator Birmingham: As all first ministers—across political parties and across states and territories—have acknowledged, they viewed the ability to have confidential discussions and deliberations at national cabinet to be an important part of effective engagement through that body. The fact that it was structured in a way to enable those confidential discussions and deliberations to occur is seeking to realise the ambitions of everybody to ensure its complete effectiveness as much as possible. Yes, different states ultimately took advice and information from those discussions and deliberations and sometimes formed different decisions in their own jurisdictions—

Senator GALLAGHER: Yes, a lot of times.

Senator Birmingham: but that doesn't take away from the fact that it did—and continues to, in different ways—provide a vehicle for the states and territories to come together to try to learn from one another and from Commonwealth information, to try to harmonise wherever possible. The ability for them, as much as for us, to test different propositions through those deliberations before they make their final decisions, and to get the free and frank advice and deliberations that come from that, without it being compromised by public debate at the time, is a useful mechanism.

Senator GALLAGHER: I guess your perspective on compromise and confidentiality is another person's failure of transparency and accountability. I'll just finish on this point, but you're a member of committees of cabinet—a number of them; say the ERC—

Senator Birmingham: Virtually all of them, I think!

Senator GALLAGHER: Lucky you. Say you have a discussion at that and you then go away, form a different view and go public with that. There would be consequences for you for doing that, under the *Cabinet Handbook* and all the rest of it, and the ministerial code of conduct. If national cabinet is a subcommittee or a committee of cabinet, and people do that, there is no consequence. They can do what they like. Really the rules that apply to other committees of the cabinet don't apply to national cabinet, but the one rule that does is that information generated through that committee has essentially a blanket cabinet-in-confidence process. So it's about keeping information secret, essentially. That is the evidence.

Senator Birmingham: Well, it's enabling first ministers, be they Labor or Liberal, to have those deliberations between one another and with officials, with the ability to receive full and frank advice to inform both their collective and their individual decision-making.

Senator GALLAGHER: Can you tell me how many reviews the Information Commissioner is conducting into FOI decisions made by the PMO about refusing access to national cabinet documents using the cabinet exemption? Would you know that?

Mr Reid: By PMO or by PM&C?

Senator GALLAGHER: Let's do both, PM&C and PMO.

Mr Reid: I'm not sure if I have the PMO statistics. I might. But the Information Commissioner currently has 10 reviews on foot in relation to the department's decisions around national cabinet documents. We've submitted additional evidence and submissions in relation to nine of those, and we've got submissions due to the Information Commissioner in relation to one due in a couple of weeks time.

Senator GALLAGHER: Okay. So that's a lot. What about the PMO?

Mr Reid: I might be able to come back to you on that.

Senator GALLAGHER: Okay. I would appreciate it if you could. Thank you, Mr Reid.

CHAIR: Thank you, Senator Gallagher. Senator Ayres?

Senator AYRES: I want to ask some questions that get us to what the department's understanding is of the situation in Ukraine and Australia's response. Firstly, what's the department's assessment of the current situation? Have you got an assessment of the number of civilian casualties?

Mr Brazier: It's a war zone, Senator. There are a range of estimates.

Senator AYRES: Yes.

Mr Brazier: I've seen figures this morning as high as 10,000 civilian deaths. There are always in these situations, though, a range, which depends on the source and the point in time.

Senator AYRES: So you're not prepared to put a number on that. What about civilian displacement, refugee outflows? There is a public interest in the level of civilian casualties. There is a national interest question here, isn't there, in terms of refugee outflows? What's the current assessment?

Mr Brazier: The United Nations High Commissioner for Refugees said on 30 March that just over four million Ukrainians, nearly 10 per cent of the pre-war population, had fled the country since Russia's invasion began.

Senator AYRES: How would you describe the current state of the conflict? Is Russia achieving its stated objectives?

Ms Foster: Senator, I think that's a really difficult question for Mr Brazier to answer, in that PM&C is not an assessment agency. We can provide you with details that we have to hand et cetera. We're trying to be helpful—

Senator AYRES: I want to skip through these issues quickly. But it is the agency that's primarily responsible for providing advice to the Prime Minister. The Prime Minister will have direct advice, of course, from departments and from ministers, but I want to understand, through your role in synthesising that advice and being the principal source of advice for the Prime Minister, what the assessment is. I think that's a reasonable set of questions to ask in estimates. If you're not prepared to speculate about that, can you indicate how much territory—

Ms Foster: Senator, I am genuinely trying to be helpful. It's really the word 'assessment' that I am responding to.

Senator AYRES: What's a better word?

Ms Foster: What 'information' does Mr Brazier have?

Senator AYRES: Okay. What information do you have about the proportion of Ukrainian territory that the Russian military now controls?

Mr Brazier: In the briefing material I've seen, I haven't seen a percentage figure put on it. But, if you imagine a map of Ukraine in your mind, the south-eastern strip, from Crimea up to the Donbas, is a very hot zone, where Russia has made very considerable gains. You'd be aware of the devastation around the city of Mariupol, which lies in that strip. Russia has also pushed in directly north of Kyiv, and my recollection is that Russia holds considerable territory to the north and north-east of Kyiv. But, for an authoritative view on matters like that, the Department of Defence—

Senator AYRES: Yes, of course. We'll come to those, if we indeed get there. I'll just ask a general question: what is your understanding of what assistance the government of Ukraine is requesting of the international community, and, more precisely, have specific requests been made of the Australian government?

Mr Brazier: The international community has mobilised rapidly and very generously. Again, Senator, I don't have the precise figures in front of me for other governments, but I've seen figures in the hundreds of millions from European countries, the European Union, the United States and Japan, presented in different ways. There have been loans offered, for example, and grants to international organisations and NGOs.

The Australian humanitarian contribution has been informed by the assessments of like-minded as well as by our own judgement of where the best humanitarian impact will be created. As I was asked a bit earlier by the chair, that \$65 million commitment by the Australian government is being channelled to the sorts of organisations that can provide rapid and effective relief for those displaced people—those more than four million now that have fled Ukraine. Poland, I understand, is bearing the biggest burden, and that's where those organisations are most active. But there are also, necessarily, similar activities underway in other neighbouring countries, particularly Romania and Moldova.

Senator AYRES: Yes, we might have some questions for the other departments and agencies about the humanitarian contribution—specifically, in terms of requests for assistance from the Ukrainian government, for lethal and non-lethal assistance and other forms of assistance. What has the request been? Is it a direct request to—

Mr Brazier: The government of Ukraine has made a broad request—

Senator AYRES: There's a broad request to the international community, to like-minded nations. But, specifically, of Australia, what's the nature of the request? Has there been a specific request for Australia?

Mr Brazier: If I can, I'll just step back to that first body of work. Typically, in a situation like this—a crisis situation—where the government itself is facing severe pressure and constraints on its ability to assess and assist, there would be calls put out through the global institutions, and our partner governments would make contributions based on the assessment of, for example, the UNHCR or the Red Cross. That's how it can unfold.

In addition to that, the affected government can make bilateral requests—

Senator AYRES: I guess that's what I'm trying to understand. Is Australia responding to a broad request, through either international institutions or coalitions, or has there been a specific bilateral request for Australian assistance that we're responding to in addition to that?

Mr Brazier: There have been both.

Senator AYRES: I think, in the last estimates, we established that the Prime Minister hadn't yet engaged directly with the President of Ukraine. Can you confirm that the first phone call the Prime Minister had with President Zelenskyy was on 6 March?

Mr Brazier: It was on 5 March. Can I also add that he spoke to the Prime Minister of Ukraine?

Senator AYRES: Yes. I'll come to that in a moment, if I can. How many calls have there been with President Zelenskyy?

Mr Brazier: One.

Senator AYRES: Just the one, on 5 March. And how many calls have there been with the Prime Minister of Ukraine?

Mr Brazier: Two calls.

Senator AYRES: Two, on 23 February and 16 March. Is that right?

Mr Brazier: That's correct.

Senator AYRES: In a media interview on 21 March the Prime Minister said, 'We're in regular contact with the President and the Prime Minister.' Would you characterise three conversations with the two leaders as 'regular contact'?

Senator Birmingham: Contact with the President and the Prime Minister is not solely by way of phone calls from our Prime Minister to or with those individuals; it's through their offices and through the other channels of engagement which are active. Note, of course, that Ukraine is involved in active dialogue with much of the world at present as a result of the situation.

Senator AYRES: The Prime Minister said, 'We're in regular contact with the President and the Prime Minister.' I don't doubt that there is engagement across the government, but it's the 'we'. There were three phone calls.

Senator Birmingham: If you want to split hairs, the Prime Minister didn't say 'I am'—

Senator AYRES: He said, 'We're doing all the things that the President and the Prime Minister asked for me to do.'

Senator Birmingham: He said 'we', which is system-to-system engagement.

Senator AYRES: You are very keen to associate yourself with those things. Is the Prime Minister aware that the member for Hughes, Mr Kelly, signed in to Parliament House, and escorted, a self-declared Russian agent last month?

Senator Birmingham: I'm not. I don't know if anybody else is. I'm not sure if that was the subject of media commentary or otherwise.

Senator AYRES: It was. The member for Hughes escorted Mr Simeon Boikov into the parliament on 8 February.

CHAIR: You might want to table the article you are quoting from there, Senator Ayres.

Senator AYRES: He was part of a delegation of anti-vaccine mandate protesters and leads Zabaikal Cossack Society of Australia, which is a far-Right nationalist group which supported Russia's invasion of Crimea in 2014. He said in the *Daily Mail*: 'We shouldn't be poking the bear. Putin will have won within a few days. This is the end of the war but if other countries get involved it's World War III.' Is the department aware of this individual?

Ms Foster: I've just done a quick scan. It would appear not. But I will ask the question more broadly and come back to you if that changes.

Senator AYRES: I would like to know whether the department is aware of the individual and whether this extremist far-Right Russian nationalist was signed into the parliament last month and was escorted around the parliament.

Ms Foster: I understand the question.

Senator AYRES: I note that, at the time, there were 130,000 Russian troops on the Ukraine border. Has the Prime Minister raised any concerns with the member for Hughes about escorting this self-described Russian agent around the parliament?

Senator Birmingham: Firstly, the Department of the Prime Minister and Cabinet has no role in relation to who gets signed into parliament or not.

Senator AYRES: I accept that.

Senator Birmingham: As you know, that's a matter for the Department of Parliamentary Services. And it is ultimately a matter for each individual member of the House of Representatives and senator in terms of their rights in signing individuals in. The member for Hughes, as is well-known and as we have canvassed here before, is no longer a member of the government and has not been a member of the government for some time. The views of the individual in question, as you have quoted them, are unacceptable and deplorable. But, of course, it is a matter for the member for Hughes to defend his association with such an individual. I would simply note that, tragic as the situation in Ukraine is, at least those views expressed by the individual have also thus far proven to be wrong and inaccurate.

Senator AYRES: Indeed.

CHAIR: Senator Ayres, Labor senators have had the call for about half an hour and I know that Senator O'Sullivan has a few questions he would like to ask before the break.

Senator AYRES: I've probably got five to 10 minutes on this and then I'm done—

CHAIR: Okay.

Senator AYRES: Not for the day, but just on this.

CHAIR: We can only hope!

Senator AYRES: I accept most of what you say, Minister. It is the responsibility of individual members, but Mr Kelly was the Prime Minister's hand-picked candidate for Hughes. What I want to know is whether the Prime Minister has admonished Mr Kelly, whether he's spoken to him about this issue. Mr Kelly is only in the parliament because Mr Morrison put him there.

Senator Birmingham: Well, the Prime Minister—

CHAIR: I don't think that's quite how our democratic system works, Senator.

Senator AYRES: Well, there's been some discussion about the democratic structure of the New South Wales Liberal Party. He was only the Liberal Party's candidate because the Prime Minister said that he must be. I would expect that the Prime Minister would have something to say if any member of parliament did this. I want to know if he's had anything to say about this publicly or directly to Mr Kelly. It seem to me that we can all agree that it was a very unfortunate development to have this bloke wandering around the parliament.

Senator Birmingham: The Prime Minister, on a number of occasions in the life of this parliament, spoke to Mr Kelly about views he was taking publicly and actions he was undertaking. The ultimate consequence of those discussions between the Prime Minister and the member for Hughes was that Mr Kelly ceased to be a member of the government. Our intention—

Senator AYRES: So there's no responsibility now?

Senator Birmingham: Our intention is to ensure, as far as is possible, that Mr Kelly is not a member of the next parliament.

Senator AYRES: Let's talk about somebody who is a member of the Liberal National Party. When Senator Rennick was a candidate in the last election, a report in *the Australian* on 6 October 2018 had some discussion of *the Guardian's* role as a national journal of record. I assume the government would agree that *the Australian* is a national journal of record as well. According to *the Australian*, Senator Rennick said that NATO had upset Moscow by encroaching on the sphere of influence within the former Soviet Union that it believed Russia was promised when the Soviet Union collapsed in 1991. Senator Rennick said:

I'm happy to cede to Russia that sphere of influence.

Does the Prime Minister agree with Senator Rennick's proposition?

Senator Birmingham: They sound like very similar views to what I've read former Prime Minister Paul Keating having expressed at previous times. But the answer to your question is no.

Senator AYRES: Does it really sound like that? It's a pretty odd observation—

Senator Birmingham: Not really, Senator Ayres.

Senator AYRES: In that same article, *the Australian* said that Senator Rennick, when was the LNP candidate, said it would be 'hard to overcome the 2014 downing of Malaysia Airlines flight MH17 over Ukraine', which I don't think I need to remind people here killed 298 people, including 28 Australians. However, it was important,

he said, 'to start building bridges'. Does the Prime Minister agree that the downing of MH17 by Russian-backed separatists in eastern Ukraine is something that Australia needs to 'overcome' and 'start building bridges' about?

Senator Birmingham: Just to make sure that your confusion around my observation before is not misplaced, can I draw your attention to the article 'Western leaders blew the chance for peace: Keating', published in the *Sydney Morning Herald* on 24 August 2008. It's one of a number of stories about remarks made. It says:

Paul Keating has accused Tony Blair, Bill Clinton and George Bush of squandering the chance for peace and co-operation created by the Soviet Union's collapse. Instead, he said the West had "ring-fenced" Russia, treating it as a virtual enemy at a time when the risk of Moscow launching nuclear war by mistake was greater than during the Cold War.

And on he went in the article, which relates to issues around NATO expansion and so forth. In terms of the policy positions of this government—

Senator AYRES: It's quite different to saying, 'I'm happy to cede to Russia that sphere of influence.' That's quite a different observation. I want to know whether the Prime Minister—

Senator Birmingham: He said that the Clinton administration 'rashly decided to ring-fence Russia' by inviting former Soviet dominated states to join NATO. He went on to say:

By doing so, the United States failed to learn one of the lessons of history: that the victor should be magnanimous with the vanquished.

Senator AYRES: I want to know whether the Prime Minister agrees that Australia needs to start building bridges with Russia—that's what Senator Rennick said.

Senator Birmingham: No. Right now, our government has been appalled by the actions of Russia. We have been applying sanctions against Russia in a number of ways, following actions such as their invasion of Crimea. We have, of course, pursued Russia relentlessly following the downing of the aircraft that killed so many Australians and others from around the world. We will not resile from that. In terms of Russia's illegal and inappropriate international actions and supporting the pursuit of them, we encourage, as the Prime Minister has done very clearly, the sanctioning of Russia in all ways possible, including the leading comments that we took, for example, in areas such as removing Russia's access to financial transaction systems which have had quite profound impacts in driving inflation in the Russian economy, hurting it in a number of ways and disrupting Russia's operations.

Senator AYRES: I think there's unanimity between the parties on these questions; I don't doubt that. What I want to know is, as Senator Rennick is a member of the Prime Minister's party room, has the Prime Minister ever raised these issues with Senator Rennick? Has he ever exercised any leadership at all with Senator Rennick on this question?

Senator Birmingham: I'm not aware whether the Prime Minister has raised it with Senator Rennick. I'm also not aware whether Mr Albanese has raised Mr Keating's views with him. He is a much-revered former leader of your party and a former Prime Minister from your side—

Senator AYRES: Senator Rennick is a member of your party room right now.

Senator Birmingham: Will Mr Keating be at your campaign launch?

Senator AYRES: He's in the Senate right now, in your party room right now, not 20 or 30 years ago, right now. I want to know if there's been just a moment when the Prime Minister has been prepared to stand up to far-Right extremists like Senator Rennick who have said things like this in relation to the Russian government. Has there been a moment when he's been prepared to do that? That's what I want to know.

Senator PATERSON: Just to follow-up—

Senator AYRES: Come back to me later in the day if there's an example of the Prime Minister ever admonishing Senator Rennick, ever taking these issues up with him and responding specifically to this issue. That's what I want to know.

CHAIR: Senator Paterson, do you have a follow-up question?

Senator PATERSON: Yes. I'd be happy to be corrected if I'm wrong, but I don't think the Prime Minister has ever publicly said that Senator Rennick is a source of wise counsel and always worth listening to, which of course Mr Albanese has said about Paul Keating, despite his comments on Russia, China and many other matters.

Senator Birmingham: A fair observation, Senator Paterson. Indeed, I think the Prime Minister has expressed disagreement over Senator Rennick's views during the life of this parliament. Senator Ayres, you're quoting Senator Rennick from a few years ago—quotes and observations that are very similar to those made by Mr Keating. We'll see whether Mr Keating has a revered front row seat at Mr Albanese's campaign launch or not.

Senator AYRES: Let's come to the member for Dawson, another favourite in the Liberal-National party room—

Senator Birmingham: Who's given his valedictory today as he's leaving parliament.

Senator AYRES: Is the Prime Minister aware that the member for Dawson regularly posts Russian propaganda on his social media feed?

Senator Birmingham: I suspect, the Prime Minister does not spend a lot of time looking at the member for Dawson's social media feed. The Prime Minister has plenty of reading to do on intelligence briefings and other analysis he receives.

Senator AYRES: So it's not a matter of concern that this character, the member for Dawson, posts Russian propaganda on his social media feed? He said:

... Russia is demonised unfairly. What threat do they cause us or the West?

He also said:

Eastern Ukraine/Crimea are ethnically Russian ...

That's of no concern to the Prime Minister?

Senator Birmingham: It does not sound remotely like the views of the government or the Prime Minister.

Senator AYRES: Yes, so he should come down on him like a ton of bricks. Where is the evidence of any discussion with Mr Christensen?

Senator Birmingham: Senator Ayres, I appreciate that you want to hold the Prime Minister to a particular standard that I doubt you would hold your own leader to in dealings within his own party and that you have a view in relation to stifling all opinion from different members of parliament unless it conforms in certain ways. The Prime Minister, though, ensures that the government's position is explained and is clear in relation to our condemnation of Russia's actions. I referenced before our condemnation and the actions we have taken in relation to the imposition of sanctions since the invasion of Crimea and, of course, our elevation of those actions since Russia's further appalling interventions—the war that they are now waging on Ukraine.

Senator AYRES: This is my last question. Mr Christensen's gone on to deny Russia's responsibility for the downing of MH17. Is there anything that any member of the Liberal-National party room could do that would invite the Prime Minister to exercise some leadership in the party room over these issues?

CHAIR: Is that a question about the budget.

Senator Birmingham: Again, as we canvassed before, the Prime Minister and/or the Leader of the National Party—

Senator AYRES: It's just free-ranging: 'Say whatever you like.'

CHAIR: Senator Ayres, listen to the response from the minister.

Senator Birmingham: The Prime Minister and/or the Leader of the National Party at different times have raised concerns about different views expressed by Mr Christensen. I would note that unlike Mr Hughes, who we seek to defeat and replace at the next election, Mr Christensen has already indicated that he will not be a member of the next parliament of Australia.

Senator AYRES: Yes, you've just waited him out—no leadership. You've just waited him out.

CHAIR: Thank you, Senator Ayres. I think that was your last question, wasn't it?

Senator AYRES: It was, thank you.

CHAIR: Senator O'Sullivan.

Senator O'SULLIVAN: Thank you, Chair. I have some questions on the budget estimates. I want to go to digital skills, and if I have the time I will also touch more broadly on skills and training and on small business.

Mr Chisholm: Thanks, Senator. There might be a number of officials who will be needed to help you with those questions. Let's get started and see how we go.

Senator O'SULLIVAN: Thank you. I am interested in the tax relief that's been provided to small businesses in this budget.

Mr Chisholm: I might ask Mr O'Toole to join us again, more broadly on tax relief.

Senator O'SULLIVAN: Then I'm going to go to the government's digital and skills tax boost that was announced.

Mr Chisholm: Ms Dowdell might be able to help with some of that too.

Mr O'Toole: Sorry, Senator. What was the question?

Senator O'SULLIVAN: My question is really going to corporate productivity and the productivity elements of the budget. The first question is in relation to tax relief that has been provided specifically to small businesses in this budget.

Mr O'Toole: As you're probably aware, the 2022-23 budget included a targeted measure for small businesses in relation to two expenses. One was in relation to certain expenses incurred by the business in training their staff. As you know, improving the skills of the Australian population is a key ingredient of boosting productivity over the longer term. It provides them with an additional 20 per cent deduction on top of their normal expense—if they deducted, say, \$100 worth of expenses they'd be able to deduct \$120, which gives them a significant fiscal incentive and a tax deduction, obviously, on any expenses they incur there.

The other one announced was the 20 per cent on investments in digital technology which, again, is a key enabler, if you like, of more productive workplaces. That's in terms of software, digital packages et cetera and, like the other package, it's an additional 20 per cent deduction.

Senator O'SULLIVAN: This might be a question that I need to put to Treasury and the ATO: is the government working with vendors of accounting packages and the like to make sure it's really easy for an employer, for small businesses, to be able to make those sorts of deductions?

Mr O'Toole: I expect the answer is yes, but the question is probably best placed with Treasury, which is looking after it.

Senator O'SULLIVAN: Sure. How do we expect that it will actually help to upskill Australians working in these businesses?

Mr O'Toole: How do I expect that it will work?

Senator O'SULLIVAN: Yes.

Mr O'Toole: As I said, upskilling and reskilling are a key ingredient. We're in a very tight labour market at the moment and demand for skills is extremely high. What the measure does, effectively, is lower the after-tax costs to the business of providing those skills. This means that to the extent that a business may not have provided those skills because of fiscal constraints they will now be more able to do so. The business will benefit and the individuals receiving the training will benefit. Similarly on the digital side: you would expect that to the extent that it actually improves the productivity and the bottom line of the business, not only will it improve, as I said, their profitability it will improve their ability to increase employment.

Senator O'SULLIVAN: Yes. And, obviously, increasing productivity keeps downward pressure on inflation and—

Mr O'Toole: Absolutely. And, of course, productivity improvement is what's required to maintain real wage growth over the long term.

Senator O'SULLIVAN: Yes. Can you explain to us how this is building on the previous small business investment incentives? What other incentives that have been there previously are now continuing?

Mr O'Toole: Obviously, small businesses have already benefited from a range of concessions. The large one, of course, is the benefit from the concessional 25 per cent company tax rate. Again, that improves their viability and their bottom line.

Senator O'SULLIVAN: The Small Business Technology Investment Boost: are you the right one to ask about that, Mr O'Toole?

Mr O'Toole: I am not entirely familiar with the technology investment boost, but there may be someone here who is.

Mr Chisholm: We might ask Ms Dowdell to come to the table to assist you with that.

Senator O'SULLIVAN: Thank you. How much support is that expected to provide—the technology investment boost?

Ms Dowdell: It will provide a billion dollars of support to small business over two financial years. As Mr O'Toole said, it's to incentivise them to digitalise their operations and to adopt new technologies.

Senator O'SULLIVAN: Great. How many businesses are expected to take advantage of this?

Ms Dowdell: I don't have that number, but I think it's around two million small businesses which would be eligible for the boost.

Senator O'SULLIVAN: What are the sorts of eligible expenditure items that they can claim?

Ms Dowdell: As you flagged, software services—upgrading or taking on new models in their accounting software; improving their cybersecurity practices; and building a new website or creating an online presence, as well as the adoption of new and emerging technologies like AI into their business operations.

Senator O'SULLIVAN: How does the budget make it easier to do business? This might be a broader question.

Mr Chisholm: There are a whole range of measures in the budget to support cost of living in particular, which is an important means whereby we can ensure people are able to participate in the economy. The cost-of-living package and other supports, supports for the regions in particular, are a very key component of the budget. The Regional Accelerator Program, regional hubs and investments in telecommunications are important contributions to economic activity not just in the cities but in the regions. That's an important part of the budget. There is a very significant infrastructure spend in the budget as well. The government has made infrastructure a key plank of its support in this budget. As Ms Dowdell said, the small business technology boost is another way of supporting businesses and their participation in the new economy.

I think we talked earlier about the cost-of-living tax offset. That's another important component. The fuel excise relief does encourage people to have confidence and ensure that they can continue to buy and support parts of the economy without needing to worry about a lot of those cost-of-living expenses that might otherwise avoid them fully participating in the economy. There's skills reform to support future growth. There's improved access to medicines. As I said, there are also a number of energy and related support mechanisms, not just in the regional package but more broadly, that are really important signals of government support for the economy at a time with so much instability globally, and that have had an impact on things like oil prices flowing through to petrol. A very significant part of the government's budget is broad support for the economy.

Senator O'SULLIVAN: In relation to training and in particular apprenticeships—the minister knows I am particularly interested in skills and training—there are great opportunities for young people and for increasing our productive capacity in the economy. Could you tell us please about what is in the budget to help acquire more skilled workers within the Australian economy?

Ms Quilty: There are a number of measures. One of the first ones that was announced is a \$2.4 billion package for an Australian apprenticeship incentive scheme that will start 1 July 2022. It has got a number of phases. It provides support for both employers and apprenticeships. There's also a further extension by two months of existing programs for the boosting of apprenticeships and the continuing apprenticeships. There are a further two years for the successful JobTrainer program, which will provide 15,000 or more aged-care short-fee and low-fee jobs for people looking for additional skills in that very important sector. We are asking the states, as with all the JobTrainer programs, to match that. Then there's also an announcement and continuing discussions between the states and the territories for the national skills agreement. The budget declared that there will be an additional \$37 billion for that skills agreement, which will add to the total of \$8.3 billion once that agreement is struck with the states and territories, which we hope will be shortly.

Senator O'SULLIVAN: So there's the existing scheme of providing incentives to employers, and that was just extended through to the end of June, this financial year.

Ms Quilty: Yes.

Senator O'SULLIVAN: Going forward, what will it look like for employers?

Ms Quilty: As declared in the budget papers, it is a \$2.4 billion program which will provide payments to both employers and trainees, and there will be two phases. For the first two years there will be support for the people employing apprentices as well as a \$5,000 payment for those people undertaking the apprenticeships, given that they have additional costs of undertaking those apprenticeships.

Senator O'SULLIVAN: Do you have the number of apprentices that are currently in training?

Ms Quilty: At the moment there are approximately 220,000 in training, which I believe is the greatest number since 1963.

Senator O'SULLIVAN: Wow, that's amazing. So we're continuing to incentivise apprenticeships going forward. What benefits do apprentices and trainees receive from joining the Australian Apprenticeships Incentives Program—specifically, the students who are taking up those apprenticeships?

Ms Quilty: From the start of that new program, they'll receive a direct payment of up to \$5,000 over two years to assist with the costs of undertaking that apprenticeship.

Senator O'SULLIVAN: We heard about the Australian apprenticeship priority list. Can you explain that to me?

Ms Quilty: Yes, I have an official document that DESE provided on budget night. I can provide some broad parameters, but some of the detail could be provided by my colleagues at that department.

Senator O'SULLIVAN: I could go to them tomorrow. What does this list signal to apprentices and trainees?

Ms Quilty: As we know, there are some shortages in several areas of the Australian economy. This list signals to both employers and those people seeking out additional skills so they can get a new job that there are 77 key areas of apprenticeships they could undertake. If they are employed to do that apprenticeship, the employer will receive those new payments, and as a trainee they will also get those \$5,000 payments. There are 77 areas at the moment, and that will be reviewed annually.

Senator O'SULLIVAN: Those are areas where there are clear future opportunities and careers.

Ms Quilty: That's right. That has been determined by the Australian Skills Commission.

Senator O'SULLIVAN: So people should be looking at that list to see if they can create a career in the field?

Ms Quilty: Absolutely.

Ms Foster: I have answers to three questions that I could give you.

CHAIR: Thank you.

Ms Foster: There was a question about how many PMO FOIs were currently in front of the Information Commissioner; the answer is zero. There was a question about how many calls there had been between Prime Minister Morrison and the Solomon Islands Prime Minister in the last 12 months; the answer is five. Finally, there was a question around prime ministerial visits to the Solomon Islands. The records we have indicate that there were visits by Bob Hawke and Paul Keating, two by John Howard, one by Kevin Rudd and one by Prime Minister Morrison.

Senator AYRES: If it could be provided later today in paper form, could I ask for the dates of the phone calls to Prime Minister Sogavare? That would be helpful.

Proceedings suspended from 12:28 to 13:34

CHAIR: The committee will continue with our examination of the Department of the Prime Minister and Cabinet, at outcome 1. I am giving the call to Senator Ayres.

Senator AYRES: I have a couple of questions about media reports this morning about a new port in Darwin. Mr Speers from the ABC wrote this morning:

An extra \$2 billion has been handed to the Northern Australia Infrastructure Facility in the budget, even though it hasn't spent its existing \$5 billion allocation. The extra money, according to the budget, is for "critical economic infrastructure projects".

Buried in a separate press release from Infrastructure Minister Barnaby Joyce is talk about spending \$1.5 billion of it on "new port infrastructure, such as a wharf, an offloading facility and dredging of the shipping channel" somewhere in the Northern Territory.

It's understood the big announcement to come in the campaign is a whole new Darwin port.

Ms Foster, what's the department's understanding of what's being contemplated here?

Ms Foster: I think Mr Colquhoun has details of what we understand of the announcement.

Mr Colquhoun: I believe that the information outlined in the Deputy Prime Minister's press release yesterday is all that we're aware of, and I believe that Secretary Atkinson has briefed his Senate estimates hearing on similar terms this morning: that there's a \$1½ billion expenditure for new port infrastructure, such as a new wharf and offloading facility and dredging of the shipping channel, to boost the region's importing and exporting ability and to support the establishment of Middle Arm as a modern manufacturing and energy precinct. The discussion of the development of Middle Arm has been underway for a very long period of time, and I understand the Deputy Prime Minister announced that yesterday.

Senator AYRES: Is it the department's understanding that it's a new port?

Mr Colquhoun: No.

Senator AYRES: It's modifications to the existing port?

Mr Colquhoun: Yes. It's additional infrastructure.

Senator AYRES: Is it the one that's been leased?

Mr Colquhoun: I don't know how well you know the geography of the port of Darwin, but it's a very large area, and the piece that has been leased to Landbridge is only a section of that. There are other parts, including places like the new fuel offloading facility, HMAS *Coonawarra* and other areas in the physical geographic port that are not part of the commercial entity.

Senator Birmingham: So the Middle Arm precinct—

Senator AYRES: So it's a second port facility, if I can put it that way? Is that a better way of describing it? It's a standalone second port facility?

Mr Colquhoun: It's a facility within the existing port. That's the way it's been described to me.

Mr Chisholm: Port infrastructure development.

Senator AYRES: Yes. It's not attached to the port facility that's been leased to Landbridge; it's its own separate piece of infrastructure within the port.

Senator Birmingham: Geographically, that Middle Arm precinct is distinct from the area that Landbridge has a lease over.

Senator AYRES: So the department hasn't provided advice to the Prime Minister about the rationale for a new port facility?

Mr Colquhoun: Not from my area, but it wouldn't normally come from my area; I'm from the National Security Division. I will have to defer to colleagues.

Senator AYRES: Ms Foster?

Mr Chisholm: This is a proposal that has come through the budget process. As with all those initiatives, we would facilitate consideration of proposals as per the normal course, but it is an opportunity that has been part of discussions with jurisdictions, and there are ongoing discussions with the Northern Territory government about it. As we talked about earlier, it is really focused on the development of an existing industrial precinct, and it's very strongly linked to the opportunities the government has identified for commodities such as critical minerals, gas and hydrogen.

Senator Birmingham: As I understand, Middle Arm, in terms of the industrial precinct, is about a 1,500-hectare area that the Northern Territory government has been pursuing development of, in the areas of energy; carbon capture, use and storage; minerals processing; hydrogen development; and advanced manufacturing. These infrastructure projects, including port access, are intended to help to hasten and support that vision the NT government has identified.

Senator AYRES: So you do know the scope of what the announcement will be?

Mr Chisholm: The infrastructure that's being looked at here would be things like wharf infrastructure, offloading facilities, dredging to support the shipping channel and leveraging that to support the resources opportunities that the minister was talking about there. But it is all subject to business cases and feasibility work that will be developed. It is part of that broader regional investment package that's been a centrepiece of the budget.

Senator AYRES: Do you know when the announcement is going to be made?

Mr Chisholm: I would have to take that on notice and check. As it's largely an issue with the infrastructure portfolio, I would need to take that on notice.

Senator AYRES: Could you come back later in the day, maybe?

Mr Chisholm: We will do our absolute best.

Senator AYRES: Mr Dutton responded to the report this morning. He was quoted in the *Australian* this afternoon. It said 'Mr Dutton fielded speculation on Thursday that the Australian Defence Force and allied militaries could simply bypass the Chinese owned port, saying the government had made a massive commitment to building infrastructure in the NT. That does look at port development and ways in which we might be able to support through contracts through defence, for example, the underpinning of a business model. But we will have more to say about that in due course.' Is \$1.5 billion worth of taxpayers' money being spent to build a new port facility because this government allowed the existing port facility to be leased to a Chinese government controlled organisation?

Senator Birmingham: No, it's not. As you know full well, this government, following those lease arrangements being put in place, acted to change the foreign investment legislation to ensure that in future such actions by a state or territory government would have to come through the Commonwealth for approval, as private sector commercial arrangements did prior to that. We closed that gap to ensure that, if this were to occur again, there would be a clear opportunity for the Commonwealth to say no along the way. However, this particular investment opportunity is about engaging with a proposal that the Northern Territory government have themselves been advancing that provides opportunities for significant improvements in areas of energy exports

and energy development in the Northern Territory. It will help with the regional development aspects of the Territory. It is very much about providing for jobs and exports in that region.

Senator AYRES: There's a particular knack. You can start with a simple question and then the answer circumlocutes its way in the dreamy, post-lunch haze and you can lose track of it. So let me take you through a few parts of your answer. Firstly, the government acted after the decision had been made to neatly shut the stable door after the horse had bolted, didn't it?

Senator Birmingham: I think it's accurate to say that the government identified, following that decision being made, that there was a gap in Australia's foreign investment legislation, and we acted to close that gap. That gap had obviously been there throughout successive governments. That is not the only time our government has tightened the operation of the Foreign Acquisitions and Takeovers Act, but that was one of the ways in which we have tightened it.

Senator AYRES: So you wish it hadn't happened?

Senator Birmingham: If the matter were to come forward under the revised legislative arrangements that we've put in place, I suspect it would be rejected.

Senator AYRES: And now you have to build a new port facility.

Senator Birmingham: What we're doing in the Northern Territory is investing in infrastructure to support a project of economic development, championed by the Northern Territory government, promoted by the Northern Territory government, that will provide enhanced opportunities for energy exports and wealth generation for the country.

Senator AYRES: In the absence of the existing port facility effectively being leased to the Chinese government, the project that you would be contemplating now would be an enhancement of the existing infrastructure, wouldn't it? You're building a new one because the other facility has been leased.

Senator Birmingham: No.

Senator AYRES: Why is Mr Dutton—

Senator Birmingham: If you look, for example, at what Ichthys has pursued in terms of the LNG development there, it does entail, in terms of the comment about the broader geography of the port of Darwin, not just the port of Darwin that is discussed in debates such as these that Landbridge holds but the fact that more broadly you have a shipping channel that is not solely controlled by the operator of the port of Darwin in Landbridge but entails other loading facilities and the like, such as what Ichthys have developed there for their LNG. You're looking at a broader geographic area, some 1,500 hectares, as I made clear, in which having access for the export of hydrogen, petrochemicals and other advanced manufacturing goods is an important attribute that wouldn't necessarily, regardless of the ownership, entail moving through that original leased port area.

Senator AYRES: But would you concede that the decision to lease the port facility to Landbridge is constraining the kinds of decisions that the Commonwealth might make in the port of Darwin?

Senator Birmingham: No, I wouldn't concede that.

Senator AYRES: Is this just another occasion when Mr Dutton is out on a frolic? He has said the Australian Defence Force could simply bypass the Chinese owned port, saying the government had made a massive commitment to building infrastructure in the NT:

That does look at port development and ways in which we might be able to look at support through contracts in defence, for example, the underpinning of a business model...

Is he wrong?

Senator Birmingham: No, he's accurate there. As more facilities are developed to support a broader range of industry across a broader geographical footprint, it provides other opportunities and avenues for Defence or other users.

Senator AYRES: Is this port for defence or economic development?

Senator Birmingham: Economic development.

Senator AYRES: So there's no defence rationale at all for the port or its business case?

Senator Birmingham: It may also have benefits for defence, and they're not to be discounted.

Senator AYRES: You couldn't do that at the Landbridge facility, could you?

Senator Birmingham: We already have defence operations that successfully manage arrangements in Darwin.

Senator AYRES: Through the Landbridge facility?

Senator Birmingham: I'll let Defence talk about where and how they undertake their movements.

Senator AYRES: Is it really your evidence that there is no relationship between the government's failure to stop the sale to Landbridge and the subsequent leasing of the port to a Chinese government owned institution and this subsequent decision to build an entirely new port facility? Why won't you come clean on the relationship between these two events?

Senator Birmingham: Because the decision that has been made is part of the Energy Security and Regional Development Plan to support infrastructure development in the Northern Territory is directly aligned with the proposals that the NT government has been advancing around the Middle Arm precinct and the opportunity to secure other energy spaces, it may absolutely provide further opportunity for defence operations as well. That would be an additional and worthy benefit, if that's the case.

Senator AYRES: Was the decision made after the Defence review into the ownership of the existing port of Darwin, or before?

Senator Birmingham: The decision in relation to these regional investments was a decision taken in the context of this year's budget. That's the timing for it. I would have to take that on notice, because I can't actually remember the timing of the other review you speak of.

Senator AYRES: Well, can I put it differently, then: did the review inform the decision?

Senator Birmingham: The decision was driven, as I've said, by an intention to ensure that we leverage the economic development opportunities of the Northern Territory for the benefit of Territorians and wealth generation for Australia. It is possible that infrastructure built there will provide multiple benefits in terms of industry and defence, and that, of course, would be welcomed if it can achieve multiple aims.

Senator AYRES: Perhaps I asked a different question to the one that I heard myself ask. Did the Defence review inform the decision?

Senator Birmingham: All of the information and policy priorities before us inform our budget decisions, Senator Ayres. But I've told you what the prime underpinnings of this decision were.

Senator AYRES: You've told me what you'd prefer to tell me. Who's holding the pen on this proposal?

CHAIR: Senator Ayres, that's not a fair characterisation.

Senator AYRES: Well, I've asked a question about whether the Defence review into the government's failure to stop the lease of the port of Darwin to Landbridge informed the decision, and we've had dozens of words of circumlocution around that question.

Senator Birmingham: Senator Ayres, I've told you what the primary consideration was: the economic development opportunities. All of the information before us at any time helps to inform our decision-making. If, indeed, the infrastructure around Middle Arm can provide defence as well as economic dividends for the country, that's a good thing.

Senator AYRES: Who is the deciding minister here? I think I heard from you, Mr Chisholm, that it was Infrastructure. Who holds the pen on this process?

Senator Birmingham: That's right, Senator Ayres: it's a budget item in the infrastructure portfolio.

Senator AYRES: Has there been any input from the United States into the new port? I think work has begun on the fuel storage facility, with north of a quarter of a billion dollars worth of investment there. Has the government of the United States had any input into the decision?

Senator Birmingham: Not to my knowledge, but it may be best for you to pursue those questions, in terms of any defence engagements, with Defence.

Senator AYRES: You wouldn't know the answer to this question, Minister: are there any un-earmarked funds going from Defence into this project?

Senator Birmingham: No.

Senator AYRES: So there's no transfer of funds that haven't yet been allocated from Defence into the NAIF for this project?

Senator Birmingham: No.

Senator AYRES: Okay.

Senator Birmingham: Let me just also say, because you referenced the NAIF at the end there, that this project is listed in the energy security and regional development plan, very specifically.

Senator AYRES: Sorry.

Senator Birmingham: The additional funding for NAIF, which is actually approaching limits in relation to its commitments, was announced a little while back, pre budget. That, of course, is subject to all of the usual application constraints and processes under the legal framework that establishes NAIF.

Senator AYRES: Okay. I want to ask some questions about submarine locations. I think the Prime Minister indicated, in his Lowy address, three preferred locations for a second east coast submarine base. Andrew Greene from the ABC has said that Port Kembla is the preferred and most suitable option. He said:

... Port Kembla in the New South Wales city of Wollongong is the preferred option the Defence Department has presented to cabinet's National Security Committee, ahead of Commonwealth negotiations with state governments.

What was the purpose of including Brisbane and Newcastle in the announcement, then?

Senator Birmingham: My understanding is that these are shortlisted locations which Defence will provide final advice on.

Mr Dewar: There were three shortlisted locations: Port Kembla, Newcastle and Brisbane.

Senator AYRES: How is the NSC briefed in relation to site options? Have those three options been presented? Is Mr Greene wrong when he says that Port Kembla is the preferred option?

Mr Dewar: There are three options that are being considered.

Senator AYRES: But is Mr Greene wrong when he says that there is one preferred option from Defence's—

Mr Dewar: There are three options that are shortlisted.

Senator AYRES: Yes, I heard you say that.

Mr Dewar: That is my evidence. That's where we are in the process. There are three shortlisted locations.

Senator AYRES: There is not a preferred option?

Mr Dewar: There are the three shortlisted locations.

Senator AYRES: You could say: 'Yes, there is a preferred option.' You could say: 'No, all three options are equal.' I'm not hearing you say either of those things. You are simply saying the same answer. You could say: 'I can't tell you.' These options are available to you. Why do you keep saying the three?

Mr Dewar: There was a process where 19—

Senator AYRES: It has gone down to three.

Mr Dewar: I think Defence has said publicly, were considered. It's has gone down to three. Now those three are being taken forward.

Senator AYRES: Mr Greene is wrong is he when he says that Port Kembla is the preferred option?

Mr Dewar: What I'm saying is that where we're at in the process is that there are three options that are now being considered. I'm not commenting on any weighting against any of them. There are three options that are being considered going forward.

Senator AYRES: Who added Brisbane and Newcastle to the list of potential sites?

Mr Dewar: Out of the 19 these were the three that Defence has taken forward.

Senator AYRES: In that shortlisting process was it the Prime Minister or the defence minister that signed off on the inclusion of Newcastle?

Mr Dewar: That was through the normal government consideration processes—the deliberative processes of government.

Senator AYRES: What does that mean? Does it mean that when the shortlist was provided to the NSC that it just came through the department without the Prime Minister or the defence minister signing off on it?

Mr Dewar: What I am saying is that the process of consideration from the 19 down to the shortlist of three went through the normal deliberative processes of government.

Senator AYRES: Did the Prime Minister sign-off on the three?

Mr Dewar: It was a submission. It was a policy proposal. It comes through Defence. It is considered by government.

Senator AYRES: So the minister signed off on the proposal before it went to the NSC?

Mr Dewar: It was a Defence proposal.

Senator AYRES: So it's not a whole of government proposal. It may have been consulted more broadly but it came through Defence?

Mr Dewar: This is a Defence matter.

Senator AYRES: Yes.

Mr Dewar: Defence is the lead on it. In terms of the detail of their process, Defence would know more about that.

Senator AYRES: Mr Greene says, and you haven't denied, the preferred location is Port Kembla. I understand you're not saying that, but you're very specifically not denying it.

Mr Dewar: What I'm saying is that there are three shortlisted locations. They are Port Kembla, Newcastle and Brisbane.

Senator AYRES: Yes, I've heard you. Isn't it the case that Brisbane and Newcastle both have a series of marginal electorates in them and it's politics driving their inclusion?

Senator Birmingham: No.

Senator AYRES: It is not?

Senator Birmingham: It is not.

Senator AYRES: It's not one of those colour-coded spreadsheet options that are the modus operandi of this government?

Senator Birmingham: No. You've heard very clearly that there was quite a long list and that long list went through a process with Defence bringing it down to a shortlist.

Senator AYRES: I think the Prime Minister said that the east coast base would have specialised wharves, maintenance facilities, administrative and logistics support, personnel amenities and suitable accommodation for submarine crews and support staff. Does this mean that the east coast base will be the main location for sustainment and maintenance of the new nuclear submarine fleet?

Senator Birmingham: No, it does not mean that.

Senator AYRES: Mr Dewar?

Mr Dewar: No. When the announcement was made about the shortlisting of the three it was clear that this new east coast base will operate in conjunction with the ongoing west coast base.

Senator AYRES: It is not the case that this means there is an assumption that submarines won't be built in Adelaide?

Senator Birmingham: Very definitely not that case.

Senator AYRES: Will there be similar sustainment operations in—

Senator Birmingham: Indeed, at the time of that announcement specific comments were made and attributed to the Prime Minister re-emphasising that it would be built in Adelaide.

Senator AYRES: So there will be similar sustainment operations in WA, at HMAS *Stirling* or the other facility in Henderson, and in Osborne?

Senator Birmingham: There will be need for additional infrastructure requirements at Henderson, as a west coast base for the future nuclear powered submarines, and there will be a requirement for significant additional infrastructure at Osborne in Adelaide, as the construction yard for the future nuclear powered submarines.

Senator AYRES: The Nuclear-Powered Taskforce was given 18 months from September through to March 2023, I think, to determine the design issues, acquisition, location of build and workforce skills. Isn't it the case that announcements about base locations and sustainment operations are being made now, that it's just a case of all announcement with no hope of delivery? These decisions are being communicated to the public just for relentlessly political reasons; aren't they?

Senator Birmingham: No. It has been a factor in relation to Australia's deployment of our submarine capabilities that consideration of an east coast base is something that has been underway for some time. The fact that the country can best be served by having both a west coast base and an east coast base for submarine fleet, an enhanced submarine fleet, is something that we have acknowledged. To settle the planning arrangements in relation to these things takes many, many years. In relation to the construction yard, there is a known outcome of Osborne in Adelaide. In relation to the west coast base, there's an existing facility at Henderson in WA. The east coast base has required a process that has been underway for some time in terms of that long listing and now short listing.

Senator AYRES: It's odd, isn't it, just before an election to short list three places—two of them are in red-hot, political battlegrounds—and then after the election come down to one? People are entitled to be a little cynical about Mr Morrison's timetable for announcements here, aren't they, given all of the previous behaviour?

Senator Birmingham: I'm accustomed to your cynicism and not surprised by it. These announcements are not without generating differences of opinion and, at times, controversy in terms of the reactions that local communities may have as to whether they do or don't wish to see such sights. To be able to move from that long list into the short-listing process and then make final decisions necessitates making public the short list because the nature of discussions that have to be had with state governments, with local councils, with port operators and with the local communities and other infrastructure providers mean that you can't proceed beyond that short-listing stage without having far more engagement and discussions that would result in consideration becoming a public factor in any event.

Senator AYRES: There are two task forces—the Nuclear Powered Submarine Taskforce in the Department of Defence and the Nuclear-Powered Submarines and National Naval Ship Building Enterprise within the department. Who is actually in charge of the future nuclear submarine program, the Prime Minister or the defence minister? How is this working?

Senator Birmingham: In terms of the decisions about which model of boat Australia ultimately builds and some of the process elements around that build, they are being led by the task force chaired by Admiral Mead. His work and the different streams of work that Defence have outlined publicly are the lead source of advice and decision-making to government. The scaling up of capability to deal with AUKUS within the Department of the Prime Minister and Cabinet complements and has input into the work of Admiral Mead, and, of course, into the other aspects of AUKUS in terms of our partnerships on artificial intelligence, missile capabilities or the like, which Mr Dewar could speak further to, if you wish.

Senator AYRES: So, in shorthand—a coordination role in PM&C. But you're saying, Minister—and Mr Dewar, I'd appreciate your view on this—that the task force in the department is leading the 18-month review process?

Mr Dewar: There are two elements to AUKUS. There's the nuclear powered submarines, and then there's the advanced capabilities stream. Nuclear powered submarines, as the minister outlined, Vice Admiral Jonathan Mead leads the Nuclear Powered Submarine Taskforce. He is lead on that and providing advice to government on that. Within Defence, Deputy Secretary Peter Tesch leads on the advanced capabilities, which is looking at as the priorities at cyber, quantum, AI and undersea warfare, and that's a body of work they lead. We, PM&C, work cooperatively with both of those teams and across government on things like messaging and coordination, and we work closely with DFAT as well.

Senator Birmingham: And, of course, there's a fair bit of co-option and co-opting of staff from agencies into those processes as well. Admiral Mead is not an exclusive defence operation.

Senator AYRES: An 18-month review, is that a hard deadline? Will the entire 18 months be used? It's a pretty big, complex decision for the government to make.

Senator Birmingham: I think the Prime Minister and defence minister have both indicated publicly that we are very happy with the progress that is being made. We've had visiting delegations from the US and UK out to Australia, and the government is very confident that we will be in a position to make final decisions on advice of the task force within that 18-month period.

Senator AYRES: Are you going to use the whole 18 months?

Senator Birmingham: I said within, and if there is—

Senator AYRES: Can you rule out pre-empting decisions before its completed?

Senator Birmingham: Yes, I can. But all of our partners also understand the urgency of finalising advice and being in a position to make decisions. So, our expectation, based on the progress made to date, is that it will absolutely meet its deadlines within that 18-month period.

Senator AYRES: There's a bit of cognitive dissidence here between the Prime Minister and the defence minister, isn't there? The defence minister said that the announcement about which boat Australia is going with would be made in the next couple of months. I watched him. I was very surprised. Why did he say that?

Senator Birmingham: As I said, there's confidence from the PM and the defence minister about the progress being made. It will happen within 18 months. I think the Prime Minister's made clear that people shouldn't expect an announcement on it prior to the election, but if we—

Senator AYRES: Why did the defence minister say that it would be?

Senator Birmingham: I think the defence minister was simply highlighting the good progress that is being made and the confidence we have of working within the deadline that we spoke of and announced.

Senator AYRES: So he overreached in his enthusiasm, did he?

CHAIR: That's not what the minister said, Senator Ayres.

Senator Birmingham: That's your characterisation, Senator.

Senator AYRES: Well, he said within two months. He said within two months, more than two months before the election will occur, and then was utterly surprised that people—

Senator Birmingham: You've changed what you were saying he said along the way, Senator. But for the avoidance of any doubt, to repeat what I've said before, we are committed to the 18-month time line, as are our partners in the United Kingdom and the United States. Work is progressing very well, and there is a high degree of confidence of delivering outcomes and decisions within that 18-month time line.

Senator AYRES: So there won't be an announcement about which boat is being selected, prior to the election?

Senator Birmingham: The Prime Minister has already made that clear.

Senator AYRES: It's very important that this actually be done properly, and there not be showy political announcements about decisions for the purpose of an election, isn't it?

Senator Birmingham: This is a huge undertaking for the nation—one of the biggest national security decisions a government has made—and it is being done thoroughly and properly.

Senator AYRES: Why can't the defence minister and the Prime Minister get on the same page on this issue?

Senator Birmingham: They are.

Senator AYRES: They are now.

Senator Birmingham: They are.

Senator AYRES: I have a question about COVID related deaths in aged care. Can you tell me, Ms Foster, how regularly the Prime Minister is briefed on COVID deaths in aged care?

Ms Foster: I will ask our social policy folks to come up and help you with those questions.

CHAIR: While they are doing that, Ms Foster, I think you had a couple of other corrections for the record that we might get you to do.

Ms Foster: We did. Mr Jones, when he was discussing the meetings of the Australian Government Crisis and Recovery Committee, said that the first meeting took place 'on 28 February'; it should have been '27 February'. Ms Quilty, in speaking about the extension of the boosting of apprenticeship commencements and completing apprenticeship commencements, indicated that it was for two months; in fact, it is for three months. Finally, Senator, you requested some figures for apprentices, and Ms Quilty responded that it was 220,000; that was in fact only for trade apprentices and trainees, but the figure for all apprentices and trainees is 352,020 as at September 2021.

Senator AYRES: What's the name of that committee again, Ms Foster, sorry?

Ms Foster: Australian Government Crisis and Recovery Committee.

Senator AYRES: And it was the 27th, not the 28th. I was not listening as closely as I should when Senator Watt was asking questions, but, as to that meeting on 27 February, that committee is a committee that the Prime Minister chairs, effectively, is it?

Ms Foster: It's officials.

Senator AYRES: So the Prime Minister was not in that room on the 27th?

Ms Foster: No—or my belief is, no. And, as Mr Jones said, it was the first of those meetings at which the question around the threshold being met was raised, rather than it considering a recommendation around it.

Senator AYRES: And the final announcement was the 11th, I think, from memory.

Ms Foster: That's correct.

Senator AYRES: How regularly is the Prime Minister briefed on COVID deaths in aged care, Ms Frame?

Ms Frame: The Prime Minister is regularly briefed on a range of metrics related to aged care that include current outbreaks, cases of residents and staff, and how many additional shifts are being provided through surge support from the Commonwealth government program. So there is a whole list of metrics, which obviously include deaths, which the Prime Minister receives very regularly.

Senator AYRES: When you say 'very regularly', is it daily or weekly?

Ms Frame: I will just get that for you.

Senator AYRES: Thank you. And, while you are doing that, are they written briefs or in-person briefs?

Ms Frame: There are very regular written briefs—more regular written briefs—and frequent verbal briefings as well.

Senator AYRES: Could I just get a sense of the timing? How regular, Ms Steel?

Ms Steel: We provide updates through a written briefing system that's live online. So we get information, generally, daily from the Department of Health, which we pass along through our online briefing system, and then there will be particular intervals where we will brief as needed for particular issues—for example, relating to matters going to cabinet and cabinet committees.

Senator AYRES: Daily written briefs come up from the department to the PMO?

Ms Steel: That's correct.

Senator AYRES: In-person briefings how often?

Ms Foster: Can I just be clear that what Ms Steel was describing was a system in which the brief is always there and we update it when we get new information. Typically that is done on a daily basis, but we're not—

Senator AYRES: So there's a sort of dashboard that the PMO can see.

Ms Foster: With things in it.

Senator AYRES: How often are briefings for the Prime Minister provided? We're really talking about in-person briefings now, aren't we? If there's a dashboard that's available for any official in the PMO to look at, and that's updated not just daily but as information comes in, then how often is the Prime Minister himself briefed?

Ms Foster: His staff could use that at any time to brief him. The information is always there for him to be briefed on.

Senator AYRES: I appreciate your point, Ms Foster. And you wouldn't know how often that is?

Ms Foster: That's correct.

Senator AYRES: Briefings from the department to the Prime Minister?

Ms Frame: As Ms Steel said, they would occur when we're briefing about particular budget considerations. There are a lot of budget items related to aged care that would involve more comprehensive briefing—and also for national cabinet very regularly. So there are a range of other briefings where they would cover a status update on aged care. I would need to take that on notice. I can't provide the specifics of cabinet committees and briefings, but I would be able to provide on notice national cabinet dates and briefings related to aged care for those meetings.

Senator AYRES: I appreciate the work that goes into a dashboard that the staff in the Prime Minister's office can see, but more than half of COVID aged-care deaths have happened in the last three months. There have been 1,831 COVID related deaths in residential aged care. Where is the sense of urgency from the Prime Minister? I would expect regular in-person briefings. What's going on?

Senator Birmingham: The Prime Minister is frequently briefed by his staff, as well as by the department, on matters relating to COVID, as he is on matters relating to national security, natural disasters or other pressures that exist across the nation. The frequency of those briefings will vary depending upon the issues themselves and scheduling around those issues. I can certainly seek from the Prime Minister's office some understanding as to the frequency of briefings in relation to aged care, but I imagine it is quite frequent.

Senator AYRES: I'm not being critical of the department here. The evidence is that the department provides material and a dashboard that the Prime Minister's staff can see in real time. I'm cautious about paraphrasing you, Ms Frame, but I think you said the department provides briefings consistent with when there are national cabinet discussions or other discussions that happen but there is no regular in-person briefing and there is a crisis in aged care. When is the last time that the minister for aged-care services provided an in-person briefing to the Prime Minister on the unfolding crisis in aged care?

Senator Birmingham: In terms of the minister for aged-care services or the minister for health and ageing, I would have to take it on notice to find out in terms of the particulars of your question. I don't have the frequency of the Prime Minister's briefing schedule. They would vary at different times across the management of COVID, national security crises, national emergencies and national disaster crises. There are many that are managed throughout the course of the PM's schedule, but I'm happy to find out in terms of the—

Senator AYRES: If there's a briefing schedule on COVID related aged-care deaths and the situation in aged care for the Prime Minister, I want to see it. It should be able to be provided today. I think my last question, though, was slightly different. When was the last time that the minister for aged care provided an in-person briefing to the Prime Minister about the unfolding crisis in aged care and COVID-related deaths?

Senator Birmingham: I addressed that upfront, Senator Ayres. And since I don't—

Senator AYRES: You don't know?

Senator Birmingham: I don't know offhand, Senator Ayres. I don't have the Prime Minister's diary sitting in front of me. But I am happy to find out, in terms of the minister for aged care services and the minister for health and ageing—

Senator AYRES: Has this crisis been discussed in cabinet recently?

Senator Birmingham: Yes, Senator Ayres. COVID continues to be a front-of-mind issue, particularly as we move into the winter period and we see the additional challenges of a combination of COVID and a flu season, which the Prime Minister and officials led national cabinet through briefings on at their last meeting.

Senator AYRES: Has Senator Colbeck been present at those discussions?

Senator Birmingham: Senator Colbeck is present when it is relevant for him to be present. Minister Hunt addresses other matters that are relevant for him that he has leadership on.

Senator AYRES: But Minister Hunt is about to retire. If the Morrison government is returned—

Senator Birmingham: Mr Hunt is a very active minister for health and ageing, and he will be right until the day he finishes, I can assure you.

Senator AYRES: Yes, and, when he finishes—and the election will be called imminently—and if the Morrison government is returned, Mr Hunt won't be the Minister for Health and Aged Care. Who will be? Will Mr Colbeck be the minister for aged care?

Senator Birmingham: That would be a matter for the Prime Minister, Senator Ayres. I suspect there is as much chance of Minister Hunt being the minister for health after the next election as there is of Mr O'Connor being the minister for defence in an Albanese government, the difference being that Mr O'Connor is actually recontesting the next election.

Senator AYRES: The difference is that Mr Colbeck has presided over an aged-care catastrophe. I think what most Australians will want to know is whether this bloke is going to be returned to the ministry and whether he will return as the minister for aged care. Can you rule that out?

Senator Birmingham: Senator Ayres, you certainly wouldn't, but even your leader won't confirm whether or not his current defence spokesperson will be his defence minister. I am hardly in a position to outline what the Prime Minister's ministerial decisions would be after the next election in relation to a vacant—

Senator AYRES: That's a pretty smug response that doesn't get us anywhere, does it?

CHAIR: Senator Ayres, that is an unfair characterisation.

Senator AYRES: There have been 1,831 deaths. More than half of the deaths that have occurred in aged care have occurred over the last three months. The minister who sits on top of that is a likely successor to the current minister for health, and you can't rule out that this bloke will be back?

Senator Birmingham: Senator Ayres, firstly, appreciate the facts. The facts are that COVID-19 has higher mortality rates worldwide amongst the elderly, the vulnerable and people with comorbidities. They are the facts in terms of the global health consequences of the impacts of COVID. As you also know, the statistical reporting of deaths from COVID in Australia captures all individuals who die with COVID, regardless of whether or not they die of COVID. In aged-care facilities, residential aged care, sadly, most residents have a time in aged care that averages about two years, and sadly most leave aged care as a result of passing away, having been admitted because of the higher levels of care needs that they face. That in no way diminishes the tragedy in each of those cases and the fact that for each of those families it is a significant loss. But, in Australia, 40,000-plus lives are estimated to have been saved thanks to the management of COVID-19 across this country by governments, collectively, by Australians, collectively, all managing to work together. Our health outcomes are among the best in the world—about the third-lowest mortality rate in the OECD, if my recollection is correct.

So, Senator Ayres, in terms of who will be the health minister or the minister for health and ageing after the next election, firstly, that's a matter for the Australian people, who I hope will decide to re-elect the Morrison government, and, secondly, it will be a matter for the prime minister of the day. And I tell you what: if our Prime Minister confirms before the election who the next minister for health would be in a Morrison government, I look

forward to seeing whether Mr Albanese has the courage to do the same about the minister for defence in an Albanese government.

Senator AYRES: Can I check one thing unrelated to this? And I understand there are then other questions in relation to COVID. Minister, a few minutes ago it was reported that the Commonwealth had sought to intervene in the New South Wales Liberal factional dispute. I understand that the High Court has heard from the Solicitor-General, who wishes to support—

Senator Birmingham: That's quite a segue.

Senator PATERSON: Point of order, Chair.

CHAIR: Yes, Senator Paterson.

Senator AYRES: I'll be interested to hear this.

Senator PATERSON: The Solicitor-General is not a relevant agency for the Finance and Public Administration Committee. That would be the Legal and Constitutional Affairs Committee, which is meeting downstairs and I'm sure would welcome Senator Ayres's company.

Senator AYRES: Thank you. Why don't I finish my question and we'll see how we go? I understand the High Court has heard from the Solicitor-General, who says that he's there to support an application by counsel for Mr Morrison and Mr Perrottet related to this factional dispute, saying that it should be heard by the High Court. Can you tell me why Mr Morrison is using the Solicitor-General to back his position in a New South factional dispute? He did it in Western Australia in his fight with Mr McGowan. Why is he using the Solicitor-General?

Senator Birmingham: Senator Ayres, the news story you are speaking of is, in and of itself, news to me. The decisions the Solicitor-General makes are matters that, as Senator Paterson has rightly raised, you should pursue at Legal and Constitutional Affairs.

Senator GALLAGHER: Minister, your evidence is that you were completely unaware of this development, so you had no knowledge that this was underway?

Senator Birmingham: I'm not here representing the Solicitor-General—

Senator GALLAGHER: No, you're here representing the Prime Minister.

Senator Birmingham: so I have no knowledge or briefings that have been provided to me in relation to the actions of the Solicitor-General.

Senator GALLAGHER: But you're representing the Prime Minister. Are you telling me that, in your representation of him, you had no prior knowledge that this matter was going to be before the High Court today?

Senator Birmingham: I certainly had no prior knowledge of the story Senator Ayres has referred to, or of matters related to the Solicitor-General. I don't think I had any prior knowledge of it being before the High Court today, although I was aware in the broad that there were legal actions occurring, just as there have been legal actions from time to time in relation to Labor Party preselections.

Senator GALLAGHER: That's not the matter we're asking you about. We're asking about senior government officials, essentially, backing or being involved in a factional dispute before the court. Ms Foster, did you know about this?

Ms Foster: No, I didn't, and I've just quickly checked with my staff, and they didn't.

Senator GALLAGHER: You haven't had any discussions with the Prime Minister's office about this?

Ms Foster: No, Senator.

Senator GALLAGHER: No-one within PM&C has? This is a matter that, perhaps, the Prime Minister's office would deal directly with the Attorney-General's Department about. Is that right?

Ms Foster: Senator, I'd be speculating. All I've been able to do is establish that neither I nor the area that I would most expect to know that was aware of this before we just heard it from Senator Ayres.

Senator GALLAGHER: I understand the Solicitor-General's application is made on behalf of the Attorney-General. Minister, is that a matter that the cabinet would be made aware of, or would that be a matter that would be just between the Prime Minister and the Attorney-General? Who makes the decision, actually?

Senator Birmingham: The Attorney-General and her department would be best placed to provide you with advice on where the threshold for cabinet engagement of what actions the Solicitor-General may be undertaking or not occurs. But I would say, generally speaking, that the work of the Solicitor-General is a matter for the Solicitor-General and those structures within the AG's department and her portfolio.

Senator GALLAGHER: Okay, but it doesn't seem that the Solicitor-General is acting on the Attorney-General's instructions to join in and back Mr Morrison's position before the High Court.

CHAIR: That would be a question for the Attorney-General.

Senator Birmingham: I can only repeat what Senator Paterson said, which is, if you want answers to the engagement of the Solicitor-General in a matter, I suggest you move to the other committee room, where legal and constitutional affairs estimates are underway. I assume the Attorney-General is sitting there and would be better placed to answer the questions than I am.

Senator AYRES: The Prime Minister is a participant in this.

Senator Birmingham: You're asking particular questions about the Solicitor-General's involvement—both of you—so it would be appropriate to ask those of A-G's.

Senator GALLAGHER: Ms Foster, you're saying no-one in PM&C's legal branch had any knowledge of this happening?

Ms Foster: That's correct.

Senator GALLAGHER: Would that be unusual? Isn't that unusual that you've got the Prime Minister essentially in court, the Solicitor-General joining the application via the Prime Minister and Mr Perrottet, and PM&C has no knowledge of it? Your legal branch hasn't provided any legal advice? None has been sought? There have been no discussions with the PMO? That in itself is unusual, isn't it? Attorney-General's hasn't told PM&C that this underway? 'By the way, this afternoon we will be in the High Court. It's becoming public that the Prime Minister has engaged his officials to back his case in a factional dispute.' Does the media unit know?

Senator Birmingham: Well—

Senator GALLAGHER: I would have thought they would have wanted a heads-up.

CHAIR: There are a few questions there, Senator Gallagher.

Senator Birmingham: There are quite a few questions. There are quite a few assumptions in your questions as well, about what you think PM&C should or would be briefed on about the actions and engagements of the Solicitor-General working within the Attorney-General's portfolio. As I've said consistently—and you've heard from each of us at the table—we have not been provided with any briefing in terms of the Solicitor-General's actions. If you wish to understand the nature of the Solicitor-General's actions, then legal and con and the A-G's Department are the right place to go.

Senator GALLAGHER: Could someone please tell me whether Mr Gaetjens was aware of this. Would you know that, Ms Foster?

Ms Foster: I would be astonished if he was aware and I wasn't.

Senator GALLAGHER: You would be astonished if he was aware and you weren't?

Ms Foster: As in, if he knew and he hadn't conveyed that to me.

Senator GALLAGHER: You'd be astonished, but that's not answering the question. Could someone please check?

Ms Foster: We will check.

Senator GALLAGHER: And come back this afternoon. In terms of legal and con, Attorney-General's will not be dealt with until next week.

CHAIR: You can ask the questions then.

Senator GALLAGHER: I think it's reasonable when we've got the Prime Minister's department—and he is, frankly, the bloke that's in court at the moment arguing for this—that we should and could expect some answers from officials here today while we're here. So you'll check on whether Mr Gaetjens knows. Is he available to be contacted?

Ms Foster: We'll be doing that now.

Senator GALLAGHER: The evidence is that the Prime Minister goes off to the High Court, and the Solicitor-General turns up and backs in the Prime Minister's case, and no-one in PM&C knows anything about it?

Ms Foster: I can only repeat my evidence. I've checked with my legal area, and they had no prior knowledge.

Senator GALLAGHER: Even your media unit? It's public that this is happening. I find it astounding. I don't know how this government operates, but it is incredible that the Prime Minister is in court today, with the Solicitor-General, and his department is sitting here telling me they know nothing.

Senator Birmingham: The Prime Minister is in question time at present.

Senator GALLAGHER: Well, he's being represented in court.

Senator Birmingham: So there is a legal matter. The role of the Solicitor-General in that legal matter is not clear in briefings that have been provided or was not known before this line of questioning to anybody who's sitting at the table. So I'm not going to take presumptions or assumptions around what the role of the S-G's engagement in that case is until we've received some briefing.

Senator GALLAGHER: Well, he's turned up to intervene in the matter. That is actually public knowledge.

Senator Birmingham: Well, the Solicitor-General does intervene in matters, in a number of different matters.

Senator GALLAGHER: In internal party factional disputes?

Senator Birmingham: No. The Solicitor-General intervenes in matters that he believes are of particular relevance at different times.

Senator GALLAGHER: I haven't seen him dotting around our cases.

Senator Birmingham: I don't have briefings to understand why, on this occasion.

Senator GALLAGHER: Ms Foster, in usual circumstances, where the Solicitor-General is intervening in a court matter, would PM&C, be it your legal unit or someone in your department, be routinely advised of that?

Ms Foster: No.

Senator GALLAGHER: No?

Ms Foster: The Solicitor-General, as Minister Birmingham has said, operates within the Attorney-General's portfolio, so we would normally expect that interaction to take place within that portfolio.

Senator Birmingham: This may well be the media commentary that you are reading from, but the information that has been flicked to me at present, to understand, at least, the context of the questions you're asking, advises me that the Solicitor-General, Stephen Donaghue, is making application, arguing that there is a dispute about whether courts can hear internal party disputes and that this relates to federal law, because, as parties are governed by the Commonwealth Electoral Act, once a case is in the federal jurisdiction, the court will, for that reason, need to consider whether it is a matter for the court to decide, and that is a constitutional question for the High Court. It is not uncommon for the Solicitor-General to make submission in relation to constitutional questions.

Senator GALLAGHER: No, but he just so happens to be backing the Prime Minister's position.

Senator Birmingham: Please let me finish. It is not uncommon for the Solicitor-General to make submissions in relation to constitutional questions and in relation to matters of law as they pertain. To me, that does not read as though, as you've characterised it, he is in any way there representing the Prime Minister or the Liberal Party.

CHAIR: That was exactly what I was about to ask.

Senator GALLAGHER: No, I don't think I said he was representing the Prime Minister. He is aligned with the Prime Minister's and Mr Perrottet's argument, who are arguing the same—

CHAIR: I don't think that's necessarily true, Senator Gallagher.

Senator GALLAGHER: My advice is that they are also arguing that it shouldn't be heard in the New South Wales Court of Appeal tomorrow but that it should be a matter heard by the High Court, which is what the Solicitor-General is also arguing. I think that is the case. That is the point we're trying to make and that I'm trying to understand. Now, Ms Foster, you are saying that when the Solicitor-General is intervening in matters, including matters that may get reasonably high media attention, there is not necessarily any information provided to PM&C about that. Surely someone somewhere thought, 'Wow! This might get a bit of attention. We'll let PM&C know.' What does the legal branch do?

CHAIR: That's very hypothetical.

Ms Foster: In this instance, the matter clearly doesn't relate to any departmental issue, so it would not be my expectation that the department would be involved in that.

Senator GALLAGHER: But it relates to the Prime Minister, and you're his department.

Ms Foster: It relates to the Prime Minister, if I understand the circumstances.

Senator Birmingham: That's right. It only relates to the Prime Minister insofar as it relates to his position as the senior federal Liberal Party member in New South Wales. It does not relate to the Prime Minister in his capacity as Prime Minister of Australia and minister responsible for the Department of the Prime Minister and Cabinet.

Ms Foster: Thank you. That's what I was hoping to express.

Senator GALLAGHER: I do understand the difference, but I still find it hard to believe that someone involved would not advise you that this is an upcoming issue.

Senator Birmingham: I can imagine the alternate scenario, where, if we'd sat here and Ms Foster's response had been, 'Yes, we were briefed over the previous days about these decisions,' you would then be running an argument that said—

Senator GALLAGHER: Well, I'd ask more questions.

Senator Birmingham: 'This is proof that the government has been using the agency of its departments to be able to intervene in party political matters.' The mere fact that all of us sitting here were not aware—

Senator GALLAGHER: I would ask more questions. I'm here to actually understand who knew what when. I don't think there is unreasonableness in that. Was the Prime Minister's office involved? Were they aware? Minister, can you find out whether they were advised by the Solicitor-General or his office that this application to intervene would be made on behalf of the Attorney-General?

Senator Birmingham: I will take that on notice.

Senator GALLAGHER: You can't find out for us?

CHAIR: The minister has taken it on notice.

Senator Birmingham: I have already addressed the fact that I was not aware until Senator Ayres started asking questions on that matter. You can deduce that I am not aware of other discussions that did or did not occur in relation to it.

Senator GALLAGHER: But the PMO was obviously pretty quick to send you a message about what the story was about.

Senator Birmingham: I don't think it came from the PMO; I think it came from my own office.

Senator GALLAGHER: Alright. But now—

Senator Birmingham: It was literally a screenshot of a news story.

Senator GALLAGHER: So that came from your office. I presume the Prime Minister's office listened to the PM&C estimates. I think it is pretty important, particularly given the fact we're on the eve of an election and these questions might not be able to be asked next week. Was the Prime Minister's office involved and how much money is being allocated to arguing this case in the High Court?

Senator Birmingham: I will endeavour to find out for you.

CHAIR: Senator Gallagher, I have been pretty generous with Labor's time this afternoon. You have had more than an hour now. I have a few questions about the economic headwinds we are facing. Would I be able to take the call for a period of time?

Senator GALLAGHER: Sure.

CHAIR: Thank you. My questions are on the international economic trends and challenges that we might be looking at for the next six months. The budget has been handed down in quite uncertain circumstances, I suppose you could say, particularly coming out of the COVID pandemic and then looking to the next six months. We discussed this morning some of the international challenges that we're seeing in Europe, in particular, and what impact these might have. What sort of forecasting have we done around economic growth in Australia and globally, and how did that impact what we were trying to achieve in budget and what we need to be considering in the short to medium term?

Mr Chisholm: The department itself wouldn't really be undertaking the forecasting.

CHAIR: True.

Mr Chisholm: But I can talk about some of the broader global headwinds and trends.

CHAIR: That would be helpful. Thank you.

Mr Chisholm: Obviously, the global economy is continuing to recover from the pandemic, and the Russia-Ukraine conflict is a major source of uncertainty and instability in terms of what is happening and is a risk to the global economy. The OECD estimates that global growth could be more than one percentage point lower this year as a result than what was projected before the invasion of Ukraine, while inflation could be higher by at least a further 2.5 percentage points. That was on aggregate across countries if war had broken out. That is something that a number of countries are grappling with right now. As we talked about earlier today, the cost of oil is one of the biggest impacts. The impact directly on Australia is less significant by virtue of distance and our more direct

exposure to markets closer to Australia, but there is a flow-through to petrol prices and, hence, the relief the government has provided by way of excise has been very significant. That will relieve cost pressure on households. We haven't experienced the sort of inflation that we're seeing in other countries. Headline inflation here is 3.5 per cent over the year, which is less than half the rate of the United States.

CHAIR: And why is that, Mr Chisholm, or would that be a question better placed to Treasury?

Mr Chisholm: I think we can help with some of that. Mr O'Toole might be able to take you through some of the factors there that would be relevant.

Mr O'Toole: Yes, I can. If you look at the other markets and the key drivers, one of the large drivers was energy prices—I'm not discussing petrol at this stage—and electricity, gas et cetera, where they saw very significant price rises. Australia didn't see those price rises to the same extent. The other key driver of inflation was COVID-related supply chain issues. You may have been aware of the cargo issues they had in America and elsewhere; It certainly impacted Australia as well but, again, not to the same extent.

I would say the third difference though—particularly in relation to America, as you saw—is the 'Great Resignation', as it was coined, where the labour participation rate dropped significantly and which drove very strong wage pressures over there. We haven't seen that in Australia to the same extent. The Australian participation rate post COVID bounced back very strongly to new record highs. I think women's participation is at record highs, unemployment has fallen to four per cent and, while we are seeing a pickup in real wages, it's much lower so far than we've seen in other countries.

CHAIR: You say that we haven't seen high energy prices or we haven't seen supply chain issues in Australia. That doesn't happen by luck, though, does it?

Mr O'Toole: I dare say we did see them, just not to the same extent. You would recall the Australian experience several years ago: the energy market, which I know something about, went through a period of very high electricity prices, and a number of policies were put in place and a number of investments made by both the government and the private sector which have driven electricity prices down significantly relative to other experiences. Gas is similar, again, I expect, for a range of reasons. We haven't seen quite the same increases as other countries have seen.

CHAIR: It's almost as if some of the policies that the government has implemented have insulated us from the worst of these economic headwinds?

Mr Chisholm: I think the government's focus on ensuring that we have a diverse source of energy supply has been important. We've seen, in some parts of the world, that energy choices have narrowed, and that creates challenges, not just for good stability but also for energy prices. Whereas in Australia, the focus is on investing not just in renewables but in gas and the critical role that it will play in the Australian economy in shoring up renewable energy and new forms of energy which will be a critical part not just of our own domestic energy story but also our export markets—in hydrogen, for example—which have been important. We've seen less of that volatility here in Australia because of a lot of the policy choices that we've focused on by having a broad mix of energy sources on hand, and we continue to invest in them throughout the national market.

CHAIR: I think you've touched on some of the challenges that we've seen, perhaps, in the immediate term and over the last couple of years with the pandemic. But into the future, how would we characterise the risk profile of the economy globally? Are we more concerned about certain things at the moment than we have been in recent years?

Mr Chisholm: The focus on oil is particularly significant. That has focused the minds of most economies because it has such flow-on consequences for so many other industries and areas of the economy, including general instability and conflict, which is not good for economic growth and stability. We obviously monitor those developments very closely and the supply chain risks that this creates. The government is focused very strongly on shoring up supply chain resilience. Within the department we have an office of supply chain resilience which coordinates and focuses strategically on those elements of supply chains that might create economic vulnerabilities for the country.

Both the pandemic and the conflict in Europe had big supply chain implications. With the pandemic we saw a shift to goods as a consumer preference, which created problems with supply chains and with shipping and ports. Again, we saw that not just in Australia but particularly in North America and throughout Europe. Once that starts happening, it creates flow-on economic consequences. The focus is on energy security, supply chain resilience, and we talked earlier about the focus on the digital economy. Given that so much trade and economic activity happens electronically now, that's been a big focus, as well as the government's focus on those economic

fundamentals that we talked about earlier in terms of cost-of-living pressures and relieving those pressures to help people participate in the economy.

CHAIR: When was that office of supply chain resilience established?

Mr Chisholm: It was established last year, but I don't have the exact date. Ms Tilley, who is head of the office, is with us today if you want to talk more about that. But, to the best of my recollection, it was last year—the early part of last year.

CHAIR: So it is a post-COVID thing?

Mr Chisholm: Yes, it is post COVID, and in fact has proved to make a really, really important contribution to government's efforts on shoring up and coordinating the supply chain challenges that we face.

CHAIR: How do you think any expected slowdown in the global economy will impact Australia?

Mr Chisholm: There are a number of fundamentals that we would be focused on. I might ask Mr O'Toole to answer that.

Mr O'Toole: We're not immune. We're a small open economy, and I'm sure Treasury will be able to provide you with a more detailed answer. But, as I said, we're a small open economy, and so any sort of slowdown in global economic activity would be expected to impact Australia either through terms of trade or other mechanisms. We are not immune to a potential slowdown, globally. It would affect us, yes.

CHAIR: But to answer the how, would I be best placed asking Treasury?

Mr O'Toole: Probably, yes; through the direct mechanisms, yes.

Mr Chisholm: Treasury will probably say that the focus on global inflationary pressures will be an important area of attention and the fact that, unlike other advanced economies, wage pressures in Australia have remained modest as well. We have strong labour force participation, and employment growth has been particularly strong. While we're not immune, as Mr O'Toole said, from what is happening around the world, the Australian economy has proved quite resilient.

CHAIR: In terms of our major trade partners, what impacts are we anticipating this will have on them and therefore on us? Are we positioning ourselves sensibly to make sure that we are trading as diversely as possible to insulate ourselves from the worst of this?

Mr Chisholm: Yes, we have been. As Mr O'Toole said, we run an open economy, which generates a number of economic benefits for the country, hence we're quite exposed to what happens not just in the northern hemisphere but in the region. We will be focusing on those global inflationary pressures and looking to see how some of the supply chain pressures we spoke about earlier might flow through to the economy and the impact on energy prices. A swift recovery in oil demand could lead to a rise in prices as well, so we need to keep a focus on those sorts of things. Oil does remain one of those fundamental parts of the global economy that has flow-on consequences for so many other areas.

CHAIR: So, in essence, there are some challenges ahead and it is important that the government's policy response to those challenges is robust and targeted to get us through the worst of what might come. I don't mean to paint a picture of doom and gloom, but I think a lot of Australians are reading the newspapers each day and watching the news each night thinking the future is a little uncertain, at least on the economic front. Minister, how do you think the budget addressed some of these concerns on Tuesday night?

Senator Birmingham: The budget sought to tread a very fine line given the uncertain global environment in which we are operating. Australia is performing strongly, with its economy outstripping many of its competitors in terms of the rate of COVID recovery, yet managing to dodge the worst of the inflationary bullets from other nations. Our inflation rate is running at around half that of the US and significantly below others. The budget sought to respond to the cost-of-living pressures by providing direct assistance to households, but doing it using the experience of COVID as something of a template. Our interventions on COVID were targeted, temporary, responsible and responding to issues that came up as they arose. We are not locking in long-term consequences from those issues. We are responding to spikes in oil prices, which the markets expect. We will come back down from those spikes—maybe not to where they were this time last year but to lower levels than the very high spikes that have been experienced. Again, we have put in place targeted temporary measures to support Australians. We have done it in a budget that builds on our Economic Recovery Plan which has been working so well. It backs small businesses and other areas of private sector economic activity in terms of their continued growth.

Most importantly, in terms of the upside of our economic performance, the budget puts more than \$100 billion back against the budget bottom line in terms of reduced deficits and lower debt in the future. It is ensuring that the

vast majority of the dividend from our improved economic performance is going towards the reduction in future deficits, which, as a share of the economy, are now forecast to be around half of what they previously were.

CHAIR: That is very good news, Minister; thank you very much. Senator Gallagher.

Senator GALLAGHER: Minister, there is a story in *the Guardian* today around a two-year effort to get access to some information from the Prime Minister's office that has been heard through various forums and the Information Commissioner has come with a ruling. It's about some WhatsApp messages between Mr Stewart and the Prime Minister. Is the Prime Minister going to appeal the finding of the Information Commissioner that the Prime Minister's office should consider the WhatsApp messages between Mr Stewart and Mr Morrison?

Senator Birmingham: I'm not aware whether a decision in relation to an appeal has been made yet. I don't believe it has, but I will double-check for you.

Senator GALLAGHER: Okay. So that's another 'We'll wait and see'?

Senator Birmingham: As I said, I don't believe a decision in relation to an appeal has been made yet, but I will double-check for you.

Senator GALLAGHER: Ms Foster, were you involved in any of this? Do you provide advice to the Prime Minister's office on FOI claims?

Ms Foster: My staff provide administrative support to the sort of processing, and we obviously were aware of the article, but we do not—

Senator GALLAGHER: Were you involved in advising on this claim, because it seems to have had a few shortcomings, like erroneously suggesting how long it would take to process and how much material was included? Would that have been advice from PM&C or would it have been from advisers?

Ms Foster: The decision-makers are within the Prime Minister's office. Mr Reid will be able to talk to you about the nature of the advice that we provide.

Mr Reid: No. The support we provide in relation to the Prime Minister's office's FOIs is purely of an administrative nature.

Senator GALLAGHER: Can you tell me what that is? What is 'administrative'?

Mr Reid: The office and the decision-makers will decide on a course of action and where they want to take it and they will instruct us, whether it's to draft a letter or respond in a particular way, but we don't provide any advice to the Prime Minister's office in relation to how they would address the matter.

Senator GALLAGHER: Okay, so when they said that it involved two years of messages and it would be an unreasonable allocation of time to process—'it would take 50 hours to process' and what was being sought was two years of messages—that content would be determined in the Prime Minister's office and you would then be provided that and put that in a letter?

Mr Reid: That's right.

Senator GALLAGHER: So at no point would you go, 'Wow'? So you never see the information?

Ms Foster: Because we don't have access to the—

Senator GALLAGHER: So you just take what the Prime Minister's office tells you?

Ms Foster: That's correct, because we're providing, as Mr Reid said, administrative support for them. We don't have access to the material that they're looking at and we don't provide any advice to them on how to process that. That is their responsibility within the act.

Senator GALLAGHER: And you don't sign anything off? There isn't anyone in your department that signs off the letters or anything like that?

Ms Foster: No, we prepare them for the decision-maker to sign.

Senator GALLAGHER: So you're essentially a letterbox that things pass through?

Ms Foster: We put the administrative structures in place to do the processing, if you like, based on their decision-making.

Senator GALLAGHER: What happens if you're given information that would appear to be not compliant with the FOI Act or something like that? Would you then intervene and say, 'This doesn't look like it is being handled in accordance with the FOI Act'?

Mr Reid: No. It's very clear that the department's role in relation to the management of the case load within the office is purely an administrative support role. Part of that flows from the fact that the office is a separate entity under the FOI Act and isn't related to or the same as the department.

Senator GALLAGHER: Yes, I know. Why don't they do their own paperwork then? Why does it come to your area?

Mr Reid: I have people within the department who maintain standard templates and things like that. In the same way we support decision-makers within the department, it's entirely efficient for us to be able to provide that administrative support to the decision-makers in the office.

Senator GALLAGHER: Essentially one of the arguments used for not being able to process the request is, basically, that the Prime Minister is busy:

The prime minister is the head of the national government and your request presents a significant challenge to the day-to-day execution of his duties.

That comes from the Prime Minister's office? Do you look at that and think: 'Is that compliant with the FOI Act?' Is the fact that someone is busy a legitimate reason to say, 'We're not going to process your request'? There is nothing you provide back saying, 'That's not really a reason not to process this'? There's no question; you just do whatever the PMO tells you to do.

Mr Reid: It's important that the distinction is maintained between the various roles between the office and the department. It's important that we not provide policy advice or guidance in that regard to the office. They are the decision-makers and they need to decide which way to take particular matters.

Ms Foster: And they are the ones who have access to the documents, to the systems and to the environment in the office, which puts them in a position to make those judgements.

Senator GALLAGHER: Do you provide advice to them if they ask? What if you're sitting in the PMO and you're not sure? Where do they go for advice on how to interpret the FOI Act and make sure they're being compliant?

Mr Reid: I imagine that, if asked for advice, we would provide an answer to a question. But I can't think of an example of that happening.

Senator GALLAGHER: Okay. What about Information Commissioner reviews? What's your role in that? Did you find out how many the PMO actually has underway?

Ms Foster: Yes, we did. It was zero.

Senator GALLAGHER: None?

Ms Foster: With the Information Commissioner. The question was how many—

Mr Reid: How many Information Commissioner reviews in relation to national cabinet material arising from the Prime Minister's office FOI decisions are currently with the IC? The answer to that question is: zero.

Senator GALLAGHER: Zero? Okay. Do you support the PMO through Information Commissioner reviews when they come back?

Mr Reid: In exactly the same way as we support—

Senator GALLAGHER: So not at all?

Mr Reid: We provide administrative support.

Senator GALLAGHER: You cut and paste whatever comes from the PMO into a letterhead and then send it on?

Mr Reid: We're instructed by the Prime Minister's office and the decision-makers as to what they want done, and we put that into effect.

Senator GALLAGHER: Ms Foster, are you aware of whether, under previous secretaries, expert advice to the PMO was provided on FOI matters?

Ms Foster: Mr Reid and I have about the same length of experience. He is closer to it than I. I am not aware of any change to the process, but Mr Reid could probably help with that.

Mr Reid: I'm not aware that this is a changed process.

Senator GALLAGHER: Are the people handling it in the office trained under the FOI Act for handling of FOI applications? It seems to me that the Information Commissioner has been pretty scathing about errors that have been made in the handling of this. It's taken two years to get to this point, and they basically have dismissed the arguments that they're too busy, that it's two years worth of text messages to go through and that it's going to take 50 hours. They've found that to be erroneous in the report. So are these people trained to handle FOI applications?

Mr Reid: There's only a small number of people who are delegated to be decision-makers in the Prime Minister's office under the FOI Act. As far as I'm aware, all of those people have expertise in the FOI Act.

Senator GALLAGHER: How do we know that they are following the FOI Act? How do we know they're doing it properly and not just using excuses like 'too busy', 'take too long' and, 'It's too much information,' to withhold information? How do we know, and who checks on them? Who reviews them? You have reviewers in the department who can review decision-makers' work. Does that happen in the PMO?

Ms Foster: The processes would be mirrored. In the same way as the department, as an entity, is responsible for its effective adherence to the FOI Act, the Prime Minister's office as an entity is responsible itself for its adherence to that act.

Senator GALLAGHER: Okay. So there's no-one, really, who knows what goes on? This has taken two years. They've now been told to produce it. They can appeal it. They can either hand it over by the end of April or appeal to the AAT. Really we don't know, and nobody knows, whether it's been done properly.

Ms Foster: It really is analogous to what the department does. The Prime Minister's office, like the department, is accountable for the way in which it processes its FOIs. They can be reviewed. In the same way as someone can request an internal review in the department, they can request an internal review in the Prime Minister's office—sorry?

Mr Reid: There is no internal review in an MO. It goes straight to the IC.

Ms Foster: Oh, sorry. There is no internal review, but it goes straight to the Information Commissioner.

Senator GALLAGHER: From the PMO?

Ms Foster: If it's a PMO request or a request in the minister's office and someone wants a review then it goes to the Information Commissioner.

Senator GALLAGHER: But Mr Taylor has been pursuing this for two years. Essentially, the way the system works now—and you can't tell the committee that you're assured that the processes are working, because you're not really involved in them at all. You just cut and paste on the template. You have no line of sight, really, about how these matters are being handled, who's making the decisions, whether they're in accordance with the FOI Act.

Ms Foster: That's because they are a responsible entity in their own right.

Senator GALLAGHER: Alright. Well, it seems like it's pretty easy to withhold information for two years under the way it operates now.

Senator PATRICK: Don't get me started!

CHAIR: Before we go to Senator Smith, I want to flag for officials and the huge audience that I'm sure we have listening along to the hearing at home—

Senator Birmingham: Hi, Mum! She's not that silly either.

CHAIR: I certainly hope not, Minister.

Senator PATRICK: Do you think she can see right through you?

CHAIR: Senator Patrick, that's not a very nice thing to say about Minister Birmingham's mother. My proposal is that we break for afternoon tea at four, and it is my hope that we will have concluded with our consideration of outcome 1 by then, keeping in mind the fact that we're due to go back to outcome 1 on Monday. So we'll break at four, bring on the NRRRA at 4.15, and then at 5.20 we will be suspending for the Ukrainian President's address. We'll reconvene at eight o'clock, after dinner. With that, I will let Senator Smith have the call.

Senator MARIELLE SMITH: Ms Foster, I want to ask about the review of the MOP(S) Act that's being undertaken. When was the decision taken to call for submissions to this review?

Ms Foster: Just let me go to my time line. The review was published on our website on 28 February with the terms of reference and a call for submissions.

Senator MARIELLE SMITH: And when were staff notified by the Department of Finance or the Department of the Prime Minister and Cabinet that submissions were open?

Ms Foster: There were a number of different interactions. I understand that the workplace health and safety committee, or a number of committees, were briefed on the review and the call for submissions. I'll see if I can get you the details of exactly who they are and when.

Senator MARIELLE SMITH: You do have the information about when staff were notified? Was an email sent out to staff members about the fact that submissions were open?

Ms Foster: The staff were notified in different ways, some through the committees. There was an all-staff email that was sent out on 29 March.

Senator MARIELLE SMITH: Does your colleague next to you have more information on that time line?

Ms Moran: We can correct this if it's not a hundred per cent correct, because it was before my time back in the department, but I understand that the employee consultative group and the work health and safety committee were both notified on 25 February, in the discussions at that meeting.

Senator MARIELLE SMITH: Was it 25 February or 25 March?

Ms Moran: Twenty-five February was when it was in discussions at those meetings, but then I understand that there was not an email sent to the ECG until 24 March, and then there was a circular from the minister on 29 March.

Senator MARIELLE SMITH: It's just that I was just told that a decision was made to call for submissions on 28 March, so the consultation happened before the decision was taken?

Ms Moran: 28 February.

Senator MARIELLE SMITH: Sorry—28 February was when Ms Foster said the decision to call for submissions was made.

Ms Foster: I think the difference in those dates is that the committees were given a heads-up that the review would go live on the 28th.

Senator MARIELLE SMITH: Okay, but 24 March is when the ECG were notified and then the all-staff email went out on 29 March?

Ms Foster: I think what Ms Moran said was that an email went to the ECG on 24 March but that they had been notified in a meeting on 25 February—

Senator MARIELLE SMITH: That a decision might be made to call for submissions?

Ms Foster: That that was imminent, yes.

Senator MARIELLE SMITH: When do submissions close?

Ms Foster: The advice had said that submissions would close on 8 April. Given the likely timing of an election, we are right now looking at whether there is a more reasonable closing date. We expect to have more advice on that very shortly.

Senator MARIELLE SMITH: When do you expect to make that decision?

Ms Foster: I would hope today or tomorrow.

Senator MARIELLE SMITH: I'm sure you can appreciate that, from the perspective of staff, it's a two-week consultation period in the middle of estimates and on the eve of an election—

Ms Foster: That was not our intention, and we are trying to remedy that now.

Senator MARIELLE SMITH: On the leadership task force, what staffing or resourcing is the department providing to Ms Kerri Hartland, who is chairing that task force?

Ms Foster: We have established an independent secretariat for Ms Hartland. Whilst, from a technical perspective, PM&C hires the staff, they are immediately seconded to Ms Hartland, so there is no operational engagement with the staff; they work for Ms Hartland, in essence. There are currently three staff.

Ms Moran: There is an SES band 1, an EL2 and an APS5 in the secretariat.

Senator MARIELLE SMITH: Which area of the department are these staff being seconded from?

Ms Foster: They have been hired into those roles—I'm just thinking this through—so none were existing PM&C staff. In essence, we called for expressions of interest to support Ms Hartland and then we brought those people onto our books for the purpose of seconding them to Ms Hartland.

Senator MARIELLE SMITH: What area of the department is managing that?

Ms Foster: It's the Jenkins Response Implementation Team, which is being run by Ms Moran, and that's within my group.

Senator MARIELLE SMITH: Ms Jenkins recommended that that review consider employment security for MOP(S) Act staff. Is that review looking at that specifically?

Ms Moran: The terms of reference are on the website. The review is going to consider:

- The recruitment of MOP(S) Act staff, including the transparency of arrangements, the use of merit-based recruitment, and pre-engagement checks.

- Procedural fairness for the terms, conditions and termination of employees and employers under the MOP(S) Act.
- The responsibilities, expectation, and accountability of MOP(S) Act staff.
- Appropriate public reporting and accountability of the administration of the MOP(S) Act.

Senator MARIELLE SMITH: Why isn't employment security listed in those terms of reference?

Ms Foster: I think it's implicit in the terms that go to termination.

Senator MARIELLE SMITH: The Jenkins review was quite explicit that employment security should be a key part of that review, so I would have thought that it would be appropriate to have it explicitly referenced in the terms of reference.

Senator Birmingham: I think, as Ms Foster said, it may not use the exact same words, but the intent is certainly that there is well and truly scope for submissions and consideration of employment security in the consideration of the review, under those terms of reference, which include termination factors, which obviously go very specifically to employment security matters.

Senator MARIELLE SMITH: Sure. It's just that procedural fairness isn't employment security. So was a decision taken to not use in those terms of reference the specific words Commissioner Jenkins used? Why was it put like that?

Senator Birmingham: I don't recall there being any decision taken to not use particular words. It was certainly the belief that the terms of reference picked up the content of Commissioner Jenkins's work and the scope for this review to look at what she suggested it should look at.

Senator MARIELLE SMITH: In terms of the additional funding and resourcing for the Jenkins review, budget paper No. 2 shows that the department received \$2.6 million to design and establish the office of parliamentary standards and culture and understate the preparatory work required for the independent parliamentary standards commission. Why was that money allocated to an executive agency which reports directly to the Prime Minister given its establishing an independent and non-partisan commission responsible to the parliament?

Ms Foster: Because Commissioner Jenkins recommendation was that the government establish those two bodies. So PM&C, on the government's behalf, is doing the work to bring forward proposals for how those two bodies would function. We won't be controlling them or running them; we are simply doing the work on their establishment because they are recommendations attributed to the government.

Senator MARIELLE SMITH: What's the breakdown of that \$2.6 million in terms of staffing and resourcing?

Ms Moran: There is \$2.1 million for the establishment and design of the OPSC, which includes five ASL, and \$500,000 for preparatory work for the development of the IPSC, which includes 2.5 ASL.

Senator MARIELLE SMITH: What levels are those staff?

Ms Moran: I don't have that with me, but I can take that on notice.

Ms Foster: Typically, when we do ASL proposals, we use an average figure because, as we scope the project, we'll have to determine exactly what levels we need within the teams or for the initial set-up of the organisation.

Senator MARIELLE SMITH: How is this to be done at arm's length from the government if it is being done by an executive agency of government?

Ms Foster: I think there are two discrete elements. The recommendations of Commissioner Jenkins were that the entities operate independently of executive government. But somebody has to actually establish them in order for them to be able to operate independently. For example, the work to develop the legislation needs to be done by an entity that exists, and these entities don't exist yet.

Senator MARIELLE SMITH: And that couldn't be done by an independent body that reports to the parliament?

Ms Foster: There is no such entity that could do that work.

Senator MARIELLE SMITH: Where will the implementation task force for the workforce be situated—in the department or in the parliament?

Ms Foster: There are a lot of different groups and some of the terminology is very similar, so just bear with me for a moment. There is the leadership task force, which Ms Hartland chairs, which has eight parliamentarians represented on it. That is supported by an implementation group, which is a creature of the parliament and has representatives from parliamentary departments. And within PM&C we have an implementation team to do the

work on the recommendations that were assigned to government, like doing the legislative and policy development work to establish the new entities.

Senator MARIELLE SMITH: And that group sits within PM&C.

Ms Foster: Yes. That's within my group and it's headed by Ms Moran.

Senator MARIELLE SMITH: Who made the decision that it would be PM&C who would design and establish the OPSC?

Ms Foster: As I said, it was actually part of Commissioner Jenkins's recommendation that the government do it, and the Prime Minister made the decision that it would be his department that would do that.

Senator Birmingham: The leadership task group, which comprises members including me and Senator Gallagher, will be briefed, throughout the process of developing the OPSC, on the nature of its structure. It is the government's intention that that leadership task force—which, again, was a recommendation of Commissioner Jenkins—play an active role. As Ms Foster has said, it has to be some agency of government that actually does the budget submissions to fund it and designs the legislation for it. All of those things have to happen before the independent body actually exists. But, for the design of that independent body, consistent with Commissioner Jenkins's recommendation, it's important to use that multiparty task group as a vehicle to be receiving and ensuring we're acting consistently with Commissioner Jenkins's intent.

Ms Foster: In fact, the first briefing to that leadership task force on the OPSC took place last week.

Senator MARIELLE SMITH: I appreciate that. I just suppose that, when you're looking at creating a body which by definition needs to be at arm's length and independent to serve its purpose, and it's being established by an agency responsible to the Prime Minister and the government as opposed to the parliament, that's where these concerns lie. Making sure that we can ensure that that independence is maintained in the design and establishment of the body is what we're concerned about.

Senator Birmingham: It's before my time as a minister—obviously, because it was a different government—but the Parliamentary Budget Office would be an example of what is now an independent agency of the parliament. But I am assuming the legislation that established the Parliamentary Budget Office was introduced and designed by the government of the day.

Ms Foster: And, of course, ultimately the legislation goes to the parliament.

Senator MARIELLE SMITH: Thanks. That's all I've got on these ones.

CHAIR: We will go to Senator Ayres. I know Senator Patrick has some questions, but he might be collecting a cup of tea. So we might break you up with something from him, Senator Ayres.

Senator AYRES: We had a bit of a discussion about the national cabinet and the extent to which the government really means that cabinet rules apply to national cabinet. All of the cabinet rules in the *Cabinet Handbook* apply to the actual cabinet, don't they? You're picking and choosing which ones apply to the national cabinet, but they all apply to the real cabinet, don't they, Minister?

Senator Birmingham: Yes.

Senator AYRES: The handbook says:

... the principles of collective responsibility and Cabinet solidarity ... are the binding devices ...

That's not an optional thing for cabinet ministers, is it?

Senator Birmingham: No.

Senator AYRES: Does it apply to Mr Gee?

Senator Birmingham: Yes.

Senator AYRES: Well, what's going on? On the weekend, Mr Gee called a press conference in Orange. The ABC says:

The clearly emotional Member for Calare called a press conference ...

At the press conference, he discussed, correctly, the 'massive backlog of 60,000 unprocessed claims' within the Department of Veterans' Affairs. He said, correctly, that it's a 'national disgrace'. He said to the press conference that he had spoken to the Deputy Prime Minister on Saturday morning. He said

I told him that the media was waiting outside the office, and as courtesy I was letting him know as my leader that I was going to resign from cabinet—

if he didn't get his way. Why hasn't he been required to resign? That's just an out-and-out breach of the principles, isn't it?

Senator Birmingham: The government made decisions in relation to policy support around veterans' affairs and claims processing through the budget processes last year, and we provided a very significant additional sum of funds and staffing resources for the Department of Veterans' Affairs. We've gone further this year, including in response to some analysis and information that Mr Gee provided quite late in the budget process but that we were able to respond to.

Senator AYRES: 'Provided quite late in the budget process'? He did a Saturday morning public ram raid on the process, didn't he? By his own account, he threatened to resign unless he got what he wanted, didn't he?

Senator Birmingham: I haven't looked closely at Mr Gee's comments, but I know that the matters were resolved.

Senator AYRES: Does the device of cabinet solidarity apply to Mr Gee?

Senator Birmingham: Yes.

Senator AYRES: It's not possible to reconcile these things. Does Mr Morrison hold a hose when it comes to cabinet solidarity?

Senator Birmingham: Mr Morrison leads a consultative cabinet in which we try to work through the many complex issues that we face across different portfolios.

Senator AYRES: Ministers can just free-range like this?

Senator Birmingham: As I said, Senator Ayres, the—

Senator AYRES: When did you get told about the additional commitment that was required to stop Mr Gee resigning?

Senator Birmingham: I had quite a number of discussions about some of the information that was provided through an independent report that the Department of Veterans' Affairs had received relatively late in the budget process.

Senator AYRES: Really? The department did it? You didn't get a phone call at about 11 o'clock on Saturday morning, did you?

Senator Birmingham: I had quite a number of discussions—

Senator AYRES: I bet you did!

Senator Birmingham: about the development of Veterans' Affairs resourcing over the last couple of weeks.

Senator AYRES: Is it just because the Prime Minister can't sack a National Party cabinet minister? Is that the problem?

Senator Birmingham: I think, Senator Ayres, you'll have to work out which part of the story you're trying to build there. You were talking to me a moment ago about a resignation.

Senator AYRES: I'm trying to understand—

Senator Birmingham: But now you're asking me about a sacking. All I'm telling you is that the matters were addressed. They're building on what had already been an even bigger investment in Veterans' Affairs provided in last year's budget to help them speed up claims processing.

Senator AYRES: How can it possibly be consistent with the principles of cabinet solidarity for Mr Gee to do what he did, publicly describe what he did and then still be there?

Senator Birmingham: I'll let Mr Gee speak for himself.

Senator AYRES: But this is a question for the Prime Minister. The Prime Minister's responsible for upholding the standards and the principles of cabinet solidarity and collective responsibility. So you're just going to wave this one through?

Senator Birmingham: The Prime Minister's responsible for selecting his ministry, and Mr Gee continues to make a valued contribution in his portfolio areas.

Senator AYRES: Mr Gee said:

That followed quite a bit of activity—

that accords with what you've just said; there was quite a bit of activity—

and the end result is that the \$96 million to help process and clear this backlog of 60,000 claims is now going to be forthcoming.

It's \$22 million, isn't it?

Senator Birmingham: No. There's a particular measure in the budget papers that relates to one part of the additional support for DVA, but there are additional areas of support that total that \$96 million.

Senator AYRES: So you did give in on the \$96 million—or you didn't give in? Was the ram raid successful or unsuccessful?

Senator Birmingham: There's additional support for DVA to the tune of \$96 million.

Senator GALLAGHER: That's in these tables here, is it? Is that where it's located?

Senator Birmingham: Some of it is published there in BP 2.

Senator GALLAGHER: Yes, \$22 million. Then where's the difference—the last-minute bit? Where's that?

Senator Birmingham: That's drawn from the contingency reserve.

Senator GALLAGHER: Why is it there? In the measures table on BP 2, the two final years of the forward estimates just have a dash in them, and there's only two years of funding for claims processing, which obviously isn't enough to get rid of the 60,000. So why did you do it that way when for most other measures the full amount is included in the forward estimates? Why is it being split?

Senator Birmingham: I think there are a few parts to your question there. In terms of whether it's ongoing or time limited, what we're talking about here is clearing a backlog, the point being that you need to escalate activity to clear the backlog but then you may not need the same degree of resourcing to be ongoing once you've cleared the backlog. In terms of the different elements of this, it relates to the timing of decisions taken in response to the information from Department of Veterans' Affairs.

Senator GALLAGHER: 'The timing!' Minister Birmingham, one of your supreme skills is the fact that you can use a lot of words to make things that are clearly happening not happening.

Senator Birmingham: You're being much nicer to me than Senator Patrick was before!

Senator GALLAGHER: Minister Gee said it was \$96 million to deal with the backlog in claims processing. Are you saying the backlog can be dealt with with \$22 million?

Senator Birmingham: I'd actually say it is much more than that. I can't remember the exact figure, but it was a couple of hundred million dollars or so that we provided last year to provide for additional ASL to DVA. I think you and I had quite an exchange last year talking about it because it was one of the standout areas where I had approved additional ASL to go into DVA.

Senator GALLAGHER: For labour hire, primarily. Yes. The ERC gave Minister Gee \$22 million and he wanted \$96 million. It got caught in a bit of a kerfuffle on the weekend, so the balance has been located in the contingency reserve.

Senator Birmingham: I wouldn't characterise it that way.

Senator GALLAGHER: Come on, you know that's the way it is.

Senator AYRES: Where else is it?

Senator GALLAGHER: He's cracked! That's exactly what happened. I can tell!

Senator AYRES: How come you cough up the truth for her but you couldn't do it for me?

Senator Birmingham: She's nicer than you, Senator Ayres. You get more with honey sometimes, you know!

Senator GALLAGHER: You cannot pretend. That's exactly what happened. On the weekend they went, 'Oops. Don't worry, it's in the contingency reserve.'

Senator Birmingham: As I said, there were a number of discussions to understand the elements of the proposal.

Senator GALLAGHER: I bet there were! That's a polite way of saying you add this big blow-up on the weekend.

Senator Birmingham: Some of those elements were able to be dealt with in time for the details to be in the budget papers; others have been provided in the consideration resumed.

Senator AYRES: Did any other ministers threatened to resign in order to secure funding commitments?

Senator GALLAGHER: That's so funny. It's been my highlight of the day. Thank you.

Senator Birmingham: I'm certainly not aware of anything, Senator Ayres.

Senator GALLAGHER: I feel for you!

Senator AYRES: When it all starts falling apart, it falls apart. In the Senate on Tuesday night, Senator Fierravanti-Wells said that the minister for immigration, Mr Hawke, had engaged in corrupt conduct. I don't know

anything about that allegation, but I do know that part 1.3 of the ministerial standards says that ministers must uphold the laws of Australia. Minister, you'd agree, wouldn't you, that an allegation of misconduct shouldn't be dismissed lightly?

Senator Birmingham: I would say that anybody who wants to make such an allegation with any degree of evidence to it should go to the police or other relevant authorities.

Senator AYRES: Has the Prime Minister or the department sought any additional information from Senator Fierravanti-Wells about what she said about Mr Hawke on Tuesday night?

Senator Birmingham: It's well-known that Senator Fierravanti-Wells was unsuccessful in her preselection on the weekend. She has had 17 years of valued contributions to this place. I understand her disappointment at losing her preselection. When people lose their preselection, they sometimes blame others. But I don't think that's a reason to lash out.

Senator AYRES: We'll come to the 'blaming others' in a moment. You're not seriously saying you're just dismissing this allegation because you're worried about Senator Fierravanti-Wells's sense of disappointment and motivations? The Prime Minister has made no inquiries as to the basis for these claims?

Senator Birmingham: I'm saying the same thing I would say in relation to any such slur or allegation. If somebody has information or evidence in relation to anybody, about any wrongdoing, they should take it to the police or the relevant law enforcement agencies.

Senator AYRES: She went on to say:

Recent media reports confirmed a deal agreed to by Hawke, Yaron Finkelstein from the PMO, Charles Perrottet, Dallas McNerney, Trent Zimmerman and Matt Kean.

Mr Finkelstein is an officer of the PMO. Does he do factional work during working hours?

Senator Birmingham: No, he provides advice to the Prime Minister in a range of ways. In relation to preselection matters, we had questions about High Court hearings before. I can only but note that—

Senator AYRES: He'd be in that up to his ears, wouldn't he?

Senator Birmingham: I can only but note that the case heard immediately before the Liberal Party case was a Labor Party case in relation to Victorian Labor Party preselections. These are often hotly contested matters within political parties.

Senator AYRES: Yes, but we didn't go and engage the Solicitor-General. Mr Finkelstein is on the public purse. He's in this up to his ears, isn't he?

Senator Birmingham: Senator Ayres, I don't know what discussions happen inside the New South Wales division.

Senator AYRES: You just said that he wasn't doing factional work during work hours. Which is it?

Senator Birmingham: The last meeting of the federal executive of the Liberal Party happened on a weekend. What discussions Mr Finkelstein or others have outside of working hours are broadly matters for themselves.

Senator AYRES: So they just figured it out on the day? Dallas McNerney is engaged in this discussion as well, according to Senator Fierravanti-Wells. It's the case, isn't it, that Mr McNerney will replace Senator Molan shortly after the election—that's the arrangement, isn't it?

Senator PATERSON: Point of order: while this is fascinating and no doubt fodder for gossip columns, I'm not sure how it relates to the federal budget handed down two days ago or the Senate estimates that we're considering here.

Senator AYRES: I want to know whether public money is being spent properly, and I want to know whether the resources—

CHAIR: Well focus your questions on that, Senator Ayres.

Senator AYRES: of the Prime Minister's office and the department are being used, just like it's absolutely apparent that the resources and the status of the Solicitor-General have been used, in an entirely improper way—

CHAIR: That's your assertion, Senator Ayres.

Senator AYRES: to try and get over the line in a High Court case.

CHAIR: I don't think we've established that from any of the minister's responses.

Senator AYRES: If we're going to have an argument across the table—alright. The ministerial standards provide that ministers must declare their interests, don't they? A failure to do that is a breach of the standards?

Senator Birmingham: Yes.

Senator AYRES: The Minister for Industry, Energy and Emissions Reduction, Mr Taylor, holds an interest in a private holding company called Maclaughlin River Holdings No1 Pty Ltd, which he declared to the House 76 days after it was registered, on 25 November 2021. We know it's a holding company because it's in the name. Mr Taylor is, however, yet to declare the subsidiary company, Maclaughlin River Land Trust No 1, which was registered on 29 November 2021 and is wholly owned by Maclaughlin River Holdings No1 Pty Ltd. This all sounds pretty familiar, doesn't it, in terms of Mr Taylor? Does the Prime Minister expect Mr Taylor to comply with the ministerial standards?

Senator Birmingham: Yes.

Senator AYRES: If so, why hasn't he taken any action on this latest breach? It's in a long line, isn't it?

Senator Birmingham: I assume you are reading off of declarations to the House of Reps—is that correct?

Senator AYRES: I'm reading a set of notes here that says that this subsidiary company has not been declared.

Senator Birmingham: I make, as do other ministers, two sets of disclosures. I make one as a senator, the same set of disclosures as you and every other senator around this table. I make a second set of disclosures as a member of the ministry through to the Prime Minister's office. It's unclear to me which set of disclosures you're referencing, but I'm assuming it is disclosures relevant to Mr Taylor's role as a member of the House of Representatives, which is a matter for the relevant committee of the House of Representatives in that regard. If you want me to take some questions on notice about Mr Taylor's disclosures to the Prime Minister as a minister, I'm happy to do that.

Senator AYRES: So you can't tell me whether only one of these operations has been disclosed to the House? You can't tell me whether both of these have been disclosed consistent with the ministerial standards? Mr Reid, can you tell me?

Ms Foster: As you are aware, we receive from the Prime Minister's office declarations of private interests. We described before in Senate estimates the broad process that that follows, but, in terms of individual interests declared by any minister and any advice from us, that's all done within the context of the government's committee of cabinet, and we're not in a position to talk about individuals.

Senator AYRES: One company, Maclaughlin River Land No. 1 Pty Ltd, was not declared before the House. The other holding company has been declared. You're not in a position to tell me whether either of these have been declared. So there's a failure to declare in the House, but you're not able to tell me whether either have these have been declared at all?

Ms Foster: That's correct.

Senator Birmingham: I, however, had already offered to take on notice looking into that and providing information about declarations made, consistent with the ministerial standards. The Prime Minister's office is diligent in reminding and following up with ministers in terms of providing those declarations, so I would fully expect that Minister Taylor has made declarations. There's a second level that goes to your questioning, which is about subsidiary companies in such structures. As for compliance or the need to provide subsidiary information to the House of Representatives, I would leave that to the House of Representatives committee.

Senator AYRES: There are just echoes of Jam Land in this. I think Senator Patrick has questions.

CHAIR: You are reading my mind. Senator Patrick, I will give you the call.

Senator PATRICK: This is a supplementary in relation to Senator Ayres's questions because I depart from his view in this instance. On the notion of cabinet solidarity—I'm just reading from the handbook—cabinet ministers cannot disassociate themselves from or repudiate the decisions of their cabinet colleagues unless they resign from the cabinet. In fact, didn't Mr Gee operate consistently with that principle in that he was disagreeing with the cabinet and offered a resignation? The cabinet might have adjusted its position, but there is no breach of cabinet solidarity, because he offered his resignation.

Senator Birmingham: You make a fair argument. I will let you and Senator Ayres both write competing opposition-eds on the matter if you each choose to. I can't say I've spent a lot of time dwelling on it.

Senator PATRICK: I just thought I'd make the point. I think Mr Gee has actually done the right thing by offering his resignation in circumstances where he might differ from the cabinet. It is just a thought.

I want to go to a letter that I wrote to the Prime Minister about a COVID royal commission. This is a letter I wrote on the 19th of the first month of this year. Ten weeks have passed, and I haven't received any correspondence in reply to that, so I'm wondering if the Department is aware of that correspondence? I'm happy to table it if that would help.

Ms Foster: I certainly don't have it with me, so if you wanted to discuss it, it would be great to table it.

Senator PATRICK: Thank you. It basically calls on the government or asks the Prime Minister to look at a COVID royal commission. I was going to ask whether or not the department has been involved in preparing a response in relation to that or whether any draft letter might have been sent to the Prime Minister in order to respond to it.

Ms Foster: To my knowledge, there has been no draft response to that letter. Obviously, the officers listening to me can hear that, and, if that's incorrect, someone will come and correct the record.

Senator PATRICK: Has the Department of the Prime Minister and Cabinet given any consideration from a whole-of-government perspective to what would be involved to establish a royal commission inquiry into Australia's COVID-19 response?

Senator Birmingham: I'll let Ms Foster address the question in relation to scenario planning or otherwise that the department might have engaged in as different issues were tossed around. The government's view at this stage hasn't changed from what I've expressed to you in the chamber previously and what the Prime Minister has said previously, and that is that we are still managing aspects of COVID-19. There will no doubt be, I suspect, many analyses of the responses of different governments here and around the world over the years to come, be they academic analyses or reviews or otherwise, but it's not the government's intention at this stage to establish a royal commission.

Senator PATRICK: Sure. But, of course, PM&C can look at options in case the Prime Minister may wish to ask the question.

Senator Birmingham: Yes, and when senators like yourself or others are throwing around different ideas and options it sometimes sparks documents being prepared in question time briefs or other responses. But that doesn't necessarily give it any government standing.

Senator PATRICK: Sure. It's in that context that I ask the question.

Ms Foster: Before there was a somewhat public debate about the merits or not of a royal commission, the department, just as a matter of normal good practice and lessons learned, had been thinking about what we could or should do to learn from the processes that we have been through. Our focus was much more on how we could collaborate with our colleagues across the Commonwealth government and our colleagues across the states and territories.

Senator PATRICK: So it's fair to say you looked at it briefly but you perhaps took a different pathway as a preferred option?

Ms Foster: We haven't taken a pathway. What we've been doing is having an internal debate about what would be most effective, and I think it's fair to say that our focus has been on how we can best, in quite a practical sense, look at what we've done and how we could improve that.

Senator PATRICK: That's consistent with what Senator Birmingham said to me on 9 February. I'll just read what he said so that everyone is across the detail:

I have no doubt that there will be reviews when we are able to put the pandemic more squarely in the rear-view mirror and that those reviews will need to entail a cooperative approach between the Commonwealth, states and territories around how we best prepare ourselves for future uncertainty and future disasters.

In that context, what work has been done at a whole-of-government level to prepare for a review, or reviews, of Australia's COVID-19 response?

Ms Foster: We're still very much at the point of discussing what our options are and what might best serve us, because of course we're still in the process of dealing with the pandemic. Particularly for the operational areas—Health and others—but also for our own teams in PM&C, the primary focus is actually still on responding to the current situation.

Senator PATRICK: Has the government initiated any discussions with the states and territories to that end—what Senator Birmingham was talking about and, indeed, what you were talking about, involving the states?

Ms Foster: Not to my knowledge, but obviously we'll take that on notice and see if there have been discussions. As I said, our work at the moment has been largely internal thinking.

Senator PATRICK: Has the Prime Minister discussed this with any of the premiers or chief ministers?

Ms Foster: Again, not to my knowledge, but if that's incorrect then we'll get you a different answer.

Senator PATRICK: Thank you. Has there been any funding set aside in the budget, perhaps even in contingency funding, for a royal commission inquiry or any other federal reviews in relation to COVID-19?

Senator Birmingham: No, there hasn't. There's additional funding set aside in the budget for continued elements of COVID response, and there are provisions made in relation to contingency, particularly around the advance to the finance minister to respond to unforeseens that may occur with COVID, but, no, not on the specifics that you've raised.

Senator PATRICK: Thank you.

CHAIR: Senator Ayres.

Senator AYRES: I want to ask about Mr Morrison's personal photographer. I think he calls himself 'Official Photographer of the Australian Prime Minister Scott Morrison'. When did Mr Morrison start taking his photographer to meetings of the Federal Executive Council? I'm not on Instagram, I have to say—it's too useful for me—but here he is, on his Instagram, at the meeting of the Federal Executive Council. Whose idea was that? Have photographers ever gone to the meetings of the Federal Executive Council before?

Senator Birmingham: I suspect there have been photographs taken of prime ministers and governors-general meeting in different contexts, including of Executive Council, at different times. I doubt that photographers would stay for the duration of such meetings, but capturing the moment is not unusual.

Senator AYRES: So it's a posed thing, would you say? Surely he's not in there for the meeting. They're pretending to meet.

Senator Birmingham: Just like I am sure that, after the election, when the coalition party room and the caucus meet, hopefully in the same rooms they currently meet in, in each case we will each invite the cameras in; they will take some pictures of our newly elected colleagues and then they'll bugger off before we actually get down to business.

Senator AYRES: Is the title 'Official Photographer of the Australian Prime Minister Scott Morrison' a title bestowed by the department?

Ms Foster: Typically for private staff—personal staff of the Prime Minister—the titles would be determined within the office.

Senator AYRES: There's just no end to this bloke's vanity, but anyway.

CHAIR: On that note, thank you very much, Senator Ayres, for those insightful questions. The committee will suspend now and reconvene with the NRRA. Thank you, Minister.

Proceedings suspended from 15:58 to 16:17

National Recovery and Resilience Agency

CHAIR: The committee will now reconvene, and I welcome Senator the Hon. Bridget McKenzie, Minister for Emergency Management and National Recovery and Resilience; Mr Shane Stone, coordinator of the National Recovery and Resilience Agency; and other officers. Minister, do you wish to make an opening statement?

Senator McKenzie: I do not.

CHAIR: Mr Stone, do you wish to make an opening statement?

Mr Stone: Yes, I do. In the past I've handed it up, but this is not as long as previous statements so I'd like to make this one, if I may.

CHAIR: If you could hand it up once you are done, I suspect that would assist senators as well.

Mr Stone: Absolutely. Good afternoon, Senators. I want to open by offering my condolence to the families of people who have lost their lives in some of the most severe and extensive floods Australia has experienced. Only 24 hours ago the people of Lismore were being evacuated for a second time as floodwaters threatened their homes and businesses. These rain bomb events, as they've come to be known, have smashed much of eastern Australia from late February. In many cases, the floods hit fast, and in some areas water rose quicker and higher than anyone anticipated.

In the events that followed, the Australian government's response was the fastest in the Commonwealth history. Within 24 hours of Queensland and New South Wales activating the disaster recovery funding arrangements, the Australian government put in place the immediate disaster payments to adults and children. As of 27 March, over one million Australians have received emergency cash payments and income support. Over \$1.38 billion has been paid out. These payments take immediate pressure off families. Eighty-one local government areas in Queensland, in New South Wales, with a combined population of almost 10.5 million, have been activated for disaster recovery funding arrangements.

The assessments continue and will be ongoing, but to date, over 4,700 homes have been rendered uninhabitable, including over 3,000 which have been destroyed by severe damage. Over 1,600 businesses have

suffered a direct impact—this is of 29 March. The Insurance Council of Australia estimates insurance claims will total \$2.4 billion, with the largest percentage of claims for property damage. These people, our fellow Australians, are top of mind as the National Recovery and Resilience Agency works with the state and local governments and the communities over the many years it will take to recover. The agency has worked hand in glove with Emergency Management Australia throughout this disaster in terms of the Commonwealth's role and continues to do so. The Queensland and New South Wales governments have primary responsibility for the immediate response and, of course, remain front and centre with the recovery. Local government also remains critically important. The scale of this disaster will require a collective and sustained effort.

Shortly thereafter, I was on the road through Northern New South Wales visiting Tweed, Byron Bay, Ballina and Lismore. Before then I had been in Brisbane suburbs talking to members of the Australian Defence Force and residents as they cleaned up. Speaking about the floods in parliament on Tuesday, the Prime Minister said Lismore had experienced an inland tsunami earlier this month. Over 1,300 homes have been rendered uninhabitable, the town's infrastructure had been trashed, and the CBD is no more. Yesterday's flooding adds to the devastation, with many northern New South Wales communities again inundated. Words cannot do justice to the deep sorrow we feel for people who have already been through so much.

The National Recovery and Resilience Agency has worked behind the scenes from the day the disaster started to play out and we haven't stopped. As the floods unfolded, I spent most of my time in Canberra with my team keeping government informed of the immediate support needs as we worked with Emergency Management Australia—they are the first ones in from the Commonwealth—and with the Queensland Reconstruction Authority, Resilience New South Wales and other key stakeholders to understand the flood's impact. At that time, my job was not to be on the ground; that was the job of the first responders, and we are not first responders. I was where I needed to be and I chose to focus my time and energy getting support out the door. We achieved that in record time. Before floodwaters receded in Queensland and as the emergency continued to play out in New South Wales, we responded.

For the people who have lost loved ones whose homes were destroyed or damaged, who tried to salvage the irreplaceable memories and possessions from the mud and debris and then face an uncertain financial future, I feel very sorry for their loss. The fact remains this was the fastest federal response in history. The agency responsible for the joint Commonwealth-state disaster recovery funding arrangements, the GRFA, the relevant state governments drive this process, even though we work with them, to develop their submissions. They are the initiators. This is because responding to natural disasters, including the provision of relief and recovery assistance, is primarily the responsibility of state and territory governments. My team worked around the clock with Emergency Management Australia and our Queensland and New South Wales counterparts to understand the impacts and determine what type of relief and recovery support were needed. This includes areas eligible for the emergency payments for adults and children and to work with the states on their category C and D support packages. In addition, over \$2 billion has been committed under category C and D of the disaster recovery funding arrangements in addition to what is likely to be well over \$1 billion in assistance under categories A and B.

In New South Wales, the support includes \$300 million for clean-up activities; a \$285.2 million housing assistance package; a \$150 million industry support package; funding for Northern Rivers businesses; \$1 million grants for councils to meet immediate needs; recovery grants for small businesses, primary producer, and not-for-profits; and a \$142 million property assessment and demolition program, and funding for community recovery officers.

There is also a support package for larger businesses, who are the lifeblood of these towns. The sooner they are back in business, the sooner people can start working again and return to some sense of normalcy. This includes Australian-owned dairy cooperative Norco, whose Lismore operations were significantly damaged by the floods. There are similar supports in Queensland: \$1 million grants for councils to meet immediate needs; recovery grants to small businesses, primary producers and not-for-profits; and grants of up to \$20,000 for restoration of community and recreational assets. On top of the disaster recovery funding arrangements is a suite of additional programs, emergency and food relief, financial counselling, additional funding for mental health services and, in the Northern Rivers, a tailored resilient kids program for school-aged children.

Further support was announced on 19 March. The Australian government will draw down \$150 million from the recovery component of the Emergency Response Fund and give equal grants to Queensland and New South Wales. That is \$75 million each to spend where they, in agreement with the Commonwealth, determine it is most needed for recovery and post-disaster resilience initiatives. This will be followed by a further \$150 million in 2023 for projects specifically for Lismore, to be informed by a \$10.4 million regional study led by this agency in

partnership with the CSIRO and working closely with the New South Wales government. It is known as the New South Wales Northern Rivers resilience initiative. This is precisely the reason the Emergency Response Fund was established, to support recovery and resilience initiatives following significant or catastrophic disasters.

You would agree it doesn't get much worse than what we've experienced over the last month or so. Billions of dollars have been committed and there may be more, as impact assessments and further discussions with the Queensland and New South Wales governments help us to understand the longer term recovery needs. This is taxpayers' money and, as such, we have a responsibility to balance haste with rigour when we recommend where to direct support. Our advice is based on evidence, drawing data from a range of sources, including early residential damage assessments conducted by the respective state government agencies, geospatial images of the flood footprint estimating the square kilometres of flooding in each LGA, the proportion of the local population within the flood zones and the proportion of the population that have applied for the Australian government disaster recovery payment. Based on the information we have at the time, we estimated the local government areas of Lismore, Richmond, Burnley and Clarence Valley were catastrophically impacted, so the additional disaster payments for affected residents in these areas, known as the Australian government disaster recovery payment special supplement, were announced on March 9. A little under a week later, once more, further information had been provided and assessed. These additional payments were announced for people in the Ballina, Byron, Kyogle and Tweed councils, who were affected by the floods.

The agency's recovery support officers are also a key source of local information for us. Their efforts during the current disaster season underscore the merits of having regionally based staff who live and work in the communities they support. They provide regular updates on local conditions, which helps us roll out support as quickly as possible. They support the state authorities to undertake damage assessments. They are working from recovery hubs and attending community outreach events. They are part of local, regional and state recovery groups and, because they live in these communities, they will remain involved in recovery for however long it takes.

I have often said that the recovery takes time and depends on many variables. In the case of this most recent disaster, I think we can all agree recovery is going to take quite some time. Many obstacles will be overcome through great effort from all levels of government, industry and impacted communities. We will need a good amount of patience. For example, the reconstruction challenge is exacerbated by a pre-existing shortage of housing in many of the impacted areas and a pre-existing shortage of building materials and skilled tradespeople. I completely understand that people want to get back into their homes and on with our lives. It is going to take time, much like the Black Summer bushfires—circumstances beyond our control.

Since the 2019 North Queensland flood, 154 disasters have been declared in 402 unique local government areas, with a total population of around 20.8 million. The scale of what Australians deal with at times beggars belief. Behind these numbers is immeasurable heartache mixed with sheer determination to press on. Since my time in the Northern Territory I have been in flood affected communities from the start until well after the waters moved and I've seen too much despair and devastation.

Science tells that longer, hotter and drier summers and more extreme weather are here to stay. While we continue supporting people in the community to recover, we still have a big job ahead of us. Applications for the new \$50 million coastal and estuarine risk mitigation program announced in February 13 are now open. This is the third program funded from the resilience component of the ERF. The full \$150 million available from the resilience component of the Emergency Response Fund has now been earmarked for mitigation projects, as I have detailed previously. Also eminent is an announcement of the successful projects to be funded under the \$150 million Preparing Australian Communities—Local Stream Program.

I want to just correct some misreporting in particular relating to Lismore. They were never denied funding under the program in November. As I already stated, I went there; I met with the community; I met with the action groups, and we accepted all their applications. The agency supported them to secure certain funding. There is no shortage of projects centred on disaster recovery and preparedness which can be funded. They are competitive grant programs.

Finally, in the same way that we work with those who've been successful, we will reach out to those who've not succeeded and encourage their ongoing interests where they may be able to access other programs. We need collective action across the board at all three levels of government. It means not just building back but building back better. There is no use restoring infrastructure like for like. When it comes to reconstruction, betterment should be the rule and not the exception. Thank you for your indulgence, senators.

CHAIR: Thank you, Mr Stone.

Senator WATT: Thanks, Mr Stone. It would be great if we can get copies of that statement.

CHAIR: I believe the secretariat is doing that as we speak.

Senator WATT: Just before I start, can I just clarify that you're able to stay after the dinner break?

Mr Stone: Yes, I'm here at your pleasure.

Senator WATT: I thought there was some suggestion you weren't able to come back after the dinner break, but that's okay.

Mr Stone: I have a procedure tomorrow.

Senator WATT: You're able to stay?

Mr Stone: Yes, I'm staying.

Senator WATT: Thank you. Can I join with you in expressing my condolences, as I have previously, to all of those who've lost their lives in recent weeks—even as recently as this week, I think, two more—through the floods. It's a tragedy to see that keep on happening, not to mention the thousands of people who've lost their homes and businesses. I absolutely join you in acknowledging the loss that so many people have suffered.

Obviously, we've got a range of questions about particular aspects of the response and recovery to these floods. However, can I just begin with what's happening right now in places like Lismore. It concerned me to see reports over the last couple of days that, so soon after the previous floods, not only are there more floods but there were reports that emergency sirens weren't working and that evacuation orders were being issued then retracted then issued again, which I think contributed to an atmosphere of chaos amongst what, I'm sure you would accept, is a deeply traumatised community. I recognise that the NRAA is not responsible for those evacuation orders or emergency sirens, but what do you know about the level of readiness for the second floods and the immediate response with those sorts of problems occurring?

Mr Stone: I think we'd agree: we're not a first responder, but we're very interested in what happens. I meet with various first responders in my role and I think what needs to be remembered is that the SES, for example, are volunteers. They're just good solid citizens who roll up and they do their best—all of it funded at state level in the same way as the fire, the ambulance, the police and the ADF when they're on the site.

If the question is: can we collectively do better? Yes, we can, but it's going to require a very collegiate, cooperative effort between everybody at state and federal level—and local government's got a role to play in this too—to make sure that things go to plan. You're right: I can only imagine the fear that would have been generated last night. I think they were told to evacuate at 10 o'clock, then told they could go back—and I'm relying on media reports—and then they were out again. This really messes with people.

I don't want to be critical of those first responders. I think that they are good citizens who do their best, and it's a similar story all around Australia. I don't think the Commonwealth should be stepping up to be the first responder. This is clearly a state responsibility, and we need to work closely with them to help them get it right.

Senator WATT: Absolutely. I'm not in any way being critical of the first responders. I visited many of them when I was in Lismore to thank them for what they've done, and I congratulated the Army troops who were there on what they were doing and things like that as well. Looking back on the last few weeks—and I suppose especially after the last couple of years, where we have been through serious natural disasters over and over again—we had a situation around Lismore where, several days after South-East Queensland flooded, as you know, it happened in Lismore. We saw with our own eyes people having to use their own speed boats and tinnies to go and rescue each other. When I was down there, people were having to privately crowdfund helicopters for rescues and food drops. People did feel abandoned in terms of the immediate clean-up. Now we have more floods a month later and we've got emergency sirens not operating and evacuation orders being issued and retracted. I suppose my question is: how does this keep happening, that we seem to have this chaotic response?

Mr Stone: I don't want to be critical of them because I know they do their best.

Senator WATT: I am not in any way being critical of the people in their overalls who get out there and do the good work.

Mr Stone: I meet a lot of them. You're right to reflect on this. Before Christmas, I was between Moree and Goondiwindi. I had been there three or four months before. Just when I thought, 'Christmas is here,' I was back out on the road between the Queensland border and up into Maryborough and I thought, 'When does it end?' Then we did get a bit of a break and then, all of a sudden, all this started to happen. So I had two branches that worked continuously for nine weeks. That included the weekends. Everyone felt the massive pressure to keep it going and to work with their state counterparts. Everyone was doing their best.

Senator MOLAN: Can I make a point of order on this?

CHAIR: You can make a point of order, Senator Molan, but I may not accept it.

Senator MOLAN: We have the National Recovery and Resilience Agency being asked to give an opinion on the SES and the way that things function. If we wanted that opinion, would it not be best to go to those agencies and ask them for that? The coordinator-general has tried a number of times to say, 'I'm not going to comment on it.' I just make that point.

Senator WATT: My question was broader than that. I haven't asked, 'Do you think the SES did a good job?' or, 'Do you think this person did?' That's not my question. My question is: as the head of the national agency for disaster recovery and resilience, how do we find ourselves in a situation as a country where we keep responding to disasters as if they haven't happened before and we're scrambling? I have wondered about the level of resourcing. As I say, I think the people who were on the ground doing the work could not have done anything more than they did, but it absolutely felt that they needed a lot more of them.

Mr Stone: I guess the other thing is that we have a coordination role. I will just ask Mr Padovan to walk through that, because he often represents me. There are endless meetings of officials across emergency services and the like from states and territories and the Commonwealth where we do try to pull the threads together. Perhaps he could give a couple of examples. In fact, we're coming up to an emergency ministers council meeting in April.

Mr Padovan: One of the key things to note that is different moving forward—and we have seen ample evidence of this since 1 July—is that having an enduring agency now in place to deal with recovery and resilience has been a game changer in terms of the speed with which we can respond and the lessons we can bring to bear. We have a document here that we're proposing to table that gives an example of the rate at which we responded as the events unfolded. Requests coming in from the states were being processed the same day and turned around with the Prime Minister and announced within 24 hours, and disaster recovery payments were announced, implemented and available within 24 or 48 hours.

On the coordinator-general's earlier comment about the speed with which we respond, I think things are actually in many ways getting better. It doesn't help those in Lismore right now. I take the point about flood warning infrastructure having been damaged in the last flood and not working. But there is also—as I am sure we will touch on in this session—substantial money being provided to the states and territories that allows them to upgrade that infrastructure and allows them to better position themselves for the next disaster.

So I think, whichever way you look at it, on a number of fronts we've actually come a long way. Even as the current event is unfolding in Lismore—and this is more a question for the director-general of EMA—the pre-positioning of Defence assets and the pre-positioning of emergency assets is very much about ensuring that we're on the front foot. As the event is unfolding, there is only so much you can do, and we're not going to put staff in harm's way or put others in harm's way.

CHAIR: Sorry to interrupt, but it's my understanding that Minister McKenzie is currently required at Legal and Constitutional Affairs, because they have moved on to the relevant section of the program more quickly than we would have anticipated.

Senator WATT: I thought we'd arranged for that not to happen so that we could both be here, but—

Senator McKenzie: Well, we could go and do that together, and come back.

CHAIR: We will suspend while we get another minister to sit at the table in here.

Proceedings suspended from 16:40 to 16:50

CHAIR: We welcome Senator the Hon. Amanda Stoker, representing Minister McKenzie here at the table. Senator Molan, you have a few questions?

Senator MOLAN: Thanks, Chair. About 20 minutes, I think, if that's okay with others. Coordinator-General, thank you very much for your very thorough opening statement. What I would like to do is to pull some of the parts of the opening statement out, just to expand on them a little bit. As Senator Watt did before, I would certainly like to second the sentiments that you expressed in relation to what has occurred and those who are on the ground doing it—the bureaucracy and your people who are coordinating. On absolutely everything that has been doing, our thoughts are certainly with those good people.

Coordinator-General, I haven't had time to look back into your opening statement, but you spoke at one stage about 154 disasters. What were those figures again, please?

Mr Stone: I will give them to you precisely. Yes, what Australia has been contending with is mind-boggling. Since the 2019 North Queensland flood—and I reference that because that's when I became involved: the

monsoonal event in January and February—154 disasters have been declared in 402 unique local government areas, with a total population of 20.8 million Australians. It's not just floods; we have dealt with cyclones and fires. In fact, it would be easier to say what we don't have responsibility for. I'm not in charge of mice or grasshoppers. I am in charge of locusts, because they swarm and go across state borders. I know, Senator O'Sullivan. You said you couldn't make this up, could you? But we have everything else. It is quite extensive, and it includes the COVID disaster payments. Over a period of six months, we paid out \$13 billion.

Senator MOLAN: Six months?

Mr Stone: Six months, and \$13 billion was the figure. We had Cyclone Seroja in Western Australia. The cyclone came down a lot further than in previous years, although there had been a cyclone in Albany many decades before.

Senator O'SULLIVAN: Albany.

Mr Stone: Albany—sorry for mispronouncing that. My apologies.

Senator O'SULLIVAN: It was just before I was born.

Mr Stone: It has just been unrelenting. I have something which I can table and which gives you an idea. I think this would probably be a timely one. I will table this. It's a map of Australia, and it has all these disasters on it.

CHAIR: Thank you.

Mr Stone: It gives you a good idea of what we have dealt with.

Senator MOLAN: So 154 disasters were declared in 402 local government areas. Have you been able to compare that with a period prior to that—for example, 2010 to 2019 or something like that? How common is that? How normal is that?

Mr Stone: I understand what you're asking. I would suggest that, whilst the data is available—in the National Recovery and Resilience Agency, we have a whole branch devoted to data—the Commonwealth has never had that capacity before. The people in that branch draw down on historical information, so we get a bit of a gist of what has been happening. It's no accident that the great poem 'My Country' mentions a land of flooding plains. There's a reason for it. That is Australia. It's how governments have responded in the past, it would be true to say. I talk to old-timers who got smashed by the floods in Charters Towers in 1974. They say to me: 'Well, no one came. No-one offered any help; you just got on with it.' I think there had been a fair bit of that.

Senator MOLAN: But is it your opinion, as the coordinator-general, that we have come a long way?

Mr Stone: Huge. In fact, we've probably lifted the bar so high that there is now an expectation that state and federal governments will just step up and pick up the pieces.

Senator MOLAN: Are you seeing that expectation?

Mr Stone: Yes. You encounter it in your discussions, when you talk to people. I thought some of the commentary around the ADF and whether they were there or not, when in fact they were there right from the very beginning—

Senator MOLAN: That's an interesting point that you raise. Would one of the issues be that it was remarked on that some people have to use their own boats to rescue themselves?

Mr Stone: Which they would have done in the past.

Senator MOLAN: Which they would have done in the past!

Mr Stone: I take my hat off to those citizens that scrambled and did the right thing. We saw this with the floods in North Queensland. We had chopper pilots coming out of Mount Isa. These were towns that were not directly impacted, but they just rolled their sleeves up and out they went to help people who were sometimes 200 or 300 kilometres away. But that's what they did, and they said, 'That's the Australian way.'

Senator MOLAN: That's good, isn't it. That's the Australian way.

Mr Stone: And what you saw in Lismore was a good exemplar of the Australian way.

Senator MOLAN: And that's tremendous. Could I get down to some of the detail. Do we need to wait for the states? A couple of times you said that this has been the fastest federal response—record timing—and that the primacy of action lies with the states; I think that's the statement.

Mr Stone: That's it, yes.

Senator MOLAN: But we can provide that. Do we have to wait around for the states to ask us?

Mr Stone: Under the current arrangements, under the DRFA, the states need to make the request.

Senator MOLAN: Sorry, they need to or they—

Mr Stone: Under the arrangements that exist, they need to trigger it. Some states are quick; others are not so fast. With Cyclone Seroja, I think we waited for some weeks—didn't we?—to get a response from Western Australia. Yes, there were several phases. If states are not familiar with what's required of them they struggle, and if it's a small jurisdiction—for example, in the Northern Territory, the police commissioner is also the chief fireman and the chief emergency services person—it comes down to capacity. We think there's a need in our agency to assist smaller jurisdictions to develop the capacity to know how to trigger the applications and write the letters.

Senator MOLAN: I think the value of this is that we do have an opportunity to look at different types of support. Can you explain that process and the different types of support that the Commonwealth can provide. I think you referred to them as ABC before.

Mr Stone: I'm going to invite, if I may, Alison Sommerville, who heads up this entire section and worked right through all those floods. Alison lives and breathes this area of activity and will explain, in layman's terms, what happens, from the beginning to the states making their applications.

Senator MOLAN: Coordinator-General, could your staff member keep it fairly succinct, please.

Mr Stone: Yes, she will.

Ms Sommerville: Absolutely. Under the disaster recovery funding arrangements, there are four categories of assistance. Categories A and B can be activated automatically by the states. Category A is assistance for individuals. Typically, it's emergency assistance like small payments to buy essential items, like toothpaste, food, blankets—

Mr Stone: This is the \$1,000.

Ms Sommerville: and emergency accommodation to get people on their feet if they've been displaced.

Category B assistance is to do with counterdisaster operations. That would be things like sandbagging or, for bushfires, it might be aerial firefighting and things like that. There are rules around when the funding arrangements kick in versus what comes out of the states' budgets. Also under category B there is reconstruction of essential public assets. That's repairing roads and other infrastructure—bridges, culverts, any state buildings that are destroyed or damaged in those events.

Then we have categories C and D assistance, which are the extraordinary assistance categories. The states request assistance under those categories via a letter to the Prime Minister. Category C is about supporting communities. We have community recovery funds available under category C. The states will look at what the recovery needs are on the ground and tailor a community recovery fund accordingly. Typically those category C measures involve grants for primary producers and small businesses to help them get back on their feet as well. And category D is any other extraordinary assistance that's required that is not covered under the other three categories. Typically, in category D, states use it for things like betterment. Where maybe a timber bridge was burnt in a bushfire, they would replace it with something that meets modern engineering standards.

Senator MOLAN: The coordinator-general spoke before about the huge improvement and how we've lifted the bar. We can always get better. Weren't we talking about streamlining this process at one stage?

Ms Sommerville: Yes, that's correct, and we have streamlined. We have introduced a new, streamlined process for activating categories C and D. That's the extraordinary assistance requests. We've trialled that new process throughout this disaster season, the 2021-22 disaster season, and we also trialled it throughout 2021. We've had some really good results from that. The states previously had to meet certain indicators to apply for those categories of recovery assistance, but the problem with that was that it can take some time to get damage assessments done and to get in and actually see the full impacts of a disaster. Through the new system, the states prepare a business case based on what they know at the time. They work very closely with us. My officers typically will go and sit in the states and work with the state counterparts to develop those recovery packages. Then, when the package comes to the Commonwealth, when the request comes to the Prime Minister, we're already fully across it and we're in a really good position to provide quick advice.

Senator MOLAN: That's good. We often express our view that change has been huge and we've lifted the bar. Are you able to go through the time lines, choosing, say, Lismore—the second flood or the first flood, whichever you would like to choose? When were the requests for the Commonwealth received and when was the support provided? Perhaps, if this is complex, it could be provided at a later stage.

Ms Sommerville: We have actually tabled—

Mr Stone: Not yet we haven't.

Ms Sommerville: Sorry; I've jumped the gun.

Mr Stone: That's okay. I was going to save it for when Senator Watt is back, but we can table it now.

Senator MOLAN: Thank you.

Mr Stone: It sets out the chronology from 23 February right through to 19 March. We'll distribute these.

Ms Sommerville: Just as a highlight, what that summary shows is that we had instances where the Prime Minister received a request from the states, and we turned it around on the same day.

Senator MOLAN: Have you done a similar study for the Queensland floods as well?

Mr Stone: No. We've concentrated on Lismore, because of the catastrophic nature of what happened there—although, when we got to the end of Moree to Goondiwindi and then the next lot up to Maryborough, I did ask Ms Sommerville to prepare me a chronology, to tell me how quickly we moved. And, again, it was impressive. In relation to the floods in Queensland before Christmas and after Christmas, I could undertake to—

Senator MOLAN: That's tremendous. If you could do that, that would be very, very helpful.

Mr Stone: That's a measure of the success of this. I think when you've got a situation where, particularly around Lismore, the Prime Minister reacted the same day, which speaks volumes in terms of how efficient the whole system has become.

Senator MOLAN: Chair, could I use my last five minutes to move onto the Emergency Response Fund?

CHAIR: Of course, Senator Molan.

Senator MOLAN: The Emergency Response Fund has attracted a number of comments—some of them political, some of them looking for better ways of doing it. Coordinator-General, or whoever you think is most appropriate, could you give us a very quick background to the Emergency Response Fund? I think it was legislated and it was agreed legislation.

Mr Stone: Yes, but the legislation was not complete, I don't believe. So what Minister McKenzie has flagged is to revisit the legislation and to shift the fund to use it perhaps in a different way. The ERF is a future fund for extreme recovery situations but, having said that, it sits in the Future Fund. The guardians of the Future Fund actually have that money in their fund in the same way that the Future Drought Fund money is in the Future Fund.

I guess my frustration was that people thought I had this bucket of money under my desk and I didn't. At best I was able to recommend to my minister that we would spend \$50 million a year, and we did the first \$50 million and that was on flood mitigation programs.

Senator MOLAN: But that was in the legislation, as I understand it?

Mr Stone: Yes it was. The second \$50 million was more flood mitigation, then the third lot, which I referred to in my opening statement, was another \$50 million in relation to coastal erosion and riverine projects. Now what's been announced in the budget is in the context of additional moneys that would be freed up to be used. It was to be fifty-fifty for New South Wales and Queensland—\$75 million each.

Senator MOLAN: Is that from the ERF?

Mr Stone: Yes.

Senator MOLAN: And that's an initiative from the budget that was announced on Tuesday night, isn't it?

Mr Stone: Yes, it is.

Senator MOLAN: We didn't have this back in 2007, did we?

Mr Stone: No, you didn't have—

Senator MOLAN: What year did it come through? What year was the legislation passed?

Mr Stone: It was 2019.

Senator MOLAN: My understanding was—and maybe when Senator Watt comes later he might be able to clarify this—that the Labor Party supported that legislation. If that is not in your understanding, then that's fine. I'll leave that as it is.

Mr Stone: I think it is best to hear from them.

Senator MOLAN: That's good, thanks. To your knowledge you've made two recommendations of \$50 million each, or is it more?

Mr Stone: What happens with the grants is—and let's take the first \$50 million; and, again, this adds to my frustration—the money's paid to the states or territories based on particular projects that they want to progress. When I was in Darwin last weekend I raised one particular project, which is around the Katherine flood levy.

Katherine means something to me because, as Chief Minister, I oversaw the 1999 floods and tried to deal with a town that basically sank under the Katherine River. I was very, very supportive of the Territory government's approach to whether they could complete and improve the levy. \$9.3 million was allocated, and the co-contribution from the Territory was to be \$600,000. The money's been paid to the Northern Territory treasury, but nothing's happened.

Senator MOLAN: That's interesting. Why?

Mr Stone: I guess state governments are under their own financial pressures. I make no complaint about the approach of Minister Manison, who I think is trying to find a way through.

Senator MOLAN: I guess we shouldn't get too much into that.

Mr Stone: What keeps me awake at night is the thought that we might end up with a flood somewhere or a fire somewhere, and yet I know that we had ticked all the boxes and done all the right things, but the project just didn't happen.

Senator MOLAN: That's fine. Part of the legislation, as I understand it, is that, if the money is not available from other sources, then the ERF would provide that money. Could you confirm that, please?

Mr Stone: Let us find out. But that's something new to me. I thought if it's a co-contribution, it's a contribution.

Senator MOLAN: Certainly, but, it being a Future Fund, you don't touch that unless the money is not available from other sources.

Mr Padovan: Just to clarify, Senator, when the fund was set up, it was set up with a view to accumulating overtime, with a view to getting to \$6.6 billion over the course of a decade, and to be drawn upon where the DRFA and other mechanisms were not sufficient. Perhaps when we touch on the floods—working from the Coordinator-General's opening statement—there's already been around a \$2 billion contribution under the DRFA, but this is the biggest disaster that we've had to deal with. On that basis, we've certainly recommended to the minister, and the decision of government has been now to draw down that fund for those two further rounds of 150 that are associated with the recovery and resilience building components.

Senator MOLAN: Where does the \$150 million component of this fund work?

Mr Padovan: There's \$200 million available annually. There's \$50 million for resilience projects, which the coordinator-general mentioned. So that's the two rounds of the National Flood Mitigation Infrastructure Program, plus the coastal and estuarine program. So those three, totalling \$150 million, are all in flight. The \$150 million per year was the money that was available for recovery and resilience building projects. In the case of this most recent flood event, as we said earlier, \$75 million each to Queensland and New South Wales to implement projects in their states, and then there is a further \$150 million that will specifically target the northern rivers region of New South Wales to assist with infrastructure programs there.

Senator MOLAN: Okay, that's good. It seems to me that it is very important to try and preserve that fund, just to generate the money that can regularly be taken out of it. Is that the basis of the fund?

Mr Stone: That was my understanding of where it all started. I guess these are exceptional times. I can't stress enough to senators that these flood events—I call them events, because it's across two states—is actually bigger than the bushfires.

Senator MOLAN: That's good, thanks. Thank you very much for your answers.

CHAIR: Thank you very much, Senator Molan. Very quickly, Senator Ayres.

Senator AYRES: Listening to your responses to those questions, I want to ask you about two of them. Senator Molan said, 'Is it of your opinion, as the Coordinator-General, that we've come a long way?' I thought I heard your response right, so I asked my staff to check. You said: 'Huge. In fact, we've probably lifted the bar so high that there is now an expectation that state and federal government will just step up and pick up the pieces.'

Mr Stone: That is correct. We encounter it on the ground all the time.

Senator AYRES: Is that really the attitude—

Mr Stone: It's not an attitude.

Senator AYRES: from the Coordinator-General, that we've lifted the bar so high in terms of our response that people have unrealistic expectations of what government should do?

Mr Stone: Well, no; you're embellishing my answer now, with great respect, Senator.

Senator AYRES: What you said was—

Senator Stoker: Respectfully, the witness needs an opportunity to answer.

Senator AYRES: You said, 'In fact, we've probably lifted the bar so high that there is now an expectation that state and federal government will just step up and pick up the pieces.'

Senator Stoker: On a point of order, can I just ask that the witness be allowed to answer in full before he is spoken over and verballed again?

CHAIR: Yes.

Mr Stone: My response is centred around what people's expectations are. I made the comparison with what happened, for example, with the floods in Charters Towers in 1974, and I've spoken to people who were in the middle of those floods and they made the point to me: 'We had no expectations. We just assumed that this was all the challenge of funding and you got on with your lives.' What we continuously find now is that people have an expectation that the taxpayer will step up. That's not a criticism, it's a fact. That's where we are in Australia at the present time.

CHAIR: The President of Ukraine, Mr Volodymyr Zelenskyy, will address the House of Representatives at 5.30 pm. This hearing is now suspended to allow senators to attend that address. The hearing will recommence at 8 pm in continuation with the NRRA.

Proceedings suspended from 17:15 to 20:11

CHAIR: The Finance and Public Administration Legislation Committee will reconvene and resume with its examination of the National Recovery and Resilience Agency.

Mr Stone: Can I draw to Senator Watt's attention—

CHAIR: You can draw it to the attention of all senators, Mr Stone.

Mr Stone: We tabled this document, so all other senators have got it. I just want to make sure that you've got it.

Senator WATT: Thank you.

Mr Stone: There is also a summary of recovery assistance.

Senator WATT: Great, I will have a look at those. Thank you.

CHAIR: Very good. Senator Watt, you have the call.

Senator WATT: Thanks for your indulgence so that the Labor members of the committee could watch the Labor leader's budget reply. We appreciate that.

CHAIR: You're very welcome.

Senator WATT: I think when Senator McKenzie and I had to rush off to another committee we were just talking through what's been happening around Lismore lately and what it tells us about our state of preparedness. Mr Stone, while I was out of the room you made some comments about people's expectations of government changing around natural disasters. What was the point you were making there?

Mr Stone: It was simply in response to a question from Senator Molan about people expecting government to be more involved, more hands on, which we are. I mean, that was quite clear from quite a bit of evidence in the royal commission. It's no different from Australians expecting a first-class health system or good roads or good education. It's where we are, and it's entirely reasonable.

Senator WATT: I gather you made the point that back in the 1970s there was a flood in Charters Towers, for instance, where people just got on with it. Do you think people should just get on with it now?

Mr Stone: No, I never said that, Senator.

Senator WATT: I'm going off media reports, so—

Mr Stone: I've seen the media reports. Please don't add to the verballing.

Senator WATT: That's why I'm asking whether—

Mr Stone: Thank you. I was not suggesting they should go back and just get on with it. I was clearly making the point that Australia has moved on and there is an expectation. There's an expectation about preparation, betterment and all these important things. Currently the rough figures are that we spend 97 per cent on cleaning up and only three per cent on getting ready. That is not a sustainable future for us as a nation.

Senator WATT: Minister, we're nearly at the 10-year mark of this government and we're still at a point where, as Mr Stone says, governments spend 97 per cent of disaster funding on recovery and only three per cent

on preparedness or mitigation. Mr Stone has said that's not sustainable. Why hasn't it been fixed? You've been in power for nearly 10 years.

Senator McKenzie: There has been the setting up of things like the NRRRA as a result of the Royal Commission into National Natural Disaster Arrangements, the setting up of the Emergency Response Fund and the spending of aspects of that fund as a result of this catastrophic event that we've just seen. If you look back to a decade ago at the level of collaboration—and Mr Padovan might want to expand on this—on disaster recovery financing arrangements, in the 2011 floods in Queensland it took in excess of five months to actually negotiate between Commonwealth and state governments. But, here in this event, we have been able to roll out both financial and non-financial assistance more speedily and in a more targeted way than ever before in our nation's history. Can we improve? Of course we can. After this event, both state and federal government agencies will review and see what we can do better next time, but the level of collaboration and joint effort is streaks ahead of where it was previously. I might hand over to Nico to go to that because—

Senator WATT: No. No, Minister—

Senator McKenzie: it's very easy, if you don't have a historical context, to make the types of cheap comments you just made. You need to situate them in fact, not in some Labor Party narrative that suits your current election pitch.

Senator WATT: Minister and Chair, we have limited time. I lost time because we unexpectedly had to go to another committee. I don't need the minister deciding and posing questions to witnesses for me.

CHAIR: Well, ask the next question.

Senator WATT: Thank you. One thing I'm still trying to clear up, particularly around the recent floods, is the sequence of events leading to the declaration of a national emergency. I'm not sure whether any of that's set out in the table that you've tabled. What we've established in other committees today is that the Prime Minister announced his intention to declare a national emergency on 9 March, which was the day he was in Lismore. The Governor-General then issued the declaration on Friday 11 March. Despite asking questions in PM&C estimates to EMA, in Home Affairs, I still haven't been able to establish what advice was provided to the Prime Minister that he based his decision on. What I've also been able to establish is that there were at least three meetings of what I think is called the crisis coordination committee or something like that.

Senator McKenzie: And recovery, I think. I do have that name here.

Senator WATT: Between PM&C and EMA, we were told that there was a meeting on 27 February where the possibility of declaring a national emergency was discussed, and that was the day before Lismore flooded. There was another meeting—there were probably many meetings—on 2 March, and it was discussed again on 8 March. Mr Stone, did you have any discussions with the Prime Minister or his office about the possibility of declaring a national emergency before he announced it?

Mr Stone: No, Senator. I would have thought this was a matter for EMA.

Senator McKenzie: It's actually a matter for the Prime Minister. It's his decision, as we discussed in the other committee. As we were getting to, the level of advice was continually iteratively sought and given from a range of agencies, including the state emergency services, the Bureau of Meteorology and EMA itself et cetera. That would have been feeding into the Prime Minister's decision-making process.

Senator WATT: We also established with EMA that the Prime Minister didn't consult you or speak to you, Minister, about declaring a national emergency before he advised you that he was going to do it.

Senator McKenzie: As I said in the other committee, he's not required to under the legislation; it is absolutely his decision. He needs to satisfy himself that the thresholds have been met, and we've walked through what they are. As I have said, now for the third time, in that period of the disaster there were regular briefings from officials across the board, feeding into his decision-making process.

Senator WATT: Is there anyone at the NRRRA who can shed light on what information was provided to the Prime Minister that led him to deciding to declare a national emergency?

Mr Stone: He did not engage with me, Senator.

Senator WATT: Mr Padovan, were you or anyone else from the NRRRA on this crisis committee?

Mr Padovan: I am on the crisis committee with the director-general of EMA. In terms of what was provided to the Prime Minister, I was not privy to that. We were simply kept abreast of the fact that there was work underway, with a view to potentially activating it. Mr Buffone and PM&C are best placed to answer that question.

Senator WATT: Okay. We'll have to pursue that at another time, I suppose. Minister, are you aware of—

Senator AYRES: If you were crook, Mr Stone, and there was a job to be done that was urgent, you'd get Mr Padovan to do it, wouldn't you? You wouldn't wait for the cameras and for when you were well?

CHAIR: Sorry, Senator Ayres, I don't—

Mr Stone: I don't follow the question.

Senator McKenzie: You're being too obtuse, Senator Ayres.

Senator AYRES: If you had a job to do in the Northern Rivers—an announcement that needed to be made about a declaration or a project that was going to be funded—and you couldn't make it, you wouldn't delay for a week so that you could be there—

CHAIR: Sorry, you mean 'sick', Senator Ayres?

Senator WATT: 'Crook' as in 'sick'.

CHAIR: I thought you meant 'crook' as in 'crooked'. Sorry, continue. Apologies.

Senator AYRES: It's a New South Wales-Tasmania thing, I imagine. It's 'crook' as in 'crook as Rookwood'; ill, sick, feeling unwell.

Mr Stone: Okay, I see. But you're asking me to engage in hypotheticals—

CHAIR: We don't like hypothetical questions in estimates.

Senator AYRES: You'd get Mr Padovan to do it, wouldn't you? You wouldn't wait for the cameras to turn up?

Mr Stone: Oh, I'm not real sure about that.

Senator AYRES: Anyway, sorry; I shouldn't interrupt.

CHAIR: No, you shouldn't. Senator Watt, you have the call.

Senator WATT: The NRRRA has a set of values. Minister, are you across those? They're set out in the corporate report of the NRRRA.

Senator McKenzie: I'm happy for you to read out the values of the NRRRA.

Senator WATT: Some of the values of the NRRRA are:

- We make an effort to understand individual circumstances ...
- We are authentic and compassionate and aim to empower others

... ..

- We make evidence based decisions that are well informed by on-the-ground intelligence

I take it, Minister, that, as guiding principles of the agency, the expectation is that all agency members would uphold those values.

Senator McKenzie: Absolutely. With any corporate plan, and the values and missions that you outlined, you would expect that they would flow right through the organisation.

Senator WATT: So there would be consequences for members of the agency if they failed to uphold those values?

Senator McKenzie: I'll hand to the co-ordinator-general.

Senator WATT: I'm asking you as the minister.

Senator McKenzie: He's the head of the agency.

Senator WATT: What would be your expectation as the minister?

Senator McKenzie: My expectation would be that the values of the agency would be upheld within the agency.

Senator WATT: And your expectation would be that there would be consequences for members of the agency if they failed to uphold those values?

Senator McKenzie: Obviously that is a matter for the head of the agency.

Senator WATT: What do you think, Mr Stone?

Mr Stone: I'm not quite sure. Do you have an example?

Senator WATT: I'll come to that. But, as a general proposition, would you expect that there would be consequences for members of the agency if they didn't uphold the values?

Mr Stone: Like you, I've got a legal background. I don't engage in hypotheticals. I'd have to know what the exact circumstances were.

Senator WATT: I'm sure you remember, Mr Stone, you caused a storm during the floods when you gave an interview about the floods and, when asked about flood victims, you said:

"You've got people who want to live among the gum trees – what do you think is going to happen? ..."

Do you think those comments reflect the values of the agency?

Mr Stone: My focus is on the survivors, Senator. But, since you raise it, I can only wonder why it's taken you 12 months, because, in my opening address to estimates back in May 2021, I said exactly the same thing.

Senator WATT: I remember you telling us about how the agency is authentic and compassionate. So—

Mr Stone: I'm referring to the comments you're complaining about.

Senator WATT: They were reported more recently and attracted a lot more attention during the floods. I mean, it doesn't matter when you made the comments.

Mr Stone: Oh, yes, it does. I mean, I've referred to those issues in successive speeches, articles, media interviews. I'm just surprised that—

Senator WATT: You are a repeat offender in saying that people choose to live among the gum trees. Is that what you're saying?

Mr Stone: As I said, my preoccupation is the survivors and making sure they get the support that they need at this point in time.

Senator WATT: Is that—

Mr Stone: If I can just finish, please. You might have noticed I'm not alone. The Deputy Premier of Queensland said something similar.

Senator WATT: No. He did not say that. What he said, which is quite a different matter, is that we should consider where we approve new developments, where buildings are approved for. He did not say anything remotely like, 'You've got people who want to live among the gumtrees. What do you think is going to happen?', which was blaming victims for the situation.

Mr Stone: No, you will not verbal me. This is not victim blaming. This is talking about really important issues.

Senator WATT: 'You have people who want to live among the gum trees. What do you think is going to happen?' Aren't you saying that people are choosing—

Mr Stone: I won't be verbally by you.

Senator WATT: You're saying people are choosing where they live and they reap what they sow.

Mr Stone: It's not happening; you're not verbally me.

Senator WATT: What do you mean when you say, 'You have people who want to live among the gum trees.'?

Mr Stone: I have raised similar issues and you just discovered it. You assure me every time I come here and I hand up my opening statement, 'I will read it'. You clearly haven't.

Senator WATT: Is it a defence to say you have said this many times?

Mr Stone: It's not new and I'm not the only one. I can tell you right now, as I sit here, my preoccupation remains with the survivors and supporting them in every which way I can. That is why we table for you a chronology that shows the fastest rollout in Commonwealth history.

Senator WATT: Can you tell me how it supports survivors to say, 'People want to live among the gum trees. What do you think is going to happen?' How can does that help survivors?

Mr Stone: As I said, my preoccupation is supporting survivors.

Senator WATT: But how does that support them?

Mr Stone: If there's a broader conversation about a range of other issues and it's not just Shane Stone, and you've just discovered that. I've been saying this for 12 months. I mean, this is so disingenuous. Do not verbal me.

Senator WATT: I'm quite amazed that you think it gets you off the hook to point me to the fact you've been making these insensitive remarks for a long time.

Mr Stone: I'm not trying to get off the hook; I'm doing my job.

Senator WATT: So is it your job to go out there and blame flood victims for the situation they find themselves in?

Mr Stone: You're verballing me again.

Senator SMALL: On a point of order, Chair, this is very repetitive.

CHAIR: It is getting a little repetitive, Senator Watt.

Senator WATT: 'Their', being flood victims, your other quote was, 'Their house falls in the river and they say it's the government's fault.' Would you say that demonstrates that you're making an effort to understand individual circumstances, being one of values of the NRRRA?

Mr Stone: I would be the most travelled disaster related person in this country, dating from the monsoon event in North Queensland.

Senator WATT: It is not a competition on how much time you spend on the road.

Mr Stone: No, I have been out there—

CHAIR: Order! I have warned about this very regularly at estimates and today. I don't like having senators and witnesses talking over one another. If we can try to keep cool and respond in time so we can all hear what is happening. Mr Stone, I think you were providing a response to Senator Watt's question before he asks his next one.

Mr Stone: I have travelled hundreds of thousands of kilometres. I have sat with flood victims, I have held flood victims, I've cried with flood victims, and it breaks my heart to see the recurring disasters that people are having to confront. I take a broad view about what can I do to help these people, and you're trying to verbal me.

Senator WATT: I'm not verballing you. I'm giving you your direct quotes. Can you tell me how it helps a flood victim for you to be saying, 'Their house falls in the river and they say it's the government's fault.' How does that help anyone who is traumatised by a flood?

Mr Stone: It's been part of a broader conversation. I front up. I'm front and centre. I work with flood survivors. I'm still working with people in North Queensland. Many of those people are in this conversation and they will be going forward. I mean, do you seriously think this is not going to be part of a national conversation?

Senator WATT: You would have spent a bit of time in South Lismore recently?

Mr Stone: Yes.

Senator WATT: You would have spent a bit of time in Goodna recently, or areas around Ipswich?

Mr Stone: Areas around there, yes.

Senator WATT: Have you been to the Chinderah caravan parks?

Mr Stone: Not Chinderah, no.

Senator WATT: But you know of them? You know they were flooded?

Mr Stone: I know of them, yes.

Senator WATT: Did you see a lot of gum trees in those places? You're saying that, when you're talking about floods, 'You have you have people who want to live among the gum trees. What do you think is going to happen?' I didn't see a lot of gum trees in South Lismore or Goodna or Chinderah caravan parks

Mr Stone: Now you really are trying to verbal me and I'm not going to have it.

Senator WATT: It is a direct quote.

Mr Stone: For you to conflate a reference to gum trees to flooding—

Senator WATT: What else is it a reference to?

Mr Stone: As I said, my preoccupation is to make sure I'm looking to the wellbeing of those who are the survivors of floods and I'm not going to be verballled by you or anyone else.

Senator WATT: You do recognise, don't you, that many people who were flooded recently and many people who are often affected by natural disasters don't necessarily choose where they live with a lot of money in their pockets? A lot of the places that get flooded are low-income places that people choose to live in because they can't afford to live somewhere higher up a hill. Do you acknowledge that?

Mr Stone: Now you're really stretching it.

Senator WATT: You don't think—

Mr Stone: No. You're off on a tangent where you are now trying to draw me into that somehow I criticised people in low-income areas. I'm not going to be verbally.

Senator WATT: I keep coming back to your quotes. When you say things like, 'You've got people who want to live among the gum trees. What do you think is going to happen?' What do you mean by that? If it is not saying that people are responsible for their own choices and where they end up, what else does it mean?

Mr Stone: Chair, I've answered as much I can answer on this.

Senator WATT: I've asked that question a couple of times and I haven't got an answer.

Mr Stone: I'm not going to be verbally.

Senator WATT: It is your quote.

Senator AYRES: On Mr Stone's responses, he is a public servant. He's required to turn up to estimates and answer questions. He's in no way being verbally. What he's required to do is answer the questions and he has avoided answering a series of questions including the last one.

CHAIR: That series of questions has been asked quite repetitively.

Senator AYRES: It has been put repetitively because we can't find an answer. Senator Watt asked him what his statement means. He should be in a position as head of the agency to explain to Senator Watt and the committee what it meant when he said what it was that he said about people who want to live among the gum trees. It is a fair question. He should answer it.

CHAIR: I think Mr Stone has answered it.

Mr Stone: I've got nothing further to add.

Senator WATT: Do you regret making those statements?

Mr Stone: As I said, I've got nothing further to add.

Senator AYRES: The witness is just being unresponsive now.

Senator WATT: You're one of the most highly paid public servants in the government. I think it is reasonable to ask you what you mean by public statements that you make.

CHAIR: Senator Small, are you making a point of order?

Senator SMALL: Yes. These are budget estimates to examine the operation of and the expenditure by government departments and agencies. I feel we have strayed a long way from the provision of the standing orders. I think you're being very generous in allowing this line of questioning to continue but I would raise this as now out of order.

Senator AYRES: A point of order has to have some attachment to the standing orders.

Senator SMALL: I think it does, very clearly.

CHAIR: We've traversed this topic enough.

Senator WATT: Minister, do you support the comments of your coordinator-general?

Senator McKenzie: Yes, usually. Which one specifically?

Senator WATT: The one where he says, 'You've got people who want to live among the gum trees. What do you think is going to happen?'

Senator McKenzie: When the coordinator-general made those comments, I was quite public that I didn't think it was the right time to be canvassing a conversation after natural disasters in this country we do have, after the Black Summer bushfires recently and, again, even our Ash Wednesday fires in Victoria over a decade ago. They are the conversations that communities and governments have post a horrific natural disaster. As I spoke to the coordinator-general at the time, I said the timing was probably off.

Senator WATT: Did you say that to the coordinator-general?

Senator McKenzie: That's not a direct quote, but I did convey my view that it should be a conversation for after the event, rather than in the immediate phase of the recovery.

Senator WATT: Mr Stone, you've often talked about your close relationship with the Prime Minister. Do you still have the confidence of the Prime Minister in this role?

Mr Stone: I'm still here.

Senator WATT: Did he have a chat with you about the comments that you made?

Mr Stone: Perhaps you could ask him.

Senator WATT: You're the witness. You're the head of this agency.

Mr Stone: I have not discussed these with the Prime Minister.

Senator WATT: He didn't ever say anything to you about those comments?

Mr Stone: The Prime Minister doesn't consult with me every day.

Senator WATT: Minister, does Mr Stone retain your support as the head of the agency?

Senator McKenzie: Mr Stone, his agency and I are completely focused on the recovery effort for the 81 local government areas that have been impacted by this event. He's on the ground, out there in the community. We're working through support arrangements with states and just getting on with it, because, at the end of the day, that's what our community expects of us. This agency's only been stood up since July, and it's been a phenomenal effort since then. We've been looking at not just this particular disaster event. We had disaster events over summer, and we're still working through, obviously, support for victims of the bushfires.

Senator WATT: So he does retain your support?

Senator McKenzie: In his words, he's still here.

Senator WATT: That's not exactly—

Senator McKenzie: Well, of course.

Senator WATT: He does?

Senator McKenzie: Yes.

Senator WATT: And do you support his statement that, when a person's house falls in the river, they say it's the government's fault? Is that a view that you share?

Senator McKenzie: Sorry, just repeat that one.

Senator WATT: 'Their house'—being a flood victim's house—'falls in the river, and they say it's the government's fault.' Is that the government's position?

Senator McKenzie: That's not the government's position.

Senator WATT: Right. Mr Stone, can you table your diary for the months of February and March, please?

Mr Stone: I don't have a diary.

Senator WATT: You don't have a diary?

Mr Stone: No. I'm not required to have a diary.

Senator WATT: Do you just wake up every day and decide what you're going to do?

Mr Stone: I generally wake up at 3.30 and—

Senator WATT: Have a cup of tea?

Mr Stone: No, I don't have a cup of tea.

Senator WATT: Coffee?

Mr Stone: It's not a laughing matter, Senator. I take my job really seriously—

Senator AYRES: It's not possible—

Mr Stone: Now you're laughing.

CHAIR: Senator Ayres, Mr Stone is providing a response.

Senator AYRES: It's not possible to exercise executive functions as the head of a lead agency and not have a diary. Honestly!

CHAIR: That might be your assertion, Senator Ayres.

Senator AYRES: Minister, are you aware of any other public servant who does not operate a diary?

Senator McKenzie: It's not a question I ask my public servants.

Senator AYRES: I'm not asking whether you ask people about it—

Senator McKenzie: I'm not aware.

Senator AYRES: Are you aware of any other person—a minister, a head of an agency, a senior public servant or anybody at all—that doesn't operate a diary?

CHAIR: Senator Ayres, the minister has responded to that question already. Senator O'Sullivan?

Senator O'SULLIVAN: I'd love to have the call at some stage.

CHAIR: Well, Labor have had the call for close to half an hour. Senator Watt, are you happy for me to share the call around?

Senator WATT: Yes, but could I have two minutes, just on this point?

CHAIR: On the point of Mr Stone's diary and record keeping?

Senator WATT: Yes, on the existence or non-existence of Mr Stone's diary.

CHAIR: You can have a very quick two minutes.

Senator WATT: Mr Padovan, if you want to make an appointment with Mr Stone, how do you do it if he doesn't have a diary?

Senator SMALL: You can't even keep a straight face, Murray.

Senator WATT: It's laughable that one of the most highly paid public servants in this government—the head of a multibillion dollar agency—doesn't use a diary.

CHAIR: It might all be in his head, Senator Watt.

Mr Stone: He rings me.

Senator WATT: He rings you. Does everyone just give you a bell, or send you a WhatsApp message, to make an appointment?

Mr Padovan: We don't have meetings about meetings, Senator. We just make a phone call and deal with the issue.

CHAIR: It seems very straightforward.

Senator WATT: Mr Stone—

Senator AYRES: What are you doing next Tuesday?

Senator O'SULLIVAN: I'd like to get to the substance of what Mr Stone does—

CHAIR: Senator Watt has a couple of minutes. Senator Watt, you have the call.

Senator WATT: Mr Stone, in the absence of a diary, could you please table to the committee what you were doing, and where you were, through the months of February and March?

Mr Stone: We'll take that on notice.

Senator WATT: It will be a little bit hard without a diary, I suppose, won't it?

Mr Stone: No, because I have good staff who keep me organised.

Senator WATT: Do they just keep a little pencil note of where you are?

Mr Stone: I don't think you understand how this agency works.

CHAIR: Senator Watt, Mr Stone took the question on notice.

Mr Stone: I run a very flat structure. We're not a traditional public service. That way, we get stuff done. There's no greater evidence than what I've tabled to show you—record rollout by the Commonwealth in our history. That's because we're not bound up as a traditional public service outfit. If you think that's odd—getting stuff done and being a congestion buster—that's exactly why I was brought on board.

Senator WATT: Could you also table for us who accompanied you when you were out in the field through February and March.

Mr Stone: I know precisely who accompanied me on everything, because we have a requirement for a road trip plan. That is all documented, and I'll take that on notice too.

Senator WATT: So you could table your road trip plans?

Mr Stone: I will take all that on notice.

Senator WATT: Did you have any family members who accompanied you on any of these trips?

Mr Stone: No.

Senator WATT: Could you also table any flight costs that you and advisory members and other key personnel incurred over February and March.

Mr Stone: I will take that on notice as well.

Senator WATT: And any other travel expenses?

Mr Stone: I'll take that on notice.

Senator WATT: Thank you.

Senator O'SULLIVAN: Thank you for providing this map. It's interesting to see the number. How many declared disaster zones did you say there were?

Mr Stone: I think there are 400-odd LGAs.

Mr Padovan: There are 354 LGAs and 38 disasters since 1 July. That map goes back three years.

Senator O'SULLIVAN: Not quite 12 months ago, the cyclone in my home state of Western Australia—

Mr Stone: Seroja.

Senator O'SULLIVAN: Seroja—hit Kalbarri, only about 600 kays north of Perth. A lot of people from Perth and right across Western Australia go there for holidays. It's an absolutely magnificent place, but it was very significantly impacted by that cyclone. What role did the agency have in assisting that community?

Mr Stone: Critically, an important role. Again, I'll invite Ms Sommerville to come up, because she had carriage of Seroja and can explain exactly what we did and how we responded.

Senator SMALL: Are we not quorate anymore?

CHAIR: We're not quorate at the moment, no. We might just suspend for a moment.

Proceedings suspended from 20:42 to 20:43

CHAIR: Senator O'Sullivan, you might want to ask your last question again.

Senator O'SULLIVAN: I was asking about Cyclone Seroja in my home state of Western Australia. Almost 12 months ago, it devastated the town and the community there and, of course, everyone that often goes up there for holidays. They'd already suffered significantly with missed holiday patronage because of COVID, and then the cyclone hit. They missed out on their busiest time of the year, over July, because the cyclone had only hit not long before, and it wiped out the caravan parks and everything there. I'm keen to understand what role the agency had in assisting that devastated community.

Ms Sommerville: When tropical Cyclone Seroja hit last year, my branch was actually part of Emergency Management Australia. So the recovery coordination function sat with that agency, not the NRRRA, at the time. But our functions have wholly transferred over. What we did was work with the Western Australian government to activate assistance. Western Australia notified tropical Cyclone Seroja as an event under the Disaster Recovery Funding Arrangements, and they activated immediate assistance for individuals and for reconstruction of essential public assets—getting roads and things back up. A member of my team went across to Western Australia and sat with the team in the Department of Fire and Emergency Services and designed assistance packages under category C and D of the DRFA. We activated some initial packages—and, apologies, I don't have the details of what was in those packages here.

Senator O'SULLIVAN: I was going to ask you for the number of people.

Ms Sommerville: I can take that on notice. There was a phased approach to Seroja. There were initial recovery needs that were apparent and were activated within a short period after the event. Then a period of time after that, when the impacts were fully understood, impact assessments had been undertaken and recovery needs were better understood, there was further assistance activated by the government under the Disaster Recovery Funding Arrangements. Apologies, I don't have those details.

Senator O'SULLIVAN: That's okay; it was without notice. I would be very interested in understanding the quantum: how many people and how many households were able to receive assistance? How quickly were you there at that time? You required the state to call on that?

Ms Sommerville: From memory, I think it was within a week or two of the first activation of the Disaster Recovery Funding Arrangements—apologies, I'll take that on notice as well; I just don't have that time line.

Senator O'SULLIVAN: Mr Stone, is there anything you'd like to add to my questions?

Mr Stone: I was disappointed in the response out of Western Australia to the point where we had to initiate quite a bit to persuade the Western Australian government as to what they needed to do to actually tap into the DRFA—in fact, I was gobsmacked.

Again, it comes down to capacity. We did ultimately get it right. I think I saw as recently as today that there had been an allocation of funds for demountable housing—or was that a little while back? It was temporary accommodation for workers, and that was a substantial amount of money, if I recall.

One of the big challenges of disaster recovery is actually accommodating survivors and accommodating the workforce that turns up to try and put it all back together again. That is the biggest challenge in the bushfire zone, as we speak. It was in Seroja and it's going to be a massive challenge in Lismore.

Senator O'SULLIVAN: In your experience dealing with disasters right across the country you're actually saying in WA there was a difference in how the Western Australian state government responded in comparison to other states?

Mr Stone: It's almost as though there's a bit of reluctance: 'We can do it ourselves.'

Senator O'SULLIVAN: We are a bit like that!

Mr Stone: You are a bit! However, we work cooperatively. We have some good relationships over there. But it just wasn't as quick as I thought it should've been.

Senator O'SULLIVAN: But when you were asked to step in—

Mr Stone: We did; absolutely. In fact we approved DRFA funding for fires over in the Kimberley only about a week ago. While we're trying to deal with floods in a place like Lismore, we're dealing with bushfires over in Western Australia.

Senator AYRES: Mr Stone, I heard you say that you do things differently, but you do accept that you're bound by the APS values and code of conduct, don't you?

Mr Stone: And I take it very seriously.

Senator AYRES: Not seriously enough to have a diary.

Mr Stone: I've got two EAs who keep me absolutely organised, and they know at any one time where I am or where I should be. Senator Watt, you asked about very detailed trip plans. No-one goes out on the road out of our agency without a very detailed, strictly maintained trip plan.

Senator AYRES: Do you accept that you're bound by the Commonwealth record-keeping requirements?

Mr Stone: Which I comply with.

Senator AYRES: But you don't have a diary?

Mr Stone: No, but my EAs have all my records. They maintain where I have been, where I'm going and who I'm going to meet with.

Senator AYRES: But a diary has two purposes: one is to help one organise oneself, and the other is to be a key accountability mechanism under both of those sets of requirements that I just outlined, and you don't have a diary.

Mr Stone: Do I sit down and enter entries in a diary? No, I don't, but I do have two members of staff who maintain all those records for me. I don't think I'm all that different from a number of others in my position.

Senator AYRES: When Senator Watt asked you to table your diary earlier on, you said you couldn't do that because you didn't have one. Do you have one or not?

Mr Stone: No, I don't, but I have two EAs who maintain my records for me. If you want to see those records, again, I can take that on notice. I can make that available. I've got nothing to hide.

Senator AYRES: I'm just astonished that a senior public servant would approach a question about the basic record-keeping requirement that is a diary in the way that you have this evening.

Mr Stone: I can—

Senator AYRES: Minister, do you accept that it's a requirement for a senior public servant to have a diary?

Senator McKenzie: It is highly unusual not to have a diary.

Senator AYRES: Do you accept it's a breach of the Commonwealth record-keeping obligations in the code of conduct if no diary exists?

Senator McKenzie: I just heard the coordinator-general refer to executive assistants who he says hold all his records.

Senator AYRES: Well, 4.1.2 of the APS *Values and Code of Conduct in practice* manual says that:

Good recordkeeping is essential for good government and is an essential part of meeting accountability obligations. Records provide evidence of communications, decisions and actions.

How is this sustainable? What on earth is going on?

Mr Stone: I'm from the private sector and I've always had an EAs who've maintained—

Senator AYRES: You spent your life as a career politician. How is it possible not to have a diary?

CHAIR: Senator Ayres, Mr Stone was providing a response to your question, and you interrupted him. If you keep listening, he might answer your supplementary question.

Senator AYRES: I'm all ears.

Mr Stone: Twenty-five years ago, I was the Chief Minister of the Northern Territory.

Senator AYRES: Did you have a diary then?

Mr Stone: Twenty-five years ago, I had EAs who maintained my records. That was 25 years ago, a bit like Kim Beazley when he was the Deputy Prime Minister of this country. When you call me a career politician, Senator Watt, you're a bit off the mark. In the intervening period—

Senator AYRES: I reckon Mr Beazley would've had a diary.

Mr Stone: Who would know?

Senator WATT: The point is, Mr Stone, that you're now a public servant, you're bound by the code of conduct and record keeping requirements of public servants, and you've told us that you don't keep those records because you don't have a diary—

Mr Stone: No.

CHAIR: No, Senator Watt, that's not what Mr Stone said.

Mr Stone: You're verballing me again, Senator—

Senator WATT: You do have a diary?

Mr Stone: I've told you I have two EAs who maintain my records, and I've offered on notice to make that available to you.

Senator SMALL: What more do you want?

Senator AYRES: You've advanced two propositions this evening. One is that you don't have a diary. The second, more complex, one that you just advanced is that, because of the existence of two executive assistants, somehow there may be a diary. It sounds to me that you seriously don't understand the guidelines and your responsibility to the guidelines under the code of conduct on the record keeping obligations or the example that you need to set for the people behind you in terms of public accountability.

Senator SMALL: Was there a question in there?

Senator AYRES: I'm asking him whether he thinks that that's a sustainable position.

Mr Stone: I do have a system. I have two EAs who maintain all my records and can account for all of my activities—where I am and what I'm doing. I might not physically fill in a diary every day, but I have people who are doing it for me. My record keeping is impeccable. I know exactly where I've been and what I've been doing and who I've been talking to. My job is to get out there and work with survivors and help people with a hand up. It's not about sitting around and being a bureaucrat filling in a diary. You might find that that's something that bewilders you, but we are an agency that gets out on the ground and deals with people, and that's what Australians expect.

Senator AYRES: I'm going to stop this line of questioning now and let Senator Watt ask some other questions. But the idea that record keeping requirements can be dismissed as what a bureaucrat does really speaks volumes about what's going on here.

Mr Stone: You're verballing me, Senator. What you've just said is not what I said.

Senator WATT: Can we move on to the Emergency Response Fund? Let's start with mitigation. I think I'm right in saying the government has now announced three separate rounds of \$50 million for mitigation. The first two rounds were about flood mitigation and the third one is about coastal erosion. Am I right in saying that the second round applications closed in early February? I take it there haven't been any announcements made about the successful applicants at this point. Have any decisions been made?

Senator McKenzie: Those announcements are imminent.

Senator WATT: Does that mean they've been signed off by you, Minister?

Senator McKenzie: It's a matter for government, but I imagine an announcement will be made very shortly.

Senator WATT: The NRRRA has made recommendations to the minister, Mr Padovan?

Mr Padovan: Yes, they have.

Senator WATT: Minister, have you approved those recommendations?

Senator McKenzie: It's a matter for government. I've been up-front in saying that there'll be an announcement very shortly.

Senator WATT: Does that mean you are not the decision-maker, as the minister?

Senator McKenzie: I'm the decisions maker.

Senator WATT: So you have made those decisions?

Senator McKenzie: I have the brief. The agency said that they've sent the brief with the recommendations, and I've also told you that an announcement is imminent.

Senator WATT: But you haven't signed off on that brief at this point?

Senator McKenzie: That's a matter for me as the minister, so I'm considering the agency's brief.

Senator WATT: You're considering their brief at the moment and haven't approved it as yet.

Senator McKenzie: An announcement is imminent.

Senator WATT: I'm not sure why you're being so cagey. It's not a trick question.

Senator McKenzie: I'm not being cagey.

Senator WATT: Will a decision be made before caretaker?

Senator McKenzie: If an announcement is imminent—

Senator WATT: 'Imminent' means different things to different people. Is it one day or is it one month?

CHAIR: We don't know when caretaker will begin.

Senator WATT: No, we don't, but it will be before May.

Senator McKenzie: There are a lot of assumptions here. Maybe you know the mind of the Prime Minister better than I do.

Senator WATT: We all know that the election's got to be in May, which means the election's got to be called within a couple of weeks. That's not exactly a secret. Will a decision be made before caretaker?

Senator McKenzie: The decision will be made when it's made and will be announced when the government decides it will be announced.

Senator WATT: Turning to the first round—we've gone over this before—my recollection is that at last estimates we were told that the \$50 million that was allocated for round 1 has been disbursed to the states and territories.

Mr Padovan: It was disbursed late last year.

Senator WATT: Do we know how much of that money has found its way to the successful applicants?

Mr Padovan: As we mentioned at the last estimates, the next stage in the process was the states had to come back with a plan for the 22 projects as to how they were going to implement those projects. Seven out of the eight states have now responded with their plans. We're just waiting on Western Australia at the moment, and we expect that plan shortly. In the case of the 22 projects, three of those projects are actually underway, two are close to commencing and the remainder are in the early stages of planning.

Senator WATT: When you say 'underway', does that mean shovels in the ground or is that preconstruction work?

Mr Padovan: No, it means underway, shovels in the ground.

Senator WATT: I think at the last estimates we were given a figure of \$17 million that had been dispersed to the project proponents, if that's the right word, which I presume means that you had project agreements in place for \$17 million worth of projects. Do you have an up-to-date figure for that?

Mr Padovan: I'd have to check. I don't have that at hand.

Senator WATT: Maybe someone could look at that while we keep on going.

Mr Padovan: Yes.

Senator WATT: Minister, we've talked a lot about this Emergency Response Fund. It's been in place for three years, and after three years there are only three projects that have even begun construction. How is that in any way defensible?

Senator McKenzie: Senator Watt, you and I have spent all day together. We spent the first half of our day, close to six hours, pursuing infrastructure projects in RRAT, where the secretary there talked you through approval processes, partnering with states et cetera. As you know, these \$50 million tranches of funding are partnership funds with the state governments, so there is a range of negotiation processes. I'm very happy for Mr Padovan to talk through how long these particular projects take to get shovels in the ground, because it requires a lot of approvals, a lot of negotiations. Nico, can you answer Senator Watt's question, please?

Senator WATT: The average—

Senator McKenzie: Excuse me, Chair, I am able to refer questions. I think Nico could be very, very helpful to the senator.

Senator WATT: My question was not: can you take me through the convoluted process?

Senator McKenzie: I know what your question was. It was: can you tell me why we've only got three projects started?

Senator WATT: No. My question was: how is it defensible that, after three years, only three projects have even begun construction?

Senator McKenzie: And the answer is—

CHAIR: The minister was explaining why.

Senator McKenzie: the process of negotiating and partnering with the states. Nico, can you please take us to what it takes to get the shovel in the ground?

Senator WATT: I don't need a long explanation.

Senator McKenzie: Can you do it in less than a minute?

Mr Padovan: All the money has been transferred to the states. The states are now responsible for engaging each of those 22 parties. Of those parties, for every single one of those 22 projects there needs to be a clear and agreed plan between the proponent and the state. In the case of those that are under construction, money is flowing to the proponent, so the two Queensland projects that are underway. To correct my earlier statement, two are underway, three are in preconstruction and the remaining 17 are in planning. Work is underway across the board. Now that the states have the money, they have engaged the parties and are working through the plans. The bulk of the projects are due to start in June and July of this year.

Senator WATT: Given you've corrected your evidence there, the fund's been up and running for three years, and 22 mitigation projects have been approved for funding, but only two of them are underway, and that's after three years of this fund.

Mr Padovan: All the projects are underway. Two have shovels in the ground.

Senator WATT: On two, work has actually begun.

Mr Padovan: For all the initiatives that got up, there is a body of work that needs to be done.

Senator WATT: Sure, but two have begun construction?

Mr Padovan: Absolutely.

Senator WATT: Okay. Just turning to the announcement recently about finally using the recovery funding, the announcement was that the 2022-23 component of the recovery funding, being \$150 million, would be paid to New South Wales and Queensland and then the 2023-24 component would be paid to New South Wales.

Senator McKenzie: No. Because we're still in the 2021-22 financial year, that \$150 million, \$75 million apiece. A further \$150 million will be provided in 2022-23 to implement recovery and resilience initiatives, specifically to the Northern Rivers. With this financial year's \$150 million, the states can't just take that money and fund projects wherever they like. I'm targeting it towards the 81 local government areas that have been impacted by these flooding events. Nico, did you have anything to add to my answer?

Mr Padovan: No.

Senator WATT: Has the \$150 million that has been promised for 2021-22 now been paid to the states?

Mr Padovan: I will just double-check. I think it has gone into the current special account. It hasn't transferred to the states yet. That formal agreement needs to be finalised.

Senator WATT: So that announcement hasn't yet seen the money paid to the state's minister?

Senator McKenzie: That's the advice of the agency. I've signed off on what needs to be signed off for that to happen.

Senator WATT: When do you expect the states to receive that money?

Mr Padovan: In a matter of weeks.

Senator WATT: What were the criteria for deciding that the entire 2022-23 component would go to New South Wales?

Mr Padovan: As I think the minister said earlier, the 2022-23 component is specifically for the Northern Rivers region. All of the analysis that we have done to date shows that the seven local government areas that

make up the Northern Rivers RDA region were by far the hardest hit by any metric, whether it's the number of houses lost, the number of people directly impacted or the number of people eligible for disaster assistance. So there has been a decision of government to focus that money on assisting those communities in particular.

Senator WATT: Minister, again, over the last couple of years we've seen unprecedented bushfires and now floods. The government has had what is now nearly a \$5 billion fund available to be used and, so far, construction has begun on two flood mitigation projects. Do you regret the government's failure to use these funds to build flood mitigation projects sooner than it has?

Senator McKenzie: I don't accept your categorisation of how the government has chosen to use this fund. It's being used exactly as it was purposed, with regular amounts going out for joint projects with state governments. The \$150 million has been drawn down in recognition of the catastrophic event we are faced with now. We have held on to that capital because we do want it to grow to \$6.6 billion over this coming decade so that future generations, as we see more intense and more frequent natural disasters, will have a resource to draw on. This is about being present and also preparing for the future. That's exactly what we've done. Remember that drawing down the capital of this fund can only be done if all other sources of funding have been exhausted. The fact remains that, to this day, that has not occurred. State governments, including your own Queensland state Labor government, have poured a significant amount of money over the last three years into—

Senator WATT: They're certainly done their job.

Senator McKenzie: helping your communities recover, as we have in partnership with them. That's going to continue. To suggest that, four weeks after a flooding event, we've exhausted all our funding just shows that you do not understand how the disaster funding recovery response works. This is going to be tranches rolled out over years.

Senator WATT: You don't think it would have helped the flood victims in Lismore, for instance, or anywhere else in South-East Queensland or northern New South Wales to have got some flood mitigation projects built with these funds?

Senator McKenzie: This is the interesting thing. I was with the newly elected Lismore mayor announcing this study and the money to support the outcomes of the study once it's done. Lismore council had the opportunity to build a one-in-100-year levee or a one-in-10-year flood levee. They chose the one in 10. The community there has never brought to us as a federal government a project to build a levee, increase the size of the levee et cetera. Obviously that's changed now. They've had a change of local council. I look forward to working with them on flood mitigation projects not just around Lismore but through that Northern Rivers regions to keep those people safe.

Senator WATT: But there are plenty of other projects that would have been quite handy and could have been funded by the ERF, such as the flood emergency warning system that the Queensland government sought ERF funding for and was knocked back on. It would have been pretty handy to have a better flood emergency warning network in the Queensland floods recently, wouldn't it?

Senator McKenzie: I've been in this portfolio for eight months and, in that time, we've got more money out of the ERF.

Senator WATT: So, is it the previous minister's fault?

Senator McKenzie: No, it's not. What I'm saying is, the agency was stood up in July, and we've been responding to these events and preparing for the future by using the ERF exactly as it was intended to do. Nico, did you have anything to add?

Senator WATT: Why wasn't that project approved? According to the report on 7.30 a few weeks ago, the Queensland government had sought—I can't remember the exact amount of money—to upgrade its flood emergency warning system. It was one of the applications the Queensland government made to the ERF, and that was rejected. Why was that?

Mr Padovan: As with any scheme—schemes are oversubscribed—at the end of the day there was only so much money available for the projects to put forward; 22 projects were signed off. That decision was made prior to the formation of this agency. To the minister's earlier point, \$75 million is available now under the ERF recovery and resilience component, and that \$75 million could be used by Queensland for exactly that purpose.

Senator WATT: Talking about Queensland: Minister, why did the government sign off on, or announce so quickly, hundreds of millions of dollars in additional flood relief for northern New South Wales when it hasn't done so for Queensland? I know that Queenslanders are receiving some flood payments. I'm not saying there's nothing.

Senator McKenzie: And I work very closely with the state Labor minister, Mark Ryan. We were on daily phone calls during the early stages of the flooding event, because I believe that this is the one area of policy that should be bipartisan. That is absolutely imperative. Our communities need to see us as state-federal leaders, supporting them at their most vulnerable. So, absolutely: Queenslanders were able to access a raft of payments, both Commonwealth payments and the joint DRFA payments, as the flood rolled through. In terms of timing—

Senator WATT: Specifically, your government has announced significant additional support for New South Wales and seemed to be able to do that quite quickly—

Senator McKenzie: Well, New South Wales sought significant support, so—

Senator WATT: So has Queensland.

Senator McKenzie: Well, Queensland—the tranches of requests have been coming in, and Nico might be able to go to the details. But they're different quantum, different types. Queensland, aside from the small business and primary producer grants, wanted to do more for community sporting clubs, for instance, whereas New South Wales didn't request the community sporting clubs 20 grand; they had a different range of initiatives and then they came forward with a specific package targeted at that Northern Rivers catastrophic event.

Senator WATT: Sure, but the Prime Minister was able to turn up in Lismore on 9 March, announce a massive amount of money for flood recovery—and I absolutely support that—and that was within nine days of Lismore flooding. It's now well over a month since Queensland flooded. It's I think more than 12 days since Queensland—and we're still waiting.

Senator McKenzie: Can I just get Nico to answer this—the time line—

Mr Padovan: Perhaps I could just clarify. To the minister's point, under the Australian government disaster recovery payment and disaster recovery allowance, at this point it is \$1.4 billion to 1.52 billion recipients. That's spread across Queensland and New South Wales, and that was available immediately to both states. On the DRFA, category D, \$558 million worth of measures have been approved for Queensland—as the minister said, recovery grants for primary producers, recovery grants for small businesses, \$1 million each for 19 local councils and grants of up to \$20,000 for restoration of community assets. So, a fair bit of work has been done.

With Queensland—and to the coordinator general's earlier point—we work very closely with the Queensland Reconstruction Authority. We are reliant on the state putting forward a proposal and then working through those proposals with them. Where there are issues, it takes a bit longer.

Senator WATT: I suppose the contrast I'm making is that everything seemed to move so quickly for the New South Wales government. Surely you would have had to work through issues with the New South Wales government as well, but it was able to be done really quickly.

Mr Padovan: Perhaps I could draw your attention to this document here. There is nothing that discriminates between Queensland and New South Wales in terms of the speed with which we've responded and the working relationship.

Senator WATT: But that can't be right. Beyond the AGDRP payments and DRA payments and things like that, which have been approved for both states, albeit at different levels—I'm talking about the additional hundreds of millions of dollars that's been approved for northern New South Wales. Again, I support that happening. What I'm wondering is why it's taking so much longer to get this government to approve something similar for Queensland.

Mr Padovan: There is only one request that I'm aware of that we're working through with government at the moment. Every other request has been processed, and when you look at this chronology of events—

CHAIR: Order! It's 9.15, and we're due for our evening break.

Proceedings suspended from 21:15 to 21:32

CHAIR: The committee will now reconvene, continuing with our examination of the NRRR. Senator Watt.

Mr Stone: May I just intrude for a moment, Chair?

CHAIR: You may, very quickly.

Mr Stone: I'm talking about what gets rolled out in the flood mitigation. This is a very important program, but one of the great challenges—and I think you had gone off to the other committee—was the \$9.3 million that I actually announced up in the Territory for the Katherine levee—

Senator WATT: Yes.

Mr Stone: There was to be a co-contribution of \$600,000 from the Territory government. I spoke to their Treasurer when I was in Darwin last weekend and said, 'Well, what's happening?' She said, 'We just don't have it.'

Now, what do we do? Do we try to take the money back? No, that's not a good outcome. So there are these challenges because we rely on the states and territories to actually go and do it. I'll just ask the chief operating officer to come—he has some figures for you now on Queensland relative to New South Wales.

Senator WATT: Okay.

Mr Padovan: In relation to the assistance provided to Queensland: across the Australian government disaster recovery payment, the disaster recovery allowance, the disaster recovery funding arrangements and the ERF, just under a billion dollars has actually gone out to Queensland to date.

In terms of the difference between Queensland and New South Wales: Queensland has 23 local government areas versus 58 in New South Wales. In terms of the proportional effect: when we look at the level of destruction, that Northern Rivers region, as I said earlier, is really where we see the epicentre of this particular event, and that has been a particular focus of government in terms of expenditure.

Senator WATT: Okay. Just sticking with this: I'm sure you're aware that there has been a lot of debate about the levels of payments through the AGDRP between different places. There was a whole range of people who were approved for the basic \$1,000 payment. Then I think it was the Prime Minister who made the announcement that, initially, three council areas would receive a total of \$3,000 per person. What were the criteria for or basis of that decision?

Mr Padovan: One of the challenges with this event has been getting access to real-time data feeds so we know what the impact is at any point in time. One of the sources of data that we've been very reliant on is New South Wales State Emergency Service data, in terms of the level of damage to housing and the level of damage to commercial properties. We're also using ABS data, in terms of the total number of houses in a particular location, Services Australia data, which tells us how many people in a particular area have been found eligible for the disaster recovery payment, and ABS data that cross-references that against the population of that area. Putting all those factors together, at the point in time when the three original local government areas were selected—and if my memory serves me well, Lismore, Clarence Valley and Richmond Valley were the three that were initially selected—it was on the basis of those metrics: the level of damage to property, the number of people directly impacted by floodwaters who were able to claim the original disaster recovery payment and also the extent of the inundation. So, at that point in time when that decision was made, those three, Clarence Valley, Richmond Valley and Lismore, were clearly the priorities areas. As further data came to light, Ballina, Tweed, Byron and Kyogle were then also identified as being severely impacted and within that northern rivers cluster.

Senator WATT: Is the data that you're talking about that was relied upon New South Wales government data?

Mr Padovan: It's a combination. It's New South Wales SES data and data that we sourced through CSIRO, the Australian Bureau of Statistics and others. The data does come from a number of sources. But, certainly, in getting the impact data through both the Queensland Reconstruction Authority and the New South Wales SES, we're very reliant on them for the impact data. One of the big challenges we have is that, in the early stages following a disaster, the areas most impacted are often the hardest to get to, so that data has evolved quite considerably over the course of the last couple of weeks as SES crews have been able to get in there and do those assessments.

Senator WATT: And you're telling me that the metrics that you rely on—say, for the parts of South-East Queensland that have been badly damaged—don't justify the extra level of payment that has been approved for councils in New South Wales.

Mr Padovan: What we looked at was the level of damage relative to the housing stock or the population or the number of commercial businesses. In somewhere like Brisbane, there might have been damage to a high number of properties, but it was a very modest portion of the overall housing base, relative to the housing stock in that location.

Senator WATT: I think the thing that people in Queensland are struggling with—and the people in the other parts of northern New South Wales who were struggling with it until it was approved for them—is that, if you're a flood victim who has lost everything, whether you're in Lismore, Murwillumbah, Ballina or Brisbane, you've had the same level of damage. It may be that, proportionally, there are not as many people, but if this is an individual payment to help people through, shouldn't the personal circumstances of that person be what is driving it?

Mr Padovan: I think the challenge is that, if you look at somewhere like Lismore, not only have a lot of people lost their homes; they're not able to go to their jobs. Whether it be at Norco or another major local employer up there, the business isn't operating because it too was flooded. The compounding effect of the disaster

in those locations was far more significant than it was in many other locations, so part of the challenge here is that there is a degree of relativity in terms of the impact of the disaster.

Senator WATT: Again, it's well documented. Mr Stone, to start with, you'd be familiar with the comments made by Catherine Cusack, the upper house Liberal MP from New South Wales.

Mr Stone: Yes. She was totally misinformed.

Senator WATT: She was totally misinformed?

Mr Stone: She was, Senator. In fact, she never picked up the phone to talk to any of us or to ask us what was happening. I was a bit disappointed, because we know each other from way, way back. Within 24 hours we were raising the issues. We had it resolved. I'd been into Byron, Tweed and Ballina.

Senator WATT: I was down there at the time. People in those areas had been complaining for days that they were receiving only \$1,000 payments, whereas people who happened to be in the electorate of Page, a National Party seat, were getting three times that amount. It wasn't a new complaint.

Mr Stone: I can assure you, Senator, and I assure people in that other electorate that there were no political considerations; it was about the metrics. We were entirely reliant on what information—we're trying to bring a level of science to the way the agency operates, and, if it means we slip a couple of days, then that's what happened. But Catherine was wrong. She was just wrong.

Senator WATT: So it just so happened that the metrics lined up to justify the higher payments for councils in the electorate of Richmond within 24 hours of Liberal and National Party members complaining.

Mr Stone: The reality was that, when she was complaining, we were actually hard at work on it, working out whether in fact they fell within that category. I went and had a long discussion with the mayor in Byron Bay about what had happened at Mullumbimby. As I said to him then, 'If you could just be patient while we do the sums,' and we did the sums, and they qualified.

Senator WATT: Minister, you would also have seen the comments from Geoff Provest, the National Party member for Tweed, who said he thought the federal government had 'really messed this up', that being the differential level of payments between people in his electorate and people in Page. He said he was 'really disgusted with the Prime Minister', it was 'deplorable and disgusting' and he would 'struggle to vote for' the Prime Minister. Was Mr Provest wrong?

Senator McKenzie: As the coordinator-general said, that was a catastrophic event that occurred in Lismore and within that river system. No-one can argue with that. Government made the decision at that time, with the data they had, and tasked the NRRA to continue, as the waters receded that week, to gather more data, which they did, and therefore we were able to add to our decision.

Senator WATT: So Queenslanders who lost everything through the floods will not be receiving—

Senator McKenzie: Will continue to be supported, as they have been.

Senator WATT: Yes. They won't be getting the \$3,000 payments that people in New South Wales are getting.

Senator McKenzie: The disaster relief payment that you're talking about is a \$1,000 payment to affected individuals and \$400 for affected children, and the decision of government for that catastrophic area was to extend that by two weeks for those communities.

Senator WATT: There's nowhere in South-East Queensland that you would describe as catastrophically damaged to the same level as, say, Ballina or—

Senator McKenzie: Obviously, if you've been flooded and lost everything, that is a catastrophe for you, yes.

Senator WATT: Why then are people in that situation in Gympie or the Lockyer Valley or Ipswich?

Senator McKenzie: It really goes against your politicisation argument, doesn't it? Gympie's a National Party seat.

Senator WATT: Now it's a matter of states. Why is New South Wales receiving—surely—

Senator McKenzie: To suggest that our government chooses to respond to people in need—when, at every step of the way, and you know this better than most, I as the minister have not at all tried to politicise this or stop Labor Party MPs having access to the information they need to support their communities during a time of vulnerability and intense need. We made the decisions we could on the best available data. We received more data from the agency and added to that decision. I haven't got anything more to add.

Senator WATT: Can I just ask you to consider the needs of people in South-East Queensland who, at least in some cases, I would argue, have the same level of need that we see in many parts of northern New South Wales.

But, currently, people in northern New South Wales are getting three times the level of the disaster recovery payment than those people in South-East Queensland. I'll leave it at that.

CHAIR: Thank you, Mr Stone, Minister McKenzie and officials for attending this evening. We will now send the NRRA on their way.

Senator McKenzie: Can I just add to my answers?

CHAIR: Yes.

Senator McKenzie: Murray, this is for you. There are 58 LGAs in New South Wales that have flooded to a similar level of intensity to people in Queensland who are not getting that—so it's only seven local government areas, primarily because of the level and intensity and the types of data that Nico was going to in that community.

Senator WATT: If I had time, I could point you to some distinctions within New South Wales as well, but I don't have time.

CHAIR: We're moving on. Thank you.

Workplace Gender Equality Agency

[21:50]

CHAIR: I welcome Senator the Hon. Marise Payne, Minister for Women; the Director of the Workplace Gender Equality Agency, Ms Mary Wooldridge; and other officers. Minister, do you wish to make an opening statement?

Senator Payne: No, Chair. Thank you.

CHAIR: Ms Wooldridge, do you wish to make an opening statement?

Ms Wooldridge: No, thanks.

CHAIR: Very good. Senator Antic, you have the call.

Senator ANTIC: I have just a handful of questions here. I just wanted to start off with this observation: the website talks about the gender pay gap, the difference between the average earnings of women and men in the workforce. Just to set the scene, can you explain for us what some of the reasons for that pay gap are?

Ms Wooldridge: We've done some work with KPMG—we're actually updating it currently—which looks at the components of the gender pay gap. What that analysis says is that about 15 per cent is attributable to industrial and occupational segregation; about 39 per cent is attributable to time out of the workforce that women take for caring responsibilities, largely; and about 39 per cent is on the basis of bias and discrimination that happens within the workplace. They're the key contributors to the gender pay gap.

Senator ANTIC: This is unconscious bias?

Ms Wooldridge: Sometimes unconscious, and sometimes not unconscious.

Senator ANTIC: I notice also the website talks about gender equality and intersecting forms of diversity, gender identity and so forth. The agency therefore clearly acknowledges diverse gender identities. Are you able to provide me with a definition of what a woman is?

Ms Wooldridge: We use the definition that is generally used across all aspects of government, which the ABS uses and, as I say, other forms of government use. We don't define it ourselves in the act and we don't define it in relation to companies filling out the forms. We let the generally acceptable definition that companies choose to use be the basis for how they report to us.

Senator ANTIC: What's that definition?

Ms Wooldridge: As I say, it's not defined in our act. We let how companies capture that data in relation to men and women, although this year we also captured data on gender X. How they collect that data is how they then report it to us in terms of women, men and gender X.

Senator ANTIC: Without wanting to be too difficult about this, that doesn't actually give me much clarity about the definition of a woman for the purposes of the agency. Does the act not say that a woman 'means a member of the female sex irrespective of age'?

Ms Wooldridge: I don't have the exact wording in front of me. If you're reading from it, then that would be what it says.

Senator ANTIC: A woman in the terms of the agency, therefore, is a biological woman?

Ms Wooldridge: You've quoted the words of the act to me, and that's the basis. As I say, we don't define it when we ask companies report on women and men; we let them report it as they collect it.

Senator ANTIC: Once again, that doesn't really help or assist. I hear what you're saying. The act has a specific statutory definition: woman 'means a member of the female sex irrespective of age'. The *Oxford English Dictionary* actually defines a female as 'A person of the sex that can bear offspring; a woman or a girl.' Does that not—it seems like we're having trouble defining exactly what a woman is for the purposes—

Ms Wooldridge: No companies actually ask us to help them define women and men and how they capture that information, so it's not something that we have had difficulty with in terms of reporting along the generally acceptable definitions.

Senator ANTIC: How can the agency be expected to elevate women in the workplace and reduce inequality when there seems to be confusion about what a woman is?

Ms Wooldridge: I don't think there is any confusion, Senator.

Senator ANTIC: It sounds like there's quite a bit.

Ms Wooldridge: Our role is actually to ensure—

Senator ANTIC: Do you agree?

Ms Wooldridge: all people are equally treated in the workplace.

Senator Payne: Senator, it's very welcome to see you here at these estimates for the first time.

Senator ANTIC: Thank you. I appear at many Senate estimates.

Senator Payne: I know, and it's very good to see you here.

Senator ANTIC: Thank you.

Senator Payne: I think Ms Wooldridge is very clear about the approach that the agency takes in its engagement with reporting entities and businesses. I think she's trying to help you, Senator.

Senator ANTIC: I appreciate that, but I'm just looking for a simple definition of the term 'woman'. There doesn't seem to be one.

Ms Wooldridge: Senator, you've read out the definition in the act. Companies have no issue interpreting that in terms of their reporting.

Senator ANTIC: Okay, so that definition can also include women who were not born a woman?

Ms Wooldridge: It would depend entirely on the basis on which companies collect that data.

Senator ANTIC: I think we have reached an impasse there. I'm more confused than I've ever been, but thank you. I have no further questions.

CHAIR: Thank you, Senator Antic, for that line of questions. Senator McAllister?

Senator McALLISTER: Last time we were here, Ms Wooldridge, I asked you some questions about the implementation of the recommendations of the review of the Workplace Gender Equality Act. The budget confirms that the government is working towards implementing all of those recommendations. I want to revisit the question: is the government going to make companies publish their gender pay gaps, as recommended by the review?

Ms Wooldridge: Senator, if you wouldn't mind, as it's a question about the government I will refer that to the minister.

Senator McALLISTER: Sure. Of course.

Senator Payne: The government will implement the recommendations of the WGEA review which we commissioned subsequent to the undertaking in the Women's Budget Statement 2021-22. As you will have seen, a number of the recommendations in the review require further engagement with stakeholders, and that is explicitly set out in the review. That is the process aspect of doing this because the agency works with so many stakeholders and because the act has periods of consultation and implementation set out within it for reporting periods. The government will implement all 10 of the recommendations, yes.

Senator McALLISTER: Minister, which employers will be required to report? In particular, what's the threshold in terms of the size?

Senator Payne: I ask Ms Wooldridge to respond to that.

Ms Wooldridge: The review made no recommendations for a change in the threshold, so our expectation is that that will continue, which is 100 or more employees.

Senator McALLISTER: Right. You indicated, Minister, that there was a process of consultation that you needed to work through. Do you have any sense of when reporting will begin?

Senator Payne: As I've discussed previously with Ms Wooldridge and as I think is clear in the review, the act sets out—what would be the correct word, Ms Wooldridge? Notice periods?

Ms Wooldridge: It's a requirement for changes to be made and have a year for them to be implemented, so any changes need to be legislated or tabled through a legislative instrument by the end of March to be enacted for the 12-months-later reporting period, which begins at the beginning of April.

Senator Payne: So I envisage the parliament would legislate on the recommendations of the review and any required legislative changes in calendar year 2022 for implementation within the act construct after that.

Senator McALLISTER: So no reporting until 2024?

Senator Payne: I hope we can begin the process of voluntary reporting, which is already part of certain approaches from the agency, once the legislation is—hopefully, with the agreement of the parliament—passed.

Senator McALLISTER: Right, so perhaps voluntary reporting in March 2023 and no mandatory reporting until 2024?

Senator Payne: Based on the provisions of the act, yes. Is that right?

Ms Wooldridge: That's correct.

Senator McALLISTER: Has drafting commenced, Ms Wooldridge?

Ms Wooldridge: Consultation and planning have commenced in terms of undertaking the work that needs to be done to get to the detail. I certainly wouldn't be responsible for consultation at WGEA; that would be a government responsibility.

Senator Payne: OFW can respond on that when they attend.

Senator McALLISTER: So the Office for Women are leading on the policy approach?

Senator Payne: They will be directing that part of the approach, yes—within the public sector particularly.

Senator McALLISTER: That is my question. Ms Wooldridge, the agency has received an \$18½ million funding boost in the budget. Could you please tell us what that funding will be used for?

Ms Wooldridge: That funding enables the consultation for the review of the act across the many recommendations, as well as implementation of those recommendations and putting them into place. It enables us to work with the states and territories to commence voluntary reporting for their public sectors, as agreed by national cabinet last December. They're the two main things. There's cost. The funding will largely go towards workforce, but there are some changes for our platform. Because of the technology of reporting, it will require some changes. There's some capital funding in there for those changes as well.

Senator McALLISTER: So for the most part it's staffing?

Ms Wooldridge: That's right, for the consultation and the implementation of the review of the act.

Senator Payne: Which I think is welcome funding.

Senator McALLISTER: I'm just trying to unpack the purpose. And the capital?

Ms Wooldridge: Yes there's a small amount of capital. The capital will go largely towards the changes that are made to the platform to enable reporting to happen. For example, one of the recommendations is that companies will be required to set targets for gender equality and report against those targets on achieving them. We will require changes in our platform for them to be able to do that effectively, and that takes a bit of capital and a bit of time. So that's where the funding goes, predominantly, on the capital side.

Senator McALLISTER: Okay. Based on the most recent information in your scorecard, how many years will it be before we close the gender pay gap?

Ms Wooldridge: It was based on some work that we did with the Bankwest Curtin Economics Centre. Two years ago, at the then current rate of change, it was going to take 26 years to close the gender pay gap. That is really the focus of the review of the act: to accelerate that rate of change. That's where we believe the adoption of the 10 recommendations—publicly reporting gender pay gaps and requiring companies not just to report but to set targets and meet those targets, as well as some of the other changes—will enable a speeding up of that rate of change. I can't tell you exactly what that will be to, but that is our focus. The focus of the agency is to accelerate the rate of change in gender equality, and we now believe we have the tools and the funding to enable that to really be driven by us.

Senator McALLISTER: KPMG's work, I know, has previously indicated that workforce segregation—the dominance of women in low-paid sectors, or the dominance of low pay in female sectors, depending on how you

like to think about it—is one of the key issues that impedes pay equity. Do you think that data transparency is going to be adequate to deal with that challenge?

Ms Wooldridge: The KPMG analysis shows that 15 per cent of the gender pay gap is attributable to the industrial and occupational segregation. I don't believe that pay transparency is necessarily the solution for that aspect of the contributors to the gender pay gap. There's also bias and discrimination, and there's time out of the workforce and so on. What the transparency on the gender pay gap will do is drive action by employers across a range of measures, and how they seek to address the issues that they face will be up to them. Some of the issues may be wages of some of their lower-paid workers, who are predominantly women. Others may be their capacity to retain women at senior levels in the organisation. Some of them may be the pay differentials at the top levels of the organisations. As to pay transparency, the experience from the UK is that different companies respond in different ways, and it has had a variety of effects. But one has been the compression of wages to narrow the gender pay gap.

Senator McALLISTER: The compression of wages?

Ms Wooldridge: Particularly at the high end—it's early days; they've only been reporting for a few years—there has been compression of some of the high-end male wages, which enables women to, obviously, get closer and narrow that gap. That's at the high end, not at the low end, as you're talking about.

Senator McALLISTER: Okay. For each year, since reporting began, can you provide the total number of noncompliant employers?

Ms Wooldridge: I can give you the rough percentage, and I'm happy to give you the exact details. There's generally around two per cent noncompliant employers, sometimes a bit closer to one per cent, but that's generally the range. This year, the numbers are a little higher. We expect and are still encouraging companies to report, but, as you may have seen in our annual report, we had a delayed reporting cycle this year. We've also made a number of allowances on the basis of COVID because many companies have had difficulty reporting as a result of losing staff to COVID, and they've faced other challenges. We expect noncompliance to be around five per cent this year, but we always take an approach to try and work with employers to enable them to report, if at all possible.

Senator McALLISTER: On that, Chair, I'm not sure when you've set the date for questions on notice for this committee, but, Minister, this is one of the areas where I was hoping for your assistance. It would be good to know—

Senator Payne: What was the date?

CHAIR: It's 20 May.

Senator McALLISTER: Obviously, that's quite some time away.

Senator Payne: I bet you it goes very fast, Senator!

Senator McALLISTER: It may go fast, but I was hoping to get some of this information before what some say might be election day.

Senator Payne: We'll do our best, Senator.

Senator McALLISTER: I wonder if I could get the total number of noncompliant employers as a numerical figure, rather than just as a proportion of total companies reporting. I'd also like to know how many employers that are currently on the noncompliant list have been on the list for multiple years, and, in particular, I'd like to know how many employers have been on the list twice, three times, four times, five times, six times and seven times. I imagine you don't have that with you this evening.

Ms Wooldridge: I don't, but we do have some, to be honest, who have made a conscious decision to not report, and they have been there for an extended period.

Senator McALLISTER: Yes. For those employers who have been on the list on somewhere between two and seven occasions, can you please provide their names. What's the average length of time that a noncompliant employer remains on the list?

Ms Wooldridge: Once again, I'd need to take that on notice. We have a focus on enabling as many as we can to report, and then we have the mechanism of naming, which is one of the tools of the act. The government also has a policy in relation to not allowing them access to grants and tender processes. So that's our mechanism to try and drive it, but I can answer your question and get some detail on that.

Senator McALLISTER: Which employer has been on the noncompliant list the longest?

Ms Wooldridge: Once again, I'd need to take that on notice. A couple of names spring to mind, but I want to make sure that I'm accurate in relation to that and make sure that's reported fairly.

Senator Payne: I'd prefer the correct response to be given too.

Ms Wooldridge: Yes.

Senator McALLISTER: Understood. That's all I have for WGEA, Chair.

CHAIR: Fabulous. Thank you very much, Senator McAllister, and thank you, Ms Wooldridge, for attending this evening. We will send you off now with our thanks. Department of the Prime Minister and Cabinet

[22:11]

CHAIR: Welcome. Does anybody wish to make a further opening statement? I'm hoping, given the hour, not. Very good.

Senator Payne: That's very subtle, Chair!

CHAIR: Senator McAllister, you have the call.

Senator McALLISTER: Thanks very much. How many times has the head of the Office for Women briefed the Prime Minister in person this term?

Ms Zakharoff: My recollection is twice in person.

Senator McALLISTER: Has the Prime Minister been briefed on the new national plan?

Ms Zakharoff: Not by me specifically. Ministers may have, I suspect. Minister Ruston may have.

Senator Payne: Without going to the details of matters before the cabinet, Minister Ruston and I have engaged with the Prime Minister on the national plan, yes. Ms Frame may wish to add to that from the PM&C perspective.

Ms Frame: Thank you, Minister. Just to add that the Office for Women, including me in my role as Deputy Secretary, regularly brief the Prime Minister's office on the development of the national plan and how things are tracking. We talk regularly to the office and provide written briefings as well about progress.

Senator McALLISTER: Just a quick update, the *Respect@Work* report provided recommendation for ongoing funding for working women centres in all states and territories. Am I correct in understanding that no such funding has been made available in the recent budget?

Senator Payne: As I understand it, and Ms Peisley will assist, there was a provision in both the 2021-22 budget and in this budget. A provision in this budget is additional funds of \$1.8 million—I'm hoping Ms Peisley will correct me when I start to get this wrong—to the Northern Territory and Queensland centres.

Senator McALLISTER: The recommendation went to having working women centres in all states and territories. The issue is that they have deteriorated over time and there are only a number of them still in place. They do important work. It was recognised in the report. But so far we've just got relatively modest amounts of funding for the existing centres. Is that correct?

Ms Peisley: The minister is correct in that funding was provided in this budget through the Women's Budget Statement to the order of \$1.8 million. That is in addition to previous funding, as part of the 2021-22 budget, provided to two centres in both the Northern Territory and Queensland.

Senator McALLISTER: Still on the *Respect@Work* report, the government still hasn't legislated a positive duty. Can you guarantee that you will do that in a further term of parliament, Minister?

Senator Payne: As I understand it, the Attorney-General is consulting on that recommendation for legislative change on that matter with stakeholders, including employers who were an important part of the *Respect@Work* report and bringing that together. That has been underway for some months now. I don't have further information on that. I'm sure AGD would be able to provide you with more. It's certainly not a recommendation that's been rejected. I think there is misinformation in relation to that. But it is not a recommendation that's been rejected.

Senator McALLISTER: Is there an intention to do it in the next term if the government is re-elected?

Senator Payne: It would depend, I presume, on the results of the Attorney-General's consultation process.

Senator McALLISTER: I am interested in the implementation of measures in the Women's Budget Statement. In particular, I'm interested in understanding how much of the funding attached to each of those measures has been expended and any grant rounds that have been undertaken. Is it possible to run through each of those measures?

Senator Payne: Would you like to ask them one by one, and then we can respond? How would you like to do that? Is this in 2021-22?

Senator McALLISTER: Yes—sorry; no. I'm interested in the measures that were in the last budget.

Senator Payne: Yes, that's 2021-22.

Senator McALLISTER: Yes. There are quite a number of them. If there was a document which already—

Senator Payne: I don't think there is a document per se that I would table tonight, because I would not have had an opportunity to see it. I apologise for not seeing the letter that you sent to me yesterday on this matter. But if you have specific grant or program questions, then we can respond.

Senator McALLISTER: My main purpose is understanding how much of the money has been spent—

Senator Payne: Would this really relate to the Women's Leadership and Development Program?

Senator McALLISTER: I'm actually interested in all of the measures in the entire Women's Budget Statement—

Senator Payne: I see. Right.

Senator McALLISTER: which is a very big list.

Senator Payne: Sorry, I thought you meant in relation to the funding that is managed through the processes of the Office for Women.

Senator McALLISTER: No. It is the reason that I wrote to you, and I apologise that perhaps—well, I don't really apologise. I wrote to you, and it seems that, for reasons that we don't need to prosecute, that wasn't received or actioned. But we've previously had an answer provided to question on notice 0749 which was useful and was structured in a way that went through each of the measures.

Senator Payne: I don't have that detail with me tonight. I don't think the officials do either. If they do have it, I haven't seen it in whatever form it takes. I wouldn't suggest I table it on that basis.

Senator McALLISTER: Okay. I was really trying in writing to you in advance. This is a task that is tedious when done at the table—

Senator Payne: Yes.

Senator McALLISTER: and can be done reasonably efficiently through other means. Given the miscommunication between us, I wonder if there's some other way of dealing with this other than going through it line-by-line? The chair has asked me to really try to keep things tight and it might be that there's an easier way to do it.

Senator Payne: Give me a moment to confer with officials and I'll see, but—

Senator McALLISTER: Obviously, I'm here tomorrow, for example.

Senator Payne: Yes, and I'm in estimates all day tomorrow in the minister's chair for both defence and foreign affairs. I can't do both.

Senator McALLISTER: No, but somebody could write me a letter, for example—

Senator Payne: Yes, of course.

Senator McALLISTER: as a way of dealing with this—as an alternative to doing it in this forum.

Senator Payne: Certainly, someone could provide you with the answer on notice. I can undertake to have that provided to you in as full a sense as I can tomorrow.

Senator McALLISTER: Yes.

Senator Payne: I can certainly try to do that.

Senator McALLISTER: That sounds good.

Senator Payne: That's a reasonable undertaking, but shall I confer with officials as well, momentarily?

Senator McALLISTER: Yes.

Senator Payne: Thank you, Senator, for allowing the time to confer. I have a copy with me of the response from 2021 to question on notice 0749, which you referenced in your correspondence of yesterday. That included in it the Women's Budget Statement initiatives by portfolio—the funding, the measured descriptions and whether they were extensions of existing programs or were new programs. We'll undertake, as best as we're able, to replicate this material from the 2021-22 budget statement for you, and we'll try to do that for you tomorrow.

Senator McALLISTER: That sounds good—really sensible. I'm particular, I suppose, about the table—the additional columns I'm looking for are about how much of the allocated funding has been expended in relation to each of those programs and any grant rounds that have been undertaken in relation to them. That's because many of them, although not all of them, are administered through grants.

Senator Payne: That's true, and there are at least 11 agencies engaged here.

Senator McALLISTER: It is a non-trivial exercise.

Senator Payne: Sure, so to get, particularly, the information on funding expended by tomorrow in this would not be possible, in my view, because we would have to go out and come back. So my undertaking is to provide you as much as I can. I'll provide you everything from OFW that we have in relation to our programs from 2021-22, grant rounds run, funds expended, and I'll provide you everything that we can obtain in relation to other programs. It may be, for example, in the context of DSS, particularly, who are obviously going to be talking about their own programs at estimates as well—mind you, I don't want to make a commitment on behalf of another agency—that they have this information. We'll do what we can and we will provide as much to you as possible tomorrow.

Senator McALLISTER: Thanks very much. I think that's a sensible way of dealing with that process.

Senator Payne: Ms Frame, did you wish to add anything? Is there anything more in the coordination part of that that I've left out?

Ms Frame: No. That's it.

Senator McALLISTER: How much funding remains uncommitted in the Women's Leadership and Development Program?

Ms Hall: This financial year, 2021-22?

Senator McALLISTER: Yes.

Ms Hall: This financial year we are 96 per cent committed or expended in the appropriation, so we have \$785,000 unexpended in the 2021-22 financial year.

Senator McALLISTER: Does that include the recently announced grant round?

Ms Hall: The Lead and Succeed grant round is profiled from 2022-23 onwards.

Senator McALLISTER: In 2022-23 you've announced a grant round that is worth \$20.35 million.

Ms Hall: Yes.

Senator McALLISTER: What remains uncommitted or unallocated in that financial year?

Ms Hall: None of the funding from that Lead and Succeed grant round is committed at the moment, because we're open for applications. In the 2022-23 financial year there is currently \$8.728 million available, but that includes some of the funding that we would allocate under that Lead and Succeed grant round, because that won't be committed until there are grant agreements in place.

Senator McALLISTER: The grant round is indicated as being \$20.35 million. Is that profiled across a number of years?

Ms Hall: Yes. That's profiled across 2022-23, 2023-24 and 2024-25.

Senator McALLISTER: For 2022-23 it's \$8.728 million, you say?

Ms Hall: That's what is currently available in the appropriation, in the program.

Senator McALLISTER: I'm trying to understand the relationship between the Women's Leadership and Development Program and the Lead and Succeed round. Do you expect that to consume all of the allocation for the Women's Leadership and Development Program?

Ms Hall: We expect it to take up most of it for next financial year, yes.

Senator McALLISTER: So \$8.728 million.

Ms Hall: The profiling for the Lead and Succeed grant round is in the grant opportunity guidelines. Is that what you're asking me for?

Senator McALLISTER: That does help. Are there any other grant rounds anticipated for the next financial year?

Ms Hall: Open, competitive grant rounds—no, not at this stage. The Lead and Succeed grant round will take a few months to finalise. The applications don't close until 21 April.

Senator McALLISTER: If an election is called soon and the government goes into caretaker mode, what will happen then?

Ms Hall: We will operate under caretaker provisions. There will be no funding decisions made in that time frame. On our project schedule, we're not expecting to have funding recommendations to make to the delegate until August. So, at this stage, it is our intention to proceed with assessing those applications that come in and

being able to then form recommendations on those applications that could be funded, based on those grant opportunity guidelines.

Senator McALLISTER: So you don't anticipate the decision-maker being in a position to assess any of that until the next financial year?

Ms Hall: Yes, that's right. The funding's not profiled until 2022-23, and that was the project time frame we were working to.

Senator McALLISTER: So ministerial announcements won't be able to be made until the next financial year based on what the officials—

Senator Payne: No, because the grant round closes, as Ms Hall said, on 22 April. The assessment process then commences, as we've used in the past for the DSS grants, in the hub. That work through the hub will not be completed in that period.

CHAIR: If no senators have any other questions, that concludes the committee's examination of agencies for today. The committee will resume on Monday 4 April to examine the parliamentary departments and continue our examination of the Department of Finance and cabinet. I'd like to thank the ministers and the officers who have given evidence to the committee today and thank Hansard and Broadcasting for their assistance. I now declare this meeting of the Senate Finance and Public Administration Legislation Committee adjourned.

Committee adjourned at 22:31