

## Chapter 2

### The government response to the 2009 inquiry

2.1 In March 2009 the Senate Community Affairs committee conducted its Inquiry into Petrol Sniffing and Substance Abuse in Central Australia. The fifth recommendation of that inquiry was that the government should give serious and immediate consideration to legislation:

Given the continuing resistance to Opal fuel by some retailers across all jurisdictions in central Australia, the committee recommends that the Commonwealth government complete, as a matter of priority, the necessary work to determine whether legislation is both possible and practicable.

If these retailers do not voluntarily agree to supply Opal within 6 months, and if it is established that there are no legal impediments to the implementation of Commonwealth legislation, the Commonwealth government should immediately commence the drafting of legislation to mandate the supply of Opal fuel within the petrol sniffing strategy zone.<sup>1</sup>

2.2 In June 2009, DoHA commissioned the South Australian Centre for Economic Studies (SACES) based at Adelaide and Flinders Universities to produce a cost benefit analysis of legislation to mandate the supply of low aromatic fuel in regions of Australia.<sup>2</sup> The report was compiled by Jim Hancock, Deputy Director of SACES, and various senior research economists, as well as John Williams, Professor of Law and Anne Hewitt, Lecturer in Law at the University of Adelaide. The Australian government used elements of the SACES report as the basis for its response to the inquiry recommendation regarding Commonwealth legislation.<sup>3</sup>

2.3 The SACES report evaluated a range of factors in determining the costs and benefits of a legislated approach to petrol sniffing. This included consideration of the increased production and distribution costs of greater low aromatic fuel consumption,

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1 Senate Standing Committee on Community Affairs, *Grasping the opportunity of Opal: Assessing the impact of the Petrol Sniffing Strategy*, March 2009, Recommendation 5, p. 51.

2 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Report commissioned by the Australian Government Department of Health and Ageing, Adelaide and Flinders Universities, January 2010.

3 The committee notes that an earlier cost benefit study conducted in 2006 by Access Economics on behalf of the Opal Alliance also found that the benefits of a subsidised supply of Opal fuel through designated regions in the NT, SA and WA exceeded the costs of the measure. See Access Economics, *Opal Cost Benefit Analysis*, Report for the Opal Alliance, February 2006.

savings in terms of health and welfare from avoided harm due to a decrease in petrol sniffing, reduced crime, and improved labour market outcomes.<sup>4</sup>

2.4 Under the current voluntary scheme, the SACES report found that 'consumption of RULP in the Analysis Area<sup>5</sup> will decline from 93.5 ML [megalitres] in 2009/10 to 89.2 ML in 2012/13' and that 'Opal volumes are expected to rise from 22.4 ML to 31.8 ML over the same period'.

2.5 By contrast, under a scheme that banned RULP across the analysis area, based on consultation undertaken for the study, SACES estimated 'that about two-thirds of the volume would be transferred to Opal and about one-third to premium unleaded petrol (PULP)'. This would result in an estimated 'additional 64.7 ML of Opal' being consumed in 2012–13 and would mean that Opal consumption would almost reach the 100 ML capacity limit of Kwinana Refinery.<sup>6</sup>

2.6 In their analysis of the data for the voluntary scheme<sup>7</sup>, SACES noted that there had been a significant reduction in sniffing during the time of the Opal rollout and that although the dataset was small and did not disaggregate all the potential contributing elements, low aromatic fuel appeared to have been the major factor contributing to the reduction in sniffing. In modelling their cost benefit analysis, SACES therefore estimated that a ban on RULP and controls on the sale of PULP would lead to a further 80 per cent reduction in sniffing.<sup>8</sup>

2.7 The analysis produced by SACES found that the benefits of legislation that prohibited RULP in the Analysis Area exceeded the costs by \$780 million.<sup>9</sup> Even if the modelling assumptions about the reduction in sniffing prevalence were overly

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4 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Adelaide and Flinders Universities, January 2010, p. vii.

5 The table in Appendix 3 shows the SACES Analysis Area.

6 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Adelaide and Flinders Universities, January 2010, *Cost Benefit Analysis*, pp. vi–vii.

7 A description of the data analysis is included in the section 'Evaluation of the Opal strategy' in Chapter 3.

8 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Adelaide and Flinders Universities, January 2010, *Cost Benefit Analysis*, pp. vii–viii.

9 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Adelaide and Flinders Universities, January 2010, *Cost Benefit Analysis*, p. viii.

optimistic, SACES found that a ban on RULP would still 'have a net benefit so long as it reduced sniffing by at least 19 per cent from current levels'.<sup>10</sup>

2.8 The Australian government acknowledged that the SACES report found the benefits of legislation exceeded the costs. However, the government only partially accepted Recommendation 5 from the 2009 Senate inquiry. There were reservations, firstly, about the quality of the data upon which the conclusions about petrol sniffing prevalence were drawn, and secondly, about the storage and distribution issues upon which a full rollout of low aromatic fuel in northern Australia would depend.<sup>11</sup>

2.9 In response to the issue of limited data, the Australian government determined to implement a surveillance system that would 'inform future decisions regarding the value of an additional legislative approach once the full voluntary rollout of Opal fuel has occurred in 2012–13'.<sup>12</sup>

2.10 In response to the issue of storage and distribution, the Australian government 2010–11 budget provided \$38.5 million over four years to expand supply to a further 39 retail sites. The program referred to as *Expanding the Supply and Uptake of Opal Fuel* covered 11 communities in the Gulf region of Queensland, the East Kimberley in Western Australia and the Top End of the Northern Territory.<sup>13</sup> The program also included the establishment of 'new storage facilities for Opal fuel in Darwin and northern Queensland', and a communication strategy that aimed to convince all retailers to supply low aromatic fuel.<sup>14</sup>

## Current situation

### *Designated Petrol Sniffing Strategy Zones*

2.11 The Petrol Sniffing Prevention Program (PSPP)<sup>15</sup> managed by DoHA is currently subsidising the rollout of low aromatic fuel.<sup>16</sup> Under the PSPP, the

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10 South Australian Centre for Economic Studies, *Cost Benefit Analysis of Legislation to Mandate the Supply of Opal Fuel in Regions of Australia*, Adelaide and Flinders Universities, January 2010, *Cost Benefit Analysis*, p. 112.

11 Australian government, *Combined Australian Government response to two Senate Community Affairs References Committee Reports on petrol sniffing in Indigenous communities*, 22 June 2010, pp. 32–33.

12 Australian government, *Combined Australian Government response to two Senate Community Affairs References Committee Reports on petrol sniffing in Indigenous communities*, 22 June 2010, p. 33.

13 Australian government, *Submission 19*, p. 3.

14 Australian government, *Combined Australian Government response to two Senate Community Affairs References Committee Reports on petrol sniffing in Indigenous communities*, 22 June 2010, p. 33.

15 The Petrol Sniffing Prevention Program is the third point of the PSS Eight Point Plan.

designated PSS zones are the regions targeted for the rollout of low aromatic fuel. Funding for the roll out of low aromatic fuel is \$115.86m over five years from 2011–12.<sup>17</sup> The designated PSS zones are:

- the Central Desert Region which covers the tri-state cross-border area that includes the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) Lands;
- the Expanded Central Desert Region which extends the Central Desert Region to include up to Kintore, Alice Springs and Ti Tree in the Northern Territory (NT). There are eight major remote communities and Alice Springs in the expanded NT region: Papunya, Mt Liebig, Kintore, Yuendumu, Willowra, Hermannsburg, Areyonga, Haasts Bluff and associated outstations;
- the East Kimberley Region in Western Australia (WA) which extends from Kalumburu to Balgo and along the WA/NT Border; and
- the Queensland Region which covers a small area around Mornington Island and Doomadgee in the Gulf of Carpentaria.<sup>18</sup>

2.12 Since March 2011, the rollout of low aromatic fuel has been expanded beyond the designated PSS zones to communities that are in close proximity to the designated zones. These communities are referred to as 'footprints'.<sup>19</sup> The Commonwealth advised that the footprints were now being targeted 'to stem the flow' of sniffable fuel into the PSS zones.<sup>20</sup>

2.13 Low aromatic fuel may also be made available to individual sites and regions when petrol sniffing is identified as an issue and appropriate distribution arrangements can be established.<sup>21</sup>

2.14 The Commonwealth provided the following data to the committee on the availability of low aromatic fuel:

As at 1 July 2012, there are 123 sites receiving low aromatic fuel throughout regional and remote Australia. These sites include 74 communities; 40 service station/roadhouses; and 9 other

16 Under the PSPP, DoHA is also responsible for petrol sniffing and low aromatic fuel communication and education strategies, data collection, advice about treatment, and rehabilitation for petrol sniffers (Australian government, *Submission 19*, p. 3).

17 Australian government, *Submission 19*, p. 2.

18 Australian government, *Submission 19*, p. 11.

19 Australian government, *Submission 19*, p. 11.

20 Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, p. 14.

21 Australian government, *Submission 19*, p. 2; Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, p. 14.

businesses/supporting organisations. Of the 123 sites, 67 are within the designated zones and 56 are outside the zones.<sup>22</sup>

This is reflected in table 2.1.

**Table 2.1 Number of receiving sites and targeted sites for low aromatic fuel**

State / Territory	No. of Sites Receiving	No of Sites targeted to receive low aromatic fuel (planned)#	Total
Northern Territory	77	47	124
South Australia	14	6	20
Western Australia	26	18	44
Queensland	6	30	36
New South Wales	0	0	0
<b>Total</b>	<b>123</b>	<b>101</b>	<b>224</b>

Notes: # No. of sites targeted to receive (planned and potential sites) include sites that are currently refusing to supply low aromatic fuel.

Source: Australian government, *Submission 19*, p. 2.

2.15 DoHA advised that it has two staff out in the field to consult with petrol retailers, one based in Alice Springs and one based in Brisbane, and that consultation with petrol retailers in the strategy zone has been extensive.<sup>23</sup> The Commonwealth has undertaken to provide the committee with information concerning the history and current status of negotiations with all outlets in the PSS zones.<sup>24</sup>

2.16 The committee notes that in the three and a half years since its last inquiry, the Commonwealth communication strategy does not appear to have convinced those outlets still selling RULP within the PSS zones to switch to selling low aromatic fuel.

2.17 The committee also notes that an outlet that does not stock low aromatic fuel may not necessarily be *refusing* to stock it. Arc Vanderzalm from Wycliffe Well

22 Australian government, *Submission 19*, p. 2.

23 Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, and Ms Julia Mansour, Director, Mental Health and Drug Treatment Division, DoHA, *Committee Hansard*, 16 August 2012, p. 16.

24 Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, p. 18.

Holiday Park has advised the committee that, as at 18 July 2012, he has 'never been asked to stock opal fuel'.<sup>25</sup>

***New production, storage and supply arrangements for low aromatic fuel***

2.18 At the time of the last inquiry, low aromatic fuel was produced by BP Australia in Kwinana, Western Australia, and transported to storage facilities in Largs North, South Australia and Kalgoorlie, Western Australia. The fuel was then distributed to retail sites across Australia from these sites.<sup>26</sup>

2.19 Under new arrangements that commenced on 1 July 2012 designed to expand the supply of low aromatic fuel into new regions, DoHA conducted a procurement process to establish increased production and storage of low aromatic fuel from 2012-13 onwards. BP Australia will continue to supply low aromatic fuel to sites that currently receive low aromatic fuel.<sup>27</sup>

2.20 The new arrangements described above will provide for the supply of low aromatic fuel in the following regions:

- the Top End of the NT including Katherine, Mataranka and Pine Creek;
- Tennant Creek and Barkly region in the NT;
- East Kimberley in WA;
- the southern area of the Gulf of Carpentaria and Cape York in QLD; and
- Coober Pedy in SA.<sup>28</sup>

2.21 DoHA has also commenced separate negotiations to establish bulk low aromatic fuel storage in Darwin. The committee heard that the bulk low aromatic fuel storage facility in Darwin is expected to be completed before the end of the 2013 financial year.<sup>29</sup> However, as at 16 August 2012, the engineering study is incomplete, and the ordering of equipment, some of it with a six-month delivery timeframe from overseas, is dependent upon finalisation of the engineering study.<sup>30</sup>

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25 Mr Arc Vanderzalm, Wycliffe Well Holiday Park, Correspondence received 18 July 2012, Senate Standing Committee on Community Affairs, Low Aromatic Fuel Bill 2012.

26 Australian government, *Submission 19*, p. 3.

27 Australian government, *Submission 19*, p. 3.

28 Australian government, *Submission 19*, pp. 3–4.

29 Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, pp. 14–15.

30 Ms Julia Mansour, Director, Mental Health and Drug Treatment Division, DoHA, and Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, p. 27.

2.22 The committee notes with concern that there appear to have been delays in the negotiations over the new infrastructure, not necessarily of the Commonwealth's making. DoHA gave a detailed account of the process (emphases added):

The extended nature of these negotiations is explained by the staged approach to the contract adopted by the Department. Stage 1 negotiations between March and August 2011 related to scoping activities for potential storage options. Vopak Terminals subcontracted the engineering scoping works to Conneq Pty Ltd (now trading as Lend Lease Pty Ltd).

The scoping work identified two potential storage options and the Department commenced detailed contract negotiations with Vopak Terminals on the Front End Engineering Design (FEED) study for an interim storage solution in October 2011. These Stage 2 activities were protracted as several new storage options were proposed by Vopak. It was eventually agreed to progress the work in three discrete elements: a FEED study on the conversion of an existing three million litre tank (an interim storage solution); the identification of equipment required for the tank conversion; and a separate FEED study to construct a larger 5-7 million tank which would provide the long-term, permanent storage solution. A funding agreement with Vopak Terminals for the first FEED study was executed on 14 May 2012.

Since May 2012, the Department and Vopak Terminals have been involved in Stage 3 activities reviewing options for the permanent storage solution. These options have emerged as a result of separate commercial dealings between Vopak Terminals and third parties.

In progressing these negotiations the Department is seeking to ensure that the storage facilities are available for use in 2012-13.<sup>31</sup>

2.23 However, in regard to the lead times involved, it also notes DoHA's observation that the time it may take for equipment to be received need not cause a delay in progress on site:

On advice from Vopak it is the Department of Health and Ageing's understanding that some equipment can take up to six months to be fabricated and received. Vopak has advised that construction can commence prior to the receipt of all equipment.<sup>32</sup>

### ***Data collection***

2.24 An evaluation of the PSS has been arranged by FaHCSIA on behalf of the Commonwealth. The Australian government submission provided some information about this evaluation:

The objective is to evaluate the:

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31 Answer to question on notice #12 from Department of Health and Ageing, received 17 September 2012.

32 Answer to question on notice #11 from Department of Health and Ageing, received 17 September 2012.

- effectiveness, impact and continuing relevance of the PSS as a method of coordinating government effort on petrol sniffing; and
- the extent to which the strategy and the whole-of-government partnership has added value and achieved a greater impact than would have been achieved without its existence.

The Australian government submission went on to say that:

Origin Consultants has been engaged to conduct the evaluation. The consultant will conduct interviews both in phone and in person with Commonwealth, State and Territory and local government representatives, communities, businesses and non-government organisations as well as visit sites in the PSS Zones. The evaluation will be completed towards the end of 2012 with an expectation that the final report will be completed in early to mid-2013.

Using the East Kimberley and the Ngaanyatjarra Lands as case studies, the evaluation will focus on how well components of the PSS interact at a specific location, whether it is effective and sustainable at the regional level and how effective the partnership approach is at the whole-of-government level.<sup>33</sup>

2.25 The evaluation appears to focus on the effectiveness of coordination and cooperation mechanisms, rather than on evaluating harm reduction. Origin Consulting was commissioned on 1 June 2012 and is due to report on 30 November 2012. The team is led by David Marcus, and includes Professor Peter d'Abbs, Gillian Shaw and Maggie Kavanagh.

2.26 Commonwealth representatives advised that the Menzies School of Health Research in Darwin<sup>34</sup> had been commissioned by DoHA in March 2011 to assess the impact of low aromatic fuel on the prevalence of petrol sniffing and that the study was due to report in June 2014. The study will collect data from 40 communities and compare data with the 2008 study conducted by Dr d'Abbs and Ms Shaw.<sup>35</sup> The committee notes that the research was not commissioned until nine months after the tabling of the government's official response to the Senate committee inquiries, and has a reporting date over five years after the March 2009 Senate inquiry. One of the reasons for the length of the study is that it is intended to include two cycles of data-gathering from communities:

Menzies [School of Health Research] is collecting data from communities specially selected to assess defined characteristics and will collect data from

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33 Australian government, *Submission 19*, p. 10.

34 Dr Peter d'Abbs who co-authored the original 2006 and 2008 petrol sniffing prevalence studies is now Professor of Substance Misuse Studies at Menzies School of Health Research.

35 Ms Sue Campion, Acting First Assistant Secretary, Mental Health and Drug Treatment Division, DoHA, *Proof Committee Hansard*, 16 August 2012, pp. 28–29.



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40 participating communities twice over a 24 month period to measure the prevalence of petrol sniffing.<sup>36</sup>

2.27 Although data was gathered from 21 communities in September 2011, by the time of the Australian government submission to this inquiry on 14 August 2012, the first data gathering exercise remained incomplete, with the initial surveying of the remaining 19 communities 'due to commence in August/September 2012'.<sup>37</sup> (The committee understands this data gathering step has now commenced). If the second round of surveys were to be similarly split into two batches a year apart, the study would fail to meet its reporting deadline in 2014.

2.28 There are no plans for there to be an interim report from the evaluation. The committee sought clarification of for why two rounds of data gathering are required for this study. It was advised that:

One-off snapshots are inherently unreliable as an indicator of trends, particularly with respect to behaviours that fluctuate such as petrol sniffing and other forms of volatile substance [ab]use tend to do. There is therefore value in surveying communities at least twice to ensure the reliability and validity of the data.<sup>38</sup>

2.29 During discussion with Commonwealth agencies, it became apparent that the Northern Territory government also is gathering data relevant to petrol sniffing. This was revealed when the Commonwealth made a trial release of some of its data:

The feedback from the Northern Territory government was there were some large discrepancies between our data and the data that they collected. So it called the integrity of the data into question and for that reason the decision was made that at this stage, until we could be more confident, we should not be using it more broadly outside of the Australian government...<sup>39</sup>

2.30 The government indicated that the Northern Territory data was likely to be of relatively high quality:

I am fairly confident their data probably has a bit more rigour than the data we collect because it comes through their health services but it also identifies down to individuals, so they do not provide that data publicly.<sup>40</sup>

2.31 The committee queried why the Northern Territory data was not being used by Commonwealth agencies:

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36 Answer to question on notice #15 from Department of Health and Ageing, received 17 September 2012.

37 Australian government, *Submission 19*, p. 4.

38 Correspondence from DoHA to the committee, 17 September 2012.

39 Mr Robert Ryan, FAHCSIA, *Proof Committee Hansard*, 16 August 2012, p. 22.

40 Mr Robert Ryan, FAHCSIA, *Proof Committee Hansard*, 16 August 2012, p. 23.

CHAIR: Why is there a need for two lots of data? If there is a joint focus on this issue, which we have been led to believe people signed up to in 2009, and the Northern Territory government is collecting data specifically on this issue, why then are we collecting our data as well?

Mr Ryan: My understanding at this stage is it is because we do not have access to the Northern Territory government data. When they looked at our data they provided us with advice that there were discrepancies, but we do not have access to their data. Again, my understanding is that that is because they collect that in the delivery of their services and there is a higher degree of confidentiality as it does actually identify individuals. That does not mean we should not be able to access some summary of that data.

CHAIR: Has there been a formal request from the federal government to the Northern Territory government for access to their information?

Mr Ryan: I am not certain of that.

CHAIR: Could you take it on notice?

Mr Ryan: It is certainly something we could follow up.<sup>41</sup>

2.32 FaHCSIA clarified that there had been no formal request, but that one would shortly be made:

Data sharing was a topic for discussion at the Cross Jurisdictional Forum in June 2012 and it was agreed by all present that accessing data would provide a more accurate overall picture of the extent of petrol sniffing and volatile substance use. Western Australian & Queensland officials were present but South Australian officials did not attend. The Department will write to the relevant State and Territory officials to request access to this information before the scheduled 9 October meeting of the Cross Jurisdictional Forum.<sup>42</sup>

2.33 The committee notes that existing data appears to indicate that current problems with sniffing in Central Australia occur in the two communities of Lake Nash and Titjikala where nearby fuel outlets do not stock low aromatic fuel.<sup>43</sup> Evidence from community representatives confirmed the patterns already documented within the existing data on sniffing prevalence, firstly that huge reductions in petrol sniffing have occurred where low aromatic fuel has been comprehensively rolled out

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41 *Proof Committee Hansard*, 16 August 2012, p. 23.

42 Answer to question on notice #7 from FaHCSIA, received 18 September 2012.

43 CAYLUS, *Submission* 8, p. 5.

in a region, and secondly, that regions that still have access to sniffable fuels have high levels of sniffing.<sup>44</sup>

## Conclusion

2.34 The committee notes the low aromatic fuel roll-out and the measures being put in place to support its future expansion. At the same time, it expresses its concern at the amount of time that is being taken to implement storage and distribution facilities in northern Australia. The committee believes that the government may need to place more pressure on parties involved in the process to ensure there are no further slippages in the time frame.

2.35 The committee is concerned at the time frame involved in the Menzies School of Health Research evaluation. It was not clear why the evaluation project would require in excess of a three-year time frame for completion, with final results not available until five years after the Senate committee's 2009 report, though the committee notes that the duplicated surveying of communities would be a factor.

## Recommendation 1

**2.36 The committee recommends that the government release an interim report based on the first round of data collection being undertaken by the Menzies School of Health Research.**

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44 Mr Willie Bookie, Lake Nash, *Committee Hansard*, 24 June 2012, p. 42; Ms Liza Balmer, Deputy Co-ordinator, NPY Women's Council, *Committee Hansard*, 25 July 2012, p. 1–4; Ms Donna Ah Chee, Acting CEO, Central Australian Aboriginal Congress, *Committee Hansard*, 24 July 2012, p. 23; Ms Lisa Sharman, Community Leader and Youth Worker, Titjikala, *Committee Hansard*, 24 July 2012, p. 34; Dr John Boffa, Public Health Medical Officer, Central Australian Aboriginal Congress, *Committee Hansard*, 24 July 2012, p. 25; Mr David Hewitt OAM, *Committee Hansard*, 24 July 2012, p. 2; Mr Blair McFarland, CAYLUS, *Committee Hansard*, 24 July 2012, p. 39; Mr Tristan Ray, CAYLUS, *Committee Hansard*, 24 July 2012, pp. 48–49.