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SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES
COMMITTEE

Reference: Matters relating to the Torres Strait region

THURSDAY, 17 DECEMBER 2009

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SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE

REFERENCES COMMITTEE

Thursday, 17 December 2009

Members: Senator Trood (*Chair*), Senator Mark Bishop (*Deputy Chair*), Senators Ferguson, Forshaw, Kroger and Ludlam

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Sterle, Troeth, Williams, Wortley and Xenophon

Senators in attendance: Senators Mark Bishop, Ferguson, Forshaw and Trood

Terms of reference for the inquiry:

To inquire into and report on:

The administration and management of matters relating to Australia's northern air, sea and land approaches in the region of the Torres Strait, including:

- (a) the provisions of the Torres Strait Treaty;
- (b) the role of the Torres Strait Regional Authority in respect of treaty and border issues, including how the authority interacts with the governments and people of Papua New Guinea (PNG);
- (c) the extent of cooperation with, and between, Australia's northern neighbours, PNG and Indonesia, in relation to the health, welfare and security of the Torres Strait region and communities in and around this region; and
- (d) the challenges facing this region in relation to:
 - (i) the management of fisheries,
 - (ii) the contribution of international trade and commerce to regional economic sustainability,
 - (iii) the maintenance of strong border security across the Torres Strait region, including but not limited to, issues related to Australia's defence, bio-security, public health, immigration and customs,
 - (iv) cooperation between federal, state and local levels of government, and
 - (v) air, sea and land transport linkages.

WITNESSES

ALLEN, Mr Stephen, Acting First Assistant Secretary, Border Security Division, Department of Immigration and Citizenship	13
BORTHWICK, Mr Stephen, General Manager, Aviation Industry Policy Branch, Department of Infrastructure, Transport, Regional Development and Local Government	84
BRYANT, Ms Jennifer, First Assistant Secretary, Department of Health and Ageing.....	74
CAMPBELL, Mr William McFadyen, First Assistant Secretary, Office of International Law, Attorney-General’s Department	2
CARROLL, Dr Andrew Gerard, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry.....	49
CHANNELLS, Mr Peter, Assistant Secretary, Emergency Management Capability Development, Attorney-General’s Department.....	2
CHAPMAN, Mr Tim, Executive Manager, Quarantine Operations Division, Department of Agriculture, Fisheries and Forestry	49
COLREAVY, Ms Mary, Acting First Assistant Secretary, Land and Coasts Division, Department of the Environment, Water, Heritage and the Arts.....	65
DANCE, Mr Ronald James, Assistant Secretary, Crisis Coordination Branch, Emergency Management Australia	2
DAVIS, Ms Jackie, Acting Chief Lawyer, Governance and Legal Division, Department of Immigration and Citizenship	13
GARDNER, Ms Fay Irene, Assistant Secretary, Health Protection Policy Branch, Department of Health and Ageing.....	74
GRANT, Mrs Marion, Deputy Chief Executive Officer, Border Enforcement, Australian Customs and Border Protection Service	30
HURRY, Professor Glen, Chief Executive Officer, Australian Fisheries Management Authority	49
KELLEY, Ms Roxanne, National Director, Enforcement and Investigations, Australian Customs and Border Protection Service	30
KERLIN, Mr John Paul, Director, Enforcement Operations, Regional Queensland, Australian Customs and Border Protection Service	30
KLAUCKE, Mr Klaus Gerhard, Director, Asia-Pacific Section, Department of Health and Ageing.....	74
LUI, Mr Stan, Manager, Torres Strait Prawn Fishery, Australian Fisheries Management Authority.....	49
McDOUGALL, Mr John, Policy Officer, International Section, Department of the Environment, Water, Heritage and the Arts.....	65
MORRIS, Mr Paul Charles, Executive Manager, Trade and Market Access Division, Department of Agriculture, Fisheries and Forestry.....	49
NIBLETT, Ms Julia, Assistant Secretary, Onshore Protection Branch, Department of Immigration and Citizenship	13
OXLEY, Mr Stephen, Acting First Assistant Secretary, Marine Division, Department of the Environment, Water, Heritage and the Arts	65
PAHLOW, Mr Michael, Acting Executive Director, Local Government and Regional Development Division, Department of Infrastructure, Transport, Regional Development and Local Government.....	84
PITTAR, Mr Roland, General Manager, Fisheries, Department of Agriculture, Fisheries and Forestry	49

RISHNIW, Ms Tania, Assistant Secretary, Tropical Marine Conservation Branch, Marine Division, Department of the Environment, Water, Heritage and the Arts.....	65
SAASTAMOINEN, Ms Tarja, Assistant Secretary, Family Health and Wellbeing Branch, Office for Aboriginal and Torres Strait Islander Health	74
WILSON, Mr Andrew, Acting Deputy Secretary, Department of Infrastructure, Transport, Regional Development and Local Government	84

Committee met at 9.06 am

CHAIR (Senator Trood)—I declare open this public hearing of the Senate Foreign Affairs, Defence and Trade References Committee into matters relating to the Torres Strait region. These are public proceedings; however, the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness may state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

I remind the witnesses that the Senate has resolved that an officer of the department of the Commonwealth or of a state 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. I also remind you that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim.

[9.08 am]

CAMPBELL, Mr William McFadyen, First Assistant Secretary, Office of International Law, Attorney-General's Department

CHANNELLS, Mr Peter, Assistant Secretary, Emergency Management Capability Development, Attorney-General's Department

DANCE, Mr Ronald James, Assistant Secretary, Crisis Coordination Branch, Emergency Management Australia

CHAIR—I welcome officers of the Attorney-General's Department to the first public hearing for this inquiry. We are very much looking forward to your evidence. We expect that this inquiry will run into the early part of the new year. Would any of you like to make an opening statement?

Mr Campbell—Yes. With respect to the terms of reference, the primary focus of our evidence and also that of our department relates to paragraph (a), the provisions of the Torres Strait Treaty. There is a detailed description of the provisions of the Torres Strait Treaty in the submission made by the Department of Foreign Affairs and Trade. In opening, we would like to highlight a couple of features of the Torres Strait Treaty, but before doing so I want to say that the Attorney-General's Department is one of the key departments involved in the negotiation of Australia's maritime boundaries and was—I hasten to add before my time—involved in the negotiation of the Torres Strait Treaty. In that respect, I recommend to the committee an article by a person probably well known to the committee, Henry Burmester, who was a member of the Attorney-General's Department at the time of the negotiation of the treaty, and was on the Australian delegation noting the treaty. I note that his article is referred to in a couple of the submissions. The article that he wrote deals with the background to the negotiation, the course of the negotiations and it also analyses the provisions of the treaty. But as an historical analysis of the origins of the treaty I think it is quite a good article. It is in a 1982 volume, volume 76, of the *American Journal of International Law* on page 321, but I have a copy for the committee here if you so wish.

CHAIR—We will receive that, Mr Campbell.

Mr Campbell—From the perspective of a boundary treaty, we would like to highlight the uniqueness of the Torres Strait Treaty as a boundary treaty. It is unique both in its holistic approach to the boundary and in the detail in which it deals with each of the elements making up that holistic approach. It is the only boundary agreement for Australia in which we have had to agree upon the land areas that belong to each country. It is the only boundary treaty so far in which Australia has had to negotiate a territorial sea boundary with another country because of its proximity. I should add that there are a couple of other territorial sea boundaries that will be negotiated, hopefully well into the future, and they deal with our Australian Antarctic Territory.

It is also a treaty that not only establishes boundaries but recognises the continued freedom of movement and right to conduct traditional activities by traditional inhabitants, not only in sea

areas but also in land areas. It provides for the sharing of commercial fishing resources between the two countries and mechanisms for the continued administration of the provisions of what is quite a complex agreement. And in that respect I would refer to the Joint Advisory Council and the two Torres Strait liaison offices.

It is also the only Australian boundary agreement in which a state government—that is, the Queensland government—plays such a key role in its administration, and that is necessarily so because of the matters that it covers. Given the proximity of Papua New Guinea to Australia in the Torres Strait area and the history of traditional movement and activities, a treaty which simply drew hard and fast boundary lines and nothing more would not have been a practical solution to the Torres Strait. The treaty was intended to be a practical and fair solution to Australia and Papua New Guinea and, importantly, to the traditional inhabitants of both countries. And despite the difficulties that have arisen in the administration of the treaty, in our view it has stood the test of time. Thank you.

CHAIR—Thank you, Mr Campbell. Do any other officers wish to make any opening remarks?

Mr Channells—No, thank you.

Mr Dance—No.

CHAIR—We will proceed to questions. Can I begin by clarifying with you the position with regard to the review of the treaty from time to time? There is a provision in article 19 2(c) that talks about the functions of the advisory council in relation to review. I would be interested to learn from you whether or not any systematic process of review of the treaty's provisions has been undertaken, when that review or those reviews took place and whether there is any intention to undertake a review some time in the foreseeable future.

Mr Campbell—Chair, I would begin by saying the department with responsibility for the treaty within the Commonwealth—the administration of the treaty as a whole and the Joint Advisory Council—is the Department of Foreign Affairs and Trade. That is a question that they would be best able to answer. I can answer from the Attorney-General's perspective that we have not been involved in any sort of major review of the treaty provisions. We have provided quite a deal of advice in relation to the application of the treaty provisions, but we have not been involved in a review.

I do know also that there have been calls, and I think there are some calls in the submissions that have been made, for revisions of the treaty to be made and also more understandings reached between the two countries about the application of certain provisions of the treaty—one example being the number of villages in Papua New Guinea that are treated as having traditional connections with the Torres Strait. I can take that on notice, but other than that I cannot add anything. It is a question which should be directed to foreign affairs.

CHAIR—I am happy to do that, Mr Campbell. I was interested to know, as a matter of law under the terms of the treaty, whether or not there is any particular obligation to review the treaty, so I go to you as the law officers of the Commonwealth to inform the committee as to

whether or not there is a specific obligation for there to be a review at particular times. I can certainly go to DFAT.

Mr Campbell—There is no obligation under the treaty to conduct a review of the treaty at any given time. Of course it would be open to Papua New Guinea and Australia to agree to a review of the treaty and its provisions. I would like to add one thing: this is one of the most complex maritime boundary agreements that I know of in that it sets the fisheries boundaries, sets the seabed boundary, has other boundaries in it—protected zone boundary—and covers a whole range of issues related to traditional movement et cetera. It is a matter of fact, it is not a matter of law, that it is very rare to amend a maritime boundary agreement. This might be an exception because of the breadth of the things it deals with, but if you are talking about maritime boundary treaties generally, once they are negotiated, they are not normally changed and very few maritime boundary agreements—I cannot think of one—contain a formal provision that they will be reviewed at some point in time.

CHAIR—I see. Opening it up, I gather you are saying, at least by implication, it would create huge potential complications to the arrangements that are already in place under the treaty.

Mr Campbell—I would not say that it would create that sort of complication. I would say that, from my understanding, it took six years to negotiate the treaty, which is not unusual by any maritime delimitation agreement, and in fact, given the breadth of its coverage, was quite quick as maritime boundary agreements go, believe it or not. But of course if the treaty was to be reopened for revision, then there would obviously be things that Australia would want out of that, there would be things that Papua New Guinea would want out of that. They may not necessarily coincide. From reading the submissions, there would obviously be things that the people who made submissions would want changed. It would be quite a complex process and a complex negotiation to change it.

CHAIR—I just wanted to clarify the situation that applies here. I am not suggesting for a minute that we might consider that to be a desirable course of action, but I would just like to understand the legal position with regard to the treaty. I assume that there could be no opening of the treaty unless both parties agreed to that process?

Mr Campbell—Both parties would have to agree on reopening the treaty and, as a matter of law, it is not open to either party—either Australia or Papua New Guinea—to withdraw from the treaty. So basically everything would have to be done by agreement, unless there were a fundamental change of circumstances by which one party could withdraw from the treaty. But I cannot see anything that comes anywhere near a fundamental change of circumstance.

CHAIR—Short of opening the treaty, could the treaty be amended or could provisions be altered by the addition of a protocol or some sort of additional instrument?

Mr Campbell—Certainly, if the parties were minded to, you could have a protocol to the treaty that dealt with a particular aspect, but I think that, in the context of a maritime boundary agreement between two countries, it would be unusual to have a protocol. If you were going to have a protocol, you might as well have a protocol that actually amended it. It may well be another agreement which amends the terms of the treaty between the two countries.

CHAIR—Yes, I see.

Mr Campbell—The treaty itself provides in a number of places for subsidiary arrangements to be made under the treaty. For example, there are arrangements in relation to protected zone commercial fisheries—that is, article 22 arrangements for the protected zone commercial fisheries. There is also the general sort of treaty law of the Vienna Convention on the Law of Treaties, which provides—in, I think, article 31, which deals with the interpretation of treaties generally—that there can be subsequent agreement between parties to a treaty concerning the interpretation and application of the treaty. So it is open to Papua New Guinea and Australia, without amending the treaty, to come to some form of understanding about the interpretation and application of the treaty.

In fact, as is apparent from some of the submissions, such arrangements have been entered into between Papua New Guinea and Australia. For example—I am just trying to find the arrangement; I think it is referred to in the evidence—one is the third person notes that were exchanged between Australia and Papua New Guinea in 2000 which identified the villages in Papua New Guinea that could be taken to exercise freedom of traditional movement in the protected zone. That exchange of notes referred to an even less formal arrangement, somewhat earlier on, which sought to identify geographically what would be the adjacent coastal area under the treaty. The treaty says that inhabitants from the adjacent coastal area who have traditional connections can have freedom of movement et cetera. So that document sought to define ‘adjacent coastal area’ for both Papua New Guinea and Australia and, in relation to Papua New Guinea, was subsequently amended by that later exchange of notes. It also sought to give some meaning to the term you will see in the treaty in many places—that you can do something ‘in’ and ‘in the vicinity’ of the protected zone, and this document sought to clarify between the two countries, without formally amending the treaty, what was ‘in the vicinity’ of the protected zone. So that is a mechanism by which the two countries can, I think, do quite a lot without actually amending the terms of the treaty itself.

CHAIR—So this concern about the Gizra village, which claims to have been improperly left out of this definition, could be included if the parties agreed under these arrangements?

Mr Campbell—I think that 2000 arrangement, without saying whether the Gizra village should be in or out, says, ‘The Australian High Commission further proposes that the identification of these villages should not exclude the application of free movement provisions to traditional inhabitants of additional villages if at some point in the future their inclusion is deemed appropriate by the traditional inhabitants of PNG and Australia, in consultation with governments of both countries and in accordance with the provisions of the treaty.’ So yes, it could be done that way.

CHAIR—And with the addition of ‘The village, that one or any other, would require both parties to agree’?

Mr Campbell—Both parties would have to agree and, as I understand it, in relation to the villages there would be consultation with the traditional inhabitants of both countries about that particular matter.

CHAIR—What is the status of the native title claim in relation to this area?

Mr Campbell—My understanding and knowledge of the status of the native title claim actually comes from the submission made by the Native Title Tribunal. The evidence in that submission is that the case was not settled, if I can put it that way, so there was a hearing of that claim by Justice Finn, of the Federal Court, between September 2008 and July 2009, and that he has reserved his decision on that.

CHAIR—Just as a matter of law, can you tell the committee how, if a claim were found to exist, would it impinge, if at all, on the arrangements in relation to the treaty?

Mr Campbell—That is a very good question and it is something that our department has considered in the past. A number of arrangements were agreed in the past in relation to land areas in the Torres Strait. My recollection is that they always contained a provision which said, essentially, that anything in the claim was subject to the rights of freedom of movement and traditional activities that are set out in the Torres Strait Treaty. Certainly, it has been the consistent position of our department that any claim or any native title would best be qualified by the provisions of the Torres Strait Treaty, which is a binding treaty between two countries. I will leave it at that.

Senator FERGUSON—I have not read the treaty in detail—I can promise you that—but it seems as though, from what you have said to us, that there are some areas that are not delineated—some grey areas—which are open for discussion or resolution between Papua New Guinea and Australia. What happens if we cannot resolve an issue or a dispute? Where does it go?

Mr Campbell—It will not go to the International Court of Justice.

Senator FERGUSON—I am pleased about that.

Mr Campbell—So am I. But there is a dispute resolution provision in the treaty, which I have to say, again, is not uncommon in maritime boundary treaties. It is article 29. It says:

Any dispute between the Parties arising out of the interpretation or implementation of this Treaty shall be settled by consultation or negotiation.

That is a very standard provision in a maritime boundary agreement.

Senator FERGUSON—If it cannot be resolved, there is nowhere else to go, is there?

Mr Campbell—There is nowhere else to go.

Senator FERGUSON—It remains unresolved?

Mr Campbell—Most things can be resolved by negotiation and consultation. But, as I say, it is not unusual in a maritime boundary agreement to preclude going to the ICJ, or any other international tribunal, in relation to the application of the boundary agreement. In fact, there is a very good set of volumes put out by the *American Journal of International Law*, which claims to have in it all the maritime boundary agreements in the world. I remember looking up how many had dispute resolution provisions—we are talking about over 150 agreements here—that allowed

access to a third-party tribunal or a court and it was in the tens. I am talking about 20 or something like that. It would be unusual.

Senator FERGUSON—On another issue, what is the difference in status between Australia's internal waters and Australia's territorial seas?

Mr Campbell—Could I start off by saying there are two sorts of internal waters. There are internal waters for the purposes of Australian law—that is, Commonwealth and state law. Those internal waters are the waters that lie within the limits of the states—take Queensland, for example. Let me give you an example in relation to another state. Sydney Harbour forms part of the internal waters of New South Wales, as does the Hawkesbury estuary and things like that. Those are the internal waters of a state. If you move to internal waters at international law, they include the waters which I just mentioned, but they also include waters behind so-called territorial sea straight baselines. There are several territorial sea straight baselines in the Torres Strait which go round and connect the islands on the Australian side. Waters within those territorial sea straight baselines are, for the purposes of international law, internal waters, over which we have sovereignty. I do not know whether that is sufficient explanation. You asked what is the difference between that and the territorial sea. In the first sorts of waters I talked about—that is, the internal waters of a state or territory—there is no right of innocent passage of a vessel of a foreign country. In the second sorts of internal waters that I talked about, behind the straight baselines, I would say there is little difference—that much difference—

Senator FERGUSON—We are talking about the area around Thursday Island.

Mr Campbell—Yes. There is still a right of innocent passage through that area. It could be said that, as a matter of international law, because they are subject to our sovereignty and they are internal waters, that under a number of conventions and things we would have greater control over them than we would have in the territorial sea.

Senator FERGUSON—So we have territorial seas around several of the islands in the north that are closer to the Papua New Guinean border and that is inside what is the protected zone?

Mr Campbell—Yes.

Senator FERGUSON—What is the relevance of the protected zone in relation to that of the territorial waters?

Mr Campbell—The territorial sea provisions of the treaty are quite complex and necessarily so because of the proximity of Papua New Guinea to Australia. That is shown by the distance between Boigu and Saibai and the Papua New Guinea mainland. What was decided in the treaty was that below the seabed jurisdiction line, which runs through the centre of the Torres Strait, most of the Australian islands below that have a 12-nautical mile territorial sea. But because of the proximity of the islands above that line to Papua New Guinea it was agreed in the treaty that they would only have a territorial sea of three nautical miles surrounding them. Once you get closer to the coast of the Papua New Guinea mainland the treaty, rather than saying just three nautical miles from the coastline, actually plots the line in some cases, because it is between the Papua New Guinean coast and Australia. The territorial sea we have there is, I think, largely

based on equidistance between the mainland, other PNG islands and our islands and is less than three nautical miles.

I personally would see the protected zone as being, in a sense, something entirely different. The protected zone delineates the area—be it the land area, the internal waters, the territorial sea or beyond the territorial sea—in which the traditional inhabitants of Papua New Guinea and Australia exercise traditional movement and activities. That, to me, is the primary purpose of the protected zone, which does not have that much to do with the territorial sea boundaries.

Senator FERGUSON—But when the treaty was first negotiated—I think you said in 1985—

Mr Campbell—I have the dates here. The negotiations started in 1973 and ended in 1978. That was when the treaty was signed.

Senator FERGUSON—I note in your opening statement that you said that the treaty had ‘stood the test of time’. That was the phrase, I think, you are used.

Mr Campbell—Yes, I did.

Senator FERGUSON—The treaty was written prior to the advent of AIDS, prior to the proliferation of transnational crime. I wonder whether, in the intervening period, there has been any reason or necessity to revisit some aspects of the treaty to try to counter, in particular, those two health issues. AIDS in Papua New Guinea was not heard of in 1978. I wonder whether there has been any discussion or suggestion that there might be some need to revisit the treaty because of those issues.

Mr Campbell—I am not quite sure about those particular issues. Certainly, the AIDS issue was picked up in the submissions that have been made to the committee. Again, our department has not been involved in the Torres Strait Advisory Council and the discussions there, but I know there have been previous discussions between the two countries on issues such as PNG traditional inhabitant access to the Australian health system on Thursday Island and things like that. Short of removing the traditional movement provisions in the treaty or perhaps introducing some express qualifications to those traditional movement provisions of the treaty to deal with the issues you have raised, I would not see the treaty being amended to expressly deal with that. I was reading the treaty this morning and, in fact, there are few qualifications in the treaty to the traditional movement provisions. There are certain provisions in the treaty that qualify the position in relation to plant quarantine and things like that but, again, those are issues that should be taken up either between the two countries or in the context of the joint advisory council.

Senator FERGUSON—Finally, a couple of claims have been made by some villages suggesting they have been deprived of their rights to cultural heritage et cetera. Does Australia have a role in responding to those claims or is it up to the Papua New Guinea government to deal with those claims? Who are the people who deal with claims of people who feel they have been deprived of their rights? Who hears that?

Mr Campbell—I assume you are talking about the claims reflected in the submissions—

Senator FERGUSON—Yes.

Mr Campbell—that certain villages in Papua New Guinea should have access to traditional movement and activities under the treaty?

Senator FERGUSON—Yes.

Mr Campbell—That issue, in the final analysis, would have to be resolved between the two governments, as I think I mentioned earlier. But the first cab off the rank, I would have thought, with respect to those villages making representations would be the Papua New Guinea government, which then might seek to take up the matter with the Australian government. That is the way I think it should be resolved.

Senator FERGUSON—But there is nobody to arbitrate?

Mr Campbell—There is nobody to arbitrate that particular matter.

CHAIR—Are you aware, Mr Campbell, that that has happened—that the claim in relation to some of these villages has been pressed on the Papua New Guinea government and have you been asked to give advice about that?

Mr Campbell—I am not aware of that.

Senator FORSHAW—Firstly, my apologies for being late. I missed most of your opening presentation. I blame air travel delays. Nearly all the questions I think I had have been asked, but can I just pick up on this issue of the territorial waters. You use the example of Sydney Harbour as internal waters. I understand that—I am from Sydney. You then talked about territorial waters. How far do the internal waters of a state actually extend beyond the coastline?

Mr Campbell—If I go back to the internal waters of the state—that is, constitutionally in Australia, what are the internal waters of a state—there are lots of case books full of cases on that particular issue. I can give you a rough idea, but there are various, quite detailed legal principles that apply to it. In the Commonwealth, if we have to determine where the boundary lies between state internal waters and those waters outside a state's internal waters, we actually have to look at each area individually and apply these legal principles to it. Roughly speaking, there are some general principles. Bays that have mouths of less than six nautical miles across and of a sort of concave shape would form part of the internal waters of the state. If you draw a line across a river mouth from one side to the other, the waters inside the river mouth also form part of the internal waters of the state. There are a couple of particular matters in relation South Australia and the Northern Territory. The letters patent which actually define the states refer to the states including the bays and gulfs. So for the purposes of Australian law, Spencer Gulf, even though it does not meet the test I referred to earlier, forms part of the internal waters.

Senator FORSHAW—I do not want to complicate all this. Australia has rights to its territorial waters. As I understand it, that was a certain distance out from the coastline. Then you get all sorts of discussions about who regulates some of that area in terms of planning law, high tide marks, low watermarks and all that sort of thing. I am relying on what I used to do in a previous career here in terms of our rights to mineral, oil and gas or other exploration. As I understand it, that is governed essentially by the international convention on rights that attract to your continental shelf. Could you just remind me how that is regulated? What I want to get to

here is, for instance, how does the treaty operate in relation to other rights that accrue to Australia under other international conventions and under Australian legislation such as, I think, Seas and Submerged Lands Act and our rights, for instance, to explore for oil and gas off the coast of Western Australia, in Bass Strait et cetera? Then we have that other complication of the Timor Gap, which we probably will not want to get into.

Mr Campbell—I would rather not go there, Senator.

Senator FORSHAW—No, but that is the sort of stark example of where you get international disputes over boundary lines. With all of that, can you clarify for me how this treaty works in relation to other international conventions and legislation?

Mr Campbell—Perhaps if I just start off with the general position under international law, which is largely reflected in the 1982 UN Convention on the Law of the Sea, to which both Australia and PNG are parties. The general position under that in relation to resources et cetera is that you have a territorial sea over which you have sovereignty and complete control over the minerals and living resources such as fisheries in that area. It is subject to a right of innocent passage. The next resource zone is the exclusive economic zone. In that zone you have the same control essentially over the resources of that zone. In other words, you completely control the fisheries resources and the mineral resources of the seabed in that area. There is freedom of the high seas there. Beyond that area you have an additional area of continental shelf sometimes referred to as the extended continental shelf—that is, beyond 200 nautical miles. You would take the area in question to the commission on the limits of continental shelf like Australia did and confirm that you have continental shelf in that additional area beyond 200 nautical miles. In that area you have the right to control the resources of seabed. That is the general position under international law.

If you then move to the Torres Strait Treaty, all of those rights that I just mentioned—bearing in mind that the territorial sea is a fairly confined area in the Torres Strait—have the potential to apply there. Therefore, one of the functions of the Torres Strait Treaty—

Senator FORSHAW—To Australia and/or New Guinea?

Mr Campbell—Yes. One of the functions of the Torres Strait Treaty is to actually draw the boundaries in which Australia can exercise fisheries and seabed jurisdiction in those zones and Papua New Guinea can exercise fisheries and seabed jurisdiction under international law. The treaty has something called a fisheries jurisdiction line. On one side of that line Australia controls the fisheries and on the other side of the line PNG controls the fisheries, except in the small pockets of territorial sea that are in that area of PNG fisheries jurisdiction. In addition, there are catch-sharing provisions under which PNG is entitled to a proportion of the catch on the Australian side of the line and vice versa.

In relation to the seabed, there is a seabed jurisdiction line which delineates who has jurisdiction over the seabed. That is largely the same as the fisheries jurisdiction line except you will see an area—I am not sure if you have the map there—there called the ‘Top Hat’ where the seabed jurisdiction line departs from the fisheries jurisdiction line. It sets out who has jurisdiction in relation to the seabed. Just to complete the picture, in terms of the seabed jurisdiction of mining of petroleum, the treaty established a 10-year moratorium on the mining

of petroleum taking place within the protected zone and a provision for extending it. My understanding is that that has been extended a number of times.

Senator FORSHAW—That has to be by agreement?

Mr Campbell—That has to be by agreement.

Senator FORSHAW—What happens if there is no agreement?

Mr Campbell—It will not be extended if there is no agreement.

Senator FORSHAW—So then you revert back to wherever the discovery is made?

Mr Campbell—That is exactly right—on the side of the line.

Senator FORSHAW—Wherever the field is.

Mr Campbell—It is a matter of detail, but there is also a provision in the treaty that says that, where there is a petroleum pool that lies on both sides of the line, arrangements will be made for the fair sharing of that resource.

Senator FORSHAW—Thank you.

CHAIR—This is an international strait under the UN Convention on the Law of the Sea. Is that correct?

Mr Campbell—Yes.

CHAIR—Is it all an international strait for the purposes of international law?

Mr Campbell—Sorry, I forgot to bring my law of the sea convention with me. The whole of the Torres Strait is the international strait for the purposes of the law of the sea convention. The relevance of an international strait is that the vessels of other countries have a right of transit passage through the strait. In a practical sense, that transit passage can only be exercised in certain places because of the geography, the seabed and things like that.

CHAIR—Sure, as a matter of practice obviously and navigable waterways et cetera. Their various zones that have been drawn and lines that have been drawn there for the purposes of discussion or purposes of arrangements between the Papua New Guinea government and the Australian government do not affect the status of this strait as a place of free passage?

Mr Campbell—That is exactly right.

CHAIR—None of the arrangements that we have been discussing affect the right of foreign vessels transiting the strait? And is there anything that the Australian or Papua New Guinea governments could do to prevent the passage of a foreign vessel under these arrangements? There may be some international—

Mr Campbell—I think the first point to be made is that this is a bilateral agreement between Papua New Guinea and Australia and nothing that we do in a bilateral agreement between the two countries can affect our obligations and the obligations of other countries under the law of the sea convention which remain in place. Anything that we do in relation to vessels transiting the Torres Strait has to be consistent with our international obligations, particularly under the law of the sea convention. There is a right of transit passage through the Torres Strait. It is a matter of fact that Australia has introduced a number of measures designed to protect the environment of the Torres Strait and, to a degree, the traditional way of life of the people in the Torres Strait, in relation to vessels that are exercising transit passage through the Torres Strait. The primary one of those is the introduction of a system of pilotage through the Torres Strait. That has been quite successful.

CHAIR—When was that introduced—do you know?

Mr Campbell—I would have to take the precise date on notice, but it was only a couple of years ago. There was a system of voluntary pilotage through the Torres Strait before that and the uptake on the voluntary pilotage was not very high, but since the system of compulsory pilotage has been introduced, my understanding is that nearly every vessel—there have been very few, if any, exceptions—is taking up that pilotage. If I could just add: some of the places where the vessels transit through the Torres Strait, such as the Prince of Wales passage—and there are large vessels—are very narrow. If a vessel was stuck in one of those areas, that would impede the transit of other vessels going through.

CHAIR—Are the pilotage arrangements part of Commonwealth regulation? How are they promulgated—

Mr Campbell—My recollection is that they are by regulation under the Navigation Act, but I will have to take that on notice.

CHAIR—Thank you. Mr Campbell, and your officers, we are grateful to you for coming along this morning and giving your advice to the committee. It has been very helpful. I cannot say that we may not ask you to come back again at some stage, but at this stage we are grateful for your services. Thank you.

Mr Campbell—That would be a pleasure.

[9.54 am]

ALLEN, Mr Stephen, Acting First Assistant Secretary, Border Security Division, Department of Immigration and Citizenship

DAVIS, Ms Jackie, Acting Chief Lawyer, Governance and Legal Division, Department of Immigration and Citizenship

NIBLETT, Ms Julia, Assistant Secretary, Onshore Protection Branch, Department of Immigration and Citizenship

CHAIR—I welcome officers from the Department of Immigration and Citizenship to this hearing. A copy of the committee's opening statement has been provided to you. Do you have any questions regarding that statement?

Mr Allen—No, Senator.

CHAIR—The committee has before it submission No. 16 from the department. It is a public document. Do you wish to make any amendments to your submission?

Mr Allen—Only to indicate that, in the course of the morning, we will be able to provide you with some updated statistics on traditional movements and refused immigration clearance. We have copies of those and we will provide them to the committee.

CHAIR—Thank you, Mr Allen. I now invite you to make an opening statement if you care to do so.

Mr Allen—Thank you for the opportunity to deliver a short opening statement. I would also like to say that the Department of Immigration and Citizenship welcomes the inquiry into matters relating to the Torres Strait region and we thank the committee for the opportunity to make a submission.

The department contributes to Australia's security through border management and facilitates the lawful and orderly entry and stay of genuine travellers. Australia manages its borders through a multilayered approach. People wishing to travel to Australia initially must apply for a visa and submit to a range of checks prior to any visa being granted. The majority of these visitors are managed as they enter Australia through one of the main airports or seaports; however, the Torres Strait presents unique challenges for this approach.

DIAC is one of a range of government agencies which works cooperatively in the region to ensure that there is a whole-of-government approach to address issues of concern that affect the Torres Strait region, its inhabitants and border integrity. The Torres Strait region represents a unique operating environment and challenge for DIAC and those other agencies due to its remoteness and the lack of infrastructure in the region. This is coupled with a relatively high number of people movements. These conditions warrant a different set of management and operational arrangements when compared to the processes and infrastructure for arrival at

Australia's main air and sea port border. While this presents risks, those are managed through the cohesive nature of the small island communities and the strong relationship that border agencies have with these communities. The more structured arrangements which govern those normal air and commercial sea arrivals are not appropriate to the particular needs of traditional visitation in the Torres Strait. This does not, however, mean that we are not looking always for appropriate enhancements to our current arrangements in the region.

Our written submission outlined our current operating arrangements and the ways in which traditional movement is managed, and highlighted some particular challenges in the region. Those challenges included the collection of accurate data, the management of non-treaty travel by PNG nationals, especially in relation to accessing Australia's healthcare system, maintaining the trust and support of the island communities and, finally, the issue of regularising the status of offshore entry persons who would be eligible to apply for a visa if they had arrived in a non-excised place.

DIAC is responsible for monitoring and managing the free movement provisions of the Torres Strait Treaty. The department has six full-time officers based on Thursday Island, and a team of 18 movement monitoring officers are based on the outer islands of the Strait. In an environment where people are not required to carry passports or identity documents, these officers play a vital role in monitoring the free movement provisions and maintaining the trust and support of island communities while reporting any third country arrivals.

DIAC acknowledges that in order to address the complex issues of border management in the Torres Strait there needs to be accurate reporting to give a clear picture of movements and activities. Past data collection of movement in the Torres Strait region may not have been as robust as it could have been and the department has recently made substantial progress in improving the quality of the data collected. We believe that this will make it possible to identify more accurately in future the number of individuals making traditional visits and the reason for these visits. Early data collected through this new approach is available and, as indicated, there are copies that can be provided to the committee. Better data, we hope, will help to dispel some of the misconceptions that exist in regard to the reasons for travel and the number of overstays in the region. DIAC is committed to a continued improvement in data collection and in the recording of that data to enhance future reporting.

The department's ability to more accurately monitor and report on traditional movements and activity directly links to the control of non-treaty travel, specifically travel for access to health services. The package of measures developed by the health issues committee aims to reduce the need for Papua New Guinean citizens to seek health care on the Australian islands. DIAC participates in that health issues committee and we support that work. As part of our work with communities, the department regularly participates in the treaty awareness visits conducted by the DFAT treaty liaison officer. These are multiagency visits intended to increase awareness and understanding of the treaty among traditional community members and leaders on both sides of the border.

Under current legislation, persons who arrive at excised offshore places without a visa in effect become offshore entry persons. Some arrivals in this category, if they had arrived at a non-excised place, would be eligible to apply for a visa. DIAC is currently formulating advice to our minister in regard to regularising the status of certain classes of persons who are currently

inconvenienced by the excision legislation. There are, in particular, four categories: New Zealand citizens holding a New Zealand passport; permanent residents of Norfolk Island; persons medically evacuated to Australia via an excised offshore place; and, finally, electronic travel authority eligible passport holders arriving by air or sea without a visa.

In examining other submissions to this inquiry and recent media attention, it is apparent that there are continuing misperceptions about what happens in the Torres Strait. Much of what is said is based on events that occurred some time ago and it is clear that more accurate data is needed to develop a better evidence base for consideration of issues.

In conclusion, I wanted to make mention of the *Malu Sara* tragedy. Committee members will recall that on 15 October 2005 the immigration response vessel the *Malu Sara* sank in the waters of the Torres Strait, resulting in the deaths of five people, including two departmental officers. The Queensland coroner and the Australian Transport Safety Bureau reported on this tragedy earlier this year. Comcare is also preparing to release its report; although, as the report will not be released publicly until after the families have been informed of the outcomes, we are not in a position to disclose the details of that report. I would like to reiterate that the department is deeply sorry for the losses suffered by all those affected by this avoidable tragedy. We are working with the families of those lost to respond to their compensation claims as quickly as possible. Our current management structure in North Queensland and the improved employment arrangements and training regime for the movement monitoring officers are direct responses to this tragedy and we are determined that such an avoidable event will not occur again. Thank you very much.

CHAIR—Thank you, Mr Allen. Just on the matter of the *Malu Sara*, has the report been completed?

Mr Allen—That is my understanding, yes.

CHAIR—Do you have any idea yet as to when that report will be made public? I understand what you just told us, but do you know how long it is going to take to complete that process?

Mr Allen—I understand that Comcare is currently in the process of preparing a media release and I would expect that the report will be out very soon—within days, I believe.

CHAIR—I see. Just further to this tragedy, the vessels that were purpose built for the immigration department have of course now been removed from operations as a result of this. What have you done, if anything, about replacing those vessels or what are you planning to do about it?

Mr Allen—After the event, as you may be aware, there was an independent review undertaken about operations in the Torres Strait. That review came to the conclusion that DIAC should not operate vessels but should instead rely on the assets of other agencies for transport around the region. There is no intention to replace the vessels and we do not propose to undertake those sorts of maritime activities again.

CHAIR—So you have been several years without your own vessels up there?

Mr Allen—Since 2005, yes.

CHAIR—What judgment has the department made about the practicality of you not having vessels?

Mr Allen—We have been in, as you would expect, constant contact with our staff in the region and our management in North Queensland. Their advice in fact is that the absence of the vessels has had very little impact on our operational capacity in the area.

CHAIR—I see.

Senator MARK BISHOP—Why did you have a vessel in the first place then? What were its tasks if its absence has had somewhere between minimal and zero impact on your operational capability?

Mr Allen—That is going back some time in terms of the original rationale for the vessels. My understanding is that the vessels originally were used for transport between the islands and for some forms of maritime surveillance. I cannot really speak to the logic that led to that conclusion in the first place, only that in the review of our participation in those activities it was concluded that those aspects of the mission are better carried out by other agencies and in particular by Customs and Border Protection, which has a long history of using maritime assets, is in a position to provide transport to our MMOs when that is required and is generally better fitted to undertake that sort of role.

Senator MARK BISHOP—Now that that platform been absent for the best part of four years, is it still your considered position that the department has no requirement for a similar platform to carry out its tasks?

Mr Allen—Yes. It is still our view that we can carry out our tasks effectively without boats.

CHAIR—Does this mean, Mr Allen, that when you need to move your officers around you use the capability of other agencies? Is that correct?

Mr Allen—Yes. Customs and Border Protection carry out a number of movement taskings on our behalf.

CHAIR—I just wanted to ask a couple of questions about these numbers. There is a figure of 59,000 people moving around the islands cited in several submissions. I gather they are essentially reciting your numbers; is that correct? You seem to be the source of the 59,000 figure.

Mr Allen—Yes, I think there has been general agreement within agencies that we should be the one source of truth for these movement figures.

CHAIR—I think the question of whether or not your truth is accurate is an interesting one, because you have made the point in your submission that the numbers need to be made more robust. You have actually undertaken a process of change or reform of your recording, and I would be interested if you could tell the committee what it is you are now doing that you think is making these numbers more robust.

Mr Allen—We have done a number of things. We have changed the methodology for the collection of the information so that it is more finely graduated and relates not just to the movements themselves but to the individuals making the movements.

CHAIR—Sorry, Mr Allen, but when you say ‘more finely graduated’ what does that mean? Do you mean that you are asking people who move more detailed questions about their origins and purposes and things like that or does it mean something else?

Mr Allen—It means that precisely. We are asking more about their reasons for movement, who they are, where they are coming from, how long they intend to stay and those sorts of questions. We have also extended considerably the hours of operation of our officers in the Torres Strait. As you would be aware, there is a requirement for traditional visitors, first of all, to have permission to travel. There is also a requirement for them to arrive at a designated landing place. We have had much better coverage—certainly more recently, in the last 12 months—of all those designated landing places than perhaps we had before. And we did make the point in our original submission that, while recent years appear to show an increase in the number of movements, we think that, as well as some natural increase, some of that perceived increase in movements is in fact because we are better capturing the accurate numbers.

CHAIR—You said you had some new statistics on the basis of the more robust collection methods.

Mr Allen—Yes, and I can provide those now if you like.

CHAIR—Would you do that, please. These are for the period from July this year—is that correct? So we are getting up toward six months?

Mr Allen—I think that these actually cover the period from 1 July to 30 November, and they are based on the new methodology and the new, more complete coverage of movements. As well as providing the actual arrival figures, we have also provided information on the breakdown of those visitors of various origins who have been refused immigration clearance over that period, so that the committee will have a better understanding of not just the counting work that our MMOs do but also the compliance and border protection work that they undertake in the strait.

CHAIR—How many designated arrival points are there in the strait?

Mr Allen—There is generally one for each of the treaty islands. In most cases it will be the boat ramp or an area adjacent to the boat ramp.

CHAIR—So it means that one of your officers is stationed at that designated arrival point—is that correct?

Mr Allen—That is correct.

CHAIR—And is that during hours of business?

Mr Allen—During the hours which are designated for the landings and the departures to occur. Most islands will have some variation but they will designate hours in which the arrivals and departures are supposed to occur.

CHAIR—And what are they, generally—nine to five?

Mr Allen—It is normally the daylight hours.

CHAIR—The daylight hours?

Mr Allen—Yes. I could not give you a precise time for any of the islands, but we could certainly come back to you with the actual designated times for each of the islands.

CHAIR—Perhaps you should do that, Mr Allen.

Mr Allen—Certainly.

CHAIR—So during the daylight hours, or during the designated periods at the designated arrival points, there is an officer of the department there for the whole time—is that right?

Mr Allen—Mostly, yes. We do do some sharing of responsibilities with AQIS officers in the region, but generally it will be one of the movement monitoring officers. In some cases, for those islands where there are more frequent arrivals, such as Boigu and Saibai, we have more than one officer available.

CHAIR—So what happens if someone arrives outside the hours for which the person is there?

Mr Allen—That does occur from time to time, and the advice which is provided to traditional visitors is that, if they do arrive or seek to depart outside of those hours, they should, at the earliest available opportunity, make themselves known to the movement monitoring officer so that their arrival or departure can be correctly recorded. This, for obvious reasons, works much better in terms of arrivals than it does in terms of departures.

CHAIR—I am just wondering how effective it actually is in relation to arrivals. It seems to me that, yes, there is an ordered system for this to occur. But it is also fairly obvious, I would have thought, that an individual who wished, for other reasons, to arrive on these islands—one who was not a traditional owner, for example, or did not have a purpose for which they were allowed to travel, or for any number of reasons—could subvert the system relatively easily, couldn't they?

Mr Allen—It is possible that they could. What tends to militate against that in the strait is the fact that the MMOs live in and are generally part of the community on the island of arrival, and that, if you like, an irregular arrival of that kind would generally be brought to their attention fairly quickly by the community.

CHAIR—Are you saying to the committee that you are very confident about these numbers under the new system and that you think the instance of people moving back and forth between the islands, particularly between Papua New Guinea and the Australian islands, is relatively low?

Mr Allen—I am confident that this represents the vast majority of movements. I cannot give a guarantee that there are not movements that we are not aware of. The environment itself, with the ability to land from the sea, and the closeness of PNG means there will always be a possibility of movements that we are not aware of. But I am very confident that these represent the vast majority and provide a very, very good estimate of the overall number of traditional movements.

CHAIR—These are traditional movements, but you have statistics in relation to non-traditional movements. Do your new figures highlight these movements, or not? These statistics you have given us relate to traditional movements, do they not?

Mr Allen—The statistics in the top table do. The statistics in the bottom table—that is, the ‘refused immigration clearance’ statistics—also include those people who are not covered by the traditional movement arrangements.

CHAIR—So those under ‘refused immigration clearance’ are people who are not entitled to move as a result of being a traditional inhabitant, and others?

Mr Allen—And others. It includes traditional inhabitants who have arrived and have not declared a reason for movement that does not fall within the definition of a traditional visit. For example, there are people who arrive and say that they are seeking to access health services or that they are seeking to shop or that they are engaging in some commercial activity. They will be refused immigration clearance. It also includes PNG nationals from non-treaty villages. They may arrive as passengers or they may arrive by themselves. It also covers the arrival of third country nationals. The vast majority of third country nationals in the Torres Strait in the past have tended to be people like yachtsmen.

CHAIR—I am looking at your table in relation to ‘refused immigration clearance’. I notice that, for example, 359 people from Saibai Island declared that they had some health concerns that they sought to have attended to. That is obviously not a traditional reason to move across the strait. They are then refused clearance. What do you do with those people?

Mr Allen—That will depend on their individual circumstances. The intention when you refuse immigration clearance is to have them removed from Australia at the earliest practicable opportunity. Before they are removed, if they indicate that they are unwell there will be a ‘fitness to travel’ estimation carried out. It is usually carried out by the Queensland Health Service. We do not simply remove them; we have to ensure that their safety and health are taken into account before they are sent back to, in most cases, PNG.

Senator MARK BISHOP—Even though they arrived by ship with these alleged health and safety problems?

Mr Allen—Yes. It will largely depend on the judgment of the individual officer, but these people may well turn up and say that they have health issues. If we have a client who indicates that they have a health issue then we have a responsibility to ensure that there is no risk involved in returning them to their country of origin. So a ‘fitness for travel’ activity will generally be carried out.

Senator MARK BISHOP—Are you saying that a citizen of PNG who has a serious health problem may seek to transit to an Australian offshore island which is not far from PNG and draw his or her serious health problem to the attention of the relevant officials, and we then have to attend to that problem before the person can be sent back to their country of origin?

Mr Allen—In some cases it will be attention to the problem. In some cases the fitness-for-duty estimation will conclude that it is quite safe for the person to travel back—if, for example, it is a minor health ailment or something which does not impact on the safety of their return. There will be some cases where the health problem will be of a nature where they will need further treatment before they can be returned.

Senator MARK BISHOP—Even though the provision of health services to citizens of PNG is regulated by other means?

Mr Allen—I am not quite sure I understand that question.

Senator MARK BISHOP—It is not a lawful matter for a citizen, for example, of PNG to seek entry into Australia for the sole or dominant purpose of availing themselves of facilities of public health provision, is it?

Mr Allen—No, it is not, and that is why they are generally refused immigration clearance.

Senator MARK BISHOP—In that context, are the tests you apply to citizens of PNG seeking entry via this route and for these reasons the same set of tests or protocols that you would apply to persons of other countries seeking entry via other parts of Australia?

Mr Allen—Generally, in relation to non-treaty PNG citizens, the answer is essentially yes. If they are not coming here for a lawful purpose then those tests are applied in terms of the reason for their visit and in those cases the refusal of their immigration clearance.

Senator MARK BISHOP—Got it. Thank you, Mr Allen.

CHAIR—How extensive is this health check? If someone says, ‘I’m here for health reasons,’ and you send them to the Queensland Health service, I gather, which undertakes this task, is it a brief interview? Can it be done on the spot at each of the designated arrival points? Do they need to be sent elsewhere? What is the practicality of this matter?

Mr Allen—My understanding is that they are generally sent to the nearest health clinic. The degree of the examination would depend on the circumstances of the person presenting—on the seriousness of their health issue.

CHAIR—Is there a health clinic near each of the designated arrival points?

Mr Allen—There would not be a health clinic available near all of them.

CHAIR—So if someone arrives at an island and says, ‘I’m here. I’ve got a health problem,’ and there is no designated health clinic, then who is responsible for getting that person to the clinic if it is on another island?

Mr Allen—They may require transportation. That is something that DIAC would organise in cooperation with the other agencies in the region who have transport assets.

CHAIR—Is this something that is done on the day they have arrived, for example? Can it take days for this to occur?

Mr Allen—That would depend on the circumstances. I would have to take some more advice on how quickly those movements generally occur.

CHAIR—Do you have any statistics on that at the moment?

Mr Allen—Not available immediately, but we can certainly look at them for you.

CHAIR—Is your more robust system collecting that data?

Mr Allen—The system extends as far as our responsibilities for movements and departure. My understanding is that we do not subsequently go on to collect information about the number who subsequently the clinics. I will check that for you. It is possible that that simply has not been presented in the information available.

CHAIR—Who pays for this? Nothing is free, of course, particularly between agencies, in my experience. If someone arrives at a designated arrival point, says, ‘I’m sick and I need attention,’ there is no clinic at which they need to be assessed and you have to arrange for them to be transported to a clinic, is that an expense that you bear, is it an expense that the individual bears, is it an expense that the health service bears or is it somewhere else in the system?

Mr Allen—My working assumption would be that the debt in the first instance is borne by the Commonwealth. I would need to determine precisely what the breakdown of the costs would be between us and other agencies.

CHAIR—Perhaps you could do that for me. In relation to the assessment that takes place, you say the person goes to a health clinic. Are they run by the Queensland government?

Mr Allen—That is correct.

CHAIR—Does a contract exist between the Commonwealth and the Queensland government to undertake this work?

Mr Allen—That is something I would have to come back to the committee on as to the precise nature of the arrangements. Clearly we have arrangements in place for the work to be undertaken, but the actual funding of that work is something I will have to provide further information on.

CHAIR—If you would do that, Mr Allen, please.

Mr Allen—Certainly.

CHAIR—Could you also tell me what the quantum or the cost of that is on an annual basis or for whichever period you have statistics?

Mr Allen—Certainly.

Senator MARK BISHOP—Ms Davis, did I hear you say that you were the chief law officer for DIAC in the Commonwealth?

Ms Davis—Acting chief lawyer.

Senator MARK BISHOP—A number of the latest submissions make reference to a range of illegal activities deriving from the mainland of PNG—criminal activity, shipment of drugs, shipment of people; all sorts of activities that we are aware of and that appropriate authorities look into. We know of the pipeline of boat people, illegal immigrants, coming from South Asia down through Malaysia and Indonesia into Christmas Island. Are you aware of any shipment of people of that nature—organised, illegal boat people—out of Asia and the like coming further east and down through the Torres Strait?

Mr Allen—I would not like to take away the opportunity for Jackie to answer the question, but within our submission we included all of the particular cases of asylum seekers which have occurred in the Torres Strait and adjacent areas. That is included in our original submission.

Senator FORSHAW—Can you tell us where?

Mr Allen—It is on page 14 of the original submission.

Senator MARK BISHOP—So in 2005 it was minimal; in 2006 a boatload of Indonesians arrived in Cape York; in 2007 a few PNGers arrived in Saibai; and there are no figures for 2008. In April 2009 why did 50 Sri Lankans end up in Torres Strait and not places further west, and why did the two Afghans, the one Sri Lankan and the one Indian end up on Deliverance Island and not further west?

Mr Allen—I will start with the 50 Sri Lankans. The committee will recall that this was in fact a single boat which we understand was travelling through the Torres Strait en route to New Zealand when it ran into difficulties in the Torres Strait. There was a subsequent period of negotiation between the people on board the boat, the Australian authorities and the New Zealand authorities to resolve that issue in a way that best met their safety requirements. In the end the determination that the people on the boat made was that it would be better for them to seek asylum in Australia than risk further sea passage to New Zealand. So they were effectively going past and did not quite make it to where they were going.

Senator FERGUSON—What happened to the 42 West Papuans?

Ms Niblett—They were from Papua province in Indonesia. They were granted temporary protection visas. Most of those have since been granted what we call a resolution of status visa.

Senator FERGUSON—In Australia?

Ms Niblett—In Australia, which gives them permanent protection in Australia.

Senator MARK BISHOP—Most of them have settled down here, haven't they?

Ms Niblett—Yes.

Senator FERGUSON—That's all right, I just could not remember—

Senator FORSHAW—It is amazing how it just disappears off the front pages.

Senator MARK BISHOP—Going back to the 50 Sri Lankans: their ship became unsafe; they chose to seek access via Torres Strait. Where are they now?

Ms Niblett—I can answer that question with some specificity, but I would need to check the precise details relating to all of them. I understand one person remains on Christmas Islands and his refugee status is being processed, a number of people have been found to be refugees and have been granted protection visas, a number have voluntarily returned to Sri Lanka and a number have been involuntarily removed from Australia to Sri Lanka having been found not to be refugees.

CHAIR—How many are there in that category?

Ms Niblett—I would have to check the precise data because some of the decisions and processes are fairly recent.

CHAIR—Perhaps you could do that for the committee?

Ms Niblett—Yes, I am happy to do that.

Senator MARK BISHOP—Those four subgroups you just outlined, if you could take that on notice and give us the numbers in due course, that would be appreciated.

Ms Niblett—Yes.

Senator MARK BISHOP—I do not know whether this is within your purview or whether it is border control's: were they undetected before they experienced ship problems and had to come ashore at Torres Strait Islands? How did they manage to get so far east?

Mr Allen—That is probably a question better put to Customs and Border Protection Service. From my recollections of when this was discussed at the previous estimates hearing earlier in the year, my understanding is that it was believed that the boat had remained quite close to the Indonesian archipelago on its way through. I have no more details on that, and Customs and Border Protection Service would be better placed to give you some more specific answers.

Senator MARK BISHOP—But there was a discussion at estimates on this point, was there?

Mr Allen—There was discussion at estimates on this, yes.

Senator MARK BISHOP—Thanks, that has helped.

Senator FERGUSON—What is the approximate permanent resident population on Saibai and Boigu?

Mr Allen—It is a very good question, Senator, and I could not tell you off the top of my head. I would have to—

Senator FERGUSON—But are we talking 2,000 people, 3,000 people do you know?

Mr Allen—I could not give you an estimate.

Senator FERGUSON—Could you find out for us—

Mr Allen—We will find out for you, yes.

Senator FERGUSON—because they seem to be the two islands that are most under discussion when we are talking about the boundaries. The Torres Strait Island Regional Council, in their submission, asserted:

Immigration turns a blind eye to the fact that ‘overstayers’ are on the Island, their inaction in dealing with the problem makes a mockery of the treaty and it is common knowledge that nothing will happen if you overstay your permit, or arrive without a permit ...

You may wish to dispute that. If you do, in your view what has given rise to this perception and how widely is it held?

Mr Allen—There are some misperceptions within the Torres Strait community and amongst observers as to what an overstayer is. For those islands in question, which are very close to Papua New Guinea, there are in fact significant numbers of Papuan families who reside lawfully on those islands. Many of those Papuan families acquired permanent residency as part of an amnesty process in the early 1980s, and some have since acquired Australian citizenship. Those people are not overstayers. What we mean by an overstayer is a Papua New Guinean citizen who has arrived since that amnesty and has overstayed their length of approved stay. It is certainly true that there have been problems with these overstayers in the past, particularly on Saibai and also on Darnley Island. But in recent months and years DIAC has reduced the number of those through a focused approach of engaging with the island councillors, their communities, other agencies and the traditional visitors themselves. Our current estimates show that when using our definition of an overstayer, there are probably less than 10 overstayers in the entire region. The perceptions about this are perhaps fed by the informal nature of the treaty arrangements. It may be apparent to us and to the island councils themselves that an individual has authority to stay up to three weeks, but that may not always be apparent to observers.

Senator FERGUSON—So how long is the normal permit for? You are saying that people have overstayed the length of the permit that they have been given, so how long is it normally?

Mr Allen—It varies from island to island. The maximum is three weeks. On the islands closest to Papua New Guinea, Saibai and Boigu, generally stay is only permitted for a day. From

time to time these islands also, through their councils in consultation with the DFAT Treaty Liaison Office, exercise forms of travel restrictions or bans on visitors in order to manage the numbers coming in. A very recent example of that was a travel ban related to health issues to the spread of the H1N1 virus in the strait. These bans can also be exercised when food, water or other resources are running short. There are restrictions that can be put in place. They are generally put in place in consultation with the island councils and the treaty liaison officer.

Senator FERGUSON—So of the 6,750 arrivals between 1 July and 30 November, would they all have been for one day?

Mr Allen—Yes, they would have been for a short period of time. As you would understand, Saibai is very close to PNG and there is a lot of movement back and forth.

Senator FERGUSON—I understand that, but you have 359 who were refused immigration for health reasons, some of whom obviously were allowed to stay on. What category are they under? They are not overstayers because they were refused immigration anyway.

Mr Allen—They are not counted in the overstayers statistics because they have been refused immigration clearance. It is not true to say that they are allowed to stay on; they only stay as long as it takes any health issues associated with their fitness to return to PNG to be resolved.

Senator FERGUSON—Are there any obvious flaws in your system that allow unauthorised PNG nationals to enter the Torres Strait?

Mr Allen—There are some practical limits because of the environment, because of the closeness of some of the treaty islands to PNG more generally. There will obviously be issues with people who do not come to our attention. But having said that and having been in recent contact with our people in North Queensland and on the islands, because of their links with the community, because of the presence of the MMOs in those communities, they are very confident that they are managing the situation well.

Senator FERGUSON—Does the number of illegals fluctuate at all during the year? Are there any seasonal variations?

Mr Allen—I have no information on that.

Senator FERGUSON—Do you have DIAC officials on each of these islands?

Mr Allen—We have movement monitoring officers on most of the islands, and I can tell you which of the islands we would have them on. They will also, from time to time, be moved to other islands because of particular cultural events. The numbers on each of the islands will change, again dependent on the demand on their services. For example, at the moment we currently have two movement monitoring officers on the island of Erub because there is a number of tombstone openings being undertaken at the moment, which is increasing the rate of travel to that island. So they do use the facilities of other agencies to move around according to the perceived requirements. As I mentioned earlier, we have multiple movement monitoring officers on Saibai and Boigu.

Senator FERGUSON—How many?

Mr Allen—On Saibai at the moment we have four movement monitoring officers. On Boigu we have two movement monitoring officers. I can go through a complete list if you want.

Senator FERGUSON—No, that is all right. Are they supplemented by locally engaged staff?

Mr Allen—We do not have locally engaged staff. The movement monitoring officers, although they are Indigenous Australians from the region, are APS officers.

Senator FERGUSON—There was also a submission we had that stated that the Australian Customs and Immigration officials vigorously and rigidly enforce the entry rights at the territorial border, ‘invariably resulting in the jailing of our people for entering or fishing in our own traditional reefs’. What is the Australian government’s approach to people from the neighbouring PNG side of the border who are not included in the treaty villages but seek to carry out what they regard as traditional activities?

Mr Allen—I cannot comment on the parts of that question which relate to customs, border protection and AFMA. Our approach to this is basically the same as our approach to all other clients. If they are not here lawfully then they will be refused immigration clearance. If necessary, they will be detained, but the intention is always to return them to their place of origin as soon as that can be safely effected. We do not jail people.

Senator FERGUSON—My final question is relation to health. The Torres Strait Regional Authority suggested that both your estimates and the Queensland Health estimates of unregulated health service use are very conservative estimates. Do you consider your estimates accurate, conservative or generous?

Mr Allen—Which estimate was that?

Senator FERGUSON—Estimates of unregulated use of health services by people who are not entitled to those services. In other words, we are talking about traditional visitors with longstanding illness who go to clinics for treatment whilst on visits.

Mr Allen—I am not sure that we have made an estimate ourselves of those numbers.

Senator FERGUSON—The authority has suggested that you have. I did not read the estimate anywhere.

Mr Allen—Our statistics go so far as to tell us how many of the visitors we refuse immigration clearance to. What is not within our purview to gather are numbers of people who may arrive on the islands and present for a legitimate traditional visit reason and who then subsequently go on to access the health services available. In some cases, of course, people develop illnesses after they arrive, and they have a legitimate right to access health services. In some cases it may not be apparent at the time of their landing that there is a health issue for which they have travelled. The MMOs will question people as to their reasons for arriving. They will, within their capacity, make some estimate as to the health of the person and they will in fact ask, ‘Are you coming here for health reasons?’ But, once they have been through that point, they

are in the same position as anyone else in the community who may become ill and may require health treatment.

Senator FERGUSON—Who foots the bill—the Queensland Health service or the Commonwealth?

Mr Allen—I would have to get back to you on that in terms of the precise arrangements. I understand that there is some funding provided to Queensland Health for contingency purposes for these sorts of occasions, but that is probably a question that would be better asked of the Department of Health and Ageing.

Senator FERGUSON—These islands, particularly the islands that are close to Papua New Guinea, are not considered to be part of Queensland, are they?

Mr Allen—They are part of Queensland. For all practical purposes and intent, the Australian islands in the Strait are part of Queensland. The Queensland Health service provides services.

Senator FERGUSON—I thought that, once you got beyond the territorial waters, they were Commonwealth—

Mr Allen—No, Senator.

Senator FERGUSON—They are considered to be part—

Mr Allen—They are part of Queensland. That is my understanding—yes. I have some further information on the health policy regarding treatment of people who arrive. Queensland Health, I understand, has a policy of not treating nonemergency cases—that is, people who present and do not have illnesses which threaten their ability to return. They are not treated. All islands have a health clinic, so I apologise if I was a little vague on that.

I also wanted to say a little bit more about the movement monitoring officers and the hours that they work. They do work core hours, which are basically the daylight hours, but those hours are variable. So all movements that occur they do respond to, whether this be day, night or weekends. If they are alerted to a movement they will respond immediately out of hours.

In terms of the populations of the islands, the estimates we have are that Sabai Island has 400-500 people in its permanent population, Boigu has 200-300 people in its permanent population. Most visitors to Sabai and Boigu are engaging in the trading of traditional goods and they do return on the same day of their arrival.

Senator FERGUSON—So it would appear, particularly on Sabai, that for the five months between July and November, if we divide 6,750 by the number of days, about 160-odd days, there are an awful lot of visitors there on a daily basis compared to the resident population.

Mr Allen—Yes, there are.

Senator FORSHAW—I suspect that you might indicate that this question should be directed to Customs and Border Protection Service, but can you tell me what interaction there is and

whether there is any overlap between the work of the community police officers of the Queensland government and the movement monitoring officers or any other immigration department staff?

Mr Allen—The duties our staff undertake, as I indicated, we do have an arrangement with AQIS for the sharing of some duties. In terms of the arrivals and departures, I am not aware they share any duties with the community policing officers.

Senator FORSHAW—The Queensland government in its submission—have you seen their submission?

Mr Allen—I have read it, yes.

Senator FORSHAW—They say in a box highlighted on page 6:

The Queensland Government notes that it is not appropriate for community police officers in the outer islands of the Torres Strait to be considered as having a border security role as:

- this function is not the responsibility of local governments or their employees;

And so on. As I said, it may be a question for the other agency, but they seem to be suggesting that their CPOs are undertaking work that would otherwise or should otherwise be undertaken by border security officials or maybe Immigration. We can ask them in due course, but do you have any comment? The department must be aware of what work they are doing and whether there is any concern being expressed.

Mr Allen—I did not actually interpret that as a comment about concern that they were taking on the responsibilities of particular Commonwealth agencies. I interpreted that as a concern that people reading the report, the committee itself, understand that they are not formally tasked in that way. As with all agencies in the region, as with the community as a whole, I think that there is a general understanding that if something comes to someone's attention that they would refer it to the appropriate agencies. So, while they might not be formally tasked in terms of border protection, as community policing officers if they saw something suspicious in nature there would be an obvious hope and expectation that they would report that to Customs and Border Protection or to ourselves or to the AFP. I did not interpret it as though they were concerned that they were being asked to do things that they should not do.

Senator FORSHAW—Okay. We can pursue it further. Thanks. I just wanted to make sure that it was not, from your perspective, an issue.

Mr Allen—No, Senator.

CHAIR—Mr Allen, with regard to the statistics on asylum seekers, which are on page 14 of your submission, has subsequent inquiry determined whether any of these, particularly the larger groups, were delivered to Australia as a result of people-smuggling activities, or were they initiated by their own enterprise, as it were?

Mr Allen—I cannot really comment on the specific instances without seeking further advice. I would have to say that there would be an expectation that there would probably be some degree

of organisation behind the Sri Lankan venture. I cannot comment on the other two ventures which have been mentioned.

CHAIR—Would you have inquired about that?

Mr Allen—We will.

CHAIR—Would you do that, and also in relation to the Sri Lankan venture.

Senator FERGUSON—The Russian guy would have stood out in the crowd a bit.

Mr Allen—He would have been a bit obvious in that part of the world.

CHAIR—Thank you for your attendance this morning, Mr Allen, and your officers. We appreciate the advice you have given the committee.

Proceedings suspended from 10.51 am to 11.10 am

GRANT, Mrs Marion, Deputy Chief Executive Officer, Border Enforcement, Australian Customs and Border Protection Service

KELLEY, Ms Roxanne, National Director, Enforcement and Investigations, Australian Customs and Border Protection Service

KERLIN, Mr John Paul, Director, Enforcement Operations, Regional Queensland, Australian Customs and Border Protection Service

CHAIR—Welcome. A copy of the committee's opening statement has been provided to you. Do you have any questions about that document?

Mrs Grant—No, thank you.

CHAIR—You have given us a submission, which has been labelled No. 14. Do you wish to make any amendments to that submission?

Mrs Grant—We do have one amendment to our submission. On page 3 of the submission we show that we have 24 staff based in the Torres Strait; the correct number is 22 staff based in Torres Strait, and we have a further two staff based in Cairns who are a backup to the staff in the Torres Strait.

CHAIR—Thank you. I now invite you to make an opening statement.

Mrs Grant—The Australian Customs and Border Protection Service thanks the committee for the opportunity to speak to you today and to expand upon our written submission to the inquiry. The team you have representing Customs and Border Protection is the area with operational management responsibility for our staff based in the Torres Strait and operations in that area.

Our submission focuses on the capabilities and cooperative efforts of the Australian Customs and Border Protection Service. This includes the onshore and inshore activities of enforcement operations officers in intelligence collection and operational responses, as well as the offshore aerial and maritime surveillance of the border protection command.

Customs and Border Protection operations in the Torres Strait involve significant and varying threats and challenges of environment, geography, logistics and complex relationships between federal, state and international government agencies, combined with balancing local community expectations and the Torres Strait Treaty.

The region imposes unique demands on border protection activities due to the limited distances, short response times, shallow water and strong currents, and the enduring and seasonal threats of biosecurity, prohibited goods and the illegal movement of people. The distance between Papua New Guinea and the Australian mainland at the narrowest point is approximately 80 nautical miles, and this area experiences a high volume of cross-border movement. Typical vessels operating in this area will make the passage in less than four hours.

Senator FERGUSON—Sorry—where?

Mrs Grant—The narrowest point between Australia and Papua New Guinea.

Senator FERGUSON—So the tip of Cape York?

Mrs Grant—Yes.

Senator FERGUSON—Okay; thank you.

Mrs Grant—To meet the challenges, we are continuing the growth in our relationship with industries, such as airline and barge operators, and other border agencies, and strengthening the border management of Papua New Guinea agencies to better secure supply chain and international cargo and passenger movements. We also place a premium on the use of risk based interventions that are driven by intelligence and targeting systems. To conclude, the maritime and aerial surveillance of our maritime domain and on-ground information collection are critical to ensuring that we know about risks before they reach our borders and can direct our resources to intervene where high risks are identified. Thank you.

CHAIR—Thank you, Mrs Grant. I will begin the questions. Within the service, is there a division or a branch that is specifically dedicated to the Torres Strait region? You said you were the officers who had operational responsibility—are you part of a wider group of people who have operational responsibility across Australia? I just want to understand how this is managed administratively within the service.

Mrs Grant—The Australian Customs and Border Protection Service is structured around three programs: the Border Enforcement Program, which I head up, the Passenger and Trade Facilitation Program and the Corporate Operations Program. Within the Border Enforcement Program, one of my divisions, headed up by Ms Kelley, is the Enforcement and Investigations Division, which then has a range of district offices around Australia.

The Thursday Island district office is one organisational unit through which we manage all of our people that are located in Thursday Island. That particular district office reports to Mr Kerlin's position. He is based in Cairns and, as his title suggests, he manages enforcement operations for regional Queensland. Also within my program is the Border Protection Command, and that command does the airline surveillance and maritime response all around Australia, including the deployment of aerial and surface assets in the Torres Strait region.

CHAIR—You do the Torres Strait in conjunction with other responsibilities you have rather than there being a dedicated unit that focuses on the Torres Strait?

Mrs Grant—When we work our way down through the organisational structure we have got a branch called Enforcement Operations. I should say that the Customs and Border Protection Service operates on a national program basis, so each program is run on a national basis, with the head of the program based in Canberra and then regional representatives. The district offices are the geographic unit—these 22 people based on Thursday Island, and they report to a manager based in Cairns. That manager then reports to Mr Kerlin, also based in Cairns. He then reports into the national manager, Enforcement Operations, running this national program. So there are

all of these equivalent district offices based around the coastline all around Australia. All of those district offices ultimately report in through Ms Kelley, up through me then to the CEO. We really want to run a nationally consistent program so that the experience in, say, the Thursday Island district office is very similar to the experience you might get in the Broome district office.

Senator FERGUSON—Where are the two specific helicopters that you have for the Border Protection Command in the Torres Strait?

Mrs Grant—They are based in regional Queensland. We fly them out largely from Weipa these days due to infrastructure issues. They are staged out of Weipa to do the surveillance activity all around the Far North Queensland region and the Torres Strait.

Senator FERGUSON—Weipa is down the tip of Cape York a bit.

Mrs Grant—Yes.

Senator FERGUSON—There is a far distance to go before they start looking at surveillance up near Papua.

Mrs Grant—Sorry, Senator, I am confusing myself between our Dash 8 aircraft and the helicopters. The helicopters are actually based in Horn Island in the Torres Strait. We fly the Dash 8 fixed wing aircraft out of Weipa.

Senator FERGUSON—Thank you.

CHAIR—Mrs Grant, I am implying no criticism; I just wish to understand how the administrative structure works. If you have a flow chart outlining the particular responsibilities for Torres Strait, I would be grateful. You do not have to do it now. Perhaps you could take that question on notice. Mr Kerlin, are you based in Cairns?

Mr Kerlin—Correct.

CHAIR—How many staff do you have there?

Mr Kerlin—I have about 35 working for me in Cairns.

CHAIR—Are they based in Cairns for the most part? Do they travel frequently to the Torres Strait? Are they relatively stable?

Mr Kerlin—Cairns is a regional base, if you like. We support all of the other district offices out of Cairns. So if Thursday Island is short of staff or we have foreign fishers in care, we will supplement the staffing out of Cairns. They are a mobile group of officers who can be moved around.

CHAIR—You have made reference to a large number of things in your submission, which I have to say have been most interesting. One of the things you alluded to is the lack of suitable infrastructure at Horn Island airport with regard to trade, commerce, cargo and things of that kind and to the inadequate arrangements that exist for doing the checking and examination that

is required. You say that you do this on the tarmac. Are there no buildings or anything of that kind there that could be used for this purpose?

Mr Kerlin—No, there are not.

CHAIR—How long has this situation persisted for?

Mr Kerlin—It has always been the case.

CHAIR—How much of a problem do you think that to be, if at all?

Mr Kerlin—It is a problem in that it is in the open, for a start. It is on the tarmac, which is very hot and very inconvenient when you are trying to examine crew baggage, for example. There is no privacy.

CHAIR—This fits within a pattern that seems to have emerged at least from some of the position alluding to the absence of infrastructure in the Torres Strait region. You have made a particular point with regard to one aspect of your responsibilities for infrastructure, but does the service have a view about the adequacy of infrastructure to perform the essential functions that you are required to perform in relation to border security and the like up there?

Mr Kerlin—Not in respect of executing our responsibilities for border security. In terms of that form of infrastructure, we have the border protection command assets that provide the surveillance, so, from a border security perspective, we are probably right. Horn Island is an issue because, as an airport that does have international aircraft arrivals, there are simply no adequate facilities for the clearance of people or goods.

CHAIR—I see. You have your air and sea assets up there?

Mr Kerlin—Yes.

CHAIR—In relation to those patrolling activities—I might not have the right language—I am interested to know how you determine and undertake the surveillance. Is it on an established-routine basis? Is it on an as-needs basis? Does it respond to seasonal change? Does it reflect a schedule set in place six months before the actual date? Can you elaborate to the committee, please, how you establish your surveillance activities?

Mrs Grant—Our surveillance activities for the Torres Strait are planned in with the surveillance activities for the whole of Australia. We have a long-term planning window as well as a daily adjustment, to put it in those terms, to the availability of assets planned in this three- to six-month planning window. That takes into account, necessarily, scheduled maintenance so that we know when particular assets just will not be available to be utilised. On a day-by-day basis, the planning team reviews the disposition of assets in response to known intelligence threats. Because of the nature of the Torres Strait area, we have persistent surveillance and response assets located there. For other parts of Australia, assets are re-assigned on a daily basis in response to information we may have received about particular threats.

CHAIR—How much flexibility is there in the arrangements you have in place? Is there only flexibility with regard to the daily issues, or do you typically or unusually make significant changes in the routines you have established?

Mrs Grant—With the benefit of many years of experience in surveillance and response activity and managing threats to the border, we have a good risk picture of where particular threats present themselves to our border—for instance, the seasonal nature of, say, illegal foreign fishing and the current threats around people-smuggling. We know the main approaches to Australia for those threats, so we flexibly redeploy resources in response to those threats. We have complete flexibility as to where the assets are located. At the moment, the majority of our assets are located from the north-west of Australia over to the Torres Strait area, because they are the main risk/threat approaches to Australia. But, if we have intelligence that suggests that the threat is in a different location, we have complete flexibility to determine that the assets will be assigned to the highest threats.

CHAIR—From your perspective, which are the areas of highest risk in the Torres Strait region?

Mr Kerlin—The highest risks are obviously Saibai and Boigu because that is the most popular crossing point for traditional movements. Outside of that, you could argue that the whole Torres Strait is of interest because of its proximity and the ability to move through the strait. Local inhabitants are able to pilot their vessels through the strait at night under all conditions, so it is all a risk in terms of the activities we undertake.

CHAIR—It is a large responsibility. The critical geographical points are Saibai and Boigu?

Mr Kerlin—In terms of people crossing the border, under the treaty.

CHAIR—Is that where most of your energy is expended on the ground?

Mr Kerlin—A lot of energy is expended in Saibai. We put the facility up on Saibai so that we could spend more time up their operationally. But Badu has been an island of specific interest during the course of this year. It has the largest population after Thursday Island so for that reason it attracts a bit of attention.

CHAIR—Why has it become particularly interesting?

Mr Kerlin—We have been involved in a joint exercise with the Queensland Police Service and the Federal Police called ‘Weed It Out’. It is a Commonwealth funded exercise that Queensland Police are running. Earlier this year we had information that some people were moving some cannabis to Badu Island. We responded and the people were found. They did not actually have the product on them; they had left it behind. But the follow-up to that was a major exercise on Badu Island that led to some 30 charges being laid for various drug related offences.

CHAIR—Did you determine that was this part of a well established illegal activity?

Mr Kerlin—In that instance, it was. Fortunately, Queensland Police were subsequently able to apprehend the person who was running that particular group and he is now in Cairns awaiting trial.

CHAIR—How did that come to your attention?

Mr Kerlin—We work together with the police all the time. Virtually everything that is done in the Torres Strait is done between us and the two police services.

CHAIR—The Torres Strait is an international strait, so there is obviously international shipping going through it. Do you monitor the shipping transits through the strait? Is that part of your primary responsibility as well?

Mrs Grant—Yes, we do monitor the movement of vessels. Within our Border Protection Command Centre here in Canberra we have a group that runs what we call the Australian Maritime Information System, or AMIS. We plot as many of the vessel movements as we can get information about onto the map of Australia each day. We then ascertain the risk status of each of those vessels transiting through the international passage in the Torres Strait. Many of them are commercial vessels emitting a signal in accordance with the International Maritime Organisation requirement. We can plot those vessels. We can look up our databases to identify whether it is a known vessel of low risk or of no interest to us or whether we need to do more analysis around that vessel. The traffic through the strait is all part of our AMIS.

CHAIR—Do you have statistics on the transiting of vessels through the strait? Does somebody have the statistics on the numbers that are moving through the strait on a daily basis?

Mrs Grant—The numbers would be available. I think the statistics—

CHAIR—Who collect those? Is that your responsibility?

Mrs Grant—No, it is not our responsibility. I think that the transport department would collect those statistics on vessel movements into Australia.

CHAIR—Through the Strait. I am interested in that. Would they keep statistics on pilotage in relation to those vessels as well or is that your responsibility?

Mrs Grant—No, pilotage is not our responsibility. I am trying to remember which agency has responsibility—whether it is the Australian Maritime and Safety Authority—

Mr Kerlin—It probably would be. Pilotage is compulsory through the Torres Strait.

CHAIR—I understand that. Obviously for vessels of a certain size, I assume, or nature—

Mrs Grant—That is not an area of our expertise.

CHAIR—These are the first few hours of our hearing on this subject and we are trying to get some essential information on the ground. I just want to be clear on it is doing what. Since this is an international strait and there are questions about vessels moving through—and there is quite a

lot of transit, I gather—I am interested to know how many vessels there are and who is responsible for monitoring their passage. Do you think transport is the agency to which we should talk about that?

Mrs Grant—Yes, transport keep the stats on shipping movements.

CHAIR—Are you confident that you have enough assets? Your submission provides us with a great deal of information about your maritime assets and your air assets in the region. Do you think you have enough of what you need to do your task adequately?

Mrs Grant—We very much rely on intelligence-led risk assessed activity in the Customs and Border Protection Service so that we can target the assets that we do have to the highest risks.

CHAIR—Yes. Perhaps you would like to tell us a bit more.

Mrs Grant—It is one of those questions. I do not think we would turn away more assets if they were available, but we are certainly not coming to you to say that we do not have sufficient assets to do our job.

CHAIR—Let me put it this way: have you made submissions for additional assets in budget rounds, for example, because you are conscious that you have a need which is not being meant?

Mrs Grant—We have not made such submissions. The key assets that we use in the approaches to the Torres Strait are planes, helicopters and the response vessels. The contracts for the helicopters and the Dash 8 aircraft are fairly recently entered into contracts—a continuation of previous assets. Those contracts still have a significant number of years left to run. They are very new contracts. We are satisfied with that level of resourcing. In the May budget we were funded to reactivate two Reims aircraft to particularly focus on additional flying hours against irregular maritime arrivals. That would correct my answer when I said we had not sought more assets. I overlooked those two additional aircraft. We have a certain capacity with those assets and we deliver against that capacity, against the high risks that we have identified. If the government has a requirement for us to deliver more, clearly we would then need to say we would need more assets or we cannot deliver increased days or flying hours.

CHAIR—Apart from the aircraft you just mentioned, have the assets that are available to you changed significantly over the last, say, five years or so?

Mrs Grant—The bay class vessels we utilise have not changed in the last five years. They were brought into service in the late 1990s and are coming towards the end of their existing life, so we are in the process of developing a replacement program for those vessels. The contracts for the aircraft, as I said, and the helicopters have recently been renewed and there is a new fleet of assets. On the ground in the district office, we have certainly increased our staffing numbers over the years. We have provided better facilities. I could ask John to outline those changes.

Mr Kerlin—In the last couple of years on Thursday Island we have extended the Customs house with a second building in the yard which houses an armoury, secured storage and some better facilities for the staff, including better storage for their local vessels and things like that. So we have had some improvement and we have increased staff numbers over the last few years.

Ms Kelley—The other point is that we are also looking at replacing a number of our smaller vessels with newer vessels in the next six to 12 months.

CHAIR—Is that a reference to the six-metre vessels?

Ms Kelley—Yes, it is.

CHAIR—These new port class vessels?

Ms Kelley—Yes.

CHAIR—Have contracts for those been let or are they in the process of being let? What is the position?

Ms Kelley—We went through a tender process late last year and we have already purchased nine vessels which we have deployed around other district offices. So we are looking at using that same contract to further replace some of the vessels in the Torres Strait with the newer port class model.

CHAIR—Are you going to replace the existing vessels with the same number of vessels? Do they have the same capability?

Ms Kelley—They will have the same capability, there will be the same numbers and we will replace them over time as they need to be replaced.

CHAIR—How many of those do you have?

Ms Kelley—We have five.

CHAIR—So you are getting a five port class vessels in as replacements; is that right?

Ms Kelley—We will do that, yes, over a period of time.

Senator MARK BISHOP—You have a reference in your submission to uncharted waters. It says:

- Much of the waters in the Torres Strait remain either uncharted or only partially surveyed waters.

I must admit that that surprises me. I would not have thought there would be any part of this land that is not properly charted. How has that come about and what is the extent of it?

Mrs Grant—The Defence department does do a significant amount of work in charting the waters. They have a—

Senator MARK BISHOP—Perhaps you might explain what you mean by ‘charting the waters’. What does that mean?

Mrs Grant—Literally what it sounds like. Parts of the waters have not been surveyed, so there are no maps of those particular parts of the area.

Senator MARK BISHOP—Is that waters around islands and the like?

Mrs Grant—Yes.

Senator MARK BISHOP—We clearly have a picture of the geographical shape of the island, but in terms of where ships might pass through or enter the island or exit from the island are you saying for large areas of the land up there we do not have adequate naval charts for ships to use?

Mrs Grant—The recognised waterways and passages that ships use to transit the area are charted. The issue that we confront is that often small vessels operating illegally, or which we suspect are operating illegally, do not stay in those particular waters. They go in amongst the smaller islands—

Senator MARK BISHOP—Clearly.

Mrs Grant—and it is those parts that charts do not exist for. So it means that our vessels cannot enter those waters.

Senator MARK BISHOP—Because our ships' captains and sailors are not familiar with the waters to the extent that the other people are.

Mr Kerlin—It is not so much that. It is the risk you take by entering uncharted waters. You do not know the depth of the water; you run the risk of your vessel hitting a reef or a submerged item. For us, if I can use an analogy, it is like the police chasing a car. They will back off for fear of causing an accident. If we were to chase a boat at speed into uncharted waters we would be putting our officers at risk.

Senator MARK BISHOP—How much of an impediment or restriction to the work of your department is this fact that significant areas of water adjacent to land have not been charted?

Mrs Grant—The impact is felt most around illegal foreign fishing. In response, the Defence department was provided with additional funding to do more charting of the waters up there. I think we need to take on notice to give you proportions of how much is charted, how much remains uncharted and what is on the work program, because they have got a significant program of work to try to continue charting as much of the waters as is possible.

Senator MARK BISHOP—Has the government—the current one or the previous one—made a strategic decision to chart particular waterways adjacent to land areas up there or has the government made a strategic decision to chart all areas that are not yet charted?

Mrs Grant—We will need to take that on notice to get you the precise details.

Senator MARK BISHOP—Defence is the relevant agency, is it?

Mrs Grant—Yes, the hydrographic area of Defence undertakes that work.

Senator MARK BISHOP—They have limited assets to do that as well.

Mrs Grant—That is it. They have a capacity, so they can only deliver so much of that service each year. But they have a program and the Torres Strait is certainly a priority in that program.

Senator MARK BISHOP—They do have a significant presence up there, so I will get their own reasons for wanting to do it as well. You have highlighted in the context of this limited inquiry this issue of waterways adjacent to either the continental land or islands offshore. Are uncharted areas also an issue in other areas up there more to the west where you have regular maritime patrols?

Mr Kerlin—No. To the best of my knowledge it is more to do with the waters of the Torres Strait. Once you get back out into open waters, most of that is charted.

Senator MARK BISHOP—Is your only concern criminal activity or does it relate to other matters as well, in the context of charted versus uncharted areas?

Mrs Grant—For the Customs and Border Protection Service it is around criminal activity. It just impedes if the suspected illegal activity enters areas where we cannot follow. It gives the ability for somebody to perhaps evade our efforts to disrupt their activities.

Senator MARK BISHOP—From a number of inquiries we have done there are now a whole retinue of suggestions that there is increased and ongoing criminal activity in a range of areas across that top part of Australia. Isn't that right? There are drugs, people-smuggling, arms, logging, illegal fishing and the whole gamut of illegal activities.

Ms Kelley—When you look at our statistics, yes, there are some of those activities going on, but we would probably say that some of the reporting around that exaggerates the activities. When we look at the significant risks and the operations that we have undertaken in the last 12 months to two years, one of the significant issues is the movement of cannabis. When you start to look that, that is also influenced by the actual market that is available there. We understand why cannabis is probably a popular drug, whereas other powdered forms of drugs are probably far too expensive. But I suppose there have been issues around it being a transit point from where people can move drugs on to the mainland. Because of the connections we have in those local communities, we generally find out and are told if something unusual is happening, whether it is to do with a person, a good or whatever. The logistics for people to move goods through make it pretty unviable from a business point of view to move that sort of illegal product through those various islands to get them to the mainland as well. So I think sometimes you just have to look at the business side of it and why people are involved in some of that activity—it is to make money. Part of our risk assessment is asking, 'Is it a viable option?' For some of those commodities it really is not.

Senator MARK BISHOP—I can understand that argument, Ms Kelley. Mrs Grant, you might take on notice to ask Defence about the extent of the program that has been developed to chart the uncharted waters, the strategic purpose of such a program, funding in the past and into the future, the numbers of persons allocated and the time lines involved. Will the program cover off all relevant uncharted waterways adjacent to islands or to the continent that are currently the subject of use by non-lawful actors. Could either you or the secretary pass that through. Is that permissible? The committee secretary has just told me that Defence is going to appear before the committee, so I will ask them directly. I apologise.

Senator FERGUSON—Do you know offhand how many of the islands of the Torres Strait are inhabited?

Mr Kerlin—Seventeen.

Senator FERGUSON—Do you have a presence on all of those islands?

Mr Kerlin—We have a presence on four.

Senator FERGUSON—Four out of the 17. In submission 15 a Mr Kevin Murphy, who I do not know, argued that if refugees get through Indonesia to PNG:

... it is not hard to find a local person with a dinghy willing to transport them the short distance across to an Australian Torres Strait island.

I am wondering if you have any comments to make about that observation.

Mr Kerlin—We had one in November on Saibai that was brought across from Daru—so, yes, it does happen.

Senator FERGUSON—It does happen?

Mr Kerlin—But what happened in that case, and would happen in most cases, is that those people stood out. The moment they set foot in those communities they were identified as outsiders and we were alerted either through the police or directly by the community.

Senator FERGUSON—You have a presence on four islands; how often do you visit the other islands?

Mr Kerlin—We try to visit all the islands as often as we can.

Senator FERGUSON—How often would that be?

Mr Kerlin—Once or twice a year. We certainly try to get up to Saibai at least once a month for two to three days, but we have an officer there. The four islands where we have representation are strategically chosen. There is a vessel and an officer based at each of those islands. What we do is fly officers in from Thursday Island to join up with those officers and they will patrol around the islands.

Senator FERGUSON—Which are the four islands do you have them on?

Mr Kerlin—Mabuiag, Saibai, Darnley and Coconut.

Senator FERGUSON—Are there any special initiatives that you have in place to try to address the problem of people arriving unannounced on the islands that you do not have any representation on?

Mrs Grant—Our civil maritime surveillance and response program is designed for early detection of arrivals to Australia in any location. So that program is used in the Torres Strait as well. You would appreciate that planes flying over an island and continue on the rest of their flight path. A small vessel could pass through after the plane has flown over in its first pass and before the plane takes a second pass over the island. That is a reality. But it is the usual surveillance program that is in place in the Torres Strait, as for other approaches to Australia for irregular movements.

Senator FERGUSON—Your surveillance program is two helicopters, a Dash 8 and patrol vessels?

Mrs Grant—That is correct—and intelligence cueing.

Senator FERGUSON—The point I am trying to make is: do they do regular patrols? Is it possible for people to determine when the patrols might be taking place or are they done at random? I am just wondering what your process is and what your procedures are.

Mrs Grant—We basically have two of our bay class vessels located in the Torres Strait on a permanent basis. It is not necessarily the same two boats, but there are always two of the vessels there. They undertake patrols in response to the intelligence cueing. It is not the same route every time a vessel goes out. We try to keep our operations unpredictable. You would not necessarily know what time of day a boat would be coming by; you would not know if a boat was passing by today or not.

Senator FERGUSON—Is it fair to say that, particularly in the northern part of the Torres Strait, there would not be any inhabited islands with a population of more than, say, 200 people?

Mr Kerlin—That is correct—roughly 200 people would be about the maximum on the outer islands.

Senator FERGUSON—How many are there on Horn Island?

Mr Kerlin—That is a good question. I would not know how many are on—

Senator FERGUSON—There would be above 200, though, wouldn't there?

Mr Kerlin—Judging by the size of the community, there would be a little bit more than 200.

Senator FERGUSON—I was interested in your comment earlier about drug running, cannabis and the cost—whether it is profitable or not for people to get the drugs to the mainland. Having been on an inquiry some eight or 10 years ago with Defence, I remember there was discussion about drug running by light planes into unmarked strips on the North Coast. It is known that there is a considerable number. That could be still quite a profitable venture for international or transnational crime, don't you think? You say that it is an unprofitable venture. I could imagine that it could be quite a profitable venture if they could get other sorts of drugs into Australia.

Ms Kelley—We regularly assess that risk. You are right—it is a possibility—but our intelligence area does regular assessments around that particular issue and at this point in time it is not viewed as a significant risk in that particular location.

Senator FERGUSON—Is Horn Island the only place where you have a facility to detain people? I think it is right that there is a house or something that is used to detain illegal fishers and others. Is that right?

Mrs Grant—We have a processing centre on Horn Island where we do the initial processing if we apprehend any illegal foreign fishers and we have used that facility to house some irregular maritime arrivals.

Senator FERGUSON—What is the capacity of the detention facility?

Mr Kerlin—The capacity is around 30, but, with the SIEV 33 there were 50 and we were able to accommodate all 50 reasonably comfortably.

Senator FERGUSON—Are there any other detention facilities at all in the Torres Strait?

Mr Kerlin—Not in the Torres Strait. There is another facility at Weipa.

Senator FERGUSON—In your submission you said that you conduct daily aerial surveillance in the protected zone and maintain a 24-hour, seven-day-a-week capability. It is one thing to have a seven-day-a-week capability, but how often is that capability used? Is it often used continuously for seven days?

Mrs Grant—Which page is that reference? I would need to check the context.

Senator FERGUSON—It is under the border protection and command section. I do not have it marked.

Ms Kelley—It is on page 3. It is the second dot point on page 3 of our submission. That refers to the response. If anything is detected in the surveillance activity, it is about the ability to respond to that.

Senator FERGUSON—At any time?

Ms Kelley—At any time. That is part of whether it is the use of maritime assets or it is the use of our land based officers to go. That means that we have a capacity to respond if something is detected in the surveillance activity.

Senator FERGUSON—In your submission you talk about having traditional inhabitants meetings once or twice a year. Are these traditional inhabitants meetings separate from your joint cross-border patrols or are they complementary? What is the purpose of these traditional meetings?

Mr Kerlin—Traditional inhabitants meetings are actually run by the Department of Foreign Affairs and Trade. They hold them once a year. We attend those as a Commonwealth

representative. They then feed into further meetings, such as the Joint Advisory Council, which we also attend. As far as Customs and Border Protection goes, we also run a community participation program. So we visit the islands as often as we can, we talk to communities and promote the work of Customs and Border Protection. That is how we develop the information flow that leads to the intelligence.

Senator FERGUSON—If there were one thing the Commonwealth could do to enhance your ability to do your job in the Torres Strait, what would it be? Would it be Horn Island—I am just throwing in some things. What would be the thing that the Commonwealth could do which would make your job easier—not any easier but more efficient?

Mrs Grant—One thing that I think would make the Customs and Border Protection job easier would be a more rigorous identification of people moving between Australia and Papua New Guinea. But, having said that, that is not an issue for which Customs and Border Protection has responsibility. That is something more for the Department of Foreign Affairs and Trade. I am very conscious that I am treading into sensitive areas there as I make my comments purely in the context of a better system for us to identify, for our risk assessment purposes, who is presenting at the border.

Senator FERGUSON—When the department of immigration were here, I asked them a question about overstayers. They considered that overstaying was not a particularly big problem. As a matter of fact, I think they said there were probably only 10 overstayers. But in your submission you talk about overstaying being one of the problems that exists. It seems to me that you have different points of view in relation to overstay. Would you like to elaborate on your position on overstayers?

Mr Kerlin—The number of overstayers can fluctuate. What DIAC said to you is correct: the number at the moment is down. But there have been times when they have been much higher. The problem for us that when we are visiting islands is that, to the Torres Strait Islanders, you are the government, regardless of which agency you come from. So if someone on the island is concerned about overstayers they will approach us and ask us to do something about it. That is not our role. That is where the frustration for us comes in. There is an expectation that we can do something on behalf of the community when we really need DIAC to take that action. In fairness, DIAC has taken action and it has reduced the number of overstayers significantly in recent times.

Senator FERGUSON—This leads on to another question in relation to the islands with very small populations. Is there a danger where, one, you do not have a permanent presence, where the population is very small, that it would be easy for someone who wanted to enter illegally to buy off the local population, if the population is small enough, because you are really relying on them to let you know whether or not there is someone in their midst who should not be?

Mr Kerlin—Our experience is completely the opposite. Torres Strait Islanders are extremely proud people, they are extremely proud of their communities and they do not want outsiders in their communities. They will report outsiders who should not be there.

CHAIR—I want to clarify a couple of matters that have been raised elsewhere. There is a reference in your submission to photographic identification. Have you put this proposition to the

departments—the other agencies—and suggested that this would vastly enhance your capacity to do your work and, if so, what sort of a response have you had from them?

Ms Kelley—We have had discussions with our counterpart agencies, with the Department of Immigration and Citizenship, with the Australian Federal Police and with the Department of Foreign Affairs and Trade. I think everyone understands the rationale for why we would need that and some of that is around treating the Torres Strait Island border as we treat other borders around Australia. While there has been an understanding, I think people recognise that some of those issues involve the treaty and changes to the treaty. People understand some of the difficulties associated with that. I think that is the response we have received. It has been noted—

CHAIR—It is all too hard, is it?

Ms Kelley—Not too hard. It is just, as probably other people have said previously, that negotiations around any change to the treaty will take some time. We know that the length of time it would take is an issue and so we look at how we mitigate some of those risks, given the constraints that we have.

CHAIR—Does that mean that you understand this matter is actually under active discussion and consideration?

Ms Kelley—It is certainly under active discussion.

CHAIR—In other words, you keep raising it—is that what you are saying—but not profitably?

Ms Kelley—The other agencies are very clear about our view on this matter.

CHAIR—Is the daily overflight of the Dash or the Reims aircraft a single overflight? I am interested in whether or not this involves several flyovers? Can you fly over once and get complete coverage of the strait? How does this work? Do you need to make several passes to cover the geographical area of the strait?

Mrs Grant—Each flight that the surveillance craft undertakes is carefully plotted to achieve maximum coverage of the area but, as an aircraft flies, the so-called swath is a certain distance. That is where you can see. The flights are designed to see all of the particular area that that flight is to cover across the duration of the flight. You cannot see the complete area at once.

CHAIR—I appreciate that.

Mrs Grant—As you fly across it you will cover the designated search area of that flight. We do more than one flight a day with each of the aircraft.

CHAIR—In the Torres Strait area? Is that right?

Mrs Grant—I can provide you, on notice, with the average number of flights each month, if that would be of assistance to your inquiry.

CHAIR—The point I am seeking to have explained is the extent to which you secure coverage, across the strait, of the flights that you undertake on a daily basis. Are you confident, for example, that the daily flights you undertake give you complete coverage across the straits?

Mrs Grant—It gives us complete coverage of the area while we are looking at that area—

CHAIR—I appreciate that you cannot look at it all the time, but on a daily basis can you say to the committee, ‘Yes, we’re looking at the whole of the strait on a daily basis,’ or are you saying to us, ‘We look at a section of the strait on Tuesdays and we look at another section on Wednesdays, but we never on any single day get a picture across the whole strait’?

Mrs Grant—The aerial surveillance program is based on search areas. One of the search areas is the whole of the Torres Strait area. So a single flight does search the whole area.

CHAIR—That would happen once a day or do you do several passes on a daily basis?

Mrs Grant—We do frequently do more than one flight a day but, to give you the accurate information, I can provide you with some statistics on numbers of flights.

CHAIR—Thank you. And where do these flights begin and end?

Mrs Grant—The helicopter flights begin and end at Horn Island and the aircraft flights begin and end at Weipa.

CHAIR—And do the aircraft from Weipa fly up the strait and then come back again, or do they do other surveillance around other parts of the Australian border area?

Mrs Grant—The ones flying out of Weipa, if they are doing a Torres Strait search area, follow the planned route to cover the Torres Strait area.

CHAIR—And then do they move further east or west of that, or are they mainly focused on the Torres Strait area?

Mrs Grant—All of the approaches from the west right across to the east of Australia we have carved up into designated search areas. So we then position aircraft to be able to search in each of the designated areas each day, so an aircraft that flies out of Weipa could be designated to do a search to the east or, if we chose to, we could send them on a search pattern flying in a westerly direction—but then that would be a different search area to the Torres Strait. We daily plan where we need to fly, in response to our risk assessments and intelligence needs.

CHAIR—So would an aircraft typically go and do its search pattern in the Torres Strait, for example, and then go off and do a western or eastern search? Or would it come back to base and then undertake the subsequent searches? How does that work?

Mrs Grant—Each aircraft has strict regulations about the duration of a flight from a regulatory point of view as to crew time. So we plan our flights to get the maximum duration for each planned search. A flight will go up, achieve the number of hours it can achieve and come back, and the same aircraft will go up when it is next able to, in the regulatory time regime, and

either go back and do a similar search or go and do a different search, just depending on the day's needs.

CHAIR—Back to the question of these uncharted waters: do you have a regulation or a protocol in place which precludes any of your assets moving into uncharted waters? Or is there some discretion that the captain of the boat has?

Mrs Grant—The COs know that the Bay Class vessels are not to be taken into uncharted waters.

CHAIR—So there is a rule about that, is there—that they are not permitted to sail their vessels into uncharted waters?

Mrs Grant—That is our standard operating procedure. There is a small amount of discretion if the CO has a very good knowledge of the waters. There is, I guess, some unofficial charting that people who know the waters well have done; in a sense they have done their own charting. So if the CO is totally confident that the waters are known and hazards have been identified, there is a small amount of discretion, on a risk-assessed basis for the situation they are in, to determine whether the vessel can go into those waters. But also we can launch the tenders off the vessels, and there is more discretion to allow the tenders to go into those waters because they are shallower. The shallow waters are a big issue for us up in that area. The tenders can go into waters that the Bay Class vessels cannot, in any event, but, if they are completely unknown waters, the CO has no discretion to take a vessel into such waters.

CHAIR—Do you keep statistics on or do you have information about the number of occasions where that has been an impediment to the conduct of your search activity?

Mrs Grant—We would be able to extract some statistics, I think. The area, as I mentioned earlier, in which it has impacted us was in the illegal foreign fishing area, but the program of on-water enforcement has seen incursions into our waters diminish greatly, and the foreign fishing vessels are staying out on the edge of our exclusive economic zone. So, at this point in time, while we do not have the incursions coming into that area, it is not an operational problem for us. But if the circumstances were to change then it would become more of a priority issue again.

CHAIR—You are the lead agency up there in relation to border protection and things of that kind. I assume, and in fact from some of the anecdotal evidence I have received, that, if an agency such as Immigration, which does not have its own vessels and assets, needs assistance with travel around the region, it needs to approach an agency with assets. Presumably, you are one of the key agencies with assets. Am I to understand that this works on an as-needs basis and that agencies that have a need for travel and cooperation approach you for that support? Is that the correct arrangement? Do you have protocols in place in relation to this cooperation?

Mrs Grant—I will ask Ms Kelley to describe the work that she has been doing with the department of immigration on this very issue.

Mrs Kelley—It is probably not formally written down anywhere but we have an agreement whereby the department of immigration can approach us when they require assistance with transportation to the other islands. When we looked at the number of requests over the past 12

months, we found that we have been able to meet every one of them. It is a very cooperative working relationship. We have vessels and we do regular visits to the islands, so we are very happy to take our colleagues with us as required.

CHAIR—When you say that you have been able to meet their requests, do you mean on a timely basis, Ms Kelley? You are not saying: ‘Yes, we can do that. We can’t do it tomorrow but we can do it in a week’s time’?

Mrs Kelley—No. It has always been on a timely basis.

CHAIR—What is the purpose of the joint cross-border patrols that you lead, which take place three times a year?

Mr Kerlin—There are a number of elements to the cross-border patrols. One is that it brings the three law enforcement agencies from the Australian side together with the two from the PNG side—that is, PNG customs and PNG police. We start the patrol with an intelligence briefing, so there is intelligence sharing. It provides our PNG colleagues with the opportunity to get to some of the communities they do not normally get to. It gives us the opportunity to see the communities on the other side and to gather information, which then turns into usable intelligence to drive the other work that we do. So their main purpose is awareness for the communities on both sides and for the agencies to get out and collect some information.

CHAIR—Do they have an information dimension to them, Mr Kerlin? Is it about providing communities in Papua New Guinea, for example, with information about the arrangements and rules that are in place, correcting misunderstandings and things of that nature?

Mr Kerlin—Correct. With communities that we have not visited for a long time or that we are visiting for the first time, we always start with a community meeting. Each of the agencies has the opportunity to talk to the community about their role and expectations, should people be crossing the border into Australia. As time progresses, those sorts of meetings can wear thin because you are just delivering the same message over and over. As time goes on, we start to move towards talking to particular individuals, developing contacts and developing relationships within those communities. At the present time, one of our initiatives is to develop a brochure that we can leave behind in the villages. We are going to try to get that translated into Tok Pisin so that it is comfortable for people to read and understand, and we will distribute that amongst those communities as well.

CHAIR—How far has that venture progressed?

Mr Kerlin—We only took the decision to go down that path about six or eight weeks ago, at a meeting of our combined intelligence group. We are getting the words together from our point of view, and we will send those words up to the two PNG agencies to get their input. One we have all the words agreed and we have it in a format that is useful, we will send it back for conversion into Tok Pisin, and then we will get it published. It is something that we hope to have up and running by mid-year.

CHAIR—That is an initiative that was taken by your agency; is that right?

Mr Kerlin—It is an initiative of the combined intelligence group, which is Federal Police, Queensland Police and ourselves.

Senator FORSHAW—I hope this has not been covered in the earlier questions when I was absent. It is a question I asked of the previous witnesses in regard to the role of community police officers. We had a submission from the Queensland government and it might not be all that clear whether they are making a complaint. In the submission they express a concern to make it clear that community police officers in the outer islands should not be involved in border security activities. They actually state on page 6:

The Queensland Government notes that it is not appropriate for community police officers in the outer islands of the Torres Strait to be considered as having a border security role.

I wanted to ask you to comment on that. Is there any overlap? Are there any issues of jurisdiction or of concern that have been brought to your attention?

Mr Kerlin—It is really a matter for the Queensland Police and I would not want to be trying—

Senator FORSHAW—If they are including this in their submission, they are presumably doing it for a reason, and that is that there may be some on-the-ground concerns.

Mr Kerlin—The community police are appointed by councils or by the community, so they do not carry any of the powers of police officers. They have very limited powers. I do not know whether they are subjected to any form of security vetting or whatever, so my guess is that the Queensland government's view is that these are not people that you would normally consider part of the law enforcement community, even though they have that title in their name.

Senator FORSHAW—All right. I thought I will put it to you and see if you had a comment.

Mr Kerlin—We only see these people as another source of information from time to time. We do not have any direct dealings with the local community policing.

CHAIR—Mrs Grant, thank you and your officers for attending this morning. We are very grateful for the information you have provided to us. We will consider what you have said and we will not promise not to wish to see you again sometime later on. Thank you for coming.

[12.19 pm]

CARROLL, Dr Andrew Gerard, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry

CHAPMAN, Mr Tim, Executive Manager, Quarantine Operations Division, Department of Agriculture, Fisheries and Forestry

HURRY, Professor Glen, Chief Executive Officer, Australian Fisheries Management Authority

LUI, Mr Stan, Manager, Torres Strait Prawn Fishery, Australian Fisheries Management Authority

MORRIS, Mr Paul Charles, Executive Manager, Trade and Market Access Division, Department of Agriculture, Fisheries and Forestry

PITTAR, Mr Roland, General Manager, Fisheries, Department of Agriculture, Fisheries and Forestry

CHAIR—Welcome. A copy of the committee's opening statement has been provided to you. Do you have any questions about that?

Mr Morris—No.

CHAIR—You have made a submission to the committee, which has been numbered 13. Do you wish to make any amendments to the submission?

Mr Morris—No amendments, Senator.

CHAIR—If all of you or anyone of you would care to make an opening statement, we would be delighted to hear from you.

Mr Morris—I will make a brief opening statement on behalf of everyone. Firstly, thank you to the committee for the opportunity to appear before you today. I want to briefly cover DAFF's two main areas of responsibility in the region. Those are in relation to quarantine and in relation to fisheries.

On quarantine, DAFF dedicates significant resources to the identification and management of quarantine risks in and to the Torres Strait region. This includes delivering quarantine inspection and surveillance activities at the border via air and sea arrival pathways. Quarantine staff are located at various ports in northern Australia and are permanently based on all of the outer inhabited islands within the Torres Strait. DAFF also conducts activities to help manage pre-border quarantine risks in the Torres Strait through animal and plant health survey work delivered in PNG. This is aimed at identifying potential threats to the Torres Strait and other areas within Australia. In addition to this animal and plant health surveillance, DAFF provides

leadership roles in national plant health and animal health policy development and engages in collaborative activities with the PNG government with the objective of enhancing its capacity to monitor and manage existing and emerging quarantine risks of potential impact to PNG and Australian territories, including the Torres Strait.

I have here with me today Mr Tim Chapman, who is with AQIS and can talk about the operational side of the quarantine, and I have Dr Andy Carroll, who is our Chief Veterinary Officer, who can talk in more detail on the policy and also some of the operational side as well.

On fisheries, DAFF's role in the management of the Torres Strait fisheries is to provide the secretariat to the Torres Strait Protected Zone Joint Authority. It has overarching responsibility with respect to fisheries matters for legislative policy formation and compliance. It is responsible for the bilateral relationship on fisheries with PNG and provides advice to the joint authority chair, Minister Burke, on his responsibilities. Today we have Roland Pittar, who is the General Manager, Fisheries Sustainable Resource Management Division, and he can talk about DAFF's policy role on the fisheries issues.

In addition the Australian Fisheries Management Authority, AFMA, undertakes the operational aspects of fisheries management in the Torres Strait. AFMA provides the overarching fisheries management services to the Protected Zone Joint Authority, including the development of management plans under the Torres Strait Fisheries Act, and coordinates the joint authority's foreign compliance activities in association with border protection agencies. AFMA provides advice to the joint authority on its management services and also can provide advice to the joint authority's chair through DAFF as a Commonwealth agency within the fisheries portfolio. AFMA maintains an office on Thursday Island. As you are aware, we have Professor Glen Hurry, who is the CEO of AFMA, as well as Stan Lui, here today to talk about the operational aspects of fisheries. Thank you very much.

CHAIR—Thank you, Mr Morris. To begin with I have a couple of questions. How many staff does the department have in and around Torres Strait altogether?

Mr Chapman—We have got 21 staff in the Torres Strait.

CHAIR—Does that include the staff on the outer islands?

Mr Chapman—That is right.

CHAIR—Do you have a base at Thursday Island?

Mr Chapman—A base on Thursday. I think we have seven staff on Thursday. I can correct that if I am wrong. Then we have at least one person on each of the inhabited outer islands.

CHAIR—Is that your regional administrative hub? Do you have a regional hub in Cairns or anywhere else?

Mr Chapman—Those staff are part of a program which is in the Quarantine Operations Division called NAQS, the Northern Australia Quarantine Strategy. That is primarily based in Darwin and Cairns. It is managed in the region where it conducts its operations. There is a

component which is centred in Thursday Island particularly looking after the border management issues in Torres Strait, but there will be scientific staff based in either Cairns or Darwin who will do specific survey work in the Torres Strait for particular pests or diseases. They work in conjunction with the operational staff, the border management staff that are permanently based in the Torres Strait.

Senator FERGUSON—Are they locally engaged staff?

Mr Chapman—All but one of the local staff are locally engaged. That is a key issue for the success of our operations up there.

CHAIR—Are they all full-time staff?

Mr Chapman—I will have to confirm that later. My understanding is that all but one are, but if I am wrong on that I will correct it.

CHAIR—The staff on the outer islands, but the ones at the front line, as it were—

Mr Chapman—They are permanent employees but, especially on the outer islands, the sporadic nature of arrivals and the uncertain nature of arrivals means that their time is taken up in dealing with traditional vessel arrivals and doing some surveillance work and so forth. I will have to confirm the hours that each one of them is employed.

CHAIR—Do I take it, Mr Chapman, that they work in conjunction with the immigration officers and the border protection people as well?

Mr Chapman—The way to describe it is that the border agencies up there have a very good and close working relationship, so, to put it in the vernacular, we look out for each other and will provide support when it is necessary. But each agency is pursuing its own functions and has responsibility for its own functions.

CHAIR—Perhaps I can take an example of where these designated arrival points are up there, supposedly for people travelling between the islands, particularly between Papua New Guinea and the islands. The traditional inhabitants are expected to come to these designated arrival points and they are interviewed et cetera. Is your agency typically there when these people arrive?

Mr Chapman—Yes.

CHAIR—So do you simultaneously undertake investigations at the same as the immigration department?

Mr Chapman—That is right. So while Immigration would carry out their functions when a traditional vessel turns up, our officer will be there and will have a look at any artefacts they might be carrying to make sure they do not have pests in them and they will make sure that they are not carrying with them goods which will cannot move either from PNG into the Torres Strait protected zone or from the Torres Strait protected zone into the special quarantine zone.

Senator FERGUSON—So you are actually doing Customs work?

Mr Chapman—No, we are looking at quarantine issues. So we will be making sure that they do not have a chicken with them.

CHAIR—Do you find many chickens, Mr Chapman?

Mr Chapman—No, I am pleased to say that we do not find many chickens. There has been a very strong community education program over a number of years. People who are the quarantine officers on the islands are respected members of the community. They are small communities. They understand the importance of this, so there are very high levels of awareness. That includes high levels of awareness with the people coming from the villages in PNG. Also our surveillance activity, our border measures, are quite clear, quite obvious. That leads to very high levels of compliance.

CHAIR—Do you inspect every vessel that arrives at one of these designated points?

Mr Chapman—Yes, when they arrive we will make sure that, as the people get off the boat, we have a look at what they have got. Similarly, if people are leaving one of the outer islands to go to Thursday Island, one of our officers will make sure they are not carrying material which is not permitted to be carried between the zones.

CHAIR—Is this during operating hours?

Mr Chapman—While our officers will work a normal day, as you would understand, there is no estimated time of arrival which is given to us before hand. One of two things occurs: either the people arrive and say, 'We are here,' or people in the local community will say that a boat has just arrived. The small community and the high level of understanding of our requirements mean that invariably happens. But in most cases, especially on the islands that are closer to PNG, people know when the boat is going to come across each day. There are always going to be exceptions to that, but patterns of behaviour and high levels of understanding mean that, as far as I am aware, there are very few instances where a boat would arrive without our officers being aware of it.

CHAIR—I see.

Senator FERGUSON—You say you have someone on each of the islands. What sort of communications do some of the small islands have, where there are only maybe 40 or 50 people living on the island permanently?

Mr Chapman—We have deployed something which we called MOJO, which is mobile on-the-job office. It is a notebook computer with linkages to the quarantine systems. They have that electronic communication with Thursday Island or even with Darwin, Cairns or Canberra, should they need it.

Senator FERGUSON—Do they have generators for power? They would not have any other power, would they?

Mr Chapman—All the islands have water supplies and power supplies and so forth.

Senator FERGUSON—That is done by diesel generator or something like that?

Mr Chapman—Yes, but these are just little notebook computers which are used when they are required; they are not like a bureaucrat in Canberra sitting behind a desk all day.

Senator FERGUSON—No, no, I do understand that. But some of the islands are reasonably remote and there are much larger islands than these with bigger populations that do not have any other power supply than generators.

Mr Chapman—While I cannot give you a definitive answer on particular issues which have occurred—and this is a reasonably recent innovation—all the feedback that I have had is how well it has been received and what a positive difference it has made to the individuals. In addition to that, there is of course phone contact. I certainly have only received if you like good news stories on the improvements in communication technology.

Senator FERGUSON—I have a couple of fishing questions. Amongst the submissions that we have, the tropical rock lobster industry has made one or two complaints about impositions: about their 30 per cent reduction, which you are obviously well aware; non-islander licences; and additional moon phase closures. They believe they are being treated unfairly under the arrangements and that their rights are being compromised. Would you like to respond in any way to their submission?

Prof. Hurry—Probably the extent which we can in a management sense, there are some arrangements in place over the management of the rock lobster fishery that do restrict the time of fishing around the full moon closures and the use of hooker gear. There are also issues of landing and the need to have somebody with the Torres Strait master fisheries licence on the boat. These were put in about three or four years ago when the fishery was at a fairly low level. We have been negotiating with both parties over the last two or three years to try and have the restrictions lifted. Where we are at the moment is we have, through DAFF, appointed a couple of consultants to consult with both parties to come up with a five-year plan for the management of the rock lobster fishery in the Torres Strait. Once we get that completed early in the year, we plan to be able to lift the restrictions and move forward with a proper management process in the fishery. So, yes, they are in place and they will stay in place I suspect until we get this new arrangement in place through the five-year management plan.

Senator FERGUSON—It has also been suggested to us in submissions that the turtle and dugong have been fished for commercial purposes. Do you have any evidence that that has taken place?

Prof. Hurry—No, it has been on the wires up there for some time, I suppose. There are always rumours about it. I have not been able to quantify it. Stan, I do not know whether you have any thing to add.

Mr Lui—No, there is no evidence.

Senator FERGUSON—You obviously hear reports?

Prof. Hurry—We do.

Senator FERGUSON—How do you go about investigating them? What is your approach? Even if they are rumours, how do you investigate as to whether or not they are being fished for commercial purposes?

Prof. Hurry—There is a process, I think with the department of environment, to put in place some community based management plans over the turtle and dugong to look more at the sustainability of the resources and to move people away from just straight commercial harvesting of these as products. They are two difficult fisheries to manage. In effect, they should not be considered fisheries, I do not think in the sense of managing them, because they need to stay sustainable. They are usually used for traditional use around tombstone openings and other ceremonial functions. But I guess as things move on and better boats become available and people can range further from home there is more of a tendency to take some of these products. We try to manage them the best we can but we know that the best way to manage these is actually to manage them through the communities and to build a better understanding in the communities of the need to be sustainable in the management. We do have up on the Torres Strait four officers who are involved in the management of the fisheries. We also have two foreign compliance officers up there who are permanently stationed there who look at illegal boat traffic through the Torres Strait. The Queensland Boating and Fisheries Patrol also have compliance officers on the Torres Strait. So a mix of what we hear and what they know through people in the communities we tend to try to keep a track on this. But there has been no evidence there is a commercial fishery on this. There is only one butcher shop on the Torres Strait and I know that they do not sell turtle and dugong. So if there is a commercial process in this there is no evidence that we could present to this committee.

Senator FERGUSON—Have you read Mr Murphy's submission that was given to the inquiry?

Prof. Hurry—I have read through most of the submissions.

Senator FERGUSON—Mr Murphy submits that PNG nationals do not regard the international maritime boundary as legitimate and frequently cross the border to fish on the rationale that there are insufficient resources on the PNG side of the border with too many people exploiting them. Are you aware of these activities? If you are, does that pose a risk to the sustainable development of the fish stocks?

Prof. Hurry—Under the Torres Strait Treaty, if I am remembering it correctly, PNG nationals are allowed to have access to 25 per cent of the fisheries resources on our side of the zone and can come across. They usually nominate which vessels are coming across to fish on what fisheries. There is also a block of treaty villages that are nominated as part of the Torres Strait Treaty. Those treaty villages are allowed fairly regular interaction across the Torres Straits and can fish. The commercial fishing activity is covered under the provisions of the Torres Strait Treaty, where we actually monitor the vessels coming across. If they come across to fish rock lobster they will nominate which vessels are coming across, how many tenders will be on them and what periods they will be in our waters. They can take pearl shell in our waters under the same arrangement. They can take 25 per cent of the fin fish fishery under those arrangements. They can have 25 per cent of the prawn fishery under those arrangements as well. So there are

formal arrangements and each year we sit down with Papua New Guinea and talk through what access they are likely to have up to our side of the zone. Equally, we are allowed to take a percentage of the resources on their side of the zone as well, should we choose to do so. But normally our boats choose not to fish across the line.

Senator FERGUSON—How do you monitor the 25 per cent?

Prof. Hurry—The prawn fishery—Stan might want to talk more about it—is managed by the allocation of fishing nights. On a scientific basis you work out the likely total allowable catch of prawns on the Torres Strait and then work out an average night's catch. So you determine a number of nights against what you think the allowable catch should be. Then you allocate that and you keep 25 per cent of the allocation for Papua New Guinea.

Now if Papua New Guinea decides not to use that then we say, 'Do you mind if we use it and we fish it with our boats?' To date they have said: 'No, we don't mind. You can fish our 25 per cent as well as your 75 per cent.' Then we allocate it across to our fishermen, and if they want to fish it they can. So it is a fairly open discussion we have with PNG once a year on the allocation of resources and the management of them. The rock lobster fishery is the same. CSIRO do a stock assessment of the stocks both on our side and their side—it is a fairly long time series of assessments that they have now got in place—and we allocate 25 per cent of what the total TAC is to Papua New Guinea, and the rest of it is for our fishers and the Torres Strait islanders to fish on our side of the line.

Senator FERGUSON—But the regional authority told us that the fishers are not required to keep log books or logbook records of their catch. So who collects the data and how do you determine how much they are catching?

Prof. Hurry—We get reasonable data from the commercial fishery, and the commercial fishers are supposed to keep log books and provide logbook information. The other source of data on the Torres Straits is through the processes, although I do not know what activity we have got on that. Have we got books in place with the processes up there, Stan?

Mr Lui—Yes, we also have some catch disposal records that they must complete when they sell their product or when the product is shipped out.

Senator FERGUSON—But you have no powers once the fish are taken back to Papua New Guinea, do you?

Prof. Hurry—Sorry, you are talking about the PNG boats?

Senator FERGUSON—Yes, I am talking about PNG people.

Prof. Hurry—My mistake, sorry; I thought you were talking about our side of the line.

Senator FERGUSON—Most of these questions are directed at the PNG that are coming in.

Prof. Hurry—The PNG boats—let me check that for you, Senator, because my understanding was that they would have to be under the same rules as us and would have to record their catch

and report it back to PNG and we would get a report from PNG in terms of managing it as a joint fishery. But let me check that and I will come back and confirm the information.

Senator FERGUSON—The regional council argue that it is difficult to regulate fish catches that are taken to PNG because the authorities tasked to police this area have no powers. That was their proposition.

Prof. Hurry—The National Fisheries Authority in PNG are a pretty competent fisheries management body. A lot of their focus is on the tuna fisheries up north, but they are well aware of the fisheries activity in the Torres Straits and we interact with them on a fairly regular basis. Let me check; I would be surprised if they are supposed to keep records that they do not.

Senator MARK BISHOP—Professor Hurry, you are the second witness who has used the phrase ‘tombstone opening’. Can you explain what that is?

Prof. Hurry—I will get Mr Lui to explain that.

Mr Lui—When somebody passes away we have a funeral and then we have a certain period of mourning. It is normally about two years. When they erect a tombstone on the gravesite they have an official opening for when they unveil that tombstone.

Senator MARK BISHOP—I see, so the ceremony is two years after burial.

Mr Lui—Yes, that is right.

Senator FERGUSON—When we had the Customs and Border Protection Service here, I asked them if there was one thing they could do to improve the efficiency of their work and they said an enhanced identification process would make their lives a lot easier. The Queensland government has said the same thing. They suggest that a photographic identification be issued and required of all traditional inhabitants. Firstly, would you support an initiative like that and, secondly, would it assist your work and your operations at all?

Prof. Hurry—It is not something that has ever come up in discussions that we have had with either the islanders or internally. I can understand from a compliance perspective where it might be important, but—

Senator FERGUSON—Easier for immigration, certainly.

Prof. Hurry—Yes, probably. Yes, I can understand that, but I would not have thought so given the fact that we have a fairly good team of people based up there and they are reasonably active in the community. It might, but it would not be high on our priorities.

CHAIR—On the question of cooperation with the Queensland government, there is a reference on page 15 of your submission to the management of fisheries by the PZJA and it refers to ‘formerly managed Queensland territories’. Do I take it that Queensland government does not now manage any fisheries at all, that it is all managed within PZJA? Is that correct?

Prof. Hurry—No, it is a fairly complicated arrangement.

CHAIR—I knew this was going to happen!

Prof. Hurry—I will make it simple for you. In effect, with an office up there that is a management office, we do the day-to-day management and interaction with the fishermen on the islands. Queensland does the licensing of the fisheries and the collection of the levies. DAFF undertakes any policy and legislative changes that we need to undertake up there. We develop the fisheries management plans for the fisheries, we consult with communities on what should go in them, we look at the management of the turtle and the dugong, we help the islanders with leasing arrangements of the finfish fishery, we manage the Torres Strait Prawn Fishery and we organise the management advisory committees and the scientific work for that. A lot of the day-to-day management lies with us, but in a licensing sense Queensland does the actual licensing and collects a lot of the data and levies from the fisheries.

CHAIR—You are responsible for the sustainability of the fishery—is that a fair comment?

Prof. Hurry—Yes, it is. In a day-to-day management sense, yes, that is part of our role.

CHAIR—But the Queensland government gets the money from the licensing arrangements.

Prof. Hurry—Then it is often paid to us to cover our costs of the operation. The money is apportioned by those who perform the function. It is just that they collect it under the licensing arrangement.

CHAIR—Is there a formula for the redistribution of the funds or is it just done on an annual basis?

Prof. Hurry—There was a cost-sharing arrangement for administration of the fisheries. We have just started to move away a bit from that, which will probably make things a bit different. I do not think there is a formula for it.

Mr Pittar—There is a cost-sharing agreement.

Prof. Hurry—We could probably provide you with some information of how it is being shared or has been apportioned over the last couple of years, if that would help.

CHAIR—That would be helpful. Perhaps you could also tell me whether or not that covers the costs that are involved in this activity. I suspect that it does not come anywhere near covering the costs.

Prof. Hurry—No, it does not. It is nowhere near cost recovered. The only fishery where we really do attempt to get cost recovery in place is the prawn fishery, which is purely commercial fishery. That is the only one where we do cost recover quite a bit from the commercial industry that fishes there. A lot of the others are fisheries that are fairly small and they are maintained under the treaty for the benefit of the islanders and for the development of commercial islander activity. It would be difficult to run an argument to cost recover from a turtle and dugong fishery or a small hand-collectables fishery. At some stage, when the leasing reaches 100 per cent on the finfish fishery, it is fully fished and the benefits are coming back to the TSRA for the finfish fishery that they own in full, a cost-recovery arrangement would probably be put in place. Also,

the rock lobster one has probably got enough in it to become a cost recovered fishery to a degree. There is some potential for it, but, until we get a lot of the tools developed and the management plans in place, we probably will not move down that path.

CHAIR—You may be able to measure this in terms of monetary value, but I am interested in knowing how significant a fishery this is across the region, perhaps in relation to the various species. Is it a particularly rich fishery? Is it an area that is easily sustainable and there are no threats to the fishery? How sensitive is it? Can you give me some sense of those things?

Mr Pittar—We have a publication, which we would be very happy to leave with the committee, which outlines work that the Bureau of Rural Sciences and the Australian Bureau of Agricultural and Resource Economics have prepared on the value of all Australian fisheries, including specific fisheries in the Torres Strait. It talks about the species, the status of the stock and the economic value of a number of the fisheries. We are very happy to leave that with the committee if that would assist the committee.

CHAIR—Thank you, we will gladly take that.

Mr Pittar—I will run through each of the fisheries that have some commercial activity. The latest copy of this report, which was released a few months ago, puts the value of the finfish fishery at about \$1 million for 2007-08. That comprises the Torres Strait reef line fishery, at about \$0.55 million in 2007-08, and the Torres Strait spanish mackerel fishery, at about \$0.68 million. The value of the tropical rock lobster fishery in 2007-08 was about \$9.4 million. The value of the Torres Strait prawn fishery, which, as Professor Hurry said, is a purely commercial fishery, was about \$10.4 million fishery in 2007-08. The fisheries that follow on from there are essentially the hand collectables, the more traditional fisheries, and we do not ascribe a gross value of production to fisheries that are essentially traditional fisheries.

CHAIR—The traditional fisheries are preserved for the traditional inhabitants, but are they capable of being commercial fisheries in relation to the stocks that are involved?

Prof. Hurry—The beche-de-mer fishery, the sea cucumber fishery, is a commercial fishery. It has been fished down to below where you would want it to be at the moment, in a sustainable sense, but it will potentially come back and be a viable fishery in the Torres Strait. The trochus fishery is another one, provided that the market for the shell holds up as a commercial fishery. There is also a commercial pearl fishery that goes back to the turn of the century. There are five small pearl farms still operating in the Torres Strait. They collect wild-caught pearl and farm the pearl. I guess whether that is a viable fishery into the future will depend on the economy. but pearl shell and pearls out of the Torres Strait were well regarded at the turn of the century. So those are the more traditional fisheries. The islanders fish and collect crayfish for domestic consumption as well. That is also one of the things that the treaty says that we should all seek to maintain.

CHAIR—Is there a shark fishery up there?

Prof. Hurry—No, there is not. There is a reef line fishery, which catches spanish mackerel, coral trout and reef fish. They probably have some interaction with sharks when they are fishing for the reef species, but it is not a targeted fishery at all.

CHAIR—So they are not under threat at all?

Prof. Hurry—Not that I am aware of.

CHAIR—How is commercial access to the fishery determined? Is it on the basis of tender? Do you have an open season? Can you quickly explain to us how commercial access to the fishery is gained.

Prof. Hurry—It varies across fisheries. The prawn season has a start and end date. I can get you the dates; I do not have them with me. People are granted long-term permits in the fishery. You can buy permits and you can trade them. You have a boat permit and you have an allocation of nights. You might have an allocation of a couple of hundred nights throughout the year to fish for prawns, and you pull out of the water when you have finished fishing your nights. The finfish fishery is in the hands of the Torres Strait Regional Authority. They own all the access to that fishery. What they have done to date on the allocation of the licences—and Stan worked with them last year—is to lease licences to commercial operators to fish that fishery. This year there was not a lot of leasing, but leasing is available for commercial operators who want to enter into a commercial arrangement with the Torres Strait Regional Authority. Alternatively, Torres Strait islanders can enter into an arrangement and fish as well. That is the finfish fishery. On the pearl fishery, I am not sure how we allocate any access under that; I would have to follow that through for you. I understand there is one commercial beche-de-mer licence holder, but that fishery is closed to commercial operations at the moment.

CHAIR—So the beche-de-mer fishery is closed. Are any of the other fisheries closed at the moment?

Prof. Hurry—No, the others are all open, but there is no commercial fishing on the turtle and dugong fishery; that is purely for Islander use. The only other fisheries there are the finfish fisheries, which are the Spanish mackerel fishery and the reef line fishery.

CHAIR—Although turtle and dugong are not commercially fished, do you monitor those stocks?

Prof. Hurry—Yes, we do. As I said, there is a study and an arrangement in place with DEWHA and, I think, NAILSMA, the North Australia Indigenous Land and Sea Management Alliance. There is also a land and sea management group within the TSRA. There is a fair bit of work done with DEWHA and the scientists in North Queensland to monitor turtle and dugong stocks through the fishery.

CHAIR—Maybe the authority needs to provide us with this information, but I am interested to know whether the commercial fishery is fully exploited—that is to say, are the opportunities for commercial fishing generally all taken up?

Prof. Hurry—There is potential to develop the reef line and Spanish mackerel fisheries. It is now up to the Torres Strait Islanders to work through how they will go about developing that.

CHAIR—Would you say they are underdeveloped or underexploited?

Prof. Hurry—In a sense I think they are. I think there is real potential to catch and trade live coral trout and live reef fish out of the Torres Strait into the world live reef fish market, which is quite valuable. The focus to date in the rock lobster fishery in the Torres Strait is to take and sell the tails of the rock lobster. There is far more money in live lobster in the world market than there is in lobster tails. So, in that sense, you could increase the return from the rock lobster fishery as well.

The prawn fishery is a commercial fishery and it really depends on the economics of fishing the Torres Strait and the cost of operating there in any given year. It is often driven by the Australian dollar. The Australian dollar is quite strong at the moment, so it is hard to trade some of our prawns on the market. This year you will see that the fishing effort in the prawn fishery in the Torres Strait is quite low. In any year, if they fished the number of days that we make available to them, the fishery would be pretty well fully fished—it would be fished at a sustainable level.

CHAIR—Perhaps we can take advantage of the higher dollar in relation to the prawns.

Prof. Hurry—You should be able to at Christmas time—I think you will have a great Christmas!

CHAIR—In the rock lobster fishery, you say they are taking the tails. Why do you think the opportunities for a more valuable fishery are not being taken up?

Prof. Hurry—Mr Lui might want to comment on this as well, but I think it is more an issue of just how it has been developed. A lot of it was in the hands of commercial operators. We ran a commercial buyback with DAFF four years ago, I think.

Mr Lui—Yes, in that order.

Prof. Hurry—And we purchased a number of the commercial operators out of the fishery. About 53 per cent of the access is held by Torres Strait Islanders and about 47 per cent is held by the commercial sector. I think part of it is the infrastructure on the islands. It does not necessarily allow itself to hold lobsters and there are not the kinds of boats required to travel around, pick the live lobsters up and bring them back to market. There is a similar tropical rock lobster fishery on the east coast of Queensland, and the commercial operators will actually land planes on beaches, fly live product out and put it on the market. They have it fairly well set up. If they knew there was a regular supply of lobsters coming out of the Torres Strait and it was worthwhile sending boats around to pick live lobsters and live finfish up, I think you would find a different structure and arrangement and the value of the fishery probably increase and people would get more active in it. This five-year management plan for the rock lobster fishery that we are trying to put in place through the consultants that DAFF has engaged should begin to take us down that path.

Mr Lui—I suppose another value-adding aspect that could be exploited in the future is that we have a boat restriction policy as well where the size of the boats in the fishery is limited to under 20 metres. That makes them a little bit unsafe when they put live tanks to carry live products on them. They are limited in how much capacity they have to hold live product at the moment. The reason that we have the 20 metre boat restriction policy is that the Indigenous

commercial sector believe that a bigger boat is an unfair advantage for the non-Indigenous sector to exploit the stocks more than they are able to, I guess, because their business structure is based on dinghies, on tenders. It is a choice they have made. They can go to bigger boats if they prefer, but I think it is just that business structure, that they prefer a smaller business with less overheads and less costs.

CHAIR—Are you sympathetic, Mr Lui, to the wish to have large boats admitted?

Mr Lui—I am not sure what you mean.

CHAIR—You say you have got it restricted to 20 metres because of the concerns of the traditional fishing industry. What you seem to be saying is that if larger vessels were admitted then it might become more economically viable and there may be a capacity to value-add and improve the capacity of the whole industry. Have you taken under consideration the possibility of increasing the size of the vessels that are permitted or not?

Prof. Hurry—I have actually raised it a couple of times in meetings particularly in relation to the prawn sector, where it is also limited to 20 metre vessels. This issue that Stan raised of the islander fishermen thinking that they are disadvantaged and that bigger trawlers will come in and fish closer to the home reefs and therefore dump more fish overboard is really central to the thinking of the islanders. Stan is right, commercially in order to get this to work you really need bigger boats that can have better tanks on them. But I think it is part of a package of things. If they were going to give on that they would want something else in return for it. Maybe part of that is the development of holding tanks on the island so that they can participate more in the fishery. The price of fuel is high, \$3, \$3.50 a litre for fuel to actually get out to the fishing grounds, and therefore you are limited to the closer reefs and you cannot get out and benefit on the better fishing out on the more distant reefs that the commercial operators can. So I think you might get some movement in the restriction but it would be part of the overall package that the islanders saw themselves getting benefit from as well.

CHAIR—Do you think those concerns the islanders have are reasonable concerns or do you think they are perhaps overexercised about those anxieties?

Prof. Hurry—In fairness, I think if I was sitting up there as a Torres Strait Islander and this is one of my main sources of income, I would have similar concerns.

CHAIR—Okay. You say that there is perhaps a bargain to be had here about giving and taking. Is there any discussion about changing the arrangements to try and accommodate the potential that might be here?

Prof. Hurry—This is the development of our five-year management plan which we are consulting both industry and the islanders on at the moment. I would expect a kind of package of measures to come out that that would help us move it forward.

CHAIR—When will the plan be completed?

Mr Pittar—That five-year business plan or five-year management plan will be completed in the first half of next year.

CHAIR—I see. I could ask a few more questions about fishing but we are running out of time. I did want to ask some questions—

Senator FORSHAW—Can I ask a quick one about fishing. Is there any significant recreational fishing allowed in the area? I suppose I was thinking from the point of view of tourism potential.

Mr Pittar—Recreational fishing is managed by the state, by Queensland. It is not something that the Commonwealth is directly involved with in that area. Stan, do you have any information?

Mr Lui—No. I think recreational fishing is one thing that attracts other services to the area. It is an attractant. There is a little bit of tourism going on. There are some resorts going on the islands that have fishing capacity. There is one operator who is running a fishing charter business.

Prof. Hurry—There are charter operators on Thursday Island. Some of the population on Thursday Island can go on to fish. There is a fair focus on recreational fishing around the northern peninsula area communities, and Bamaga is one of the more central points. People will base themselves there or they will do their tour up the cape and then fish around the NPA area.

Senator FORSHAW—I appreciate that it is under state regulation. It does meet against federal regulation, environmental regulation and some of the other restrictions that exist in the zone.

CHAIR—I would like to ask some questions in relation to AQIS activities and gain some insight into the nature of the challenges faced in relation to quarantine threats et cetera. Your submission alludes to a range of dangers and potential risks that we face. It would be helpful to the committee for you to give us an assessment of how serious you think these risks might actually be. You have alluded to a range of things. How much at risk are we from a range of pests and things of that kind?

Mr Chapman—It might be worthwhile if I talk about that in an operational sense. Dr Carroll may be able to assist with a more scientific assessment at the end. The key issue for us in the Torres Strait is the fact that our near northern neighbours, like PNG, have exotic pests and diseases which are not present in Australia. There are things like Asian tiger mosquito, papaya fruit fly and Japanese encephalitis. The close proximity of the islands to PNG and the stepping stones, in a sense, that the islands create to the mainland provide a potential pathway.

CHAIR—Just excuse me, Mr Chapman, but they are all prevalent in the Western Province and down to the border?

Mr Chapman—They all exist there. I am not sure how prevalent you would say they are, but they all certainly exist. The potential pathway of those going to the Torres Strait islands and then moving slowly southwards towards the mainland can be caused by a couple of factors. One is that humans carry them as they move, and that is really what our officers deal with when they are doing their inspections at the border—to make sure that the items which are likely to carry those pests and diseases are actually free of them.

The other issue is prevailing weather conditions at certain times of the year. Papaya fruit fly, for example, can be blown from the mainland to the islands. Certainly, regarding the islands that are closest to PNG, we have quite extensive insect trapping regimes so that we can identify the prevalence of these insects. Some of the risks are exacerbated by the fact that it is remote, there is no extensive infrastructure and it is difficult to have sophisticated quarantine treatments in place. Having said all that, the potential risks are well recognised and there are quite extensive surveillance activities, border management activities and community education activities which are all designed to minimise that risk. Indeed, the structure of the Torres Strait protected zone and the special quarantine zone provides a series of filters to try to prevent the southward movement of the problem items.

The other issue is that both in the Torres Strait and in Northern Australia—Cape York—there are very low population densities, which means that we have to be aware of the risk that if something does establish it has potential to build up a population before it is identified. Again, we cover that off with quite extensive and targeted surveillance activity: trapping for mosquitoes and regular checking of what is going on with animal populations. There is a sentinel herd, which is about three pigs usually, which come up completely free of disease and which spend time there. They are tested every week just to see if any of these items of concern are moving southwards. There are extensive papaya fruit fly and other fruit fly trapping regimes so that we get a very early warning of the issues.

I guess that is a very long answer to your question. In summary, it is a potential risk area for the factors that I raised. It is one that we are aware of. The combination of the offshore work that we do in PNG and the surveillance and border protection activity that we conduct in the northern region of Australia, particularly in the Torres Strait, is designed to mitigate that.

CHAIR—Dr Carroll, do you have anything to add to that?

Dr Carroll—As Mr Chapman said, there is a series of ways that things can come across from PNG. There is the more commercial movements assisted by people, but things can also float across, blow across, fly across and swim across. So for the diseases that occur in PNG and also Indonesian Papua and even further, because there is free movement into Indonesian Papua from the rest of Indonesia, we see the gradation of risk flowing down. We do a lot of work in surveillance and capacity building both in Papua New Guinea and Indonesia to try to decrease the pressure.

There are several diseases of major concern. The recent developments with varroa in PNG are of considerable concern, because varroa would be a serious pest for our honey bees. It is a mite that lives on bees. Classical swine fever has moved into the western edge of the island and is likely, slowly but surely, to move across and into PNG at some time. That would put pressure on. It is a very serious exotic disease of pigs. There are similar issues with regard to plant disease. The more diseases there are up there and the less they are controlled the more pressure is put on diseases to jump across and then island-hop or even move directly to the mainland. So we have cooperative relationships with both PNG—their quarantine service, NAQIA—and the Ministry of Agriculture and the quarantine service in Indonesia to both capacity-build and to do surveillance so we have a better idea of what is there so we can help Tim's people: 'These are the greater risks. This is what you have to keep surveillance on so you can respond quickly if anything does start to move across.'

CHAIR—Do you have an apprehension that the risks are increasing?

Dr Carroll—The risks are not just increasing there; the risks are generally increasing due to increasing trade and things. There was an outbreak last year or the year before of a very virulent form of newcastle disease up on the top of Papua New Guinea that had been brought in by, we believe, loggers coming in and bringing their fighting cocks with them. We invested quite a lot of resource in helping PNG control and, fortunately, eradicate that particular disease. Also there are the risks coming across from Indonesia into Indonesian Papua and then moving across as more settlement develops there. Things like the big gas pipeline and various mining activities will mean a lot of mining equipment comes in. Unless great care is taken, that will introduce a whole range of soil-borne pests, particularly plant pests, and also hitchhiker pests—insects et cetera. So the risk in general, yes, is increasing.

CHAIR—Do you have contingency plans to try and meet those risks? Do you seek additional budgetary support to expand the program that you run in light of these perceived risks? Are you struggling to get the resources you need to deal with the risks?

Dr Carroll—AusAID have supported us financially in a range of activities in both PNG and Indonesia. We are currently working with AusAID to develop a more extensive program in Indonesia, which will run over five years, and there is another separate program to continue work that we have done in Papua New Guinea. The resources for capacity-building in Papua New Guinea are always stretched. It is not just about getting the money; it is sometimes about getting the people. Getting people who want to work in those countries is not always easy. To date, we have been very successful with the programs that we have run up there. AusAID have been very supportive and we hope that they continue to support us.

CHAIR—So your primary support comes from an AusAID program—in relation to Papua New Guinea, anyway?

Dr Carroll—Papua New Guinea and Indonesia. The department has also expended money on programs there through various other means as well. We have various means of funding the activities that we have there. As I said, one of our main concerns at the moment is the lack of veterinarians in Papua New Guinea. We are trying to investigate various things with AusAID, particularly under the Strongim Gavman Program, to try to get veterinarians over there and to train locals through universities here. It is a long and difficult process. They have very limited veterinary resources. The veterinarians they have are very good; it is just that there are not enough of them.

CHAIR—Thank you very much for your evidence; it has been most helpful. Your submission was very detailed and it has also been extremely helpful. Thank you very much, Mr Morris and your team. We may see you again at some stage.

Proceedings suspended from 1.17 pm to 2.22 pm

COLREAVY, Ms Mary, Acting First Assistant Secretary, Land and Coasts Division, Department of the Environment, Water, Heritage and the Arts

McDOUGALL, Mr John, Policy Officer, International Section, Department of the Environment, Water, Heritage and the Arts

OXLEY, Mr Stephen, Acting First Assistant Secretary, Marine Division, Department of the Environment, Water, Heritage and the Arts

RISHNIW, Ms Tania, Assistant Secretary, Tropical Marine Conservation Branch, Marine Division, Department of the Environment, Water, Heritage and the Arts

CHAIR—Welcome. A copy of the committee's opening statement has been provided to you. Do you have any queries about the opening statement?

Mr Oxley—Not at all, Senator.

CHAIR—You have provided us with a submission, which we have numbered 24. It is a public document. Do you have any amendments you wish to make to the submission?

Mr Oxley—No amendments, Senator.

CHAIR—I invite you to make an opening statement if you care to do so.

Mr Oxley—I will very briefly make a couple of comments. The first is to acknowledge that the department was quite late in making its submission to the inquiry and to apologise for that. We had some internal coordination challenges.

Senator MARK BISHOP—I bet you did.

Mr Oxley—Time of year, I suspect. In very brief terms what we have sought to do in our submission is to outline the range of responsibilities that our portfolio has in relation to the Torres Strait. In overall terms we have responsibility under the Torres Strait Treaty arrangements for co-chairing with Papua New Guinea the Environment Management Committee. We are engaged in a range of activities under the auspices of that committee in partnership with other Commonwealth departments and agencies. We undertake a significant body of activity in the Torres Strait through the Caring for our Country program. As a portfolio, we invest in research activity in the Torres Strait through the Commonwealth Environment Research Facilities Program—specifically, we support the Marine and Tropical Sciences Research Facility. Beyond that, we also have a responsibility under the Environment Protection and Biodiversity Conservation Act for assessing the sustainability of fisheries, as distinct from responsibility for the management of those fisheries—and I understand that DAFF and AFMA have appeared before you today and spoken on that issue. Also under the EPBC Act we have a range of responsibilities for protecting a range of matters of national environmental significance, many of which are species such as turtles and dugongs found in the Torres Strait. In a broader context, as a portfolio we have a range of other interests in the Torres Strait, around issues such as foreign

fishing vessel compliance, biosecurity and marine debris, for which we do not have direct responsibility but are involved in whole-of-government processes. I think that summarises our level of engagement.

CHAIR—Thank you. You have alluded to the challenge of coordination. I do not wish to make anything of this in relation to the lateness of your submission, but I just want to pick up on it on to understand how the Torres Strait fits into the organisation of the department. Is there a separate branch, or is it just part of the responsibilities of another division? Could you explain how the Torres Strait responsibilities fit within the department.

Mr Oxley—Responsibility for the co-chairing of the Environment Management Committee resides in the Policy Coordination Division of the department—and Mr McDougall is from that division. When it comes to the range of different activities undertaken in the Torres Strait, we devolve those responsibilities to the line areas that have the most direct interest in the subject matter. All matters pertaining to the funding from Caring for our Country are dealt with by the Land and Coast Division. In the Marine Division we deal with issues such as the development of a wildlife conservation plan in relation to dugong—and that will have an interest and implications for the Torres Strait as it is developed over the course of the next year. Marine debris is a responsibility for our Marine Division. Our Marine Division has responsibility for species policy and also for sustainable fisheries assessment activity. So, organisationally, we are spread widely in terms of subject matter coverage. Within that framework, we have within the department a Marine and Coasts Coordinating Committee, which is at the first assistant secretary level. That is the vehicle we generally use to coordinate around marine issues. When it comes to issues under the Environment Management Committee, we tend to meet as a group for that specific purpose.

CHAIR—Are officers from the department permanently stationed in the Torres Strait?

Mr Oxley—No.

CHAIR—To the extent to which you need to be in the Strait, do your officers come from Canberra or, for example, from a regional office in Cairns?

Mr Oxley—Our staff would generally come from Canberra, though we have an officer based in Darwin who would have some engagement with work in the Torres Strait.

Ms Colreavy—The department also has three officers based in Cairns, one in Longreach and four officers based in Brisbane. The Land and Coast Division, which is responsible for the administration of Caring for our Country, has a number of regional officers; we have what we call natural resource management facilitators based in each of the jurisdictions. We have a total of eight staff based in Queensland who are available to work with proponents on the rollout of programs and activities that are funded through Caring for our Country and also to assist them with questions and requests with regard to developing applications for funding. Two of the Cairns staff are associated with our Indigenous Policy Branch, which is part of our division, and assist with the Working on Country program. The third Cairns based officer is an Indigenous land management facilitator.

CHAIR—Thank you. Mr Oxley, you refer to fisheries activities. DAFF gave evidence at the hearing prior to lunch. I asked them specifically about the fishery in the area and whether or not it was sustainable. They assured me, as I understood their evidence, that indeed it was. Do you agree with that assessment? Do you have any particular concerns about any of the fisheries in the region?

Mr Oxley—Senator, if I can give you the broad outline, because there are a number of fisheries in the region, each of which has had a strategic assessment undertaken by our department under the EPBC Act.

CHAIR—Is the strategic assessment something that you do regularly? Has there been a recent one for the whole fishery?

Mr Oxley—It is not dealt with as a whole fishery, so to run through the list, we have the Torres Strait Beche-de-mer Fishery, the Torres Strait Crab Fishery, the Torres Strait Finfish Fishery, the Torres Strait Pearl Shell Fishery, the Torres Strait Prawn Fishery (1), the Torres Strait Trochus Fishery and the Torres Strait Tropical Rock Lobster Fishery. Of those, the prawn fishery and the rock lobster fishery are the two largest. Our assessment of these fisheries is that they are generally operating at reasonably low levels of catch and are sustainable. The Torres Strait Tropical Rock Lobster Fishery was assessed in 2007, the Torres Strait Prawn Fishery was assessed this year and the others were assessed in 2008. As a result of those assessments each of those fisheries were accredited as wildlife trading operations, which means that they are permitted to export product sourced from those fisheries. Our assessment is that the fisheries management arrangements are capable of delivering a sustainably managed fishery.

I cannot tell you the exact length of each of the wildlife trading operations approvals, which can be anything from one two three years. Each of those fisheries will come up for reassessment, with the rock lobster fishery being the next one, in November 2010. You will note in our submission the information about the outcomes of those assessments, which are publicly available through the department's website. It goes into quite some detail not just about the assessment of the fisheries but about any recommendations or conditions that have been imposed by the department on those fisheries in order for them to achieve their wildlife trading operation accreditation.

CHAIR—Is that true of the beche-de-mer fishery? I thought there were some restrictions on that fishery at the moment.

Mr Oxley—The beche-de-mer fishery is a mainly traditional fishery and the most recent information I have—and I can undertake to produce some further information for the committee—is that there was no harvest reported for that fishery in 2008. I am not sure of its status this current year. It was last assessed under the EPBC Act in 2008 and it is due for a reassessment in 2011.

CHAIR—Perhaps that is what I was thinking of, but I will get you to check that information with the department. When you do assessments of fisheries, do you assess numbers or do you just determine that they are sustainable or safe to be exploited? Do you try to do estimate of numbers or not—in relation to dugong, for example?

Mr Oxley—If I may I will come to the question of dugong in a moment because I would like to deal with dugong and turtles separately from fish as such. The overall framework within which Commonwealth fisheries are managed in Australia is a harvest strategy policy which sets the rules around the targets to which we fish a species and determines an allowable catch. The harvest management strategy works such that the amount of fish of that species available to catch is allowed to get no lower than 20 per cent of the original virgin biomass before commercial exploitation occurred. That is a key factor in our assessment of each fishery that is managed by the Commonwealth.

We then have a series of guidelines issued under the EPBC Act and some key principles under those guidelines against which we assess the performance of the fisheries. What we are looking for is a fisheries management regime which is capable of ensuring that the fishing that is undertaken continues to occur on a sustainable basis and which takes full and proper account of broader ecosystem impacts of those fishing methods and impacts on protected species and on corals, if we are talking about an area with coral habitats and so on. So we are looking at the broader ecosystem impacts of that fishery in undertaking that sustainability assessment.

On the question of dugongs specifically, these were subjected to an assessment under the EPBC Act but that assessment did not go all the way through to an accreditation of that fishery. The reason for that is the governance arrangements surrounding the fishery itself. In 2007 the department commenced a strategic assessment of the Torres Strait turtle and dugong fishery to assess its sustainability, as we are required to do under the EPBC Act. In doing that assessment we undertook a consultative approach towards the assessment with Protected Zone Joint Authority agencies—that was the then Queensland Department of Primary Industries and Fisheries, the Torres Strait Regional Authority, DAFF and AFMA—with the aim of developing draft recommendations which were built around the community management plans which have been developed for the harvest and catch of dugong and turtles in the Torres Strait.

The PZJA has worked through and considered those plans but they are not legal instruments. For that reason, it is not actually possible for our minister to go on and endorse the management arrangements as part of the strategic assessment. But I think the important point to note is that the plans are considered by the PZJA agencies to be appropriate mechanisms for the management of the Torres Strait turtle and dugong fishery and that those arrangements are capable of ensuring that the harvest of those species is sustainable in the Torres Strait.

CHAIR—So what it amounts to is that you do not have any concerns about the dugong and turtle fishery; is that right?

Mr Oxley—What I am saying is that, on the evidence we have in front of us, recognising that we are not necessarily working in an information-rich environment, we are reasonably confident that in the Torres Strait those resources are being managed sustainably.

CHAIR—Do you think there is a need to try to upgrade your capacity to acquire information or are you comfortable with the fact that you are not working in an information-rich environment?

Mr Oxley—I think we would always be more comfortable if we had better information at our disposal.

CHAIR—What particular impediment do you need to overcome to expand your information?

Mr Oxley—The particular impediment that we would need to overcome is a question of resourcing. We all have to work within a finite level of resources available to us to undertake our business.

CHAIR—This is your resourcing; is that right?

Mr Oxley—I guess I mean, more broadly, resourcing for investment in research in the Torres Strait, as in any other area. The general observation one would make about the marine environment broadly is that it is little understood relative to our terrestrial environment and that one could spend a very large amount of money improving that understanding.

CHAIR—Does that observation apply beyond the determination, with accuracy, of the state of the turtle and dugong? Or does it, in your view, apply more widely to, for example, a fishery in the Torres Strait?

Mr Oxley—Yes, it most certainly does apply more widely to the fisheries of the Torres Strait. But, having said that, the information that we have available gives us the confidence that, given we are talking about low-level take in these fisheries, they are being managed sustainably. The challenge in those circumstances though is that if there was to be an increased level of harvest we would need better data about the overall size and status of the resource in order to be confident that the fisheries were capable of sustaining high levels of take.

CHAIR—Sustainability depends on your base assumptions about the size of the fishery or the stock, doesn't it?

Mr Oxley—It does.

CHAIR—If you are not absolutely confident about the size of the stock, you cannot be absolutely confident about the sustainability of the exploitation, can you?

Mr Oxley—Not absolutely. I am not a scientist but, generally, the approach that is taken when we are doing fishery assessments is that we do them on the basis of confidence levels. My recollection is that the harvest strategy policy, which is the government's policy and which is managed by AFMA, works on a 90 per cent confidence level. So we require a reasonably high level of confidence in the underlying scientific assessment of the fisheries. But I would need to take on notice any more detailed questioning about that. It is substantively within the DAFF portfolio and I might need to refer detailed questions to DAFF.

CHAIR—We can chase them up ourselves.

Senator FERGUSON—I want to ask a couple of questions about climate change. Has any work been done or is any work being done by your department on the implications for the health of the inhabitants of the Torres Strait and neighbouring coastlines due to climate change?

Mr Oxley—I am not sure that I am in a position to be able to answer that question; it would be better to take that one on notice. I do know that at the most recent meeting of the environment

management committee for the Torres Strait there was an agenda item in relation to climate change adaptation in the Torres Strait. I have not had the benefit of reading that paper, but I would be happy to provide some further advice to the Senate in that regard.

Senator FERGUSON—Would that include any work that might have been done on extreme weather events?

Mr Oxley—Again, I would have to take that on notice.

Senator FERGUSON—All right, they were the two issues that I wanted to raise.

CHAIR—On this topic, Mr Oxley, some of the submissions to the inquiry have alluded to concerns that exist amongst the island communities about the consequences of climate change, and there has been quite a lot of recent publicity about that matter. There has been concern about the washing away of beaches and things of that kind as a result of extreme weather conditions. There has been concern about storm activity and the like. In other words: there has been a range of anxieties and concerns mentioned to us which constitute in a way threats to an island existence in relation to the stability of these islands. Are you able to provide us with any information in response to those concerns? Do you see them as legitimate concerns? Do you think they are overstating the dangers that exist there? Or are you unable to provide us with any information about this at this stage?

Mr Oxley—I am certainly not going to suggest that concerns that are being raised by communities in relation to extreme weather events—loss of beaches, rising sea levels, acidification of the ocean—are in any way overstated. I do not have any evidence in front of me to make such a statement. Obviously these are areas of particular concern. We do know that all the climate change science is suggesting we are going to see an increasing incidence of extreme weather events. My understanding is that the Bureau of Meteorology has recently begun doing some work in the region regarding extreme weather events, so it is something that is on our radar, so to speak. But I do not have the information in front of me today to be able to talk in detail about any of those specific areas of concern. I do not know whether Mr McDougall has any summary he can provide about the nature of the discussion that occurred recently on climate change adaptation issues at the environment management committee.

Mr McDougall—Yes, there was some minor discussion on climate change issues at the recent environmental management committee meeting held at Alotau in Milne Bay Province in PNG at the start of November. The issue was brought to the committee's notice earlier in the year by the traditional inhabitants, and the committee determined that it is not the right forum for the resolution of those issues given that climate change departments are not represented on the committee. Under the treaty the matter was referred to the Joint Advisory Council, which met the following day, and that committee determined that it also was not the correct forum to address issues directly, but undertook to have climate change staff both from Australian government departments and from PNG government departments to address the committee next year and discuss the issues and share information with the traditional inhabitants.

My understanding also is that our Bureau of Meteorology, under the World Meteorological Organisation, is undertaking some pilot projects in PNG and Solomon Islands in the near future, and I will be getting our Bureau of Meteorology staff to address the environmental management

committee meeting next year to share some of the information about their findings on that project.

Senator FERGUSON—I am amazed that a meeting of environment ministers would consider that climate change is not part of their forum. It seems a bit odd to me.

Mr Oxley—Yes, it is the climate change ministers' responsibility. If we are talking about mitigation that is most certainly the case; if we are talking about the adaptation challenge then there is, appropriately, a role for our portfolio in relation to adaptation to climate change. That is something that we would expect to be progressed with communities. I note that as part of the current Torres Strait research program, one of the areas of research that is being undertaken this year is traditional knowledge systems and climate change in the Torres Strait and that will be one vehicle by which there will be some continuing engagement around climate change. So I would draw the distinction between climate change in a mitigation context and the potential for some level of focus on adaptation to climate change as a sustainable natural resource management challenge in the Torres Strait.

Senator FERGUSON—I noticed that the Torres Strait Regional Authority put out a press release:

Torres Strait urges Australian government—fund climate change victims in Australia before offering aid overseas.

I would not imagine that is one press release they would have taken to Copenhagen.

Mr Oxley—I have not seen the press release.

CHAIR—Mr Oxley, do you concede, or do you not concede, that these concerns that have been raised are matters properly within your portfolio, or do you think they are more properly matters for the portfolio of climate change?

Mr Oxley—The responsibility for adaptation policy and mitigation are both led by the Department of Climate Change, but in practical terms—that is, the range of programs for which our department is responsible—we are already heavily engaged in adaptation activity of one form or another—programmatic activity and policy advice. We generally would bring that policy advice to the table through interdepartmental processes to inform a whole-of-government position, but we would also be taking that into account in our own program delivery work, whether that is around biodiversity conservation or sustainable natural resource use.

CHAIR—Given that is your responsibility, and in light of your earlier answers to my questions, do I take it that at the moment you do not see any particular urgency in responding to those kinds of concerns in the Torres Strait?

Mr Oxley—I would not make that statement, Senator.

CHAIR—You do not have before you, do you, any kinds of policies or programs that are addressing particular concerns in the Torres Strait?

Mr Oxley—I indicated that I did not have information in front of me that would enable me to confidently answer that question today and I undertook to take that one on notice.

CHAIR—I would be grateful if you would do that. I would particularly like to know whether or not the particular concerns that have been mentioned, including the CSIRO paper which has been referred to, the 2006 paper about the danger of increased extreme weather events, is causing concern with the communities and whether or not the department has thought it necessary to respond in any way to that paper and the implications it draws out.

Mr Oxley—And we will provide that response in the context of what are our responsibilities in the delivery of services in the Torres Strait region.

CHAIR—Thank you. Could you tell us briefly the role the department has with regard to foreign fishing vessels in the region?

Miss Rishniw—Compliance and enforcement activities in regard to foreign fishing vessels are obviously primarily the responsibility undertaken by Border Protection Command and obviously informed by AFMA as the management agency. Our compliance focus tends to be on activities and issues that fall under the EPBC Act. We rely on Border Protection Command and on our relationship with them to look at foreign fishing vessels as they pertain to taking protected species under the EPBC Act. Border Protection Command are the central coordinating point. Border Protection Command have responsibilities and are delegated under our legislation and under AFMA's legislation to undertake compliance activities on our behalf.

CHAIR—Do you have reason to be concerned about compliance in relation to foreign fisher vessels?

Miss Rishniw—As I said, I could not comment on foreign fishing vessels per se but, in terms of impacts and compliance activities as they relate to protected species, I am not aware of any compliance activities that have been undertaken in the Torres Strait under the EPBC Act.

CHAIR—So no issues have been drawn to your attention in relation to protected species?

Miss Rishniw—Not that I am aware of.

CHAIR—What would the protected species be that we would be concerned about here?

Miss Rishniw—If foreign fishing vessels are taking turtle and dugong in the area, they would be issues that fall under the EPBC Act.

Mr Oxley—It could also be any listed migratory or marine species, it could be seabirds, it could be dolphins or other cetaceans. It could be any range of species that are protected as matters of national environmental significance under our act. If we look more broadly across Northern Australia we see an ebb and flow in the level of illegal foreign fishing which is undertaken. From our portfolio's perspective we do have reports periodically of protected species which are being taken illegally by foreign fishing vessels. Sometimes that might be traditional Indonesian fishers who have taken a couple of dolphins for the purpose of using them as bait or whatever. We get periodic reports of activity in relation to species and they would

generally be followed up in a compliance and enforcement sense by the compliance branch within our own department. But, where you are talking about on-the-water engagement, Australian Customs and Border Protection Service does that on our behalf. In fact, we have a continuing presence at Ashmore Reef, way over the other side, which is an arrangement between us and Border Protection Command.

CHAIR—You said earlier that you did not have any officers based up there. Do I take it from your submission that you are rethinking this arrangement, that you are planning to place some officers up there, because your submission refers to construction of a fast-response vessel, based on Thursday Island, and a field operations team which will soon be moving to Cairns.

Mr Oxley—That was the Great Barrier Reef Marine Park Authority. We do not have representatives of GBRMPA here today.

CHAIR—That is for the authority rather than—

Mr Oxley—That is a matter for the authority rather than for the department. What we have sought to do is provide a whole-of-portfolio submission here rather than one that exclusively covered our department.

CHAIR—You are not intending to change your current staffing arrangements?

Mr Oxley—No.

CHAIR—Thank you very much for your attendance today. We appreciate the evidence you have given to us. We may call upon you again.

Mr Oxley—Thank you. We will have some further information for you.

[2.59 pm]

BRYANT, Ms Jennifer, First Assistant Secretary, Department of Health and Ageing

GARDNER, Ms Fay Irene, Assistant Secretary, Health Protection Policy Branch, Department of Health and Ageing

KLAUCKE, Mr Klaus Gerhard, Director, Asia-Pacific Section, Department of Health and Ageing

SAASTAMOINEN, Ms Tarja, Assistant Secretary, Family Health and Wellbeing Branch, Office for Aboriginal and Torres Strait Islander Health

CHAIR—Welcome. You have been shown a copy of the committee's opening statement. Do you have any questions about the opening statement?

Ms Bryant—No.

CHAIR—You have been good enough to provide a submission to the committee, which we have numbered No. 11. It is a public document. Do you have any amendments which you wish to make to that submission at this stage?

Ms Bryant—No.

CHAIR—I invite you to make an opening statement, if you care to do so.

Ms Bryant—I will make some very brief remarks. As outlined in the department's submission the key areas in the committee's terms of reference that intersect with departmental activity are paragraph (c): 'The extent of cooperation with and between Australia's northern neighbours in relation to the health portfolio' and paragraph (d): 'Public health challenges facing the region with respect to maintenance of border security in the region and the cooperation between levels of government.'

The key health interest in our relationship with Papua New Guinea lies in using our aid program to promote development and stability. The relationship is primarily managed by AusAID and the Department of Foreign Affairs and Trade. Health services in the Torres Strait, as the committee has probably already heard, are managed by Queensland Health. So the Department of Health and Ageing's main interests lie in protecting our northern borders from risks associated with the spread of communicable disease and ensuring Torres Strait Islanders have access to appropriate health services. Our involvement is primarily through the Torres Strait Cross Border Health Issues Committee, which we chair. This committee was established in 2003 as a subcommittee of the Joint Advisory Council on the implementation of the Torres Strait Treaty.

Free movement by PNG nationals for traditional purposes unavoidably poses some risks for the transfer of communicable diseases to the Torres Strait Islands and on to the mainland. So the health issues committee looks at health issues and at practical ways to address them, including through building health system capacity in New Guinea and in the treaty zone. The health issues committee comprises representatives from a number of Australian government agencies, including DFAT, AusAID, AQIS, Immigration, Customs and the Torres Strait Regional Authority. It also includes membership from Queensland government and PNG government agencies. As the committee is aware, our submission details the package of measures that the committee is currently managing.

CHAIR—Thank you. Just in relation to the interrelationship between Commonwealth and state responsibilities here, in particular the Queensland government, could you just outline—if indeed it can be done quickly or simply—what arrangements are in place with regard to the operational activities of the Queensland government?

Ms Bryant—As I mentioned, activities on the ground are effectively all managed by Queensland Health, so our role is primarily a coordination role rather than a management of services on the ground. That is probably it in a nutshell.

CHAIR—That is simple and helpful. The Queensland government do things on behalf of the Commonwealth or in conjunction with it. Do they, to some extent, do it with Commonwealth funding and, if so, how much is that funding?

Ms Bryant—There is some Commonwealth funding involved, which I will ask Ms Gardner to give you the details of.

Ms Gardner—The Commonwealth provides a range of funding to Queensland Health across a number of different areas. In particular, through the 2009-10 budget, we continued funding of \$16.2 million over four years to Queensland Health for the treatment of PNG nationals in Queensland health services. There is also a range of other projects that we provide Queensland with funding towards, and also—through our various programs under the Office for Aboriginal and Torres Strait Islander Health and other areas of the department—there is a range of different projects covering different areas of health.

CHAIR—So there is a specific allocation to Queensland Health for the treatment of PNG nationals—is that right?

Ms Gardner—Yes, that is correct.

CHAIR—I take it from that that you do not regard it as a responsibility of the Queensland government to treat PNG nationals, and you regard that as a Commonwealth responsibility—is that fair?

Ms Bryant—Services provided to PNG nationals are not Australia's responsibility primarily.

CHAIR—Indeed.

Ms Bryant—We provide them on a humanitarian basis as part of our international relations, and in that context the Commonwealth takes the lead role.

Senator FERGUSON—Does it come from the aid budget?

Ms Bryant—Those measures are, I think, in the Health and Ageing budget.

Ms Gardner—The funding of the \$16.2 million was previously provided under the Australian healthcare agreements. This year it was removed from the healthcare agreements and provided separately, and it is currently part of a national health services agreement that is being developed. I think the overarching agreement has been signed, but the implementation elements—in particular, around the \$16.2 million—are still being finalised with Queensland Health.

Senator FERGUSON—But in reality it is part of an aid budget, isn't it? In reality, it is aid to the Papua New Guineans.

Ms Bryant—The funding is provided, as we have said, through the Department of Health and Ageing, but it is a form of humanitarian assistance provided to PNG nationals when they seek health services on the islands.

Senator FERGUSON—Most of our other line items for humanitarian assistance come out of our aid budget, not out of one of our portfolio budgets.

Ms Bryant—I think the committee is talking separately to AusAID and the Department of Foreign Affairs and Trade, and they do have separate packages of more substantial assistance that they provide to PNG, as you would be aware. The health measures come through our portfolio.

CHAIR—It says the \$16.2 million is a figure for 2009-10.

Ms Gardner—It is over four years.

CHAIR—Has that figure been stable over a period of time or has it increased significantly—or declined, for that matter?

Ms Gardner—It has increased each year.

CHAIR—From when? Do you know when the base year was?

Ms Gardner—It was 2003-04, I think. I will just confirm that. The first payment was made as part of the 1998-2003 healthcare agreements, in the negotiation of those. I would have to confirm that it was from 2003-04. The figures I have in front of me start in 2003-04 at around \$2.8 million. The funding for 2009-10 is \$3.8 million.

CHAIR—But it is over four years.

Ms Gardner—The \$3.8 million is for 2009-10.

Ms Bryant—So it is approximately \$4 million per annum over the four years, giving you the \$16 million.

CHAIR—So the figure has been increasing?

Ms Bryant—It has increased.

CHAIR—And do you keep statistics on the number of people who are being treated under this arrangement?

Ms Gardner—No; under the healthcare agreements there was not a requirement for that. Queensland is collecting some data and there have been gaps in some of that data over time, but a lot of work has been done—in particular, over the last year—to improve their data collection, and we are working on reporting arrangements around that.

CHAIR—So the Queensland government could give us some statistics on that, could they?

Ms Gardner—They will have some.

CHAIR—You surmise that they should be able to?

Ms Gardner—Yes. They have some statistics.

Senator FERGUSON—On the same issue: if \$16.2 million has been allocated to PNG nationals, that suggests to me that the Queensland government or the Queensland health services are footing the bill for all other Torres Strait Islanders—is that correct?

Ms Bryant—With the Torres Strait Islands, as with other external Australian territories, a state government takes the lead role. For example, I think Western Australia takes the lead in funding services on Christmas Island, the Cocos (Keeling) Islands and so on, and Queensland takes the lead primarily in the Torres Strait.

Senator FERGUSON—What do you mean by ‘takes the lead’?

Ms Bryant—They accept responsibility for the provision to Australian citizens residing in the treaty zone.

Senator FERGUSON—So they pay for it. We pay for Papua New Guinea nationals, although we do not know how many there are and we do not know whether it is enough to cover it or whether it is too much, but the Queensland health department foots the bill totally for Torres Strait Islanders.

Ms Saastamoinen—The Office for Aboriginal and Torres Strait Islander Health does provide funding to a range of health service providers to cover the health needs of the Indigenous populations across Australia. In the Torres Strait that includes funding to Queensland Health for some specific projects, but also funding to other service providers to deliver health services to our Torres Strait Islanders. OATSIH’s particular interest in the Torres Strait is based on a couple of things: that Torres Strait Islanders have access to appropriate health services and that their

access is not displaced by the access by PNG nationals, and that Torres Strait Islanders are protected from communicable diseases that are more prevalent in PNG. OATSIH does provide funding and has a role in meeting the health needs of Torres Strait Islanders.

Senator FERGUSON—Could you supply to the committee the amount of funding that the Commonwealth gives to the Queensland government for Indigenous health services, or whatever you might call them, in the Torres Strait? Can you give us that figure?

Ms Saastamoinen—Yes, if I go back, I can give you the figures. What we will have to do is focus particularly on what goes into the Torres Strait. There are other agreements, such as the Indigenous early childhood national partnership, where we provide funding to Queensland Health for the entirety of Queensland and they may decide to prioritise some service delivery in the Torres Strait. So that would be difficult to get. But we can certainly get you the information about things that are specifically targeted to the Torres Strait.

Senator FERGUSON—Thank you.

Senator MARK BISHOP—When you provide that information, could you also provide the information since the inception of the program?

Ms Saastamoinen—Since the inception of the program?

Senator MARK BISHOP—I think you said it started in 2003-04.

Ms Bryant—That was funding with respect to the treatment of PNG nationals as opposed to funding with respect to Indigenous peoples residing in the Torres Strait.

Ms Saastamoinen—What I can provide is the funding that OATSIH delivers to support primary health services and meet the health needs of Indigenous people in the Torres Strait, which is different to the funding that my colleague—

Senator MARK BISHOP—I accept that. Ms Gardner, when you provide that information, could you provide it since the inception of the program as well, if it is readily available, so that we have got a trend line over successive governments?

Ms Gardner—Certainly.

Senator MARK BISHOP—Thank you.

Senator FERGUSON—Are you aware that the Queensland government noted in its submission that the Queensland Health staff have received treatment access guidelines at the outer island clinics? Are you aware of those guidelines?

Ms Gardner—Yes. At the last Torres Strait Cross Border Health Issues Committee, which was held in September this year, Queensland went through the draft guidelines for all HIC members, including the PNG government members, and gave us an outline and an overview of the guidelines and provided opportunities for HIC member agencies to comment on them.

Senator FERGUSON—Have you got any comments to make on the guidelines?

Ms Gardner—I am not sure the guidelines have been finalised as yet. I think they do reflect a lot of the discussions that have been held through the HIC.

Senator FERGUSON—One of the submitters to our inquiry raised the issue of inexperienced doctors and nurses working in the Torres Strait. Are you aware of this matter and have you got any comment to make on that?

Ms Gardner—I am certainly not aware of the actual staff that are on the ground in the Torres Strait employed through Queensland Health. I probably cannot make a comment in relation to that matter.

Senator FERGUSON—We should probably ask the Queensland government.

CHAIR—There would seem to be at least a challenge for Australia in dealing with the existence of various communicable diseases in Papua New Guinea and a danger that they may be transmitted into the islands. Various submissions have alluded to this. Is determining the nature and extent of that difficulty or risk something for which the department has responsibility, if 'risk' is the appropriate term there? Is that something for which you have responsibility?

Ms Bryant—Our activities through the health issues committee focus on a number of key things. One is trying to build the health service capacity in the Western Province of Papua New Guinea so that they can provide services directly to their own nationals. We also look at improving communications and linkages across the border as well as the maintenance of health services. But beyond that we have a significant role in surveillance of disease. We maintain the National Notifiable Disease Surveillance System. We have a number of expert committees which examine the data available from time to time and form a view as to risk and play a role in advising on the appropriate responses to those risks.

CHAIR—The database relates to Australia, presumably. Since we do not have the opportunity to talk to the Papua New Guinea government, I am interested in your assessment of the extent of the risk that exists within Papua New Guinea in relation to some of these communicable diseases—HIV-AIDS, malaria, typhoid and things of that kind which, if they are not prevalent, are certainly in existence in Papua New Guinea. What judgments have you made about those diseases and the risks that they constitute to Australians living in the Torres Strait?

Ms Gardner—Through the Torres Strait Cross Border Health Issues Committee, we do look at a number of the communicable diseases that are more prevalent in Papua New Guinea, and there is a risk with the free movement because they are not necessarily as prevalent in the Torres Strait. We look at different strategies and ways to address that. One in particular is around multi-drug-resistant tuberculosis. Through the Torres Strait Health Issues Committee there is a project underway at the moment to address TB in PNG, and it is about strengthening the clinical and laboratory capacity within the Western Province of PNG and also the communication between health services in the Torres Strait and those within the Western Province as a way of addressing the communicable diseases.

Ms Bryant—So they pose a risk, which we monitor. We draw on the advice of experts to assess the extent of risk, and then we seek to manage the risk through capacity building for PNG. Part of that capacity building is obviously detection, diagnosis and treatment, because that is a way of minimising further spread and risk.

CHAIR—How prevalent is HIV-AIDS, for example, or tuberculosis or malaria in the Western Province, in areas contiguous to the Torres Strait?

Ms Gardner—The prevalence varies. Within PNG, there are higher rates of HIV in other areas of PNG. The rates appear to be lower within the Western Province. The data collection is still not comprehensive. However, there does not appear to be a large transmission of HIV from the Western Province of PNG into the Torres Strait. Certainly the prevalence of TB is much higher, and that does pose a risk, which is why there is quite a bit of activity. I do not have the rates in front of me, but we can provide those.

CHAIR—Are you relying on the statistics provided by the PNG government for this or do you collect your own information?

Ms Gardner—Information comes from a variety of different forums. The World Health Organisation obviously collects quite a lot of data, and the department and the HIC have access to that information. Queensland Health certainly does their own research and the department collects data through a few other different mechanisms as well.

Ms Bryant—Data in respect of Australian nationals in the Torres Strait is reported directly to our national surveillance systems. For example, with respect to data in PNG on HIV-AIDS, there was a study commissioned by AusAID in 2006, so there are often specific studies and reports that give us an indication of the data. What those studies have shown is that there is a higher prevalence of HIV-AIDS in urban areas and that it is lower, in general, in rural areas; specifically, it is a relatively low in the Western Province area. I suspect that is in part because the transportation and so on is limited and hence the movement of people is more limited than in urban areas.

CHAIR—But the prevalence of tuberculosis is higher than that.

Ms Bryant—I was commenting on HIV. We do not have the data on tuberculosis here, but we could certainly get you some.

Ms Gardner—A component of the TB project that I mentioned earlier is a survey to assess the prevalence of multi-drug-resistant TB. That is funded under that project and we are jointly working on that with Queensland Health and the PNG government.

CHAIR—You have given evidence to one of the House of Representatives committees with regard to these matters. In August, Professor Maguire, in his evidence to the committee, said:

Diagnostic facilities for identifying people with TB and for identifying people with multi-drug-resistant TB are limited to nonexistent in Western Province and limited even in Port Moresby.

Do you agree with that assessment?

Ms Gardner—Yes, that is correct.

CHAIR—What are the consequences of that for determining the extent of the problem? Does that cause you some anxiety?

Ms Bryant—The recognition of that problem led to the Australian government in 2008 announcing the allocation of \$561,000 for a TB capacity-building project in Papua New Guinea. It is provided by AusAID and delivered by this department in conjunction with Queensland Health and a number of private sector contractors. That has three main components. It has the survey element, which Ms Gardener has referred to, which is a survey based on sputum samples provided in the Daru General Hospital. It also looks specifically at helping to improve diagnosis and treatment of TB in the Western Province, including in the Daru hospital, and it looks to strengthen PNG's diagnostic capabilities in the laboratory in Port Moresby and so on. So there is funding to improve the laboratory and then train and support staff working in the laboratory.

CHAIR—So that is a 2008 program and it got underway in 2008 or early this year?

Ms Gardner—Late 2008. A fair amount of work went into scoping the project. It commenced with a clinical meeting in Daru in December last year, and this year the focus has been around training laboratory staff, which has been undertaken by the Queensland Mycobacterium Reference Laboratory, who have travelled over to PNG to train staff in Port Moresby, Daru Hospital and in Mabudawan. There is also scoping work to upgrade the Central Public Health Laboratory, CPHL, in Port Moresby to be PC3 certified, which will enable it to do the testing for the multi-drug-resistant TB. At the moment it does not have the capacity to do that, as the previous submission indicated.

CHAIR—Ms Bryant, you said a survey was part of this study. What are you surveying? Are you trying to survey the incidence of the disease?

Ms Bryant—It is to establish the prevalence of multi-drug-resistant TB.

CHAIR—Have you had any results from that as yet?

Ms Gardner—No, the preparations for the survey are still underway. At the moment, I think they are in the process of agreeing access to the samples so that they can do the test and then they will decide how that information will be shared. So the scope of the survey is not quite finalised, but it is getting very near.

Ms Bryant—Ultimately, the samples will be provided by PNG to the Queensland Mycobacterium Reference Laboratory, who will undertake the actual testing. So the survey testing will be done in Australia.

CHAIR—When are you expecting that survey to be completed, allowing for what you have told us about the preparations et cetera?

Ms Gardner—I do not think we have a revised time frame on the surveys yet but I could take that on notice and provide that to you.

Senator FERGUSON—How prevalent is TB?

Ms Gardner—Again, it is not hugely prevalent within Australia, but there is a—

Senator FERGUSON—Within the Torres Strait?

Ms Gardner—Even within the Torres Strait. I must apologise—I do not have the statistics on the prevalence of TB.

Senator FERGUSON—I am just trying to work out how serious the TB problem is.

Ms Gardner—It is quite a significant problem.

Ms Bryant—We regard it as significant. We can get you some data on that.

CHAIR—Thank you. Some of these projects depend on AusAID funding, which tends to be for a limited period of time, but there seems to be a need for continuing support for many of these projects. Is that a difficulty that the department of health confronts in trying to administer some of these programs—that they are time bound, that they are two or three years et cetera?

Ms Bryant—The projects are generally capacity building in nature. The survey element, for example, is time limited by its nature. The capital investment in laboratory capacity is a finite project which has a natural end, and the capacity building in terms of training and support for staff is, again, time limited, with the intention that Papua New Guinea will increasingly be able to take on those responsibilities themselves.

CHAIR—Is that a realistic expectation?

Ms Bryant—When staff are trained, they will have an ongoing capacity to deliver the services. So perhaps you are raising an issue of staff turnover and the frequency with which you would have to renew and refresh training and provide support.

CHAIR—I suppose I am asking whether or not these difficulties we have been discussing are likely to be short-term. My sense, from some of the remarks that you have made to the committee, is that the answer to that question is no, they are not, and they may even be increasing in prevalence and danger. HIV-AIDS may, for example, have a relatively low incidence in the Western Province, but we know how rampant it is through parts of New Guinea and a porous border with Indonesia as well, so it seems to me that a lot of the signs are not very encouraging that this situation is going to get better, that we probably need to be putting more services in there and that we need to be more confident about the training we can undertake. Is that a fair assessment of the situation?

Ms Gardner—As you pointed out, Chair, any sort of health reform is a long-term activity. They have health services in PNG but there is a lot of work to do in improving their capacity. The best way of managing all the issues around communicable disease and the risk that that poses to Australia is through long-term investment from PNG in improving their services. That is certainly the commitment in terms of the programs that are being looked at through the HIC; they tend to recognise the need for that longer term focus.

CHAIR—Are there areas of activity which cause you concern or health problems in the region which you think need more specific, targeted attention that you have not been able to secure for various reasons?

Ms Gardner—I think the cooperation between the various agencies that are active in the Torres Strait has been quite strong over the years, through the Torres Strait Health Issues Committee. It has been good at identifying issues and progressing work on those. I think one of the biggest risks is still that it relies on increasing the capacity within the Western Province and the activities of the Papua New Guinea government and ensuring that the funding and the commitments on that side are maintained.

CHAIR—Do your offices need or rely upon much cooperation with the other agencies up there for the conduct of their work?

Ms Gardner—The main work of Department of Health and Ageing offices is in coordinating and facilitating the sharing of information through the HIC member agencies. As I indicated, we have had quite good cooperation from agencies in sharing information and working collaboratively to address some issues.

CHAIR—So you do not have any particular experience of difficulties in coordination or reliance upon other agencies to complete the kind of work that you need to do there?

Ms Gardner—Not from Australian or Queensland government agencies.

CHAIR—Thank you for your evidence this afternoon; we appreciate it. If there are things that occur to us during the course of the hearing then we will get back to you, and, if you could provide the answers to those questions you have taken on notice as soon as you can, we would appreciate it.

Ms Gardner—Certainly.

Proceedings suspended from 3.32 pm to 4.06 pm

BORTHWICK, Mr Stephen, General Manager, Aviation Industry Policy Branch, Department of Infrastructure, Transport, Regional Development and Local Government

PAHLOW, Mr Michael, Acting Executive Director, Local Government and Regional Development Division, Department of Infrastructure, Transport, Regional Development and Local Government

WILSON, Mr Andrew, Acting Deputy Secretary, Department of Infrastructure, Transport, Regional Development and Local Government

CHAIR—I welcome the officers from the Department of Infrastructure, Transport, Regional Development and Local Government. A copy of the committee's opening statement has been provided to you. Do you have any questions about the statement?

Mr Wilson—No, Senator.

CHAIR—You have made a submission to the inquiry, for which we are grateful. It has been labelled submission No. 22. It is a public document. Do you wish to make any amendments to your submission?

Mr Wilson—If I may, it would appear that in preparing the document we inadvertently included a program, on the second-last page, under the Regional Partnerships area, which did not receive funding from the Commonwealth government. That is the project: 'New Mapoon Multi Purpose Sport and Recreational Facility', which is listed there as having been provided with \$700,000 in funding. That project was not funded. I apologise on behalf of the department.

CHAIR—What page was that on, Mr Wilson?

Mr Wilson—I do not have a page number on my document.

CHAIR—That is not good, is it Mr Wilson? Pagination is a good thing with these things, I have to say.

Mr Wilson—Pagination and paragraph numbering would have been preferable. Again, I do pass on my apologies on behalf of the department for the incorrect inclusion of that.

CHAIR—Right. So you didn't get that money?

Mr Wilson—No.

CHAIR—You will have the opportunity to try again next year, Mr Wilson.

Senator FORSHAW—Can I just ask: was that approved but not ultimately provided? I chaired the inquiry into Regional Partnerships, and there were various projects that got to certain stages and did not go forward, as it were.

Mr Wilson—That is correct. It was approved but, following the approval process, it did not meet the requirements and did not get the funding.

Senator FORSHAW—So it is not that it was put in there by mistake. It is in there but it ultimately did not receive the funding.

CHAIR—Thank you, Mr Wilson. Would you care to make an opening statement to the committee?

Mr Wilson—Not at this stage. I am quite happy to take questions in regard to our submission or any of the issues that you might wish to raise with us.

CHAIR—So none of your officers wish to make an opening statement?

Mr Wilson—No.

CHAIR—Perhaps I could begin. We heard evidence earlier in the day in relation to the transit of vessels through the Torres Strait area. This is an international strait, of course, in international law terms. It was suggested the Department of Infrastructure, Transport, Regional Development and Local Government was the agency that was most likely to collect statistics on the movement of vessels through the strait and, further, Mr Wilson, you were put in the frame as the agency that probably also has statistics on the use of pilotage through the strait. I wondered whether or not (a) that is true and (b) if you could provide us with those statistics, please.

Mr Wilson—I do not have those statistics; however, the Australian Maritime Safety Authority, which is responsible for the issues associated with pilotage through the Torres Strait, does have statistics in regard to both pilotage and the number of vessels that transit the strait. I will contact AMSA and provide you with those details later. They are under the Prime Minister's portfolio; they are not within our department. They are a statutory body.

CHAIR—Since you are the only officer who has undertaken to do that, Mr Wilson, we will accept your willingness to do that. Thank you. There are some statistics which I had not caught up on in the Australian Maritime Safety Authority's submission. I do not think they have given us the pilotage though. It is about 3,000. Perhaps, Mr Wilson, you could check the latest statistics.

Mr Wilson—Yes.

CHAIR—Thank you. I am also interested in the matter of pilotage. Perhaps you could just quickly explain to us: does your department have any officers stationed up in the Torres Strait on Thursday Island or anywhere nearby on a regular basis?

Mr Wilson—No. The closest officers are located in Townsville. We do not have any officers within the Torres Strait itself.

CHAIR—Do you have them regularly visiting the Torres Strait at all or not?

Mr Wilson—No, I do not believe the officers have visited the Torres Strait within this calendar year. I would have to check that; I am unaware of their travel details in regard to visiting the Torres Strait.

CHAIR—There have been some remarks in the submissions about the access to the Torres Strait, particularly in relation to air access. Horn Island has been referred to by the council and others as being in need of an upgrade. The airport is not your responsibility, is it?

Mr Wilson—The airport is not the department's responsibility. It is owned and operated by the Torres Strait council and as such is the responsibility of the council. However, the committee may or may not be aware that today the Premier of Queensland and the Minister for Families, Housing, Community Services and Indigenous Affairs have announced that additional funding will be provided to the Torres Strait council to facilitate the upgrade of the airstrip. The total funding now available to upgrade the airstrip to enable Q400s to operate into Horn Island is \$7.2 million. That is the combined funding from the Commonwealth government, the state government, the local council and the Torres Strait Regional Authority.

CHAIR—I had not caught up with that. We have been engaged here all day.

Mr Wilson—I can table the media release if you like.

CHAIR—Yes, thank you. Does the release say when that upgrade is going to begin?

Mr Wilson—I do not have the details of when the upgrade works will commence. We have previously funded work to determine the scope of the works. I assume the process will now need to go through planning approval and then contracting and construction.

CHAIR—How much will the Commonwealth be contributing to the upgrade?

Mr Wilson—I will refer to a piece of paper that I have with me. I do not have a precise number because some of the funding is through the Closing the Gap program, which is a joint funding initiative between the Commonwealth and the Queensland government. The Queensland government in its own right is providing \$2 million. The Closing the Gap program will be providing \$3.1 million. I do not have the details of the split between Commonwealth and Queensland government funding. The Torres Shire Council will be providing \$1.26 million. The Torres Strait Regional Authority will be providing \$0.4 million. The Regional Airports Safety Program, which is administered by my department, will be providing \$340,000. As I indicated before, we have previously provided \$100,000 under the Regional and Local Community Infrastructure Program for works to scope and undertake the assessment of the airstrip. That is a total of \$7.2 million.

CHAIR—Is that sufficient funding to do all that is needed at the airport? My recollection from a visit I made there earlier in the year is that there has been a considerable scaling back of the works from the original plan to make that funding achievable.

Mr Wilson—As I am advised, the \$7.2 million will enable the airstrip to be upgraded to a point where Q400 services to the island will be able to be provided. I am advised that that is the desire of the local community.

CHAIR—I presume you have some responsibility for the security arrangements at Horn Island.

Mr Wilson—That is correct.

CHAIR—What is the nature of the security risk at Horn Island?

Mr Wilson—I would point you to the government's aviation white paper which was released yesterday. Horn Island does not require screening of checked baggage or passenger screening. The airport is not classified to that level. Following yesterday's announcement the government indicated that the criteria for assessing whether an airport will need screening will change from whether it receives propeller planes or jet planes to the maximum take-off weight of the planes. From 1 July 2014, airports which receive aircraft with a maximum take-off weight above 20,000 kilograms will require airport screening. If Q400 services fly into Horn Island that will mean the airport security will need to be increased.

CHAIR—Would that be true if the 300s continue to fly in there, or not?

Mr Wilson—I am advised that the Q300 would be under the maximum take-off weight of 20,000 kilograms.

CHAIR—Perhaps it is premature to ask this question, Mr Wilson: have you made any plans to upgrade the security arrangements at Horn Island? Had you any in place?

Mr Wilson—The security arrangements for Horn Island will be the responsibility of the Horn Island airport; they are the responsibility of the individual operator and they are not the responsibility of the Australian government. In that regard, the department has not made any plans to upgrade the facilities. What we will be doing is working with all the regional airports, including Horn Island, over the next four years to ensure that those facilities are put in place.

CHAIR—But you have a compliance responsibility obviously.

Mr Wilson—Correct, Senator.

CHAIR—In relation to another area of the department's responsibility, local government, there have been quite a significant number of amalgamations of councils up there—largely a responsibility of the Queensland government rather than the Commonwealth government, of course. You will perhaps be aware that in a submission there has been a reference to the preference, at least for some, to form a local assembly of some kind, a regional assembly which might better serve the population. I wonder whether or not you have a reaction to that proposal in the context of your local government responsibilities.

Mr Wilson—If I recall correctly from reading the submissions a couple of weeks ago, there was a suggestion in one of them that a regional government with self-determination capacity be formed. Is that the—

CHAIR—Yes. In fact a former minister had this view. Jim Lloyd made this part of his submission.

Mr Wilson—I am not necessarily certain that I am best placed to provide a comment on the workability of a self-determination model in the northern part of Australia.

CHAIR—I ask this question in the context of your responsibilities for local government and regional affairs, rather than your responsibilities in relation to transport. If you choose not to or do not have a comment, that is a matter for you.

Mr Wilson—I do not believe it would be appropriate to proffer an opinion in regard to the proposal.

Senator FERGUSON—How often does the current Torres Strait Island Regional Council meet?

Mr Wilson—I am unaware of how often the current regional council meets.

Senator FERGUSON—I am wondering whether it meets at all. You have the Torres Strait Island Regional Authority and the Torres Strait Island Regional Council—15 island councils merged to create the Torres Strait Island Regional Council. They must meet at some stage or other, surely.

Mr Wilson—I assume that they do, but I do not have the details of the frequency with which they met.

Senator FERGUSON—Do you know where they meet?

Senator FORSHAW—They are a designated local government.

Mr Wilson—That is correct.

Senator FORSHAW—So it is not like a collection of councils that get together to meet as some sort of—

Senator FERGUSON—They are one council now. That is the point.

Mr Wilson—That is correct.

Senator FERGUSON—But you do not know where they met.

Mr Wilson—No. I do not have details of the meeting schedules of any of the 565 councils across Australia. It is not something that we hold.

Senator FERGUSON—Looking at the map of where all of these islands are, I do not know where the hell they would meet, given there is a regional council consisting of 15 island councils.

Mr Wilson—It would most likely meet at Horn Island.

Senator FERGUSON—Not Thursday Island.

Mr Wilson—Thursday Island, sorry. But that would just be an assumption.

Senator FERGUSON—How would they get there?

Mr Wilson—It would be a combination of boat and plane.

Senator FERGUSON—Quite an expensive exercise just to meet, I would say. There are only 8,500—I cannot remember the exact figure—people living on all of the islands. Is it possible for you to find out how often they meet and let us know on notice?

Mr Wilson—Certainly.

Senator FERGUSON—Thank you.

Senator FORSHAW—There are two local government bodies: the Torres Strait Island Regional Council and the Torres Shire Council. What is the difference between the two?

Mr Pahlow—We would have to take that notice. My understanding is that they are separate shire councils.

Senator FORSHAW—That is the way I read it, but you are not aware of which council covers which area.

Mr Pahlow—The map I have here implies the Torres Strait Island Regional Council covers the northern part and the Torres Shire Council covers the southern part. The councils are the responsibility of the Queensland government. We tend not to go down to that level of detail in terms of governance and administration. We can take it notice if you wish.

Senator FORSHAW—It is not a huge thing, but I would be surprised if the Department of Infrastructure, Transport, Regional Development and Local Government did not have the information. It is the department that distributes all the FAGs and all the other money. You must have some idea of it. Anyway, I do not want to push that. You have listed the assistance that has been provided. The most recent scheme is the Regional and Local Community Infrastructure Program, and you have listed the amounts for the various projects that have been funded in the region. You give a total of funding of \$300,000 for the Torres Strait region. Does that cover the Torres Strait Island Regional Council and the Torres Shire Council?

Mr Pahlow—Yes, and the Northern Peninsula Area Regional Council.

Senator FORSHAW—Does that add up to \$300,000?

Mr Pahlow—Yes.

Senator FORSHAW—I would have assumed the area would have received a bit more through the different phases of this program. Is this the total amount, or has more been paid out?

Mr Pahlow—That is the total amount on the initial round of the Regional and Local Community Infrastructure Program. There has been a second round announced. Again, each council was allocated a certain amount of funding and they have just, as at 30 November, lodged applications, which we are processing.

Senator FORSHAW—That is right. They have been told how much they are getting and they have to put in their applications for the projects that they will spend the money on.

Mr Pahlow—That is correct.

Senator FORSHAW—It is about to close now, isn't it?

Mr Pahlow—It closed on 30 November.

Senator FORSHAW—So that total funding of \$300,000 essentially represents the formula that was used to divide up the money?

Mr Pahlow—That is correct.

Senator FORSHAW—Did they apply for any additional funding through those—

Mr Pahlow—Strategic projects?

Senator FORSHAW—Yes.

Mr Pahlow—Yes. My understanding is they did. They applied for an upgrade of the Horn Island airstrip. The Torres Strait Island Regional Council applied for a multifunction community centre on Poruma Island for a total cost of \$2.6 million and a request for \$2 million to come from the Commonwealth.

Senator FORSHAW—But they were unsuccessful?

Mr Pahlow—Both of those were unsuccessful, yes.

Senator FORSHAW—What other payments do the local councils get from the Commonwealth? They would get FAGs?

Mr Pahlow—From this department they would get financial assistance grants. They may or may not have other applications in under—

Senator FORSHAW—They probably would not qualify for Roads to Recovery. They might, but I do not know.

Mr Wilson—They do.

Senator FORSHAW—That is interesting.

Mr Pahlow—As indicated in here, in 2008-09 they have been provided with a combined total of almost \$7 million through FAGs, and combined over a five-year period under Roads to Recovery \$650,000-odd between the two councils.

Senator FORSHAW—I should not have said that they would not qualify under Roads to Recovery, but they are not like most other government areas.

Mr Pahlow—No, they have a different infrastructure mix.

Senator FORSHAW—And that is it, is it? There are no other special payments made to the councils by your department?

Mr Pahlow—No, not by our department.

Senator FORSHAW—Okay, thank you.

CHAIR—Mr Wilson, you have some figures in your submission regarding funding for regional airports beyond Horn Island to various island strips that are there. And you say that is funding for five years to 2009. Is this part of a continuing program of funding?

Mr Wilson—No, the program has been completed. It was funding provided to upgrade and improve the security facilities at regional airports—the regional airport funding program. The 10 airports received a total of around \$820,000-odd. In the main, the funding was for signage and lighting, with additional funding at I think, if I have my details correct, a couple of airports for fencing to improve the security at those airports.

CHAIR—I see. So that money has been made available and has been expended?

Mr Wilson—That money has been made available and has been spent.

CHAIR—And so far as you are aware there is no intention by the Commonwealth to provide any further funding to those programs?

Mr Wilson—Those programs have ceased, so there is no additional funding available under those programs.

CHAIR—Considerable concern has been expressed in some of these submissions about the costs of living in such a remote part of Australia. Part of that seems to be attributable to the cost of supply, the limitations on the operators up there. I gather the competition seems to have declined. There used to be a couple of operators who delivered supplies on a commercial basis to the communities, in particular to the Thursday Island community, but I think there may have been a takeover of one of those operators, so there has been a limitation of competition in the area. I am just wondering: have those concerns being drawn to the attention of the department in relation to support and supply of services up there in relation to cost-of-living issues? Have they come to your attention in any way?

Mr Wilson—I and the department are certainly aware of the disadvantages that extremely remote locations face. As a department we were responsible for the Indian Ocean Territories

until the changes of the administrative orders following the last election, and we are very aware, through that experience, of how extremely remote communities face challenges with transportation costs, supply costs. We are very aware of it having read the submissions by a number of parties. They are very similar issues faced by other remote communities.

CHAIR—But it is a little bit more specific than that, isn't it? There was a report on an inquiry by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs that alluded to the problem of freight subsidies and things of that kind. One of their recommendations dealt with this. This is a recommendation which probably points very specifically to your department to provide a response. I gather from the committee that there has been no response to that report as yet. Can you tell us whether you have provided that response as yet? If so, what is it?

Mr Wilson—I am not aware of the specifics of the recommendation, but having appeared before the committee at the time of the inquiry I can assume that the recommendation was with regard to the Commonwealth providing funding assistance.

CHAIR—Freight subsidy I think, Mr Wilson.

Mr Wilson—The Commonwealth to date has not provided intrastate freight subsidies with regard to services such as those that would be required in the Torres Strait. It has fallen to the state governments who have that responsibility.

CHAIR—Can you tell us whether or not you have responded to that report? Perhaps you could take that on notice.

Mr Wilson—Yes, I am unaware of the department responding to it. Unfortunately, I am unaware of whether the government has made a response to that inquiry. I will take it on notice and provide you with the information.

CHAIR—Thank you. I think that is all we need from you and your colleagues at this stage, Mr Wilson. Thank you for appearing before the committee. If you could get those answers to us as quickly as you can, we would appreciate it.

Committee adjourned at 4.39 pm