



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION
COMMITTEE

ESTIMATES

(Supplementary Budget Estimates)

TUESDAY, 19 OCTOBER 2010

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE
LEGISLATION COMMITTEE**Tuesday, 19 October 2010**

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

Substitute members: (As per most recent Senate Notice Paper)

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

Senators in attendance: Senators Abetz, Adams, Back, Barnett, Mark Bishop, Brandis, Bob Brown, Faulkner, Humphries, Hutchins, Johnston, Kroger, Ludlam, Macdonald, McGauran, Ronaldson, Sterle and Trood

Committee met at 9.02 am

DEFENCE PORTFOLIO**In Attendance**

Senator Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations
 Senator Feeney, Parliamentary Secretary for Defence

Department of Defence

Dr Ian Watt, AO, Secretary of Defence
 Air Chief Marshal Angus Houston, AC, AFC, Chief of the Defence Force

Portfolio overview and budget summary

Mr Phillip Prior, Chief Finance Officer
 Mr Brendan Sargeant, Deputy Secretary Strategic Reform and Governance
 Mr Simeon Gilding, Acting Deputy Secretary, Strategy (Operations)
 Air Commodore Bill Hayden, OAM, Acting Commander Joint Logistics
 Major General Paul Alexander, Commander Joint Health

Outcome 1—The protection and advancement of Australia's national interests through the provision of military capabilities and promotion of security and stability**Program 1.1—Office of the Secretary and Chief of the Defence Force****Program 1.9—Vice-Chief of the Defence Force**

Lieutenant General David Hurley, AO, DSC, Vice Chief of the Defence Force
 Major General Angus Campbell, Head Military Strategic Commitments

Program 1.10—Joint Operations Command

Lieutenant General Mark Evans, AO, DSC, Chief Joint Operations Command

Rear Admiral Ray Griggs, Deputy Commander Joint Operations

Program 1.12—Chief Finance Officer**Outcome 2—Advancement of Australia’s strategic interests through the conduct of military operations and other tasks directed by government****Program 2.1—Operations contributing to the security of the immediate neighbourhood****Program 2.2—Operations supporting wider interests****Outcome 3—Support to the Australian community and civilian authorities as requested by government****Program 3.1—Defence contribution to national support tasks in Australia**

Mr Geoff Brown, Chief Audit Executive

Mr Murray Perks, Assistant Secretary Export and Arms Control

Major General Greg Melick, Head Cadet, Reserve and Employer Support Division

Defence funding and financial statements**Outcome 1****Program 1.11—Capability development—general topics**

Air Marshal John Harvey, AM, Chief Capability Development Group

Major General Steve Day, Head Joint Capability Coordination

Program 1.11—Capability development—specific topics**Defence Materiel Organisation****Outcome 1—Contributing to the preparedness of the Australian Defence Organisation through acquisition and through life support of military equipment and supplies****Program 1.1—Management of capability acquisition****Program 1.2—Management of capability sustainment****Program 1.3—Provision of policy advice and management services**

Dr Stephen Gumley, AO, Chief Executive Officer Defence Materiel Organisation

Commodore Bronko Ogrizek, Director General Submarines

Ms Shirene McKinnie, Acting General Manager Systems

Ms Jane Wolfe, General Manager Reform and Special Projects

Air Vice Marshal Colin Thorne, AM, Head Aerospace Systems Division

Mr Peter Lambert, Head Human Resources and Corporate Support Division

Mr Michael Aylward, Head Electronic Systems Division

Rear Admiral Peter Marshall, AM, RAN, Head Maritime Systems Division

Rear Admiral Rowan Moffitt, AO, RAN, Head Future Submarines Program

Major General Grant Cavenagh, Head Land Systems

Brigadier David Shields, Director General Land Manoeuvre Systems

Brigadier Mike Phelps, Director General Integrated Solider Systems

Mr Ian Donoghue, Acting Head Acquisition and Sustainment Reform Division

Mr Mark Reynolds, Head Commercial and Industry Programs

Mr Anthony Klenthis, Head Explosive Ordnance Division

Air Commodore Roy McPhail, AM, Acting Project Manager New Air Combat Capability

Air Vice Marshal Chris Deeble, AM, CSC, Program Manager Collins and Wedgetail

Mr Harry Dunstall, General Manager Commercial

Mr Steve Wearn, Chief Financial Officer Defence Materiel Organisation
Mr Cyril Karo, Acting Director General Major Program Control
Rear Admiral Mark Campbell, CSC, Head Helicopter Systems Division,
Major General Tony Fraser, AO, CSC, Acting Head Commercial Enabling Services
Mr Andrew Cawley, Program Manager Air Warfare Destroyer
Mr Tony Hindmarsh, CSC, Chief Audit Executive.

Capital facilities and Defence support**Outcome 1****Program 1.6—Defence support**

Mr Simon Lewis, Deputy Secretary Defence Support
Major General Elizabeth Cosson, CSC, Head Defence Support Operations
Mr Mark Cunliffe, Head Defence Legal
Mr John Owens, Head Infrastructure Division
Mr Kieran Gleeson, Chief Operating Officer Defence Support Group

Program 1.14—Defence Force superannuation benefits**Program 1.15—Defence Force superannuation-nominal interest****Outcome 1****Program 1.13—People strategies and policy—general topics**

Mr Phil Minns, Deputy Secretary People Strategies and Policy Group
Mr Steve Grzeskowiak, Head People Policy
Mr Craig Pandy, Head Workforce and Shared Services Reform
Brigadier Peter Gates, Director General Defence Education, Training and Development
Rear Admiral James Goldrick, RAN, Commander Australian Defence College

Program 1.13—People strategies and policy—specific topics**Remaining Defence programs****Outcome 1****Program 1.2—Navy capabilities**

Vice Admiral Russell Crane, CSM, RAN, Chief of Navy
Rear Admiral Davyd Thomas, AM, CSC, RAN, Deputy Chief of Navy

Program 1.3—Army capabilities

Lieutenant General Ken Gillespie, AO, DSC, COM, Chief of Army

Program 1.4—Air Force capabilities

Air Marshal Mark Binskin, AO, Chief of Air Force

Program 1.5—Intelligence capabilities

Mr Stephen Merchant, Deputy Secretary Intelligence and Security

Program 1.7—Defence science and technology

Professor Robert Clark, Chief Defence Scientist
Dr Simon Oldfield, Chief Human Protection and Performance Division

Program 1.8—Chief Information Officer

Mr Greg Farr, Chief Information Officer

Program 1.16—Housing assistance**Program 1.18—Other administered items****Defence Housing Australia****Outcome—To deliver total housing and relocation services that meet Defence operational and client needs through a strong customer and business focus**

Mr Michael Del Gigante, Managing Director

Mr Daniel Jones, Acting Chief Financial Officer

Mr Peter Howman, Chief Operating Officer

Department of Veterans' Affairs**Portfolio overview****Corporate and general matters**

Mr Ian Campbell, PSM, Secretary

Mr Shane Carmody, Deputy President

Mr Barry Telford, General Manager, Support

Mr Ken Douglas, General Manager, Services

Mr Tim Evans, Acting General Manager, Executive Division

Ms Carolyn Spiers, National Manager/Principal Legal Advisor, Business Integrity and Legal Services Group

Ms Narelle Dotta, General Manager, Corporate

Mr Graeme Rochow, National Manager/Chief Finance Officer, Resources Group

Mr Roger Winzenberg, National Manager, People Services Group

Outcome 1—Compensation and support Maintain and enhance the financial wellbeing and self-sufficiency of eligible persons and their dependants through access to income support, compensation, and other support services, including advice and information about entitlements**Program 1.1—Veterans' income support and allowances****Program 1.2—Veterans' disability support****Program 1.3—Assistance to Defence widow(er)s and dependants****Program 1.4—Assistance and other compensation for veterans and dependants****Program 1.5—Veterans' children education scheme****Program 1.6—Military rehabilitation and compensation acts payments—income support and compensation****Program 1.7—Adjustments to the military rehabilitation and compensation acts liability provisions—income support and compensation**

Mr Ian Campbell, PSM, Secretary

Mr Shane Carmody, Deputy President

Mr Barry Telford, General Manager, Support

Mr Neil Bayles, National Manager, Clarke/MRCA Reviews

Ms Carolyn Spiers, National Manager/Principal Legal Advisor, Business Integrity and Legal Services Group

Outcome 2—Health—Maintain and enhance the physical wellbeing and quality of life of eligible persons and their dependants through health and other care services that promote early intervention, prevention and treatment, including advice and information about health service entitlements

Program 2.1—General medical consultations and services

Program 2.2—Veterans' hospital services

Program 2.3—Veterans' pharmaceutical benefits

Program 2.4—Veterans' community care and support

Program 2.5—Veterans' counselling and other health services

Program 2.6—Military rehabilitation and compensation acts—health and other care services

Program 2.7—Adjustment to the military rehabilitation and compensation acts liability provisions—health other care services

Mr Ian Campbell, PSM, Secretary

Mr Shane Carmody, Deputy President

Mr Ken Douglas, General Manager, Services

Mr Barry Telford, General Manager, Support

Dr Graeme Killer, AO, Principal Medical Adviser

Mr Wayne Penniall, National Manager, Veterans and Veterans Families Counselling Service

Mr John Fely, National Manager, Defence Support Services Group

Ms Judy Daniel, National Manager, Primary Care Policy Group

Ms Letitia Hope, National Manager, Primary Health Group

Outcome 3—Commemorations—Acknowledgement and commemoration of those who served Australia and its allies in wars, conflicts and peace operations through promoting recognition of service and sacrifice, preservation of Australia's wartime heritage, and official commemorations

Program 3.1—War graves and commemorations

Program 3.2—Gallipoli related activities

Mr Ian Campbell, PSM, Secretary

Mr Shane Carmody, Deputy President

Mr Tim Evans, Acting General Manager, Executive Division

Mr Matthew Cartledge, Acting National Manager Commemorations Group

Major General Paul Stevens AO, Director, Office of Australian War Graves

Australian War Memorial

Outcome 1—Australians remembering, interpreting and understanding the Australian experience of war and its enduring impact through maintaining and developing the national memorial, its collection and exhibition of historical material, commemorative ceremonies and research

Program 1.1—Commemorative ceremonies

Program 1.2—National memorial and grounds

Program 1.3—National collection

Program 1.4—Exhibitions

Program 1.5—Interpretive services

Program 1.6—Promotion and community services

Program 1.7—Research and information dissemination

Program 1.8—Visitor services

Major General Steve Gower AO, Director

Ms Nola Anderson, Assistant Director, National Collection

Ms Linda Ferguson, Acting Assistant Director, Public Programs

Ms Rhonda Adler, Assistant Director, Corporate Services

CHAIR (Senator Mark Bishop)—Good morning, I declare open this meeting of the Senate Foreign Affairs, Defence and Trade Legislation Committee. I welcome, Senator Evans, the Minister representing the Minister for Defence. I welcome also Air Chief Marshal Angus Houston, Chief of Defence Force, Dr Ian Watt, Secretary of the Department of Defence, and officers of the defence organisation. Today the committee will examine the budget supplementary estimates for the Defence portfolio in the following order: the defence organisation until 6 pm today, followed by Defence Housing Australia from 6 pm until 6.30 pm today. We will conclude with the Department of Veterans' Affairs from 7.30 pm onwards this evening. Topics nominated by senators will be considered in the order set out in the agenda. Friday, 10 December 2010 has been set as the date by which answers to questions on notice are to be returned. Senators should provide their written questions on notice to the secretariat by close of business Thursday, 28 October 2010.

Under standing order 26 the committee must take all evidence in public session, this includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised. There are copies available on each table and I now incorporate it into *Hansard*.

The statement read as follows—

Public interest immunity claims

That the Senate—

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

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- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;
- (c) orders that the following operate as an order of continuing effect:
- (1) If:
- (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
- (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
- (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
- (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
- (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.
- (5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.
- (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.
- (7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).
- (8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

CHAIR—Minister, do you or an officer wish to make an opening statement?

Dr Watt—Thank you very much, Mr Chairman. As with previous hearings I would like to address four topical issues at the outset of today's proceedings. First of all is the Strategic Reform Program, or SRP, which remains the highest priority for defence after operations, and which I have spoken on before. I am pleased to advise the committee that Defence successfully implemented SRP in accordance with the government intent in 2009-10 and

without adverse effects on capability or safety. We also achieved the planned cost reductions of \$797 million for 2009-10 which we had been set. Of course this 2009-10 year represents only the beginning of the task. As a reform program that is as big and complex as anything seen in Australia, the SRP has to fundamentally change the way Defence does business.

The height of the hurdles that Defence has to meet, and we will meet, are rising. Over the next three years Defence needs to undertake additional reforms to help meet our budgeted cost reductions which increased from, as I said, \$797 million in 2009-10 to \$1,922 million in 2012-13. Sustainable cost reductions of this magnitude require deep reform and deep reform, as I am sure you appreciate, takes time to implement. That is why the necessary future reforms for future year's savings are already underway.

In 2009-10 we built a solid foundation that is necessary to ensure that the SRP reforms are sensibly targeted, achievable and can be sustained over the long term. The fundamentals of effective governance and management arrangements have also been put in place to support the rollout of reform. The Defence Strategic Reform Advisory Board, which is chaired by George Pappas, and includes senior private and public sector members has engaged closely with the program and has expressed satisfaction with our commitment and progress. The Chair of the Defence Audit and Risk Committee has examined the program and advised the CDF and me that the committee is confident that the program governance, management and implementation processes are sound, and that the achievements to date are real. These assurances are important to Defence and essential to the government. Finally, as I have said before, the CDF and I, along with all our senior colleagues of the Defence committee and the Defence senior leadership team, are committed to turning a well planned SRP into a well executed SRP that delivers on the benefits it promises.

The second topic I would like to talk briefly about is Defence's accounts. This is something that does not make the news but a result nonetheless that Defence is proud of and which has been the subject of significant past scrutiny by this committee. As you may remember, Mr Chairman, several years ago Defence had several significant and complex financial reporting problems that were in aggregate so significant and widespread that the Auditor-General found he was unable to form an audit opinion on Defence's financial statements for both 2003 and 2004. This was no small challenge to deal with. However in 2009-10, for the third year in a row, Defence has delivered financial statements that have been found to be both true and fair and without audit qualification. This has been achieved by implementing a range of financial remediation and reform activities that have improved our financial processes to the extent where, I think it is fair to say, the financial statement's audit has now been normalised.

Defence's 2009-10 financial statements were signed on 14 September 2010 with the Auditor-General acknowledging the scale of the financial statement preparation task and the good work done to produce the financial statements in a timely fashion. While risk to our financial statements remain given the scale, complexity and diversity of Defence's business, Defence now has the financial control framework to ensure that these risks are better managed than they have been in the past.

The third thing I would like to talk about is the Middle East area of operation air sustainment contract. On 29 March 2010 Defence released a request for tender for continuation of the Middle East area of operation air sustainment services contract. The

current contract expires on 23 October 2010 and that contract is with Strategic Aviation, which has held it since 2005.

Our competitive tender process selected Adagold Aviation as the preferred tenderer based on its superior-value-for-money proposition. On 14 July 2010 Strategic Aviation's director, Mr Shaun Aisen, wrote to Defence making a number of allegations regarding the tender process. He raised further allegations in nine subsequent representations to Defence between 16 July and 18 August 2010. Mr Aisen's allegations centre on the tender process and question, in particular: why an Army reservist, Mr David Charlton, had privileged access to information relating to the tender process which he passed on to Adagold; whether Adagold's use of a charter company, Hi Fly, is appropriate on the basis that Hi Fly had previously provided unsatisfactory air charter services to Defence; whether the Commonwealth's requirement for an increased freight capacity in the tender was appropriate; and reports of tender irregularities involving Adagold in South African defence contracts. There was considerable media attention on the subject, as members of the committee may be aware.

In response to these allegations Defence's chief audit executive undertook a probity review of the tender process and PricewaterhouseCoopers independently reviewed Defence's probity review process. PricewaterhouseCoopers advised that, in their opinion, the Defence audit was conducted in a complete and impartial manner. Defence's probity audit concluded that: firstly, the decision to re-tender was based on sound commercial considerations; secondly, the tender process was fair and objective and complied with Commonwealth and Defence procurement policy; thirdly, the specifications for the tender were based on valid Defence operational requirements; fourthly, that there was no evidence that Mr Charlton had any involvement in, or influence over, the tender request or the evaluation processes; and finally, there was no evidence to support allegations concerning South African tender irregularities involving Adagold Aviation.

Upon completion of Defence's probity review on 26 August 2010, a for-information submission was sent to Senator Faulkner, the then defence minister, about the audit outcome. Senator Faulkner, consistent with caretaker conventions, requested that a copy be provided to Senator Johnston, the opposition spokesman for defence matters. Senator Johnston, on receiving the submission, raised a number of concerns with Senator Faulkner. As a result I met with Senator Johnston on 31 August 2010 to discuss his concerns. Senator Johnston subsequently wrote to me on the same day outlining some of them. In response I advised that I proposed to commence a full and independent review of the tender before taking the matter any further. Terms of reference were agreed with Senator Faulkner and Senator Johnston.

On 2 September 2010, Defence engaged Deloitte and the Australian Government Solicitor to fully and independently examine specific aspects of the tender process. In their reports, Deloitte and the Australian Government Solicitor did not identify any issues that would invalidate Defence's decision to select Adagold as the preferred tenderer.

Allegations regarding the separate 2005 tender process that had established the current contract were also made in the *Age* of 2 September 2010. These allegations have been referred to the Australian Federal Police for investigation and the AFP have accepted that brief. These allegations centre on claims that two defence personnel directly involved in the 2005 tender

process provided information to one of the tenderers, Strategic Aviation, and were employed by Strategic Aviation shortly after it was awarded the contract.

The issues raised in relation to the 2005 tender are not relevant to the 2010 tender process as neither of the personnel involved were working in the area involved with the Middle East area of operations in the lead up to, during or after the 2010 tender process.

Finally, following the Minister for Defence's approval to proceed and a telephone briefing to Senator Johnston on 15 October 2010, Defence is now looking to finalise its arrangements with the preferred tender, Adagold. In closing this issue I should note that this tender process remains incomplete and for that reason it is not possible for me to discuss aspects of the tender in any detail at this stage.

Finally, I would like to talk briefly about the Australia-United States Treaty on Defence Trade Cooperation. Defence welcomes the recent progress by the United States in ratifying the Australia-United States Treaty on Defence Trade Cooperation with the US Congress passing implementing legislation on 28 September and the US Senate recommending ratification on 29 September. The United States and Australia now must progress the development of the implementing requirements before the treaty can enter into force. For both countries, this includes legislative change and an extensive process of industry, inter-agency and bilateral coordination. The treaty is important because it creates a framework for two-way trade between Australia and the US in many defence articles without the need for export licences. This will be achieved by establishing an approved community of government facilities and private companies in both countries within which trade in defence articles can be carried out without the administrative delays currently caused by both US and Australian export control regulations.

The treaty offers benefits for defence including improved interoperability between the Australian Defence Force and the US Armed Forces in combined operations and training, improved cooperation on joint research projects and development activities, and expedited delivery of new defence projects and improved whole-of-life sustainment. For the defence industry, the treaty offers more efficient means of doing defence business with the United States by, for example, permitting Australian and US companies to share technical data without needing to apply for export licences. It will also offer industry greater opportunities to participate in defence contracts.

Defence is finalising the implementing legislation in preparation for its introduction into Parliament, hopefully in the 2011 autumn sessions, the pressure of other business permitting. Defence will be holding consultation with US agencies to finalise bilateral management processes. Domestic implementation procedures also need to be established and Defence will consult with the defence industry on implementation. The treaty recognises and supports the longstanding relationship between Australia and the United States by enhancing our capability to meet shared security challenges. It also means that we will continue to be able to equip our armed forces with the best technology available but to do it at a lower cost and in a more timely manner. Thank you, Mr Chairman.

CHAIR—Thank you, Secretary. CDF?

Air Chief Marshal Houston—Thank you, Mr Chairman, and good morning to you and all the members of the committee. To begin with I would like to offer a few words about the ten soldiers we have lost on operations in Afghanistan since June. Sadly we lost Sapper Jacob Moerland, Sapper Darren Smith, Private Nathan Bewes, Private Grant Kirby and Private Tomas Dale, all to IED strikes. Tragically Private Timothy Aplin, Private Scott Palmer and Private Benjamin Chuck were all killed in the June helicopter accident. In separate incidents we lost Trooper Jason Brown and Lance-Corporal Jared McKinney to Taliban insurgent small arms fire. As a group these men represented the finest qualities of the Australian Defence Force. They took great pride in being Australian soldiers, serving their country and looking after their mates. They applied themselves to the profession of soldiering with vigour and enthusiasm and they inspired their fellow servicemen and women, both Australian and allied, with their expertise and dedication. I once again extend my deepest condolences to their families, friends and service colleagues.

I assure the committee that we have in place a thorough and rigorous process to investigate all ADF combat deaths. Given the amount of public speculation following the death of Lance-Corporal Jared McKinney on 24 August I wanted to advise you that on 14 September, in accordance with normal practice, I appointed an inquiry into his death.

As part of this full and detailed inquiry, the inquiry officer will also consider the issues raised in the email and referred to in the media that alleged ADF elements were ill-prepared, equipped and supported during the action. I stress that the inquiry officer will consider only the content of the email and is not seeking to determine the origin of the email. This inquiry is ongoing. As with other inquiry officer reports we will release the findings in due course.

Lance Corporal McKinney was killed during a partnered patrol activity. The total patrol force numbered approximately 150 and comprised a dismounted partnered fighting patrol, a flank security element with a vehicle mounted Australian platoon group, an overwatch element comprising an Australian Service Light Armoured Vehicle patrol and a joint fires team to coordinate artillery and close air support aircraft, and a reserve force from the ANA 1st Kandak.

In terms of the support available from an overwatch position, ASLAVs were in position to provide direct fire support with 25mm cannons, and 84mm anti-tank weapons. On-call support included US 120mm mortars, US 155mm howitzers capable of precision-guided munitions and coalition attack helicopters. Also available were unmanned aerial vehicles and coalition fixed wing close air support aircraft.

Senators, an important point to note is that the nature of ISAF operations means that Australia does not need to deploy all required capabilities to support the Mentoring Task Force from within the ADF. As we contribute to a coalition, so too do we benefit from its combined resources. What this means is that the MTF has access to mortars,—and of course we have our own mortars as well—medium artillery, attack helicopters, aeromedical evacuation and close air support in the areas in which it operates. Over the duration of our deployment to Afghanistan the ADF has, at one point or another, considered the full breadth of the capabilities that we could reasonably deploy. These considerations have resulted in our current stance that heavy armoured vehicles are not suited to our task, nor the terrain.

I turn now to the decision of the Director of Military Prosecutions to prosecute members of the ADF in relation to a civilian casualty incident on 12 February 2009. This is, of course, an unprecedented case for many reasons and raises very difficult and complex issues. As Chief of the Defence Force, I am acutely aware that this case highlights the tension between the clear and accepted obligation of the ADF as a highly disciplined force to comply with its duties under the rule of law, and the realities of the operational environment in Afghanistan where we face an enemy who does not adhere to the laws of armed conflict nor are they discriminating in their choice of targets.

Regardless of the outcome of the pending charges, I am concerned about the welfare of all ADF members who are associated with this matter. In relation to those charged, I am determined to ensure that every step is taken to provide them with a fair trial and to look after their welfare. I am committed to ensuring the proper legal process is observed, that ADF personnel fully understand what is occurring and the basis for it and that the individuals who are the subject of the DMP's decision to prosecute are given the best possible support available.

Given the intense interest and emotive response it has prompted, I want to be very clear that we have dealt with the matter transparently and completely in line with the established military justice processes. I also want to acknowledge from the outset that my senior leaders and I will be constrained in what we can say about this matter today because of the real risk of prejudicing future legal proceedings and improperly influencing the process. However, I am able to inform the committee on the procedural matters associated with the case beginning with the current status of the case.

Two members were served with their charges on 27 September 2010. Another member who is overseas remains to be served. He cannot be served until he returns to Australia. Consistent with the presumption of innocence, I assure you that the members charged are receiving the full support of the Australian Defence Force. The Chief of Army has gone to unprecedented lengths to ensure that every possible support measure—including legal, administrative, medical, psychological, chaplaincy and welfare assistance—is made available to those soldiers and their families.

Importantly when these individuals were first identified as potentially being adversely affected by the initial inquiry into the matter in May last year, ADF legal officers were made available to provide them with assistance. That was 15 May last year. Those legal officers have been continuously available since this time throughout the entire investigation of this matter by the ADF Investigative Service. Then, on 27 September 2010, when two of the three individuals received notice of their charges they were offered senior and junior counsel by Defence Counsel Services. Six senior counsel, all ADF legal reserve officers from across Australia were available. All six are at the civilian bar and have a wide range of experience including appearances before all levels of judicial hierarchy including the High Court of Australia. In addition to senior counsel, and consistent with usual practice, each accused person had the option of selecting their own junior counsel from a selection of 19 available counsel. These junior counsel are all ADF reserve legal officers with wide experience, and a lot of them have operational experience too.

Upon the return to Australia of the third person who is overseas, this member will also be contacted and offered a similar panel of senior and junior counsel. I might add that if any time these individuals feel that they require additional legal support, mechanisms are in place to enable them to be provided with the assistance.

On the question of funding the legal costs, I have nothing to add to what the minister has said this week, and that is, no expense will be spared to ensure these soldiers have access to the legal representation of their choice, regardless of whether they are ADF reserve legal officers or civilian counsel.

It needs to be borne in mind that the concept of a 'superior authority' was included in the amendments to the Defence Force Discipline Act 1982 in 2005 when the DMP position was legislated to provide the chain of command with a mechanism to communicate practical command, operational and security issues and the broader impact pursuing the charges would have on service discipline. On 19 July 2010, the DMP sought such a representation from the Vice Chief of the Defence Force.

CHAIR—CDF, I am sorry to interrupt you. Regarding the written document you provided to us, you have just omitted some four or five paragraphs. I do not know if that is deliberate or inadvertent?

Air Chief Marshal Houston—No, that is not. I am reading the one that was amended in my office this morning.

CHAIR—In that case, we have a different document to yours.

Air Chief Marshal Houston—I will continue. If there are any questions that come out of that, that is fine. I will take them.

CHAIR—Yes.

Air Chief Marshal Houston—On 19 July 2010, the DMP sought such a representation from the Vice Chief of the Defence Force. The letter from the DMP to the VCDF did not refer to the evidence contained within the brief of evidence or comment on possible charges, as the brief of evidence has not been provided to Defence even at this stage. The letter was consistent with previous requests for representations and conformed to the standard form letter I have just tabled. Mindful of the public interest in the representation, Defence approached the DMP to seek her views on its public disclosure. The DMP responded in a letter that she considers that the document should remain confidential except in the event that it is required to be disclosed to an accused member. She also commented:

The public release of this representation has the very real potential to adversely affect the integrity of the legal process and to prejudice the fair trial of the accused soldiers.

The quote ends there.

I also table this letter for the committee. In parallel, Defence also sought advice from the Australian Government Solicitor in this regard. While noting that, subject to appropriate reclassification and redaction, the Australian Government Solicitor doubts that there is any legal impediment preventing public release of the representation, the AGS further advises:

... there is a significant risk that the public disclosure of the correspondence in full would prejudice the proposed proceedings in the courts martial.

Therefore, mindful of the comments of the DMP and the Australian Government Solicitor's advice as well as the overwhelming public and individual interest in ensuring that there is no risk of prejudicing the proceedings in the courts martial, I do not propose to publicly disclose the vice chief's representation. However, I am able to share with the committee that the representation provided by the Vice Chief of the Defence Force related to command issues and did not question the merits of a possible action to prosecute members or the validity of any case that may be prepared against them.

In making these comments, the Vice Chief of the Defence Force was very conscious of the need to support the integrity and processes of the Defence Force Discipline Act and the independence of the Office of the Director of Military Prosecutions.

This morning I would also like to say a few words about the role of the DMP, whom I feel has been unfairly targeted in fulfilling the requirements of her position. Brigadier Lynette McDade was appointed by then Minister for Defence, Dr Brendan Nelson, as the first permanent Director of Military Prosecutions. Her five-year appointment, which began in July 2006, followed a competitive selection process involving permanent and reserve ADF legal officers. The creation of this statutory appointment followed a series of proposals over a decade culminating in the Foreign Affairs, Defence and Trade References Committee's work *The effectiveness of Australia's military justice system*. Since her appointment as the first statutory DMP, Brigadier McDade has taken very seriously her need to be independent from the chain of command.

As to the way forward for this case, the DMP has indicated that the charges will not be referred to the Registrar of Military Justice until all three members have been charged. It is anticipated the third member will return to Australia late next month. The DMP has also indicated that she intends to seek referral of the charges to the Registrar of Military Justice for a trial by service tribunal in the form of a court martial. We currently anticipate that the trial process will not begin until next year, and the location of the trial will be decided by the Registrar of Military Justice.

We are also anticipating that increasing levels of support will be required by the charged soldiers during the trial, and we are encouraging them to access ongoing support and contact the Chief of Army directly should additional support be required.

Finally, I know this is going to be a topic of great interest to the committee today and this is why I provided a comprehensive update this morning. But I also must acknowledge the gravity of the situation. Six Afghans have lost their lives, others have been injured and now three soldiers are facing serious charges. Senators, I assure you, Defence's absolute priorities in this matter are: firstly, to ensure that the members receive a fair trial; secondly, to ensure that the accused members are in no doubt about the application of the presumption of innocence to them and receive all the necessary support they require; and, thirdly, to ensure that the integrity, independence and process of the military justice system is preserved. I understand that we missed page 9 in the presentation. I guess I will submit that as part of the speech, rather than go through it verbatim.

Senator FAULKNER—Can I make a suggestion there? Perhaps because we have copies from CDF, I suggest that that be incorporated in the *Hansard*, which will make the CDF's opening statement complete.

CHAIR—So incorporated.

The remainder of the speech read as follows—

Another issue in need of clarification this morning is the representation of the service interest made by the Vice Chief of the Defence Force.

Necessarily, the DMP's prosecution decisions are made outside the chain of command—in order to remove any suggestion of command influence.

However, the Defence Force Discipline Act makes provision for the appointment of Superior Authorities (who are senior Australian Defence Force Officers), whose function is to represent the interests of the Australian Defence Force in relation to charges that are being considered by the DMP for possible trial by a Defence Force magistrate or a court martial.

For the Committee's information, the DMP's 2008 Annual Report to Parliament, includes as an annex, a standard form letter which she uses to invite the Superior Authority representation.

I now table a copy of this letter.

Air Chief Marshal Houston—The thing that is important is that I want to table a copy of the form letter that the DMP included in her 2008 annual report to parliament.

CHAIR—So tabled. CDF, has that concluded your opening remarks?

Air Chief Marshal Houston—That concludes my opening remarks and I apologise about page 9.

CHAIR—It is okay. Thank you, CDF. Minister, do you have anything to add to what the officials have said at this stage?

Senator Chris Evans—No thank you.

CHAIR—Thank you. Just for the guidance of committee, both the Secretary and CDF have raised a large number of matters that have been in the public domain for some time. They are necessarily both complex and, in some cases, quite difficult. It has been the practice of this committee for the chair to recognise at the outset the opposition spokesperson on defence, Senator Johnston, to lead off the questioning. I do note that there are a large number of senators who have indicated an interest today. It is my intention to continue with that practice to open up with Senator Johnston, the opposition defence spokesperson. If other senators wish to jump in on the particular topic under consideration at that time, if they could just catch my attention I will, in due course, endeavour to give them the call. But I think we will try and follow fairly disciplined procedure, seeing a large number of matters have been raised. So, on that basis, we will proceed.

At this stage I will hand over to Senator Johnston to open up matters arising from the opening statements of both the Secretary and the CDF.

Senator JOHNSTON—Thank you. To CDF and Secretary, I take the opportunity to thank you for those opening remarks, for their frankness and for the forthright and very proper manner in which I think all of the issues that you have raised have been put forward.

Obviously, I think you would expect that I would want to talk about the three commandos as being at the forefront of all interested parties, particularly all interested parliamentarians and this committee. We note that there were six people killed on 12 February 2009, with four further civilians injured. Were there any payments made with respect to that matter?

Air Chief Marshal Houston—I would like to just take that on notice, if I may. I will be able to give you a response fairly quickly, but I would like to make absolutely certain as to the compensation arrangements. My recall is that we did, but I would just like to be able to give you the precise detail of how, when and where.

Senator JOHNSTON—My understanding was they were very contemporaneous—

Air Chief Marshal Houston—Yes.

Senator JOHNSTON—and that the matter of reparation was resolved expeditiously and, in the circumstances, as much as could be expected to the satisfaction of the relatives.

Air Chief Marshal Houston—That is my understanding also, Senator, but, again, I would like to be able to give you the detail of that.

Senator JOHNSTON—I would like to know exactly how much was paid.

Air Chief Marshal Houston—Yes.

Senator JOHNSTON—I believe that there were a number of reports prepared by Defence. More particularly, can you tell me who was involved in preparing them and when they were undertaken?

Air Chief Marshal Houston—Are you talking about reports or investigations?

Senator JOHNSTON—Investigations, and obviously flowing from the investigations there would have been reports that would have come across your desk, I presume. I would be very interested to know how many and when and at what dates they were received.

Air Chief Marshal Houston—Again, I have not got the detail of that in front of me at the moment, but there was, as I recall, a quick assessment. The quick assessment determined, obviously, the need for a full investigation under the inquiry officer regulations. That was conducted by a colonel of the Australian Army with obviously the appropriate legal support. That investigation continued through, basically, the first half of 2009.

Senator JOHNSTON—That is separate to an ADF Investigative Service, or ADFIS, investigation?

Air Chief Marshal Houston—What happened then was that that inquiry officer report was passed, firstly, to the DMP by Chief of Joint Operations Command, or CJOP, Lieutenant General Mark Evans. The advice from the DMP was that further investigation was required and that those further investigations should be done by the ADF Investigative Service. The whole package of what had come out of the initial inquiry, a full report, was passed to the Provost Marshal and further investigations were conducted by a team of five ADF investigators, two of whom went to Afghanistan to conduct inquiries over there. That process went on for quite a while. Eventually they provided the outcome of their investigations to the DMP. The DMP reviewed the evidence that had been collected and—

Senator JOHNSTON—Is that all the evidence, including the preliminary quick assessment?

Air Chief Marshal Houston—That would be all of the evidence. There were a couple of requirements to investigate further matters. After the handing over of the initial brief of evidence, there was a requirement to investigate some other matters, as requested by the DMP. The process was eventually completed.

Senator JOHNSTON—The referral of the matters contained in the various reports was initially referred to the DMP by the commander of joint operations in Afghanistan?

Air Chief Marshal Houston—That is correct, Senator.

Senator JOHNSTON—Can you tell me when the ADFIS inquiry was finally completed?

Air Chief Marshal Houston—I can. Again, if I could just take that on notice. I will come back to you on that.

Senator JOHNSTON—Can I turn to the letter that you have provided us from the DMP, which is in fact an invitation to represent ADF interests in the prosecution decision. The author of this minute is, in fact, the DMP?

Air Chief Marshal Houston—That is correct.

Senator JOHNSTON—And the contents of it are the DMP's understanding of matters relevant to section 5A of the Defence Force Discipline Act?

Air Chief Marshal Houston—That is correct.

Senator JOHNSTON—Did you appoint a superior authority by written instrument pursuant to that section for the purposes of this matter?

Air Chief Marshal Houston—Superior authorities, I think, are defined in the legislation. The Vice Chief of the Defence Force is obviously a suitable officer to be approached in that capacity.

Senator JOHNSTON—The problem I have with that is the definition is set out in section 5A, if my memory serves me correctly, where in this instance there was a specific requirement for you to:

... by instrument in writing, appoint an officer, or each officer included in a class of officers, to be a superior authority for the purpose of:

(a) representing the interests of the Defence Force in relation to charges that are being considered by the Director of Military Prosecutions for possible trial by a Defence Force magistrate or a court martial ...

Was there a specific written instrument with respect to these matters prepared?

Air Chief Marshal Houston—Again, my understanding is that I have appointed a number of superior authorities. I have here before me something that I will table dated 22 September 2009:

Pursuant to section 5A of the Defence Force Discipline Act 1982 I, Air Chief Marshal Allan Grant Houston, Chief of the Defence Force, hereby revoke all previous appointments of superior authorities made by the Chief of the Defence Force at any time and appoint the person performing the duties of the

position specified in the schedule to be superior authorities and to exercise the powers and functions that are conferred upon superior authorities under the act and the regulations under the act.

The first person on the schedule is the Vice Chief of the Defence Force, but it also includes Chief of Joint Operations, Chief of Staff, Deputy Chief of Joint Operations and a whole raft of other officers. I will table this for you.

CHAIR—Document so tabled.

Senator JOHNSTON—The point I am making is that there are two parts to section 5A, (a) and (b). The question I am asking is: was there a specific written instrument to appoint a superior authority to make representations in the interests of the Defence Force pursuant to part (a)? As I read the section, there needs to be that function carried out.

Air Chief Marshal Houston—This is pursuant to section 5A of the Defence Force Discipline Act?

Senator JOHNSTON—Yes. There is (a) and (b).

Air Chief Marshal Houston—I have not got the legislation in front of me, but—

Senator JOHNSTON—I am sure someone can assist you, but the section is very clear.

Air Chief Marshal Houston—I could take that on notice.

Senator JOHNSTON—What I am suggesting is, CDF, you would know if you had specifically, by written instrument, appointed a superior authority for the purpose of making representations pursuant to the section. It seems to me that you did not.

Air Chief Marshal Houston—I will just have a look at it, but I think you are probably right. The point is that I had appointed the vice chief as a superior authority for the purposes of exercising the powers and functions that are conferred upon superior authorities under the act.

Senator JOHNSTON—Certainly.

Air Chief Marshal Houston—We are talking about the act.

Senator JOHNSTON—In response, and under the umbrella of the act, the VCDF made submissions pursuant to an invitation, and upon the terms set out in that invitation from the DMP?

Air Chief Marshal Houston—Yes, he responded to the request for representation of a service interest by the DMP.

Senator JOHNSTON—So that the submission was couched in terms that were constrained by the references and the parameters specified by the DMP?

Air Chief Marshal Houston—Inasmuch as it was made very clear that the representation did not extend to consideration of the brief of evidence to have a look at the charges. It really related to the representation of the service interest in the areas that I mentioned in my presentation—in other words, command and military matters, matters of operational security, matters of morale and matters of the availability of the individuals to proceed to have the charges heard.

Senator JOHNSTON—All of which is set out within the parameters enunciated by the DMP. In other words, the interests of the Defence Force, as required to be represented by the section, were, in fact, invited and controlled and set out by the DMP herself. So the DMP has invited you to respond on behalf of Defence—or the VCDF to respond—within the parameters she herself has established. Am I correct?

Air Chief Marshal Houston—No. I would not agree with that conclusion. This is a mechanism that permits a superior authority to provide representation that sets out the command perspective on these matters. It is not intended to provide an avenue by which representations as to whether the charges should be preferred or not, or the guilt or the innocence of the three individuals concerned, can be made.

Senator JOHNSTON—Who determines Defence interests?

Air Chief Marshal Houston—The Defence interests were determined by the vice chief after extensive consultation with me and also written submissions from the Chief of Army and the Chief of Joint Operations. Obviously, the relevant interests have been laid out by the DMP, but that did not prevent us or constrain us from going into other areas where we thought it might be necessary to go.

Senator JOHNSTON—Very good. Did we disregard what the DMP has prescribed?

Air Chief Marshal Houston—No, because I think what the DMP did was basically highlight some of the areas that she was interested in, in terms of where our interests lay. Of course, I am not at liberty to table the document that the vice chief sent back, but I can tell you it extended further than the scope of the issues laid out by the DMP. We looked at it in the terms that this was an opportunity for the vice chief to represent the command interest, the command perspective and the military interest in a number of areas that were relevant to this particular case. Of course, some of those areas that we raised are not actually in the list that was provided by the DMP.

Senator JOHNSTON—Who prepared the submissions for the VCDF? I take it there was a submission and not just a letter?

Air Chief Marshal Houston—It was a large piece of work. The vice chief basically sought input from the Chief of Army. The Chief of Army wrote a long letter. The Chief of Joint Operations wrote a long letter and the vice chief consulted me. I was at the time convalescing from a recent operation and he consulted me at length and I provided input to him. He took all of that and put together the document that was then provided to the DMP. I might add that there was legal advice provided to all of us.

Senator JOHNSTON—By whom?

Air Chief Marshal Houston—By legal officers within the department.

Senator JOHNSTON—In-house legal officers within the department?

Air Chief Marshal Houston—Legal officers within the department.

Senator JOHNSTON—Am I to understand that a submission was made to the DMP pursuant to the section on Defence interests without knowing the full factual allegations against the three men?

Air Chief Marshal Houston—The process is such that we were not given the brief of evidence. We knew that charges were being considered, we knew the sorts of charges that were being considered, but we did not know the basis upon which those charges were to be raised; in other words, we did not have any access to the brief of evidence.

Senator JOHNSTON—Were there to be factual matters which were incorrect and being used by the DMP as the foundation prima facie evidence, there was no opportunity for Defence in representing and protecting its interests to question those matters?

Air Chief Marshal Houston—We did not have any visibility of the brief of evidence. My understanding is that that is normal practice in these circumstances.

Senator JOHNSTON—I would have thought Defence interests would have related specifically to the whole of the case that the DMP was seeking to bring against three Defence personnel and that any representation you made would be, putting it bluntly, with one hand tied behind your back and very constricting on what you could possibly say about the matter.

Air Chief Marshal Houston—I think that part of the process will come later, when the charges are referred to the registrar. At that point, the brief of evidence will be provided to the defending lawyers and I guess at that stage we would also get visibility of the brief of evidence.

Senator JOHNSTON—Did you personally take any legal advice as to the full meaning and import of section 5A(a)?

Air Chief Marshal Houston—I took legal advice on what section 5A of the Defence Act meant.

Senator JOHNSTON—From whom?

Air Chief Marshal Houston—From my legal officer.

Senator JOHNSTON—The legal officer is of what rank?

Air Chief Marshal Houston—Lieutenant colonel.

Senator JOHNSTON—Full-time lieutenant colonel regular?

Air Chief Marshal Houston—Full-time lieutenant colonel. A very competent—

Senator JOHNSTON—Does that lieutenant colonel carry a practice certificate?

Air Chief Marshal Houston—Yes, she is a fully practising—

Senator JOHNSTON—Certificated legal practitioner—

Air Chief Marshal Houston—Absolutely.

Senator JOHNSTON—Of which jurisdiction?

Air Chief Marshal Houston—I will take that on notice.

Senator JOHNSTON—Certainly. Following the presentations of the VCDF's submission, did the DMP provide detailed written reasons as to why she accepted or did not accept the submissions made pursuant to section 5A?

Air Chief Marshal Houston—Not that I am aware of.

Senator JOHNSTON—Is that not a matter of importance with respect to the integrity of the processes leading up to the charges or is there no legal advice to that effect?

Air Chief Marshal Houston—I do not accept that. I think the process that is being followed here by us, the senior leadership of the ADF and also the DMP, is the process that has evolved out of the various reforms that have been put in place by a number of initiatives that have come out of extensive review of the military justice system over the last 15 years or so. Fundamentally the process has been followed to the letter. As to the point about when the brief of evidence is made available, that will happen further downstream in the process. At that point the brief of evidence will be tested and tested vigorously I would imagine in a robust process that mirrors, as I understand it, as I am informed, what happens in civilian jurisdictions.

Senator JOHNSTON—Do you anticipate section 5A being utilised again once the brief of evidence has been released by the DMP to further enhance submissions in Defence interests to the DMP in relation to the ongoing pursuit of the charges?

Air Chief Marshal Houston—I think there is a principle here that we have to consider. One of the reasons this system has been set up is to remove the influence of the perception of the command chain influencing a process of prosecution. One of the concerns of the Senate committee to which I testified back in 2004-2005 was the fact that the command chain was too involved in the prosecution of people who were being charged. So there was a deliberate attempt, in terms of the initiatives that were embraced at the time and subsequently put into legislation, to ensure that there was no scope for command interference in the prosecution process. We would be able to represent the defence interests, and of course that has happened in these circumstances and happens in every set of circumstances. Fundamentally there was a need for a process of prosecution that would be run by an independent person called the Director of Military Prosecutions (DMP).

We have been at pains to ensure that we do not interfere in any way with the integrity of the prosecution process. Having said all of that, when the charges are referred to the registrar we will make damn sure that the three individuals who are being charged have all the legal defence that can be mustered to ensure that they are able to mount a robust and effective defence against the charges that have been laid. We have been also at pains to emphasise that until they are proven guilty we must presume innocence. We have been supporting those people very strongly along those lines, and as I said in my presentation, we have given them every bit of support we could. The Chief of Army has bent over backwards to ensure that they have everything that they need in this difficult time for them.

Senator JOHNSTON—Are you saying that the representation pursuant to the statutory provision—that is, section 5A—was made in a way such as not to influence the DMP one way or the other with respect to these charges?

Air Chief Marshal Houston—We have what we have. That is the legislation, and we have taken advice about what is appropriate to represent the service interest without causing us to influence the process. I think there is a very delicate balance here between representing the service interests and interfering with the integrity of the prosecution process. I am satisfied that we have been at great pains to ensure that we followed—every step of the way, we have

taken appropriate legal advice and I am very satisfied that what we have done is appropriate and reasonable in the circumstances.

Senator JOHNSTON—Your submission is framed upon the legal advice that suggests that representing the interests of Defence should neither favour nor support these prosecutions?

Air Chief Marshal Houston—The point is that we have set up a system where it is not up to me to decide.

Senator JOHNSTON—I am asking you about your legal advice, because you are the person appointing the superior authority.

Air Chief Marshal Houston—I know. I appoint the superior authorities but it is very important for those superior authorities to respect the integrity of the prosecution process. As such, what they are required to do is represent the service interests, without interfering with the independence of the prosecution process.

Senator JOHNSTON—Who has told you that representing service interests in support of the three soldiers would be interfering with the prosecution process? Has someone told you that?

Air Chief Marshal Houston—No, no, that is just—I have read a lot. I have spent a lot of the last 10 years before committees. I spent a lot of time before the Senate committee, and time and again it was emphasised to me the importance of staying out of processes where there was a perception that command was influencing the process. I have read a lot around this and I think there is a principle there and the principle is that the prosecution process should be independent of the command chain.

Senator JOHNSTON—Okay.

Senator Chris Evans—As you well know, you, me and Senator Hutchins, among others, take responsibility for that because we were involved in those inquiries. Senator Bishop, I am sure when you joined the committee. It was an important principle which, to the credit of the Howard government, they adopted in setting up the DMP's role. I think it is fair to say that this parliament has made that very clear and that is reflected in the legislation. The CDF is making it clear that they complied with the legislation that we put in place as a result of the inquiries that you and I sat on, which were very much focused, as you know, on making sure that people got fair treatment and independent decision making.

Senator JOHNSTON—Senator Evans, it is not of any consequence whatsoever but I completely disagree with the interpretation of legal advice that CDF has received as to the meaning of the section. Be that as it may, section 15 of the ACT crimes act—

Air Chief Marshal Houston—Senator, perhaps I could invite—

Senator JOHNSTON—Can you tell me the penalty that that carries, which is what the more serious charge, manslaughter, relates to? I believe it is 20 years, correct?

Air Chief Marshal Houston—That is correct.

Senator JOHNSTON—The second charge, dangerous conduct, carries three years?

Air Chief Marshal Houston—Two years, I understand.

Senator JOHNSTON—Two years? The third charge, disobeying a standing order, is 12 months?

Air Chief Marshal Houston—I think that is correct.

Senator JOHNSTON—What was the cost we undertook with respect to our submission to the DMP? How much money did we actually spend on it?

Air Chief Marshal Houston—I would not know that off the top of my head.

Senator JOHNSTON—Was there any money spent on it?

Air Chief Marshal Houston—We put considerable departmental resources into it. There is a cost associated with that, and I am very happy to go away and tally that up but I do not have it off the top of my head.

Mr Cunliffe—If I can take you back to the origins of these provisions. They were inserted into the legislation in 2006 in conjunction with the creation of the statutory Director of Military Prosecutions. Senator Patterson who actually made the second reading speech introducing the bill said:

The third measure terminates the establishment of convening authorities. Currently a convening authority is a senior commander appointed by a Service Chief. The convening authority decides whether the prosecution of a service offence should proceed before a court martial or a Defence Force magistrate or not at all. The roles of a convening authority will predominantly be distributed between the Director of Military Prosecutions and Registrar of Military Justice. However—

and I want to stress this part—

to ensure that the Director of Military Prosecutions is aware of the service aspects of offences, the bill creates the concept of a Superior Authority. The functions of a Superior Authority will be performed by senior officers, and most likely by the appointments currently performing functions as convening authorities.

The clear intent from the origins of the introduction of the requirement was that it would look at service interests and—

Senator JOHNSTON—The section does not say that, Mr Cunliffe, does it? It talks about defence interests?

Mr Cunliffe—That is correct. I note—and this is something which has been tabled in the parliament—that the Director of Military Prosecutions in her report for the year ending 2008 has herself cited at—

Senator JOHNSTON—You see that is the problem. The prosecutor citing what she will accept and what she will not accept does not impart a great sense of justice for those who are being charged or who need the support of Defence in making submissions pursuant to this section, if you follow me?

Mr Cunliffe—I think, with respect, that paragraph 5 of the minute that she attached to that report, it is at annexe C to her report, is actually broader than that. It is actually quoting from the High Court re Nolan: Ex parte Young. We are not talking a mere assertion; she is actually citing Justices Brennan and Toohey.

Senator JOHNSTON—No, that is her argument. I am sure you will agree that, for every positive argument put by one counsel, there is a countervailing argument put by other counsel.

Mr Cunliffe—It is the nature of the law, Senator—I entirely accept that—and the nature of the lawyers.

Senator JOHNSTON—Exactly, and that we have not taken full advantage of it is the position I am taking and telling you.

Mr Cunliffe—Senator, I have to say that that was clearly the intention of Defence at the outset. The process in terms of the content and in terms of the actual matters will in due course be tested, and of course it is open to parties and potentially onlookers at any point to urge the Director of Military Prosecutions, when the matter becomes public and when the information is known through the brief of evidence, if it considers that the weight of the matters is actually weak. That power is available to the Director of Military Prosecutions.

Senator JOHNSTON—Mr Cunliffe, I am very pleased you are at the table. Do you have a view as to whether the DMP is required to provide detailed written reasons in response to the submission? I am pretty certain that the DMP has not so provided such written responses, in which case there are problems with this prosecution potentially. I would have thought it was in defence interests and the interests of the three potential chargees that matters were taken up on that basis. Far be it for me to give you directions from up here, but it seems obvious to me that this statutory provision requires certain things to happen and they have not.

Mr Cunliffe—Sorry, Senator, I confess it is not an issue I have turned my mind to. I am not sure—

Senator JOHNSTON—I think it is very important in terms of defence interests.

Mr Cunliffe—I am not sure how section 5A(a)—

Senator JOHNSTON—Section 5A(a) represents the interests to charges that are being considered, so you make a submission representing those interests. I would have thought it was incumbent, pursuant to all parameters of proper administration of justice, that the DMP must, before charging anybody, give written reasons as to why those representations would not be adhered to or accepted—but that is just me.

Senator Chris Evans—That is what I want to check, Senator Johnston. Are you saying that the act has not been complied with or that you have an opinion that something else should have happened?

Senator JOHNSTON—It is not for me to do it.

Senator Chris Evans—No. Just so we are clear on your question: are you claiming that a process required under the legislation has not been met or are you offering an opinion that in your view something else should have happened?

Senator JOHNSTON—I am asking questions, Senator.

Senator Chris Evans—I am just trying to be clear.

Senator JOHNSTON—I need to be told whether the processes that I perceive as being legitimately available to defence—

Senator Chris Evans—That you perceive?

Senator JOHNSTON—have been proceeded with, and I am getting not a lot of satisfaction.

Senator Chris Evans—Sure. You are saying these are processes that you perceive. So you are not making any claim that defence has not met its obligations?

Senator JOHNSTON—I am asking whether they have met their obligations? Has there been a requirement for the DMP to provide written reasons in response to the submission?

Mr Cunliffe—Senator, I confess that is a novel interpretation in my mind.

Senator JOHNSTON—That is your opinion.

Mr Cunliffe—I am not aware of it being the practice, I am not aware of it being intended. I can go back to the underlying policy intent of the introduction of the legislative amendment. I think it actually goes to the need to ensure that, notwithstanding the construct that has been created of the Director of Military Prosecutions being independent of command, issues to do with command should continue to be put before that office so that that office would take those into account. I think it is not a correct construction, if I can say so with respect, to assume that it is intended to bring superior authorities into an antagonistic or relationship of advocacy for one side or the other. The issue—

Senator JOHNSTON—They are given a statutory right to advocate the defence department's best interests.

Mr Cunliffe—Certainly, Senator and—

Senator JOHNSTON—We have not done that.

Mr Cunliffe—Senator, with respect, I reject that assertion. If you take it on the basis of what is available publicly, you would effectively be asserting that any matter in which a superior authority had provided material to the DMP somehow involved a challenge to the taking of the action, and I do not think that is necessarily correct.

Senator JOHNSTON—Thank you, Chair. I have no further questions.

CHAIR—Thank you. Are there further questions on this issue relating to the proposed charges on the three soldiers?

Senator TROOD—I have a question.

CHAIR—On this issue?

Senator TROOD—Yes. CDF, in your remarks you mentioned that a third soldier had yet to be charged and that that would take place when that person returned to Australia. Can you tell me when you expect that to take place? I presume that that person is deployed overseas and is expecting to return to Australia after the end of their deployment. Is that correct?

Air Chief Marshal Houston—That individual is actually travelling overseas, not on duty, and will return to Australia, I understand, towards the end of next month. At that point, when the individual returns to Australia, that person will be charged.

Senator TROOD—That person is aware of the fact that they are to be charged? Is that correct?

Air Chief Marshal Houston—That is correct.

Senator TROOD—Are the charges similar to the charges that have already been laid?

Air Chief Marshal Houston—The charges are similar, but slightly different.

Senator TROOD—Has this person as yet received any legal representation or been in touch with counsel about the position that they find themselves in?

Air Chief Marshal Houston—I would have to take that on notice, but my understanding is that we have been in contact with the individual and the individual is fully aware of what is in prospect. I do not know what sort of contact the individual has had with his legal support back here in Australia. As I indicated in my speech in May 2009, all three individuals were provided with legal support.

Senator TROOD—Thank you.

Air Chief Marshal Houston—Can I just read into the record, in terms of the questions from Senator Johnston, about my legal officer? The answer to the question was that she was admitted as a barrister and solicitor at the ACT Supreme Court, admitted to practice in the High Court of Australia, has operational experience, being one of the first female legal officer ever to be deployed on operations by the ADF. She has been a legal officer for 16 years and has reached competency level 5, which is the highest. She is a graduate of the ANU law school and holds two masters degrees in law, among other tertiary academic qualifications.

CHAIR—Thank you, CDF. Are there further questions on this issue?

Senator LUDLAM—Are we still on the opening statement?

CHAIR—We are on opening statements but we will continue with the discussion relating to the three soldiers in Afghanistan and exhaust that.

Senator LUDLAM—I have one question.

Air Chief Marshal Houston—There is one other thing, if I could just clarify something for Senator Trood. We have been in contact with the soldier overseas through his legal representation. Senator Johnston asked when the ADFIS inquiry was completed. The answer is that the Provost Marshal ADF referred the ADFIS brief of evidence to the DMP on 25 November 2009. It was delivered to the DMP on 26 November 2009.

Senator LUDLAM—It has taken approximately 19 months for these soldiers to face charges. Can you just describe for us whether that is an unusually long period of time? I do not know whether we have any precedent to gauge these matters, but that does seem like a very long span of time between the incident and the prosecution.

Air Chief Marshal Houston—It is a considerable period of time, but this is a very complex matter. It started off with a routine inquiry investigation. There were some complications with that. Essentially, some of the material was revisited a couple of times. That was completed in May 2009, and ADFIS, as you have heard, then were involved in the investigation. Their work concluded towards the end of November 2009. The DMP has been dealing with the matter since then. From my understanding of similar processes in the civilian arena, it is not unusual for something like this to take a similar amount of time, particularly given the complexities of the matter. Bear in mind that the DMP did not keep me in the

picture on what was going on, but my understanding is that she directed some further work on her own, and I can find that out for you if you like.

Senator LUDLAM—We might come back to that.

Air Chief Marshal Houston—My understanding is that, given the complexity of the case and some of the challenges with dealing with matters that happened in a war zone, it was a reasonable amount of time in the circumstances.

Senator LUDLAM—It was reported in some outlets that Australian prosecutors were warned that, if the Australian government did not take action, those soldiers might in fact face prosecution in an international tribunal. Are you aware of that reporting, first of all, and is there any veracity to that story?

Air Chief Marshal Houston—I am aware of the reporting. I do not believe there is veracity to that. Fundamentally that was an issue that was raised for the first time in the media, and I am not sure of its origin. But certainly there is no suggestion from anything I have seen that the International Criminal Court has been in any way involved with this particular case or, indeed, in any way concerned about this particular case because, first of all, right from the outset it was investigated by us and essentially we were investigating it and taking the matter seriously. From that point on, the International Criminal Court would have been very satisfied with what was proceeding.

Senator LUDLAM—All I would ask then is if you could confirm for us whether that holds true for the DMP as well, whether they received any requests?

Air Chief Marshal Houston—She is independent of me, but I will put your request to her.

Senator LUDLAM—Finally, is the department or the Defence Force currently investigating any other incidents involving Australian soldiers and the killing of civilians in Afghanistan?

Air Chief Marshal Houston—As you know, we take very seriously the business of investigating any circumstances where civilians have been killed in our area of operations. In terms of the incidents since 2008, we have investigated 18 separate incidents. I will come back to you and let you know how many are currently ongoing. I think there might be one ongoing at the moment, but the rest have been concluded, and the outcomes of those investigations have been made public. The reports are on the Defence web.

Senator LUDLAM—I might come back to some of these when we are back into general Afghanistan questions.

Senator McGAURAN—You mentioned that when you made your submission to the DMP, you were not in possession of the brief of evidence, but you would have been well and truly briefed and across that operation on that fateful night.

Were you saying that at no time in your submission to the DMP that you even went to the heart of that operation that night, even clarifying the points to the DMP of the soldiers' actions or just the whole operation itself, that you avoided that in your submission?

Air Chief Marshal Houston—The circumstances of that night were the subject of operational reporting. As I mentioned, and inquiry officers report, I am privy to the content of

the inquiry officers' report. I saw that in 2009. But when the case was passed over to ADFIS to do further investigation, I was not in any way kept informed about what they found, or the evidence that they were able to come up with. That was referred directly to the DMP. What I might say is I am aware of the circumstances that pertained at the time, as I understood them, but further investigations were done by ADFIS and I am not aware of what additional information came out from those investigations. I am not in a position to basically represent a point of view unless I know the full extent of the evidence. As I said earlier on, I think it is important that the command chain respect the integrity of the prosecution process. I have been at pains to do that, and so has the rest of the command chain.

Senator McGAURAN—That confirms Senator Johnston's questioning and mine. In your submission to the DMP, you missed the opportunity to put a point of view and you were asked for a point of view. You did not go to the operation of that night. God knows what is in that report—some sort of waffly legalistic mumbo jumbo when in fact you had an opportunity to represent exactly what happened on that night, and if not, stand up for the soldiers.

Air Chief Marshal Houston—I do not see it in those terms, because this is a process that would be very similar to the civilian process. When the charges are referred to the registrar, at that point the defending lawyers will have access to the brief of evidence and, as is the case in civil jurisdictions, those defence lawyers will be able to engage the DMP, and if they think that this is an unreasonable set of charges, they can engage the DMP in exactly the same way as happens in civil jurisdictions.

Senator McGAURAN—Okay, civil jurisdictions. DPPs seek opinions from people who give their firm opinions as to whether or not the prosecution should go ahead. They seek definitive submissions, not people avoiding the question.

Air Chief Marshal Houston—My understanding is that that—

Senator McGAURAN—It sounds like you have avoided it.

Air Chief Marshal Houston—No, no, we have not avoided it. I think I explained to you the way the circumstances developed. Over time we have had major changes to the military justice system. I can recall engaging a number of senators, some of them in this room, and one of the things that most concerned the senators who were involved in the inquiry in 2004-05 was the extent of command influence in military justice matters. Foremost among those was the prosecution process. So we have been at pains to respect the integrity of the prosecution process. I note and respect what Senator Johnston said. He has a view about section 5A(a), but fundamentally it has not been our part to interfere with the prosecution process. Until we are provided with the brief of evidence, I do not see how we can represent a case, because I do not know what the basis for her decisions are. I will not understand that until I read the brief of evidence. So I do not see how I can make that representation.

Senator McGAURAN—It sounds like you have the cart before the horse.

CHAIR—Thank you, CDF; it is now 10.30 am. We will take a short adjournment and return at 10.45 am.

Proceedings suspended from 10.30 am to 10.46 am

CHAIR—We are currently discussing matters arising out of the charges of the three soldiers in Afghanistan. Senator McGauran has questions.

Senator McGAURAN—I just want to want to go over it again, seeing that we have had the break. You mentioned civil proceedings and the DPP, comparing the DMP to the DPP. That may very well be the case, but I know that in civil cases, whilst the independence is maintained, they expect vigorous submissions to be put to them and definitive opinions, and so it should be in your case. No-one is suggesting that you do not adhere to the process before you, but do not get tied up by it. Do not get intimidated by it. It seems to me that the higher command has been intimidated by it, because when you were required to make a submission, you failed to go to the heart of the issue. The heart of the issue was the operation that night. You would have been duly briefed on it with the intelligence and all other—

CHAIR—Is there a question coming?

Senator McGAURAN—Yes, there is.

CHAIR—What is the question?

Senator McGAURAN—The question is coming. I need this background. You would have been quite aware, more than anyone, of the operation that night, yet it did not make up any part of your submission. You seemed to dance around some legality in regard to process, and you missed the opportunity to clarify the soldiers' actions or the operations that night. It strikes me from what I have heard today and previously that you have either been intimidated by this issue perhaps getting out in the media, by some public opinion or by your political masters, or all three. Before you submitted this submission, did you speak to the minister?

Air Chief Marshal Houston—I do not accept the fact that we were intimidated by anybody during this process. We followed the process as we understood it. I do not see how we could possibly have done what you suggested without having access to the brief of evidence. The brief of evidence was the basis for the charges. How can we possibly represent—

Senator McGAURAN—You knew everything that happened on that—

Air Chief Marshal Houston—Will you let me finish? How can we possibly make a representation on a brief of evidence that we have not seen, we do not know the detail of—

Senator McGAURAN—Why didn't you request it?

Air Chief Marshal Houston—That was the basis for the charges.

Senator McGAURAN—Why didn't you request it?

Air Chief Marshal Houston—In terms of the response that went back, it was robust. It was not the way you are representing it. This was a very strong representation of the command interest. But I stress that we were not in a position to make any judgment on the charges or on the prosecution consideration that had taken place, because we did not have access to the brief of evidence. In terms of the issues of the civilian process versus the military process, I have with me Major General Greg Melick, who is a very distinguished barrister from Tasmania and who will, if you like, give a view or a perspective from a well-

known QC as to how things are done in the civil environment vis-a-vis the military environment.

Senator McGAURAN—Before you do that, can you answer the question? Before you handed in your submission, did you speak to the minister about it?

Air Chief Marshal Houston—I spoke to ministers every day.

Senator McGAURAN—Was he aware of what you were writing?

Air Chief Marshal Houston—Again, my part in this was that I was consulted by the Vice Chief of the Defence Force, and the consultations that he had with me were between him and me in the presence of my staff officer and my legal officer.

Senator McGAURAN—Was he aware of what you were writing?

Air Chief Marshal Houston—I did not write anything.

Senator McGAURAN—Or what was contained in the submission?

Air Chief Marshal Houston—I basically read the first draft of what the vice chief put together. At the time I was convalescing from a radical prostatectomy, and as a consequence I read it at home and I asked the vice chief to come around to my house with my legal officer and my staff officer, and we had a discussion about what I thought should be added to the letter to basically give the full perspective. That went to lots of issues, and lots of issues that I cannot share with you now because I do not want to undermine the process that is under way. Believe me, that was not a wishy-washy little piece of paper; it was essentially a robust document by the time the vice chief signed off on it.

Senator RONALDSON—On a point of order, is the CDF giving us an expert legal witness in this area? If so, perhaps the witness can detail those matters that are within the purview of this discussion that he has had past experience with? Otherwise, just to front up with a ‘QC’ after your name is all very well, but if this is in the context, as I think was put by the CDF, that this is an expert witness, then what is the bona fides of the expertise of this witness?

Senator Chris Evans—On the point of order, can I just make the point that we are very happy for the officer to detail his very wide experience, but he is not here if you like as a separate expert witness. He is here as a serving military officer providing support to the CDF. But I am very happy for him to detail his experience for the information of the committee.

Senator RONALDSON—I thank the minister, but it was put I think to the committee that this gentleman was appearing effectively as an expert witness. If he is not appearing as an expert witness, well that is fine. His evidence can be treated accordingly.

Senator Chris Evans—The CDF was asked a question, and he called one of his officers to help provide the answer.

Senator RONALDSON—Minister, I think with the greatest of respect, the CDF actually went a step further and talked about expertise. If it is expertise, terrific; if not, he is just a QC and we will hear the evidence.

CHAIR—Senator Ronaldson, you have raised a point of order. The role of General Melick has been outlined by Senator Evans. It is clear. General Melick, if you have anything to add to

the discussion, do so, and I think it would be useful if you followed the minister's request and outlined your legal expertise at the outset, then it is on the record.

Major General Melick—Certainly, Chairman. I am a Senior Counsel, admitted in all states in Australia. I have been a Senior Counsel for over 10 years. I was a Crown Prosecutor in Tasmania for 10 years. I have been a defence counsel since then except for four years when I was a statutory member of the National Crime Authority. I have been responsible for conducting investigations, overseeing investigations. I have been responsible for the preparation of indictments and charging of people with criminal charges. I have been responsible for defending such people, including making submissions after they have been charged. I do not practise military law. I am in the military as an infantry officer. I was an infantry officer before.

CHAIR—Thank you, General. Now, further questions; Senator McGauran?

Senator Chris Evans—No, can the general just respond to the issue about the vis-a-vis?

Major General Melick—I just thought I should outline that, in the civilian system, it is extremely rare for submissions to be made to a Director of Public Prosecutions before people are charged. What usually happens is that people are charged, a brief of evidence is then prepared and presented to the defence counsel who may then make submissions. In that system, it is not unusual for DPPs to merely respond saying, 'I have considered your submission and the charge will go ahead'. Providing detailed reasons for going ahead with a charge is, in my experience, unusual. The military system is unusual in that it actually provides in a statutory scheme a provision to allow senior officers to make representation in the interests of service why people should not be charged before the provision of a brief of evidence. That statutory scheme does not require the Director of Military Prosecutions to give reasons for rejecting such submissions and, in my view, could not import such a commitment into a statutory scheme. The High Court has held—I cannot remember the cases now—on several occasions that prosecutors are not bound to give reasons for exercising their prosecutorial discretion to prosecute.

Senator JOHNSTON—But not pursuant to section 5A?

Major General Melick—I understand that, but as I understand section 5A, it is part of a statutory scheme, and there is no requirement for the DMP to give reasons as to why she has rejected those submissions. In my experience in the civilian area, even when submissions are made with the benefit of a considerably more evidence than was available to the military in this situation, DPPs often do not respond except to say that the prosecution will continue.

Senator JOHNSTON—This is light-years from the civilian system. This is a statutory right to represent the interests prior to charge. It is not replicated anywhere else in our system. It is unique, and I think the law surrounding it is unique also.

Major General Melick—For what it is worth, my view is that, when you have a statutory scheme, unless that scheme incorporates an obligation on somebody to do something, you cannot require them to do so.

CHAIR—Understood.

Senator BACK—It is all very interesting for one un associated with the law to have been listening to this, but I come to the discussion as the father of a past serving officer and obviously have a slightly different area of concern. I do not of course want to go to evidence or in any way interfere with the process. But, accepting that no-one leaves these shores with the intent of finding themselves in the circumstance these people are in, I want to ask—without in any way interfering with the process which has been the subject of discussion—has there been any change in the rules of engagement for our serving personnel to minimise even further the risk of finding themselves in the circumstances in which these three people currently do?

Air Chief Marshal Houston—The rules of engagement are reviewed on a regular basis. But I think it is true to say that no adjustments to the rules of engagement were made as a consequence of this particular incident. Having said that, over the last couple of years, the coalition leadership, first General Stanley McChrystal and then subsequently General Petraeus have made changes to their tactical directives in regard to the need to protect the civilian population. The result of that is that a lot fewer civilians have been killed as a consequence of coalition action. I think our own rules of engagement are robust and appropriate, and basically I am happy with them. I think it is true to say that they do the job very well for Australia.

Senator BACK—Would you have given a directive, or would your field commanders be more attuned to alerting service personnel to the possible risks or dangers confronting them as a result of the actions that we are currently looking at?

Air Chief Marshal Houston—We go to incredible lengths to ensure that our people are fully prepared for the tasks that they will conduct in Afghanistan. They do a very extensive period of preparation back here in Australia which culminates in a mission rehearsal exercise. They are assessed during that exercise for their competence to perform the tasks in Afghanistan. They are then certified by a competent authority that they are ready to go to theatre and do those tasks. When they arrive in theatre, there is further preparation. Essentially they then go out and conduct the tasks that they are given. We operate in a very difficult and challenging environment. The insurgents hide amongst the population. So this makes it quite a difficult environment for our people to operate in, but they have been operating there for a number of years. I think in the main they have conducted themselves very well.

Senator BACK—Certainly your comments would be endorsed by this quote, ‘People clearing through compounds in urban terrain under fire from changing directions day or night are likely to improvise and make snap decisions without the benefit of clear, methodical direction or crystal-clear situational awareness.’ The concern would be of many, I think, CDF, at this quote, ‘To the best of my knowledge, my American Afghani team and I never inflicted any civilian casualties, but can I give a 100 per cent guarantee of that? Of course not.’ Finally, given that I have no doubt it is in the interests of the affected parties to want to bring this to a conclusion as quickly as possible, is the delay being caused by one of these serving personnel still being in Afghanistan?

Air Chief Marshal Houston—No. The individual who is overseas is overseas in a civilian capacity. He will be back at the end of November. He has not been partaking in ADF operations or any other form of ADF duty.

Senator BACK—So his delay in returning to Australia is not in any way delaying the onset of this case?

Air Chief Marshal Houston—I guess it is to a point in that the charges will not be referred to the registrar until all three have been charged.

Senator BACK—Can the committee then be satisfied that all steps will be taken to ensure that, given the safety of preparing the defence, this case will be brought as quickly as is practicable?

Air Chief Marshal Houston—Absolutely. I think it is in everybody's interests, particularly the interests of those that have been charged and their families, but also in the interests of the wider ADF and indeed the interests of the Australian community, to have these charges dealt with as quickly as possible, noting that these processes can take a while to effect, as I think we all realise.

Senator McGAURAN—Just to clarify, you mentioned that the first time you heard anything in relation to the International Criminal Court's possible interest was what you read in the media?

Air Chief Marshal Houston—I have something here that I think answers the question: 'In relation to articles published in the *Sydney Morning Herald* and in other media outlets entitled "Afghan charges stalled Hague war crimes case," the Australian government understands that, following publication, the International Criminal Court advised media outlets that published claims that the court was investigating incidents involving Australian armed forces in Afghanistan that the claims were not accurate'. I can again reiterate the first time I saw it was when I read the *Sydney Morning Herald*.

Senator McGAURAN—Thank you.

Senator HUTCHINS—Who wrote that article?

Air Chief Marshal Houston—I am not sure. I cannot remember. I read a lot of media.

CHAIR—We now proceed to other matters arising out of Afghanistan.

Air Chief Marshal Houston—Can I just respond to the question that Senator Johnston asked about payments with respect to the incident on 12 February? I can confirm, as we both agreed, act of grace payments were made in relation to the incident, consistent with both ISAF and ADF policy. The standard practice in relation to the payments of compensation paid to the family involved in this incident is intended to follow local custom. A meeting, or a shura, was held with a senior provincial office and district elders to effect the act of grace payments on 14 February 2009, two days after the incident. The people at the shura included the deputy governor of Oruzgan Province, an uncle from the family, local government officials and local district elders and mullahs. Defence uses this mechanism of a shura to make act of grace payments in order to respect the cultural norms in Afghanistan. To act in any other way would undermine the well-established local customs and practices. For reasons of privacy and security of the Afghan individuals concerned, Defence does not provide individual case details, and will not provide any further detail on this other than to confirm that compensation was paid.

CHAIR—Thank you, CDF.

Senator LUDLAM—I have a couple of questions relating specifically to Afghanistan and to some issues that I have raised on a number of different occasions. I have indicated to you previously that I would follow up with you the issue of whether our coalition partners use or have used depleted uranium munitions in Afghanistan, so we will call that fair warning. You have told us in the past that coalition partners have not provided information on the use of DU. Do you have a clarifying statement or anything that you would like to put on the record?

Air Chief Marshal Houston—My understanding is that no depleted uranium warheads have been used in Afghanistan. Those munitions were developed for use against armoured vehicles. The targets in Afghanistan would not require those sorts of weapons. Indeed, to my knowledge, they have never been used in Afghanistan, certainly not since the last time you asked the question.

Senator LUDLAM—I draw your attention to two pieces of Open Source reporting: first, a report in late 2005 by German forces in Afghanistan at the time, and I can provide you with a reference if you would like, that indicates that during operation Enduring Freedom in support of the Northern Alliance, I guess during the initial invasion of the country, that the US aircraft did use, among other things, armour-piercing incendiary munitions with a DU core; secondly, which I suppose is a bit more speculative, the fact that Canadian forces have deployed with radiation dosimeters on their personnel to record radiation doses. I will provide you with those resources. Have you, or has the minister to your knowledge, asked for specific information from our coalition partners about their use of DU, rather than relying on, as you have just stated again for us—

Air Chief Marshal Houston—I do not think we have done that formally, no.

Senator LUDLAM—Can you make that undertaking now to request of our coalition partners whether or not DU munitions are being used or have been used?

Air Chief Marshal Houston—Yes.

Senator Chris Evans—Could I suggest we might take that on notice, Senator Ludlum? I think it is actually a decision for the government to take as to whether we raise those issues with other governments? I am not trying to be unhelpful.

Senator LUDLAM—It is somewhat less helpful than an undertaking that the CDF just made to do so.

Senator Chris Evans—That may be right. What I am suggesting to you is I want to be clear under whose authority one would make those representations. I am not trying to frustrate your line of activity, but I think it might be a decision for government.

Senator LUDLAM—That being the case, all I would ask is, if a decision is made to not make those inquiries, that that be made explicit.

Senator Chris Evans—Yes, sure.

Senator LUDLAM—If the government chooses to not ask.

Senator Chris Evans—Yes. You have asked the question: will we ask? I will come back and say yes or no.

Senator LUDLAM—Okay, thank you. I refer to the large cache of material that was released on WikiLeaks sometime ago about the conduct of the war in Afghanistan, which indicated that special forces were very active in the country, particularly since 2009, and engaged in targeted killings. This is a question for you, CDF, or the minister. It was reported that the foreign minister has accessed that material and is assessing whether Australian troops are involved or implicated in any way. Are you able to give us an update from your point of view on the material that was put into the public domain?

Air Chief Marshal Houston—I would have to take that on notice because I am not sure what reference within WikiLeaks you refer to. But I would be delighted to follow through on that and report back.

Senator LUDLAM—Thank you. I refer specifically to a piece by Brian Toohy on 4 August 2010, which reported that the then foreign minister, Stephen Smith, was checking to ensure, ‘that there’s no suggestion that Australian troops have been involved in civilian casualties’. It goes to one of the questions that I put to you before about whether there are any investigations currently afoot. That might be a question to the minister. Is the Australian government currently reviewing that material that was put into the public domain on WikiLeaks?

Senator Chris Evans—I would have to take that on notice. I have no briefing on that.

Senator LUDLAM—If you could.

Air Chief Marshal Houston—Can I just respond? In terms of civilian casualties, we take the business of civilian casualties very, very seriously. As I indicated earlier on, since 2008, we have investigated every single allegation of Australia being involved in civilian casualties or, indeed, circumstances where we have had civilian casualties. Each of those investigations has been reported to the Australian community in the media. Also, we put the reports on the defence net. In terms of where we are at the moment, there are three civilian casualty matters at varying stages of investigation, and that includes the 12 February incident that we talked about extensively earlier this morning.

Senator LUDLAM—You said there had been 18 in total. Is that since we first participated in the invasion in 2001?

Air Chief Marshal Houston—No, that is since the beginning of 2008.

Senator LUDLAM—Of which three are still live, and one of which we were discussing this morning?

Air Chief Marshal Houston—Yes.

Senator LUDLAM—Are you able to identify the other two, just in general detail?

Air Chief Marshal Houston—Not off the top of my head. I will take that on notice and I will come back to you later in the day.

Senator LUDLAM—Okay, thank you. Can you provide for us any information that you have on Australian citizens who might be employed by US sponsored paramilitary squads in Afghanistan?

Air Chief Marshal Houston—I am not able to do that. I know there are Australians who are involved in security activities in Afghanistan, but I am not aware of how many, who, what, or where. All I know is that, from time to time, we come across Australians who are involved in those sorts of activities.

Senator LUDLAM—The debate thus far—and I suspect during the course of the next fortnight in parliament—has largely focused on the reconstruction task force in Oruzgan, and it has only touched very lightly on the fact that we have special forces personnel in Afghanistan with a completely different mission to training and reconstruction. Are you able to provide us with a briefing or as much as you can tell us, because I do not think you touched on them very much in your opening statement, about what the SAS does and how its mission, if at all, relates to training and reconstruction in Afghanistan?

Air Chief Marshal Houston—First of all, we are in the process of transitioning from what is now called the mentoring task force to what will be known as Task Force 8, and Task Force 8 covers the mentoring task and a whole suite of other tasks that our task force in Afghanistan will conduct. Separate to that, there is a special operations task group which was generally speaking about 318 people deployed. Incidentally, it is not all SAS. SAS form a portion of the force. We also have commandoes from the 2nd Commando Regiment, and we also have people from the incident response regiment and a number of other people who provide specialist functions for the special operations task group.

In terms of what they do, they provide enhanced force protection for our people within the province of Oruzgan. If we get intelligence about, for example, an IED bomb maker, and that individual and his colleagues can be targeted, the special operations force will go and try to capture or kill that individual. This obviously makes the province much safer, not only for our own people but also for the civilians who are out there and who are often the victims of these indiscriminate weapons that are used by the insurgents that are out there in our province. Separately, the special operations task group are also involved in other activities where they go and disrupt Taliban sanctuaries, principally in the geographic area of northern Kandahar in support of the major operational effort being conducted by the coalition in terms of providing the ring of security around Kandahar city. All the districts around Kandahar city are being cleared and secured. Our special forces are supporting those operations by disrupting Taliban sanctuaries and Taliban activities in close proximity to those districts around Kandahar, on the north side. They stay north of Kandahar.

Senator LUDLAM—Which is south of Oruzgan.

Air Chief Marshal Houston—Which is just south of Oruzgan, yes. This also encompasses our main supply route which runs through the middle of that area. Our main supply route runs from Kandahar airfield up what we call 'route bear' into the province of Oruzgan and terminates at Tarin Kowt.

Senator LUDLAM—The WikiLeaks material provides the public with the first look at some of the unacknowledged or black operations conducted by the United States and some of the other NATO partners. There is some detail there about so-called Task Force 373 that is working its way through a list of around 2,000 targets, the joint priorities effects list for,

effectively, capture or kill—extrajudicial killings. Are you aware of whether Australian forces have been involved in joint operations with Task Force 373?

Air Chief Marshal Houston—I am aware of Task Force 373. I will take that on notice. Our special forces have, from time to time, operated with other coalition special operations forces, but I would have to take that on notice. By the way, I would not accept your description of the fact that this task force is conducting extrajudicial killings. I would not see it as that at all.

Senator LUDLAM—Is that language inappropriate because we are on a war footing, or how else should I describe a unit that is effectively working its way around the country assassinating people?

Air Chief Marshal Houston—I do not accept the fact that that unit is assassinating people. I think that unit is conducting intelligence led operations against insurgents, bomb makers and people who cause mayhem across Afghanistan.

Senator LUDLAM—So you have undertaken to take a couple of matters on notice, so maybe we will come back to that later in the day. Thank you.

Air Chief Marshal Houston—Certainly.

Senator ABETZ—I have just a few questions in relation to the ISAF declaration that, I understand, we are anticipating next month in Lisbon. I understand that there is anticipated to be some announcement in relation to transitioning. What is our latest advice? Will that be commencing next year?

Air Chief Marshal Houston—The issue of transition I think will be discussed at the Lisbon summit, which will be conducted in Europe on 19 and 20 November. I would anticipate that there will be parts of Afghanistan where the process of transition can probably start sometime next year. Having said that, transition is a process, not an event. Whilst it might start, I think it will be a period of time before any particular district or province is complete.

Senator ABETZ—In relation to the provinces that might commence transitioning, what about Oruzgan? Is that one of those that is anticipated to be commencing transitioning at the beginning of next year?

Air Chief Marshal Houston—No, I do not believe so. I think we have to wait and see just what the final plan looks like. Essentially, I am not sure what approach will be taken in terms of the way the public messaging is done in terms of the outcomes from the Lisbon conference, particularly in regard to transition.

Senator ABETZ—In relation to Oruzgan province, is it accepted by Defence that we need to update the training of the 4th Brigade, for which we are responsible, so that we can hand it over to the Afghan provincial security council?

Air Chief Marshal Houston—Absolutely. I suppose what we are doing in Oruzgan is giving effect to their government direction to train and mentor the 4th Brigade so that eventually they can take over the security of the Afghan development zone in the southern part of the province of Oruzgan. We are doing that and, as I have advised government, we think that will take somewhere between two and four years. Clearly the conditions on the

ground are going to be crucial as we go forward, but we are making very good progress with our Afghan friends. We see substantial improvements with the kandaks that we are mentoring, particularly the second kandak that we have mentored for quite a while now. I think in the fullness of time we will be able to hand over security of the most populous part of the province to the 4th Brigade.

Senator ABETZ—You indicated the transition is a process, and that stands to reason. In that process, would it be envisaged that we would embed some of our staff with the 4th Brigade to build their capacity?

Air Chief Marshal Houston—Sorry. We have people who are partnered with the kandaks of the 4th Brigade. We have operational mentoring and liaison teams who are out there as we speak living, working and patrolling with the kandaks of the 4th Brigade.

Senator ABETZ—So this embedding is already occurring?

Air Chief Marshal Houston—Yes, it is.

Senator ABETZ—Whilst I am no expert, I am advised that what we are doing there is similar to that which we did in 2005 in southern Iraq. Would that be a fair description or not?

Air Chief Marshal Houston—No, I think it is slightly different because in southern Iraq we were involved in the training function. We provided an overwatch function certainly through 2006-2007. That is slightly different from what we are doing here. I guess eventually we will go into some sort of support role when we have handed over security, which would be analogous with the overwatch function that we performed in Iraq. At this stage, these soldiers that we are working with are already trained soldiers and we are developing their skills and ability to operate collectively together in formed bodies—platoons, companies, battalions and eventually the whole brigade. That is what we are embarked on. At this stage, a lot of effort is going in at the soldier level, but as we go forward, I would anticipate that the mentoring will focus more and more on the officers and the senior NCOs as the competencies become better over time.

Senator ABETZ—We hope to be able to achieve that in the next four years?

Air Chief Marshal Houston—The next two to four years, yes.

Senator ABETZ—It has been suggested that one of the issues in Afghanistan is the need for mentors both civilian and military. A figure that has been provided to me is that there is a shortage of about 2,000 such mentors. Is that a figure with which Defence would agree? That is for the whole operation—not just where Australia is involved but the whole NATO exercise?

Air Chief Marshal Houston—The whole operation. My understanding is that the biggest shortage anticipated is a shortage of institutional trainers. The NATO training mission Afghanistan is setting up a number of schools that will train Afghans in specialties such as artillery, engineering, signals and so on. Indeed, the government recently announced that we would be taking on board a large part of the institutional training function for the artillery school. We have developed a concept for the formation of the artillery school. My understanding is that, across the coalition, there are some shortages in the institutional training capacity at this time. I think this is one projected for next year, so there is a need to

fill a number of billets in those institutional training schools. I think the artillery school is okay because we have stepped up to the plate. But in other areas there are still shortages.

Senator ABETZ—Substantial shortages? Significant shortages?

Air Chief Marshal Houston—I think there are significant shortages, yes.

Senator ABETZ—It has been put to me that it is these mentors or institutional trainers, whatever we call them, who are ultimately the ticket to transition. If we have this shortage, then our plan to transition will be prejudiced, delayed—however we want to describe it—and I just wonder what we are doing in Australia, or more importantly as the coalition, to overcome that significant shortage of mentors, or I think you have described them as institutional trainers?

Air Chief Marshal Houston—I think Australia has really produced and delivered. We are currently the 11th largest contributor of people in Afghanistan, and a large part of our contribution is in the training area. I mentioned the OMLTs, the Operational Mentor and Liaison Teams. We are currently running five mentoring teams with the kandaks—that is, the 1st, 2nd, 3rd kandaks, their infantry kandaks and the 4th Brigade, the combat services support kandak—and also we are mentoring the brigade headquarters. So we are doing an awful lot of training and mentoring. Task Force 8, besides providing force protection and doing some tasks for the Provincial Reconstruction Team, which of course is led by an Australian, most of our effort is going into that very important training and mentoring role so that we can hand over security for the province to the Afghans in two to four years. The other thing that we have been doing is providing personnel for training functions. I have mentioned the artillery school. We have very recently taken that on board. We also have people providing specialist training functions in areas such as the Counterinsurgency Academy and a couple of other specialist areas within the Afghan training infrastructure. So I think Australia is doing all that it can and should. I would not expect us to be asked to do much more than that. I think there was a 40 per cent increase in numbers announced back in April 2009. Nearly all of that 40 per cent increase has been to accommodate this requirement to train and mentor the 4th Brigade and contribute to the institutional training.

Senator ABETZ—I accept all of that and understand all of that, but I think you indicated we are the 11th largest contributor. That would suggest that there are many other contributors who clearly are not pulling their weight, if I can use that description, or not providing the number of mentors or institutional trainers that are required. As we are part of a coalition, even if we do our bit right up to the level needed, if all the others do not then the transitioning will not be able to take effect as planned, because there is that significant shortage—and I think you agreed with my description—of these institutional trainers to be able to transition Afghanistan?

Air Chief Marshal Houston—I think what is required, and this is one of the things that will be discussed at Lisbon, is for all 47 countries to have a look at whether they can provide more institutional trainers. Having said that, I really think that we are doing our bit.

Senator ABETZ—That is not in dispute here from the Liberal-National parties as opposed to the coalition, so we do not get too confused.

Senator Chris Evans—I was a bit concerned at one stage that the trainers had lodged a coup against Tony Abbott!

Senator ABETZ—There is no dispute on that front. My concern is that we are part of a coalition internationally. We are doing our bit, but I am not so sure that the 40-plus others are doing their bit. If we are agreed that the ticket to transitioning is these institutional trainers, if there are not those institutional trainers, how confident can we be that the whole coalition task of transitioning in the next four years can be impacted? If you are going to Lisbon, or if our minister is going to Lisbon, I wish every strength to their arm, or collective arm, to ensure that the other countries make their contribution for these institutional trainers.

Air Chief Marshal Houston—There are two separate things there. I might just clarify. The two to four years applies to our training task in Oruzgan. I think the institutional training requirement will probably extend for some time into the future. So that is probably a more longstanding requirement in Afghanistan.

Senator ABETZ—I thought I was going to complete on that, but can I then ask: what is our belief in relation to the United States as to their transitioning? I thought they were seeking to accelerate their transition. Do you agree that the United States are trying to accelerate the transition?

Air Chief Marshal Houston—I think one thing we have got to factor in here is the incredible rate of training that is going on in terms of the Afghan National Army and the Afghan National Police. By the end of December, we will have seen the combined military and police grow to 262,000, which is an absolutely astronomical increase over what it was only 18 months ago. With all these Afghan forces coming on stream, what it means is that there is scope for the Afghans to take over from ISAF in certain areas, particularly in the areas where perhaps the mentoring and training has been going on longer, and the Afghan units are ready to take over the responsibility for security in various parts of the country. Already you will see most of the security in Kabul, for example, is provided by the Afghan National Army and the Afghan National Police. As we go forward, the requirement for the countrywide security will be increasingly taken over by the Afghan national security forces, and what we will see the coalition doing is increasingly doing the higher level functions, such as institutional training, and providing some of the enabling functions, such as command and control, logistics, and the like. It is quite a complex picture. You have really got to look at all the various strands to bring it all together. Our American friends have put incredible resources into training the Afghan national security forces, and that, I think, is the big change in Afghanistan over the last 18 to 24 months.

Senator ABETZ—Are we agreed that the United States is trying to accelerate the transitioning of Afghanistan, and, if so, is that in relation to a date on a calendar or by introducing more institutional trainers?

Air Chief Marshal Houston—I think that you have always got to take account of the conditions on the ground. The conditions on the ground are absolutely key in all of this. Having said that, the other thing that is at play here is that at the Kabul conference, President Karzai said that he wanted to have the Afghan national security forces running the security for

the country by the end of 2014. So that, I think, provides a realistic factor that needs to be considered in the whole picture in terms of—

Senator ABETZ—So, that is the date on the calendar. Given that date, is the US trying to increase the institutional training?

Air Chief Marshal Houston—I think the US is basically focused, like most of us, on this very important training task. There are the two aspects to the training: first is the institutional training, which is basically the area where we need the investment at the moment; second is the operational type training which is what we are doing in Oruzgan in training and mentoring, and that is proceeding pretty well. I am not aware of any major shortages in our immediate area, for example. The American forces that are working with us in Combined Team Oruzgan are doing a lot of mentoring of the police in the province. That is proceeding quite well at this stage.

Senator ABETZ—Thanks, chair.

CHAIR—Senator Brown has questions on Afghanistan.

Senator BOB BROWN—Thank you. Thank you, Air Chief Marshal, to you and your personnel for representing Australia's interests so bravely and well in Afghanistan. Regarding the mission statement, you have been talking about completing the training of the 4th Brigade in two to four years. Will that be the end of the ADF's involvement in Afghanistan, or is there a further potential mission after that in Afghanistan for our defence forces?

Air Chief Marshal Houston—Senator, that is really a matter for government. I am here to provide advice to government on what we can and cannot do, but ultimately that is going to be a decision for the government. Four years is a long way in the future. Aside from training and mentoring the 4th Brigade, we also have a large number of people embedded in some of the headquarters functions. So it is not just training and mentoring the 4th Brigade; we actually have people who are embedded in the various ISAF headquarters. Indeed, they give a very good account of themselves. Every time I go to Afghanistan I get very good feedback on the high performance of our officers and senior NCOs in these embedded positions. Ultimately though what we do in Afghanistan is a matter for government.

Senator BOB BROWN—If the government were to make the mission statement the training of the 4th Brigade of Afghanistan, the completion of which you predict to be in two to four years time, that would then see an end to our involvement in Afghanistan? It is really up to the government to make that determination?

Air Chief Marshal Houston—Yes, it is up to the government, but the last minister, Senator Faulkner, did make it clear that we would do the training task in two to four years, but beyond that there would be a period of time where we would have to provide a support function. Perhaps it would be something similar to the overwatch function that we provided in southern Iraq. If you remember, he actually made that explicit in his speech to the Lowy Institute. As to how long that period of support is needed, it is probably a little early to define precisely what time that might be. In Iraq about 12 months of overwatch was required before we handed over the security of the southern provinces to the Iraqis.

Senator BOB BROWN—General David Petraeus has talked about us being involved, and our children's generation being involved as well. Do you know what he meant, or may have meant by that?

Air Chief Marshal Houston—Is this something that came out of Bob Woodward's work, *Obama's Wars*?

Senator BOB BROWN—Yes, very likely.

Air Chief Marshal Houston—I thought it might. I must say he did not say that to me when I met him two weeks ago.

Senator BOB BROWN—What did he say in terms of the longevity of the war?

Air Chief Marshal Houston—I think there is—

Senator Chris Evans—If I can just interrupt, I just want to make an important point here, which I think the CDF tried to make, and he is trying to be helpful. As you would well understand, Senator Brown, the decision about the length of the US involvement in Afghanistan is one for their government, not for General Petraeus. Australia's commitment to Afghanistan, again, is one for government, not for the CDF. I do not want to put him in a position of trying to answer questions that go to political decisions, if you like.

Senator BOB BROWN—No.

Senator Chris Evans—I am happy for him to talk to you about General Petraeus's perspective, but I just want to make that clear.

Senator BOB BROWN—Yes. That is all I am asking for.

Senator Chris Evans—Yes.

Air Chief Marshal Houston—I think General Petraeus is very focused on delivering the outcome that President Obama has given him. He is firmly of the view that he now has the right strategy, and he now has the resources. He would characterise it that he now has the inputs and it is up to him to deliver the outputs, and he is seized with those requirements. He has embraced what he calls a comprehensive counterinsurgency strategy, and I think that he is making some good progress. There is still a long way to go but the signs are promising. I think the insurgency has been blunted and I think the weight of coalition numbers is such in the south, which is the heart of the insurgency, that the insurgents are really hurting. They are really hurting.

Senator BOB BROWN—Air Chief Marshal, part of the strategy to counter the insurgency is to talk with the more moderate elements of the Taliban. Can you tell the committee how that is going and what the expectation is in those talks with the Taliban?

Air Chief Marshal Houston—Again, a lot of this is quite sensitive, but there has been some progress in what I would call reintegration, where certain elements of the Taliban at the local level in the provinces in the south have basically switched sides, and come on board with the government of Afghanistan. Really though the key thing is the reconciliation of the leadership of the various insurgent groups. That is a much more demanding task, and I think there is still a long way to go. Certainly there is a strategy in place, and a long way to go is how I would characterise it at this stage.

Senator BOB BROWN—Has Australia been involved in the talks with the Taliban?

Air Chief Marshal Houston—No, we have not been involved in direct talks with the Taliban leadership. That is what I would call the people who are called, or characterised as the Qwed Ashura. We have not had any engagement or contact with them at all. At the lower level there probably has been some contact from time to time—in some of the Ashuras (meetings) that our people are involved in—with elements of the insurgency. There might be some of them in the meeting. However, we are not talking to them directly.

Senator BOB BROWN—Just going back to the 4th Brigade, how do you go about vetting the men who join that brigade to ensure that they are not operatives from the Taliban or from the other side? Can you comment to the committee about reports of high attrition rates from the Afghan forces being trained—that, having been trained, they go somewhere else? That is a worry. Perhaps they cross back to the other side to the Taliban.

Air Chief Marshal Houston—The kandaks that arrive in the province of Oruzgan come from the training centre in Kabul. Thus far we have not had any problems with, if you like, Taliban or Haqqani network embeds, or anything like that. In fact, quite the contrary; we have found that we have been working with young people who are very supportive of the Afghan government and are seized with the need to be good soldiers. We have not had any of those issues. I do not know what the Afghan authorities do to ensure that the people who make up their army units are all firmly supportive of the government, but we have not seen any evidence along the lines you suggest: that there is a problem with the kandaks who have come to Oruzgan.

Senator BOB BROWN—The Karzai government itself is generally accepted as having a great deal of corruption. I do not think there is any question about that. What do you see as the way forward to end that corruption, which must corrode the morale of the Afghan people and indeed the potential defence forces into the future?

Air Chief Marshal Houston—General Petraeus has set up an anticorruption task force which works with the Afghan government authorities on the business of targeting corrupt activities. I think that is a very positive thing. I think the fact that the task force is working with the Islamic Republic of Afghanistan is a very good thing.

Senator BOB BROWN—Thank you. Just coming back home, in the lead-up to this debate, there was a division of feeling about our involvement in Afghanistan in the wider Australian community, as there is in the feedback I have from relatives and friends of personnel involved there. What outreach is there for the relatives and associates of Defence Force personnel to talk about those matters and to engage them in some dialogue about our involvement in Afghanistan?

Air Chief Marshal Houston—I am not quite sure what sort of grouping you are talking about.

Senator BOB BROWN—Is there some avenue for relatives who are anxious—

Air Chief Marshal Houston—Oh, yes.

Senator BOB BROWN—To be able to talk about their loved ones in Afghanistan, or the members of the ADF who may go to Afghanistan, and to be able to express an opinion and

talk about the matters we are talking about in this committee today, openly, frankly and with some resolution of their anxiety?

Air Chief Marshal Houston—We are very, very supportive of the families. Without the support of the families—

Senator BOB BROWN—Of course.

Air Chief Marshal Houston—we could not do anything in the Australian Defence Force. Our families tend to be very supportive. The three services put a lot of effort into—

Senator BOB BROWN—Can I just say that there are some members, very close family members, who are extremely anxious about their relatives either being in or going into Afghanistan. They read the media. They have a different point of view to perhaps that of their government in having troops in Afghanistan. They do not see the point of it, and they are extremely worried and, in some cases angry, about it. Is there some way for them to be able to express that point of view without—the feeling is that if they do, publicly or in any other way, they threaten the wellbeing of their son, their husband, their brother or their sister in Afghanistan. Is there some way of dealing with the anxiety of people back here in Australia?

Air Chief Marshal Houston—We try to support our people to the maximum extent possible. We do not put any constraints on family members in terms of what they can get involved in, where they go for support, or the debates they get involved in. There is nothing that we do to constrain family members from being involved in a debate such as this. Having said that, we are acutely aware that our people, or the families of our people, are very concerned about the welfare of our people in the very dangerous environment in Afghanistan. We provide a large number of support mechanisms to ensure that if somebody has a concern about the wellbeing of their son, daughter, husband or wife, there is somewhere they can go to get the support that is required.

Senator BOB BROWN—Chief, there have been some calls in the body politic for an increase in the commitment to Afghanistan in terms of numbers of personnel. What is your view on that?

Air Chief Marshal Houston—Again, I think that is a matter for the government. I was asked some time ago now about the training and mentoring task that we are currently doing, and essentially the resourcing of that was something that was worked out between the ADF and the government. We now have around 1,550 to do that task. With the task that has been defined for us, I think the 1,550 is about right. Obviously that is something that is reviewed on a frequent basis, and if there were to be a dramatic change in the operational environment, in those circumstances we would identify those changes to government and have a discussion about whether there is a need for further resources. However, those circumstances do not exist at present, and I think 1,550 is about right. Furthermore, as we have discussed this morning, the most important task in Afghanistan at the moment is training, mentoring and institutional training. They are the keys to transition to the Afghans taking over and providing for their own security. I am very comfortable with the role the government has given us and the fact that it has been resourced appropriately.

In terms of force protection, we are part of a coalition. We are part of Combined Team Oruzgan in the area we operate in and we have all the force protection that we need. That is

not to say we are complacent about it. We keep force protection under review all the time and, as the environment changes, we make the necessary adjustments to the people we deploy, the technology we use and, indeed, adjustments to our tactics, techniques and procedures to ensure that we create the safest environment possible for our people.

Senator BOB BROWN—Finally, I think one thing the parliamentary debate in the next week or two will evince, which will be universal, is support for you and our Australian Defence Force personnel and the magnificent job they do for this nation. That said, what is your view on a parliamentary debate on our involvement in Afghanistan?

Air Chief Marshal Houston—Thank you very much for those comments about our people and the support that you give. I think one of the great things about Australia at the moment that is we get support from right across the community and right across the political spectrum for our soldiers, sailors and airmen who do a magnificent job for Australia and who are in harm's way in places like Afghanistan, and indeed in other operational areas. That is deeply appreciated.

In terms of the debate, I have no difficulty with a debate. I think it is absolutely vital that we get a good understanding across the community of what is happening in Afghanistan, the role that Australia plays in Afghanistan, and the fact that we have a clear way ahead in terms of what we are doing. I think our mission is well defined, and I think over the fullness of time—I have said two to four years—we will be able to transition our province to Afghani responsibility for security, and those elements can be eventually pulled out of Oruzgan. I am very comfortable with that and very comfortable that you and your colleagues are going to debate some of these issues, particularly the more strategic level issues about Afghanistan over the coming days.

Senator BOB BROWN—Thank you. I do have quick last question. Two to four years is a long time; why can it not be defined at two years?

Senator Chris Evans—It is milestone based, Senator Brown. Defence and the ISAF have been set tasks and milestones, so the perspectives the CDF has been giving you are estimates of time taken to achieve those milestones. I think it would be unrealistic to indicate that there was a set timetable. Those are estimations based on best judgement of a time period. As the US President has made clear, their policy is based on milestones, and CDF's charter from the government is to work towards those milestones, and those are milestones set by this government for our task there. Those are best estimates of the time likely to be taken to achieve those key objectives.

Senator BOB BROWN—It is an objective, but in terms of milestones it is a spectrum. What I am asking is why that spectrum has to be so long and why the Australian people cannot be reassured that two years, for example, is the intended target, even though it may take four years. It sounds to me like there is no difference between the two- and four-year targets, and I wonder if the aim is to make it two years, but it may take four years.

Air Chief Marshal Houston—I think it is a reflection of the fact that this is a process that is conditions based. Fundamentally, when we achieve the level of capability within the 4th Brigade, we will be able to say, 'Job done', and they take over. As the senator has just said, there is a lot of judgement involved in that. It is not as if you have a bunch of people in a

training school where there is an eight-week course, and you put them into the sausage machine and after eight weeks they come out the other end, and that is the same process that happens to everybody. We are talking about a number of units that are doing complex things in demanding circumstances in the province of Oruzgan. Fundamentally there are lots of moving parts, and I think two to four years gives us the flexibility that is required to achieve the capability for the whole brigade so that it can do its job. We will see how it goes.

Dr Watt—Chair, I wonder if I could pick up a point on one of Senator Brown's questions about corruption. I think it is an interesting issue to raise in this context. Corruption, of course, in the region as a whole is not unknown, as I think Senator Brown would appreciate; it is not confined to Afghanistan. How do you deal with it? CDF quite rightly mentioned General Petraeus's anticorruption task force. The broader level corruption is usually a failure of governance, or a failure of government, as well. That is one reason why one of the Australian government's aid efforts in Oruzgan province is to improve governance, improve accountability and improve transparency. That is the long-term way of combating corruption.

Senator BOB BROWN—Yes, but the problem is that if you are training a military force in Afghanistan it needs allegiance to an honourable government, and we do not have an honourable government in Afghanistan. That is a problem, is it not?

Dr Watt—I do not know if that is strictly correct. We do have an elected government in Afghanistan.

Senator BOB BROWN—There are questions even about that, is there not?

Dr Watt—If I remember,—and I am no expert, so forgive me, I think when they looked at the last election there were some election irregularities, but the expectation was that President Karzai would have won the election regardless of those irregularities.

Senator Chris Evans—The government has been very open about the challenges of governance in Afghanistan. It has been one of the priorities we have had in terms of what work we do, both politically and in Oruzgan. General Petraeus's establishment of that task force is part of that. It is equally the case that if we did not deal with people in countries where there is corruption we would be a very lonely nation. These are problems in a lot of nations in the world, and it does not mean that you withdraw from engaging with them and trying to work with them in whatever context. But there is clear recognition of the problems that corruption causes at both national and provincial government level. Part of the ISAF response is to try to improve governance and accountability, and allow democratic institutions to work effectively, particularly in regional areas, which will allow the sort of stability and support for law and order that is a large part of the function that we are seeking to drive.

Senator BOB BROWN—So you see Afghanistan becoming a functioning democracy within five to 10 years?

Senator Chris Evans—I am not competent to make a judgment about that. There are arguments about how much democratic institutions have held. I think I have heard CDF talk before about the need for provincial government to strengthen its control, but I do not pretend to be an expert. I do not know whether CDF has something he wants to add about governance in the regions. There are democratic institutions in Afghanistan that they are seeking to strengthen and we are seeking to support them in strengthening those democratic institutions.

Senator TROOD—In your remarks this morning you emphasised the importance of the training and mentoring role that Australian forces are undertaking in Afghanistan. That is very much a theme of the minister's recent statements on the subject. He has emphasised those dimensions of our activity. You have also mentioned the special operations task group, which has a broader role I suppose one might characterise as relating to the disruption of insurgent activities. Those matters have not been mentioned by the minister as being an important part of the mission. I would like some clarity from you as to how you characterise the mission at the moment, and do you see each element of this mission as important as the other? I know you have mentioned the fundamental importance of training, and it is important, but for the training to be effective, you obviously need to reduce the threat from insurgent activity. I would have thought that is a very important dimension of the work that all ISAF forces are undertaking in Afghanistan, and particularly the Australian forces. Can you clarify whether or not you see these two elements of our mission there as equally important?

Air Chief Marshal Houston—First of all, if I could just set the context for this, we are in Afghanistan with a coalition force. At the moment with the American forces, which are in the order of 100,000 strong, the rest of the 46 nations provide 40,000, and on top of that, we have 262,000 Afghan national security force people in prospect by the end of the year. We have about 400,000 people who are in the security business in Afghanistan. We are providing 1,550 of those.

So, to a large extent, we are contributing to the coalition and the coalition mission, and we do that in a number of different ways. First of all, right now we have about 150 people imbedded in important jobs in the coalition headquarters. They do a magnificent job for us. They are highly regarded. Some of them are in really key positions working side by side with General Petraeus. In fact, quite often when General Petraeus has his conference of his senior staff, there will be four senior staff officers from Australia sitting with him. That is the sort of influence, if you like, that we have within the coalition.

We then get down to Oruzgan. In Oruzgan, we are involved with the training and mentoring of the Afghan national army, the 4th Brigade. We contribute again to the Combined Team Oruzgan. It is an ISAF organisation. It is not the US or Australia that is leading; this is an ISAF structure—the only one of its kind in Afghanistan, by the way—and brought about by the fact that the Dutch are in the process of departing. Again, we have people who are in the headquarters for the combined team. About half the headquarters is Australian. We have an Australian lead in the Provincial Reconstruction Team, and of course that is a DFAT officer. We have people from DFAT, AusAID and Australian Federal Police all performing a number of functions alongside some other ADF people who are part of that multinational PRT. There is also a large number of Americans in the PRT, and there are also still a couple of Dutch officers who have remained behind because of their particular expertise. So that is an important mission for us.

The secretary just spoke about improving governance and development. That is what our people are involved in in the PRT. We also have the Australian Federal Police providing a very important training function in Oruzgan. There are 28 federal policemen, most of whom are providing that function in Oruzgan.

Separate from that, we also have the Special Operations Task Group. That group I guess does two distinct tasks. The first and probably most important task is providing a secure environment for our people who are doing the training and mentoring; some of them are doing development tasks in the PRT, and so on and so forth. The Special Operations Task Group to a large extent provides an enhanced level of force protection for our people. As I mentioned to one of the other senators earlier on, if we find a bomb maker we will go after him. If we can eliminate the bomb maker and his little bomb factory, we make Oruzgan a much safer place. At the same time, those special forces are the third largest element of special forces in Afghanistan after the Americans and the Brits. They can contribute to broader coalition objectives. We use them to contribute to COMISAF's operational main effort, which is at the moment Operation Hamkari, which is putting this ring of steel, if you like, or security ring around Kandahar to create the time and space to improve the governance in Kandahar city, to create the space to enable development activities to go into Kandahar city.

So, to a large extent, that is what we are doing in Afghanistan. That meets the government's prime strategic objectives. This is a contribution to a coalition, and we contribute in a number of different areas. Fundamentally, the biggest piece in all of this is the just under 800 people that we have in the training and mentoring role as part of MTF or Task Force 8.

Senator TROOD—Thank you. In relation to the Special Operations Task Group, of which I think you said earlier in the proceedings there are elements of commando units and SAS et cetera, presumably they are on rotation from their units through Afghanistan. Can I take it that that rotation will continue in relation to those groups? It might not be the same source of those forces, but there intends to be a further rotation of people contributing to that task group?

Air Chief Marshal Houston—Yes. We rotate our people through there. We have been doing that for a while now. Special forces tend to go for a shorter period of time. They deploy usually for about four months. Then they are replaced by another element. What does that mean in terms of how often they deploy? My understanding is that, if we take the SAS for example, they might go every 18 months for four months; then they will get an 18-month break. Then they go again for another four months.

Senator TROOD—But the policy is to continue those rotations in relation to that element of the task group—is that right?

Air Chief Marshal Houston—That is correct.

Senator TROOD—Are you familiar with President Karzai's call for a discontinuation of the use of private security companies in Afghanistan which he encourages should be accomplished within four months?

Air Chief Marshal Houston—Yes, I am.

Senator TROOD—I assume that you accept the seriousness of that intention. What is being done to address that insofar as it affects Australian interests in Afghanistan?

Air Chief Marshal Houston—I think where it has probably the greatest effect is in a place like Kabul where a lot of the security is provided by contractors. I guess the facility that we have in Kabul is the Australian embassy, so I would suggest that questions about how it affects our interests are probably best directed to the Department of Foreign Affairs and

Trade. In terms of how it affects us operationally, because we are doing what we are doing in Oruzgan, I do not think it has as great effect on us as perhaps it does on other people, particularly the people who are providing those more static functions in places like Kabul and Kandahar. I will take it on notice, if you like.

Senator TROOD—I would be grateful if you would do that, because I would like to know, as you rightly say, that the Australian embassy is protected by a private security organisation, and four months is a relatively limited period to transition away from that. One assumes that if in fact that deadline were to be met, then someone else is going to have to provide the security, and the obvious candidate is the ADF. I am interested to know whether or not you have turned your mind to whether or not this is yet another task that you will be undertaking in Afghanistan before too long.

Air Chief Marshal Houston—I will take it on notice because I guess it is better if I come back with a detailed response.

Senator TROOD—Finally, I took evidence from Commissioner Tony Negus last night in relation to the possibility of deploying additional AFP officers in Afghanistan. He said that was under active consideration. Can you tell me whether or not a decision has yet been made about whether or not further AFP officers will be deployed there and, if so, how many?

Air Chief Marshal Houston—I think he is the federal commissioner, and—

Senator Chris Evans—I think you can put that down as a good try, Senator Trood. If he did not tell you, the CDF is not going to tell you.

Air Chief Marshal Houston—I would not expect him to respond to a question about the size of the ADF component, and I know that he would not do that.

Senator TROOD—He was reassuringly frank on this subject, I have to say. Can you tell me whether or not a request has been received from the Karzai government for the increase in AFP officers, or is that a request that has come from provincial management or governance in Oruzgan?

Air Chief Marshal Houston—I am sorry, but I have nothing to add to his remarks.

Senator TROOD—We will move on.

Air Chief Marshal Houston—Frankly, I would hate to say something, because he is obviously right on top of the subject in a way that I probably am not.

Senator TROOD—Thank you for your assistance.

Senator Chris Evans—He could have ended ADF-Australian Federal Police cooperation for 10 years if he had answered it.

CHAIR—Do we have further questions on Afghanistan? Do we have other issues arising out of opening statements by CDF or the secretary?

Senator JOHNSTON—The secretary. Can we go to the Middle East Area of Operations air sustainment contract? What is the status of it as we sit here now?

Dr Watt—We have a preferred tenderer. We are discussing the contract with the preferred tenderer.

Senator JOHNSTON—Commercial in confidence issues surrounding prices and other logistical matters—I do not want to go to any of that.

Dr Watt—That is all I can really say. That is where we are.

Senator JOHNSTON—Okay. We have had one internal audit by Mr Brown. When was that commenced?

Dr Watt—I will ask Mr Brown to answer that.

Mr Brown—I will get the dates on that. I do not have the specific dates in my mind.

Dr Watt—I'm sure we can find the dates for you senator.

Mr Brown—If you like, I can get the specific dates for you.

Senator JOHNSTON— I would like the specific dates.They are important to the chronology of the various events surrounding this. Why did we conduct an internal audit?

Dr Watt—That reflected some allegations made to Defence by Strategic Aviation.

Senator JOHNSTON—Strategic is the current holder of the contract?

Dr Watt—The current contract holder. We felt that they were of significance, so we therefore decided to do an internal probity review. To make sure that the review was done appropriately, we also involved PricewaterhouseCoopers to work with Mr Brown and his people to check whether the review was done fully and appropriately. The initial allegations were made to the Inspector-General. I think that is the way that allegations sometimes come in the organisation, so that was not unusual.

Senator JOHNSTON—How long did that audit take?

Mr Brown—I can get the specific dates to you, but the timing of the audit was approximately a month.

Senator JOHNSTON—That was after we went to tender?

Dr Watt—That is correct.

Senator JOHNSTON—What is the value of the tender, approximately?

Mr Brown—I know the saving, but I do not know the—

Senator JOHNSTON—Is it \$90 million?

Dr Watt—It depends a little bit on the usage. We might get the Deputy Commander Joint Operations to come forward. He is best equipped to answer that question, I think.

Senator JOHNSTON—I am not looking for the exact figure, because I do realise it varies as to usage to some extent and the number of passengers and weight of luggage and all that sort of stuff. But approximately, what are we talking about? Rear Admiral, welcome. How long have you been in that position?

Rear Adm. Griggs—Since the start of June.

Senator JOHNSTON—What is the approximate value of the contract?

Rear Adm Griggs—I can tell you the value of the last financial year, which was approximately \$50 million.

Senator JOHNSTON—What is the term of the contract?

Rear Adm. Griggs—As in the length?

Senator JOHNSTON—Yes?

Rear Adm. Griggs—The current contract was 12 months with two 12-month extensions.

Senator JOHNSTON—What are we asking for now in the new contract, the one that is under tender?

Rear Adm. Griggs—For a two-year contract.

Senator JOHNSTON—So \$100 million, roughly?

Rear Adm. Griggs—Roughly.

Senator JOHNSTON—Give or take, yes?

Dr Watt—Give or take, Senator, depending on usage.

Senator JOHNSTON—I think \$90 million was the figure I originally put, so around about that, okay. That is what we are talking about. We have had a second audit from Deloitte. Why did we do that?

Dr Watt—As I said in my opening statement, when Senator Faulkner had you briefed during the caretaker period—quite appropriately under the circumstances—you raised a number of concerns.

Senator JOHNSTON—So that is down to me, the second audit?

Dr Watt—No. We took your concerns seriously, as I think we should. We therefore wanted to make sure that we had not overlooked anything. We decided to have a second audit, consisting of Deloitte, to review the accounting and financial issues, and the Australian Government Solicitor to do the legal issues. We did that, and as I said to you, they came out with a report which effectively said that they saw no reason to change the outcome.

Senator JOHNSTON—Okay. Then we had the Australian Government Solicitor look at the whole thing?

Dr Watt—At the same time.

Senator JOHNSTON—Did they produce a separate report?

Dr Watt—They did, and the same response.

Senator JOHNSTON—Okay. So to date I have three. Are there any more reports on this particular tender?

Dr Watt—Not that I am aware of.

Senator JOHNSTON—Is it possible for the committee to have those reports?

Dr Watt—We are happy to provide the reports to you. At least one of the reports has some material in it which we regard as legal in confidence and could prejudice an Australian government legal position under certain circumstances. We are therefore in the process of having that report redacted.

Senator JOHNSTON—Lovely.

Dr Watt—We will provide both of them to you this afternoon, if you would like.

Senator JOHNSTON—I am pleased we are on the same page with respect to where we are going with this. That is good. So when do you anticipate we might be able to see those three?

Dr Watt—I am sure we can give them to you after lunch.

Senator JOHNSTON—Beautiful. How much did we spend on the three audits?

Dr Watt—I will just have to check.

Mr Brown—The cost of the Deloitte audit was approximately \$600,000. We do not estimate the cost of my audit. The cost of the AGS audit was, as I recall, about \$35,000, but I can confirm those numbers to you. They are certainly in the ballpark.

Senator JOHNSTON—So we have spent over \$600,000 in checking the probity of this contract?

Dr Watt—That is correct. As you yourself said, Senator, it is an important contract.

Senator JOHNSTON—Absolutely. I think we will get to some of the issues surrounding how important in a moment. You have also gone to the AFP with respect to the previous contract?

Dr Watt—That is correct.

Senator JOHNSTON—On matters dating back to 2005.

Dr Watt—Allegations were raised in the *Age* in September about the handling of aspects of that contract. We had not been aware of them before. Under the circumstances, we reviewed the allegations and prepared a brief for the AFP. The AFP has accepted the brief and the matter is now in their hands.

Senator JOHNSTON—Is it fair to say that those matters going to the AFP focused partly on the conduct of a reservist captain, Mr Charlton?

Dr Watt—I do not think I can say whether they focused on one or another individual.

Senator JOHNSTON—Was he involved at all in that?

Dr Watt—There were two individuals against whom allegations were made. One of them was Mr Charlton—

Senator JOHNSTON—Yes, and the other one was Mr Davies.

Dr Watt—That is correct.

Senator JOHNSTON—He is a warrant officer?

Dr Watt—That is my understanding. Whether it was the allegation about one or other that will be of interest to the AFP, I cannot comment on.

Senator JOHNSTON—No, but they were involved in the report to the AFP?

Dr Watt—The allegations were reported to the AFP rather than the individuals.

Senator JOHNSTON—When was Mr Charlton reemployed by the Joint Movement Group?

Mr Brown—That would have been in February 2009 or 2010.

Senator JOHNSTON—I think 2009 is about right. He had recently appeared prior to that on the *7.30 Report* in disguise; am I right?

Mr Brown—In disguise.

Senator JOHNSTON—Well, you are aware of that?

Mr Brown—Yes, I am aware of that.

Senator Chris Evans—Fairly unsuccessful in disguise.

Mr Brown—I think ‘disguise’ is the wrong word.

Dr Watt—Well, his identity had been obscured for reasons which I do not pretend to know, but that is not an uncommon journalistic practice.

Senator JOHNSTON—And he was attacking the current contractor and the level of service provided in the movement operations for our troops going in and out of the MIO, correct?

Dr Watt—I do not know the nature of his comments.

CHAIR—We will now take a break.

Proceedings suspended from 12.31 pm to 1.30 pm

CHAIR—The committee will come to order. We are dealing with matters still arising out of the secretary’s report. Senator Johnston has the call.

Dr Watt—Just before Senator Johnston speaks, we promised to follow up on some dates.

Mr Brown—We have the dates for the internal audit review. It commenced on 15 July and finished on 24 August. As to the cost of the Australian Government Solicitor’s work, there was a subsequent invoice that I was not aware of, which was \$77,000, not \$35,000. The date of the commencement of David Charlton back in Defence as a reservist was in July 2009, not February. He originally applied earlier, but he actually started in July.

Senator JOHNSTON—Do you know the date of his application?

Mr Brown—No.

Senator JOHNSTON—Let us just recap. We have two audit reports and an Australian Government Solicitor’s report. The cost of those reports was \$677,000. The secretary has sent a brief to the AFP. The brief involved, in one form or another, reference to Captain Charlton and former Warrant Officer Davey. Captain Charlton had appeared prior to 2009, I think it was, on the *7.30 Report*—I said in disguise, but with his identity masked, if you like—to attack the then contract to an airline called Strategic, which had had the contract since 2005.

Dr Watt—Can I add a couple of points?

Senator JOHNSTON—Yes.

Dr Watt—The brief to the AFP is for a tender that was completed in 2005. It has nothing to do with the tender undertaken in 2010. It was a completely separate exercise.

Senator JOHNSTON—That is right, but it did involve a reference with respect to Charlton and Davey.

Dr Watt—That is correct, in about the 2005 tender.

Senator JOHNSTON—We then employed Mr Charlton in July into Defence Movements out of Brisbane.

Dr Watt—As I understand it, Captain Charlton is a reserve officer who came back to do his regular reserve service. If that is what you mean by ‘employ’, then yes.

Senator JOHNSTON—We took him back on full-time reserve service.

Dr Watt—In regular reserve service.

Rear Adm. Griggs—He was on reserve days.

Senator JOHNSTON—We then find out that he had previously been the owner or operator of an airline called SkyAirWorld. We know about that?

Mr Brown—Yes.

Senator JOHNSTON—Tell us about SkyAirWorld and what happened to that.

Mr Brown—I do not know a lot of detail about SkyAirWorld, because we did not specifically investigate that. It went into receivership in the early days of its operation. That is the best that I can tell you at this point.

Dr Watt—A point to make is that Captain Charlton’s past business affairs are not relevant to his reserve status. Nor are they relevant to this 2010 tender.

Senator JOHNSTON—That is where you and I differ and, if I might ask the questions, I think we will establish the basis upon which I am bringing this to the table.

Dr Watt—Just as long as you do not mind if I answer them.

Senator JOHNSTON—Sure. The SkyAirWorld business collapsed in February or March of 2009 owing \$93 million, for which there have been allegations against Captain Charlton of trading whilst insolvent and for which he is to appear in the Insolvency Registry in the next three months on various hearings pertaining to that. The creditors unsecured were, in one instance, for \$2.2 million to the Commonwealth on a Christmas Island contract that he had obtained. Is that correct?

Mr Brown—I do not know the specific details of it. I did not go into a lot of detail.

Senator JOHNSTON—So this was not a subject of your audit?

Mr Brown—No.

Senator JOHNSTON—Because this is not process?

Dr Watt—It was not the subject of our audit because Captain Charlton had no involvement in the 2010 tender.

Senator JOHNSTON—Why did he stand down with respect to worries and concerns about a conflict of interest?

Dr Watt—When he came back to do his reserve days he declared to his senior officer his concern about a potential conflict of interest.

Senator JOHNSTON—What was that?

Dr Watt—He did it in relation to having had—and I will ask Rear Admiral Griggs to confirm this—a previous advisory role with Adagold. The superior officer, quite appropriately, managed Captain Charlton and his contribution to the Joints Movement Group, which does a whole number of things, so he had no involvement in the 2010 tender.

Senator JOHNSTON—He stood down after the tender had been called?

Rear Adm. Griggs—He approached the officer commanding the Joint Movements Control Centre in Brisbane on the day the tenders were released and advised the officer commanding that his employer, Aviation Integration Services, had been approached by members of the standing offer panel to provide technical and regulatory support to the tenders. So he declared that conflict on the day the tenders were released.

Senator JOHNSTON—He had been approached in his private capacity.

Rear Adm. Griggs—He was saying that the company he worked for in his private capacity had been approached.

Senator JOHNSTON—Were the terms of tender identical to the terms of tender of the 2005 contract?

Rear Adm. Griggs—No.

Senator JOHNSTON—They were different terms?

Rear Adm. Griggs—They were.

Senator JOHNSTON—We have a situation where Captain Charlton is working in the same section responsible for this tender.

Rear Adm. Griggs—That is not correct. He was working in a training role and had only been working in a training role from July 2009 right through until he left the following day, when he was moved from JMCO in Brisbane.

Senator JOHNSTON—And he was declaring an interest that he was working for one of the tenderers?

Rear Adm. Griggs—That he was working for a company that had been approached by a number of members of the panel who would likely tender, and he thought that presented a conflict of interest.

Senator JOHNSTON—You are saying that he removed himself from an unrelated area?

Rear Adm. Griggs—The decision that was taken in the headquarters of Joint Movements Group even though he had not been anywhere near the process in the lead-up to it—

Senator JOHNSTON—To the best of your knowledge.

Mr Brown—We have a signed affidavit from him confirming that.

Senator JOHNSTON—I am sure you do, and I am interested to know why you have that signed affidavit, but we will come to that in a moment. To the best of your knowledge, he was not involved in any shape or form?

Rear Adm. Griggs—That is correct.

Senator JOHNSTON—When did we decide to get the affidavit?

Mr Brown—That was towards the end of the review that I undertook.

Senator JOHNSTON—And we got a record of interview?

Mr Brown—That is correct.

Senator JOHNSTON—Why did we do that?

Dr Watt—We took a record of interview of everyone.

Senator JOHNSTON—Why did we get a signed affidavit? Do we get a signed affidavit of everyone?

Mr Brown—We got a signed affidavit also from Mr Clark from Adagold.

Senator JOHNSTON—Are those available to the committee?

Mr Brown—Yes.

Dr Watt—Subject to my taking legal advice, I cannot see any reason why we cannot table them. I will take legal advice from the head of Defence Legal.

Senator JOHNSTON—Are you aware of how much remuneration Captain Charlton has received from Adagold?

Mr Brown—No, I am not.

Senator JOHNSTON—Would you not think that is a fairly important consideration?

Mr Brown—No.

Senator JOHNSTON—As to when he was paid and for what he was paid for.

Mr Brown—I was reviewing the process, rather than the details of individuals.

Senator JOHNSTON—Forgive me. I forgot. You were reviewing the process.

Dr Watt—The answer to your question is, no. Captain Charlton had nothing to do with the tender.

Senator JOHNSTON—That is what the process has disclosed. He has had nothing to do with the tender except he has attacked the existing tenderer on public television. I think that is having something to do with the tender, with great respect.

Dr Watt—With great respect, I disagree with you.

Senator JOHNSTON—I am sure you do. Is he not an ongoing consultant with Adagold?

Mr Brown—He consults through AIS, which is contracted to Adagold as the principal.

Senator JOHNSTON—In Europe?

Mr Brown—He had done work for them in the tender for the Danish air movements contract, yes.

Senator JOHNSTON—He has a longstanding commercial relationship with this particular tenderer?

Mr Brown—Just a point of clarification—the relationship is with AIS and he contracts through AIS, so the relationship, I think—

Senator JOHNSTON—Is indirect?

Mr Brown—is indirect.

Senator JOHNSTON—But it is a relationship, nevertheless.

Dr Watt—The only relationship that you are postulating is a relationship as a member of an entity that provides advice to the aviation industry, and I am sure that it is more than just one firm. The important thing to remember is that Captain Charlton was not in the role to make decisions on this tender.

Senator JOHNSTON—That is what he has told you.

Dr Watt—No, that is what we know from the decision makers on the tender.

Senator JOHNSTON—We have Captain Charlton, who has been part of a police brief going back to 2005, declaring that he has a conflict of interest.

Dr Watt—No. Let us again be perfectly clear. When he declared the conflict of interest there was no suggestion of a police brief in 2005.

Senator JOHNSTON—But there is now.

Dr Watt—There is now and that is after the event.

Senator JOHNSTON—You are aware, in making the decision with respect to the award of this contract, of all of those matters? There is nothing that has come to your attention as of minutes ago?

Dr Watt—Not so far, no.

Senator JOHNSTON—You made the reference to the police long before you determined to go forward with the contract.

Dr Watt—We made the reference to the police when we became aware of the information. That was the relevant factor, not anything else.

Senator JOHNSTON—Where is Captain Charlton?

Dr Watt—I have no idea.

Senator JOHNSTON—Are you aware that he is due to appear in court shortly?

Dr Watt—You have informed us of that.

Senator JOHNSTON—Were you not aware of that?

Dr Watt—I am not Captain Charlton's keeper.

Senator JOHNSTON—Let us talk about Adagold. In 2006 there was a commonality of one particular director. Adagold South Africa and Adajet in South Africa had Mr Warren Clark—is it?—who is the current managing director of Adagold and was also in 2006 a

director of Adagold South Africa and a little company called Adajet, which was a subsidiary. Is that correct?

Mr Brown—No. What transpired in South Africa was that Mr Clark did go over and establish Adagold, but in April 2006 he left South Africa and in February 2007 he notified the other directors of Adagold South Africa that he would stand down as a director. That was not lodged with the authorities there, through no fault of his own—and we did get a copy of the notification to confirm the date of 28 February that he had given notice. Part of his departure from South Africa was the requirement that the company change its name from Adagold to Adajet. In other words, he ceased to give permission for the name Adagold to be used in South Africa.

Senator JOHNSTON—That does not conflict with anything I have put to you. He was a director in 2006 of Adagold South Africa.

Mr Brown—Correct.

Dr Watt—Until April 2007.

Senator JOHNSTON—No. He only ceased publicly to be a director on 5 September 2007.

Mr Brown—The issue was that one of the other directors failed to notify the authorities that he had ceased to be a director. The interesting thing, at that same time, was that there was a new director appointed on the same day that he submitted his resignation, which was back in February 2007. Whilst that is not absolute, it does give a degree of confirmation that he was standing down as a director, because they appointed a new director the same day.

Senator JOHNSTON—In 2006 Adajet, formerly Adagold, as you corrected me, had some problems in South Africa with respect to government tenders, did it not?

Mr Brown—There were some issues raised in relation to tenders, yes.

Senator JOHNSTON—Can you please tell us what those issues were, because this is a very important contract moving our troops from Australia to MEAO. I would like to know about Adagold.

Mr Brown—I will just preface this by saying that we did not do a detailed investigation of what transpired in South Africa, because the Danish military had done an investigation.

Senator JOHNSTON—Do you have their report?

Mr Brown—No. I spoke to a member of the Defence Force who was involved in the contracts from the Danish government, and I have a record of that conversation.

Senator JOHNSTON—So, you only had telephone discussions?

Mr Brown—I had a telephone conversation with her, yes.

Senator JOHNSTON—Do you want to tell me something else?

Dr Watt—No, you can keep going. I was just encouraging Mr Brown to look at some material that I think he might have with him.

Senator JOHNSTON—You did not make any direct inquiries into the conduct of Adagold in South Africa in 2006 when the current proprietor of Adagold was a director of that company and it was in fact a company that he had established? You did not look at that?

Mr Brown—There were some allegations made. We made some inquiries, but I would point out that he had ceased to be a director at the time that we were doing our review.

Senator JOHNSTON—That is right. In 2006, when the allegations were current, and when the events the subject of the allegations were current, he was a director.

Mr Brown—Correct.

Senator JOHNSTON—What were the allegations? Why did you ring the Danes? What did you want to know about?

Mr Brown—There was commentary made that they had been barred by the South African Defence Force and there had been legal action against them.

Senator JOHNSTON—'They' being?

Mr Brown—'They' being Adagold South Africa. But that was subsequently investigated and all charges against them were found to be unfounded. There were no formal or subsequent charges made.

Senator JOHNSTON—Who told you that?

Mr Brown—We got that from the public domain. I also had the high commission in South Africa follow that up for me from what they could get from the public domain. There was nothing to suggest, and there was no indication, that any of the allegations had been subsequently confirmed. So all charges were subsequently dropped.

Senator JOHNSTON—Are you aware of media reports and in fact action taken by the South African government in 2006 with respect to personnel involved with Adagold?

Mr Brown—Not specifically, no.

Senator JOHNSTON—No? Well, let me tell you. I am reading from a particular media report:

Defence contractors believe the shake-up is linked to the flights and possibly wider tender-rigging. Three suppliers interviewed by the M&G—

that is the media outlet—

said there was widespread unhappiness about tender processes—particularly, but not solely, for lucrative air charter services.

The vast majority of these flights are conducted by Adajet Aviation (formerly Adagold), a Johannesburg firm with Australian roots controlled by former African National Congress intelligence operative Lawrence Pietersen and his business partner Shaun Roseveare.

This is not the first time they have been embroiled in controversy over defence department tenders.

They fought a prolonged legal battle with rival firm Dewina, which alleged in 2006 that they had won a R25-million ration-pack tender after Masilela exerted improper influence on Ramfolo—

who are both senior defence public servants—

an allegation both men denied.

But the Pretoria High Court agreed the process had been manipulated and ordered the tender frozen.

Later that year it emerged that Adagold had won a department tender to fly ballot papers for the DRC's first post-war election—

that is the Democratic Republic of Congo—

despite charging R20-million more than rival cargo operators.

Immense sums are involved. Between January 2005 and July 2006—

a time you acknowledge is when the current director of Adagold was a director of Adagold South Africa—

Adagold charged R170-million for flights to destinations including Bujumbura, El Fashir, the Comores ... according to department figures.

During this period it was awarded 81% of all flights on offer. More recently, say competitors, its share has climbed close to 100%.

Under the system for awarding flights, operators are asked to tender and those that qualify are shortlisted. They are then asked to bid on groups of flights, with the contracts ostensibly awarded to the lowest bidder.

Department figures show that Adagold has regularly been awarded contracts despite charging higher overall prices. Rival firms ascribe this to manipulation of the tender criteria.

Have you read the Pretoria High Court case?

Mr Brown—No, I have not.

Senator JOHNSTON—You have known about this for some time.

Dr Watt—There is a bit more to this than you have alluded to. I would like Mr Brown to pick up a couple of points in your answer and then I might pick up one or two.

Mr Brown—Basically, from the information that we were able to gather from the public domain in relation to the Democratic Republic of Congo issues, press reports from December 2008 indicate that following a combination of internal and external inquiries the South African Defence Department announced there were no grounds for concluding that the tenders were improperly awarded to Adagold. Then, specifically in relation to the other issue, which was to do with a company called Ibhubesi that was managed by one of the other directors, the conclusions were:

However, Ibhubesi was not found guilty of corruption and so there were no grounds for any such sanctions to be imposed.

Dr Watt—I would just make one further point, and this comes out of South African media, which seems to be the same source as you have. The South African inspector general, the Auditor General and an independent investigative firm could find no irregularity in relation to contracts won in South Africa between 2004 and 2006. What you might just be describing in terms of Adagold's tender success is a firm that actually has a pretty effective business model, quite a commercial business model and one that is aboveboard.

Senator JOHNSTON—Are you aware of the balance sheet?

Dr Watt—We are aware of the balance sheet. We are happy to have that discussion with you.

Senator JOHNSTON—What are their net assets?

Mr Brown—I do not have the specific details of the balance sheet.

Senator JOHNSTON—How many aircraft do they own?

Mr Brown—They do not own any aircraft. They are a charter company that basically tenders and then gets the aircraft through another supplier.

Senator JOHNSTON—Does it own any property?

Mr Brown—Again, I am not fully aware of the full details of the balance sheet.

Dr Watt—I think the point to make here is this: Adagold is not Qantas. It has never implied that it was Qantas. It is a charter company. It works in a different fashion. What you do when you have a firm with a limited balance sheet—it does not have Qantas's balance sheet—is to put other arrangements in place, and that is what we will do with this tender, should we proceed with the preferred tender. Again, I will get Mr Brown to mention those to you.

Mr Brown—We have established a tripartite agreement with a step-through arrangement that, should Adagold go into financial difficulties, Defence has the right to step through and take over the contract and contract directly with Hi Fly, the actual aircraft owner. We have also got a security guarantee as well.

Senator JOHNSTON—Are you aware that, 56 of 57 contracts in the last two years, Adagold has secured 52?

Dr Watt—Fifty-six of 57 contracts for what?

Senator JOHNSTON—For charter work from the Department of Immigration and Citizenship, PM&C and Defence.

Dr Watt—In relation to charter work for the Department of Immigration and Citizenship, we are not the responsible agency and I suggest you direct your questions to DIAC.

Senator JOHNSTON—Well, let us just pause there.

Dr Watt—Let me finish. DIAC does its own chartering arrangements. Since July it has drawn on our standing offer panel but it has done no more than that. Defence has no direct involvement—indeed, no involvement.

Senator JOHNSTON—Prior to July Defence had no involvement whatsoever with DIAC contracting for their charters?

Dr Watt—None that I am aware of, having discussed that with both Defence and DIAC.

Senator JOHNSTON—Good. What about PM&C?

Dr Watt—We do have some involvement with PM&C. I might get Air Marshal Binskin to talk a little about what involvement we have.

Senator JOHNSTON—I will come back to him on that in a minute. I just want to come back to the point about Adagold's aircraft. They are in fact a broker, are they not?

Mr Brown—That is correct.

Senator JOHNSTON—How much is Adagold Pty Ltd's asset backing?

Mr Brown—Again, I am not fully aware of their balance sheet.

Dr Watt—We can get that information for you. You would not expect us to have it sitting here.

Senator JOHNSTON—But you have taken specific measures, have you not?

Dr Watt—Yes, we have, and I mentioned them in my letter to you and I think there is a bit more that we can say. Mr Brown will tell you what they are.

Senator JOHNSTON—A performance guarantee?

Mr Brown—Yes, and a tripartite agreement as well, and we have also sought to do an investigation on Hi Fly to review its balance sheet.

Senator JOHNSTON—This is the Hi Fly that Mr Albanese, the current transport minister, complained had a non-compliant and noisy aircraft—is that correct?

Mr Brown—I am sorry. Would you ask the question again?

Senator JOHNSTON—This is the Hi Fly that was the subject of a complaint by Mr Albanese some years ago with respect to breaches of noise parameters—are you aware of that?

Mr Brown—I am not aware, but I can advise that the Hi Fly aircraft are subject to the same sorts of regulations as a plane in Australia through CASA. I would also suggest that a ramp review done by CASA and then also by the ADF have found their aircraft to be compliant.

Senator JOHNSTON—Do they hold an RPT operator's certificate?

Mr Brown—I am not really good on acronyms; I am sorry.

Senator JOHNSTON—A regular public transport operator's certificate.

Mr Brown—In Australia at this point in time, no, they do not, and that will be applied for should Adagold win the tender and that will be part of the process of positioning the aircraft here.

Senator JOHNSTON—As of now, they are not legally able to fulfil the terms of the contract?

Rear Adm. Griggs—They are currently awaiting a reissue of their CASA foreign AOC—air operating certificate.

Senator JOHNSTON—Who is 'they'?

Rear Adm. Griggs—Hi Fly. That is expected on 20 October.

Senator JOHNSTON—How many Australian employees does Adagold have?

Mr Brown—I am not sure of the specific details of their employment. I do not know any.

Senator JOHNSTON—Do we not give any consideration as to whether they are an Australian company?

Dr Watt—No, we do not, and we do not under this country's long foreign trade arrangements.

Senator JOHNSTON—That is good, I am sure.

Dr Watt—It is about value for money.

Senator JOHNSTON—We will come back to that in a minute. How much infrastructure does this company have in the MEAO?

Mr Brown—I am sorry—how much does Adagold have in the MEAO?

Senator JOHNSTON—If the contract is to provide loading and unloading facilities at Al Minhad, what do they have there?

Mr Brown—They have not been awarded the contract yet, so—

Senator JOHNSTON—But they are going to be, are they not?

Mr Brown—We have not awarded it yet.

Senator JOHNSTON—I think we are at the point where—

Dr Watt—They are the preferred tenderer, nothing more. I might ask Rear Admiral Griggs to answer this, but I think the point is that you do not necessarily need a lot of infrastructure in the MEAO to do the job.

Rear Adm. Griggs—It is basically ground handling equipment and, without going into the details of the tender, there are arrangements in place.

Senator JOHNSTON—They will have access and have purchased and have the cash to buy a main deck loader worth \$750,000; eight pallet dollies worth \$100,000 each; one forklift at \$25,000; one ground power unit at \$200,000; one belt loader at \$25,000; and two tugs at \$60,000 each. They have all of that, have they?

Rear Adm. Griggs—I do not know the exact way in which they are going to achieve that.

Senator JOHNSTON—I think that is pretty important when we are granting a tender, is it not?

Mr Brown—I think you may also find that there would be opportunities to lease rather than outright purchase, in fact.

Senator JOHNSTON—What are they doing? We are going to give them the job. What are they doing? Tell me.

Mr Brown—Once they have the contract in place they would make all necessary arrangements to fulfil the terms of the contract.

Senator JOHNSTON—What have they told you they are going to do?

Dr Watt—That is one we might have to take on notice. I am sure we can get you a quick answer.

Senator JOHNSTON—There just seems to be a loose end here. Correct me if I am wrong. I am just trying to dot the i's and cross the t's here.

Dr Watt—We appreciate that. I think that in terms of a loose end the answer is this: the terms and conditions of the tender made clear that it required handling arrangements in the MEAO. You would be very surprised if a tenderer did not have a plan to acquire or already have those handling arrangements. The fact that I do not have them here and now does not necessarily mean there is a problem.

Senator JOHNSTON—Have we asked about them?

Dr Watt—We will certainly ask about it.

Senator JOHNSTON—But we have not asked to this point?

Dr Watt—I am sure it would have been asked about as part of the tender evaluation.

Senator JOHNSTON—Can someone tell me about it?

Rear Adm. Griggs—My understanding is that we have had that discussion with them.

Senator JOHNSTON—What is the plan?

Dr Watt—We will find that out for you.

Senator JOHNSTON—Let us deal with the second part of the contract. We have now split this contract, so we have the flights out of Australia to Al Minhad and then we have the flights into theatre. Who is doing that leg of the journey?

Dr Watt—The RAAF; they have always done it.

Senator JOHNSTON—So there has never been any use of a private contractor to tack on to the end of the strategic contractor?

Air Chief Marshal Houston—We have exclusively used the RAAF or other military coalition providers.

Senator JOHNSTON—There has been no contractor taking Australian gear into—

Rear Adm. Griggs—There is a contract for an L100 civilian Hercules equivalent, which is used for intra-theatre work.

Senator JOHNSTON—It is an American company. What is its name?

Rear Adm. Griggs—I am not sure of the company's name, but I can get that for you.

Senator JOHNSTON—Is it National Air Service or National—

Rear Adm. Griggs—That sounds familiar.

Senator JOHNSTON—Who is picking up the slack of that particular aspect of the contract? How are we dealing with that?

Rear Adm. Griggs—I am sorry—can you rephrase that?

Senator JOHNSTON—With respect to the current contract, the current contractor moves the gear through that private US contractor using the C130—is that correct?

Rear Adm. Griggs—No. The current contractor uses their own aircraft and also has an arrangement for additional freight, about three pallets a week, which goes by another commercial airline into the theatre.

Senator JOHNSTON—What is the commercial airline?

Rear Adm. Griggs—Etihad.

Senator JOHNSTON—Into Afghanistan?

Rear Adm. Griggs—No, it goes into the UAE and then it is moved across to—

Senator JOHNSTON—That is the other part of the strategic contract.

Rear Adm. Griggs—That is correct.

Senator JOHNSTON—I am talking about the contract from Al Minhad into Kandahar or Tarin Kowt.

Rear Adm. Griggs—The vast majority of that is done, as the CDF indicated, by our C130s and occasionally C17, and the remainder is done by the L100.

Senator JOHNSTON—Who is responsible for contracting the L100?

Rear Adm. Griggs—The L100 contract is managed by Joint Movements Group.

Senator JOHNSTON—Strategic has nothing to do with it?

Rear Adm. Griggs—Not as far as I am aware.

Senator JOHNSTON—Let us go back to this—

Dr Watt—So, the responsibility stops in Al Minhad.

Senator JOHNSTON—Are they on contract through Joint Movements Group?

Rear Adm. Griggs—The L100?

Senator JOHNSTON—Yes.

Rear Adm. Griggs—That is my understanding.

Senator JOHNSTON—When does that expire?

Rear Adm. Griggs—I would have to get that for you.

Senator JOHNSTON—Yes, I think it is soon. 'Seek a performance guarantee from the preferred tenderer'. Who has drawn the performance guarantee and who is giving it?

Mr Brown—The performance guarantee is being provided by Adagold Pty Ltd but, as to who is actually underwriting that, I have not seen the physical document. I am aware of the fact that it has been a requirement of the contract if the contract is to proceed to signing.

Senator JOHNSTON—This is very important: that 'a performance guarantee is given by an entity or person of substance'. Please tell me we have someone giving the performance guarantee that is of substance.

Mr Brown—I will get the actual details of the provider of the performance guarantee for you, because I do not have the specific details here.

Senator JOHNSTON—It is not a directors guarantee?

Mr Brown—It is an independent performance guarantee and I will get all the details to you as soon as I can.

Senator JOHNSTON—You have asked this contractor or, should I say, the CEO of this company to provide a statutory declaration. Is the committee entitled to see the statutory declaration and the representations and promises that have been made?

Mr Brown—That was the affidavit that was the record of interview as distinct from a stat. dec.

Senator JOHNSTON—I am told it is a statutory declaration—bottom of page 3.

Mr Brown—It is an affidavit, sorry, as distinct from a stat. dec.

Senator JOHNSTON—Correct me if I am wrong, but affidavits usually require some—

Dr Watt—We just need to confirm this.

Senator JOHNSTON—It should technically be a statutory declaration.

Dr Watt—Just give us 10 seconds.

Mr Brown—Yes, you are correct; it is a stat. dec. I have been calling it an affidavit.

Senator JOHNSTON—All of the other material you have obtained from Mr Charlton and others is a statutory declaration?

Dr Watt—Again, subject to taking legal advice, I will be happy to provide the material to the Senate committee.

Senator JOHNSTON—You are proposing a term to enable the Commonwealth to protect itself with respect to new key personnel.

Mr Brown—That is correct.

Senator JOHNSTON—These three terms that you have mentioned do not strike me as being ordinary commercial terms.

Mr Brown—One of the benefits of the reviews that we have done is that we have been able to strengthen the contract to give greater security to the Commonwealth. One of those additional requirements is the terms in relation to any new people and, again, that has just provided a stronger contract and greater assurance to the Commonwealth.

Senator JOHNSTON—Why is that needed? Why do we need to strengthen the contract?

Mr Brown—It is to provide us with the best possible protection in the unlikely event of something occurring during the course of the contract.

Senator JOHNSTON—With great respect, we obviously have some worries.

Dr Watt—With respect, I do not think your premise is correct about these hardly being commercial terms. I would like clarification from Mr Lewis, who knows a great deal more about ordinary commercial terms than the Commonwealth insists from people who supply it goods and services. Mr Lewis is head of our Defence Support Group.

Mr Lewis—Provision of performance guarantees is not unusual in relation to a range of commercial contracts that I have been involved in in the past. In fact, I can recall some tenders where we have actually provided samples of what performance guarantees might look like in circumstances where we thought that was appropriate to the tender process. I am thinking more broadly across the Commonwealth here, in particular my former roles in the finance department.

Senator JOHNSTON—In this instance who is giving the performance guarantee?

Mr Lewis—I am afraid I do not have that detail.

Dr Watt—We promise to get you that detail.

Senator JOHNSTON—Are you, Mr Lewis, familiar with the parties involved in this contract?

Mr Lewis—No.

Senator JOHNSTON—Sorry, let me correct that: the parties who are prospectively involved in this contract—that is, Adagold Pty Ltd.

Mr Lewis—Still no.

Dr Watt—Mr Lewis is familiar with what is normal for Commonwealth commercial terms. He has spent a long time doing this at the Department of Finance.

Senator JOHNSTON—Mr Lewis, when you get a performance guarantee do you look behind the entity or person giving the performance guarantee?

Mr Lewis—Certainly.

Senator JOHNSTON—What do you look for?

Mr Lewis—You are looking for a party of substance so that the performance guarantee has worth.

Senator JOHNSTON—In this instance, are you aware of the value of this contract and the loss to the Commonwealth were it to be repudiated? Because the next question after that is: what is the size of the performance guarantee you are anticipating? Is there a cap?

Mr Lewis—Again, I do not have those details.

Dr Watt—Mr Brown can help you with that.

Mr Brown—The value of the performance guarantee is \$2 million, and it was assessed on the basis that that would cover the cost during the period to get another short-term contract in place in the event of that contract falling over.

Senator JOHNSTON—Thank you for that. So, we are looking for a company, entity or person that has unencumbered assets of \$2 million. How do we propose to preserve those assets of the person or entity giving us the performance guarantee?

Mr Brown—I would make a determination on that once we confirm who is actually the entity behind the guarantee.

Dr Watt—Here is the point: if they were unable to give the guarantee they would have a serious problem, would they not?

Senator JOHNSTON—All I am worried about is that they might be able to give the guarantee and then the assets that are the subject of that guarantee evaporate.

Dr Watt—And if they were not able to keep the guarantee they would also have a potentially serious problem.

Senator JOHNSTON—How do we propose to safeguard the assets?

Dr Watt—We will find out for you.

Senator JOHNSTON—Good. I am surprised we do not know that. Do we normally ask for a statutory declaration from a preferred tenderer?

Mr Brown—Having not been involved in a tender previously with Defence I am not in a position to say that, but in my previous life where I had some exposure to contracts it would not be unusual to get a performance guarantee.

Dr Watt—Mr Brown might tell you what his previous life was.

Senator JOHNSTON—I am sure he has got—

Dr Watt—It is quite relevant.

Mr Brown—My previous employer was Macquarie Bank. I was a fund manager for Macquarie up in Abu Dhabi. We had a fund up there that was building industrial estates, and we obtained performance guarantees from the construction contractor for the construction of those industrial estates. And, yes, we did obtain performance guarantees that were backed up by one of the local banks in Abu Dhabi.

Senator JOHNSTON—So, a security document from the local bank?

Mr Brown—Yes.

Senator JOHNSTON—Tell me about this tripartite deed between the Commonwealth, Adagold and HighFly.

Mr Brown—The very specific details of it I cannot get into, but it does provide step-through rights for us in the event of Adagold failing to deliver on the contract, which means then we can actually take over the contract and have the aircraft supplied directly to Defence and bypass Adagold.

Senator JOHNSTON—Is Adagold the same company that used to operate the Ilyushin II-76 that the defence department had previously used to move into the MEAO?

Rear Adm. Griggs—That is my understanding.

Senator JOHNSTON—Was there not a problem with that?

Rear Adm. Griggs—I know that it was re-engined from a noise perspective.

Dr Watt—I think the CDF can answer that.

Air Chief Marshal Houston—I can answer that. When I was Chief of Air Force we had a look at the operation of the aircraft of the Soviet era and we had concerns about their airworthiness. I put out a directive that no Australian people were to travel on those aircraft. You might remember this followed a number of—

Senator JOHNSTON—I vaguely remember it.

Air Chief Marshal Houston—aircraft accidents that involved Ilyushin II-76s.

Senator JOHNSTON—This was an Adagold aircraft?

Air Chief Marshal Houston—I could not be sure about that. All I know was the problem related to a concern about the age and airworthiness of the platform for carrying passengers.

Senator JOHNSTON—I think it is important.

Dr Watt—I think I heard the CDF say the concern was about the class of aircraft rather than anything else.

Air Chief Marshal Houston—Airworthiness.

Dr Watt—Airworthiness of a class of aircraft.

Senator JOHNSTON—The contractor is obviously responsible for the airworthiness of the aircraft, may I suggest?

Air Chief Marshal Houston—That is right.

Senator JOHNSTON—Given that we have an alarm bell in that regard, I am interested to know: have we looked at what happened with respect to the Ilyushin II-76 and how we had to terminate flights with Australian personnel?

Dr Watt—As the CDF said, what happened was concern about the class of a platform. It was not concern, as I understand it, that was based—forgive me if I am wrong—generically on the Adagold class of platform. Adagold's current aircraft that they would propose to use I do not believe has any such concerns.

Rear Adm. Griggs—No, it is an A340.

Senator JOHNSTON—The A340 leased from France?

Rear Adm. Griggs—HighFly owns a number of aircraft. I am not sure whether this is one that they own or one that they are leasing.

Senator JOHNSTON—Is it not important to us that we know the identification of the aircraft, how old it is and its service record?

Rear Adm. Griggs—We do have that information. We can provide that.

Dr Watt—But unless the aircraft is airworthy it will not be flown in.

Senator JOHNSTON—It does not have an RPT at the moment and it is still getting one. You are telling me that it is a leased aircraft through HighFly. There seem to be so many different houses of cards here. It is of concern.

Dr Watt—I think the difference we have is that we do not see the houses of cards quite as you do.

Senator JOHNSTON—No, I think that is very clear and obvious.

Air Chief Marshal Houston—I might get the Chief of Air Force to speak to this, but since that experience back in 2001-02, when I put my directive out as the airworthiness authority, as Chief of Air Force, we have had a very strict airworthiness policy. I might get the Chief of Air Force to describe it to you, because there is no house of cards when it comes to the airworthiness of the platforms that are being flown at the moment. We have very stringent airworthiness requirements. I would invite the Chief of Air Force to inform you if that would be helpful.

Senator JOHNSTON—Do we know about this A340?

Air Marshal Binskin—As the Chief of Defence Force said, as the defence airworthiness authority and having the airworthiness coordination and policy agency working for me, for any contract that we do with civilian operators we have a very robust auditing system to make sure that that aircraft is airworthy, because we have a duty of care for our people here. When this contract is awarded we will go in and do a ramp check and a full documentation check to make sure the aircraft meets the airworthiness standards that we require to transport our people.

Senator JOHNSTON—Do we do that after the contract has been signed?

Air Marshal Binskin—We will do it once the contract is awarded.

Senator JOHNSTON—So, we do not know what the aircraft technically is in terms of its airworthiness, yet we are prepared to contract it?

Air Marshal Binskin—We know they have bid an A340 aircraft, which are fairly modern aircraft. They are not in the aircraft of concern category, which is the ex-Soviet aircraft that are around the place. So, we are relatively confident up-front that it will be an airworthy aircraft and the operator will meet all the standards that we require. If you like I can list everything they go through for that.

Senator JOHNSTON—You know the point I am making?

Air Marshal Binskin—I know the point you are making, but I think you are heading down the wrong path.

Senator JOHNSTON—You and I will disagree on that then. Can I go back to the secretary.

Dr Watt—I think Mr Brown has a piece of relevant information.

Mr Brown—I have not raised it because I am not aware of the specific details of the plane, but we are aware of them because it is part of the tender process to provide that information. Once the tender is awarded we will have to get all the diplomatic clearances, and you need what they call the tail number, the registration details. We can certainly provide you the details of those aircraft after the hearing.

Air Marshal Binskin—To add to it, we do provide all advice on what is required to Joint Movements Group as they go through the tendering process.

Senator JOHNSTON—I have only two more questions, Chair, which you will be pleased about. You said to me in correspondence, Secretary, that ‘Deloitte and the AGS had identified some shortcomings in some of the tender evaluation documentation’. What were those shortcomings?

Dr Watt—I might get Mr Brown to speak to that.

Mr Brown—There were some issues in terms of the process in terms of the amount of documentation that was being recorded to support decisions that were taken by the group. Like all processes—if I may be a little light—no-one is perfect in this world and so there are always opportunities to improve the way we do things, just with the benefit of time, additional information and knowledge. What we have found through this process and what Deloitte have identified was that there were ways that we could have more thoroughly documented some of the decisions and some of the activities that were undertaken, but at no point—and I will reiterate that—at no point would any of those issues have impacted on the decision to appoint Adagold or compromise the process that was being followed.

Dr Watt—That is an important conclusion, that both AGS and Deloitte found that.

Senator JOHNSTON—What is the annual saving that we are looking at with respect to the difference between Strategic and Adagold? Is that commercial-in-confidence?

Dr Watt—That is something we are not able to give you in this forum and also, of course, we do not have the preferred tenderer in contract. We would be happy, again subject to what legal advice I take, to talk to you once that is done.

Senator JOHNSTON—Thank you, I have no further questions.

CHAIR—Are there further issues arising out of opening statements by CDF and the secretary? There being none.

Air Chief Marshal Houston—Just before we go in, can I read some responses into the record?

CHAIR—Yes.

Air Chief Marshal Houston—Senator Ludlam asked: is the Australian government currently reviewing the WikiLeaks documents? The answer to that question is the Defence review of Wikileaks documents relating to Afghanistan released in July was completed in August, at which point the then-minister for Defence, Senator Faulkner, was informed of the findings. Under caretaker provisions, Senator Faulkner also provided those findings to Senator Johnston, as opposition spokesperson for Defence. Following the review of the documents, the ADF undertook work to investigate whether the information released by Wikileaks could affect our deployed forces. The task force findings will be made public once the review is finalised.

Wikileaks is also reported to be planning the release of around 409,000 documents relating to Iraq. The secretary and I have requested that the Defence task force also examine these documents, if and when they are released. At this time, however, Wikileaks has not published the transcript documents relating to Iraq.

In response to the question from Senator Johnston, which asked the following: ‘Are there any other current investigations in terms of civilian deaths in Afghanistan?’, the answer is that there are currently three cases involving the deaths of Afghan nationals subject to departmental action. The first case was 12 February 2009. We discussed that extensively this morning and I do not think that I need to add to that at this stage.

The second case relates to 23 August 2010 and this involves an incident which resulted in the death of an Afghan national. The brief facts of this incident are that on the evening of 23 August 2010 a partnered reconnaissance patrol involving members of an Afghan national army provincial response company and members of a special operations task group was being undertaken. A local national male approached the patrol and as this individual closed with the patrol he was challenged on two occasions to stop in the local Pashto language. The individual raised his weapon in a threatening manner towards the patrol and the patrol responded, engaging the individual with lethal force, killing him. Allegedly following the incident a light machine gun was retrieved from the deceased.

Defence has completed an internal assessment of the incident in order to determine whether the soldiers involved have adhered to their rules of engagement. Defence has undertaken an initial assessment of the incident. The review determined that the ADF soldiers acted lawfully, in self-defence, in responding to the threat posed by this individual. The results of the review have been thoroughly scrutinised and we are satisfied with the outcome. In accordance with

our policy of transparency, the only remaining step in the process is for a media release on this incident to occur. We are in the process of undertaking this action.

A third incident, which occurred on 30 April 2009, is being re-examined in light of some additional information coming to light. The incident involved the shooting of an Afghan local national who approached an MRTF checkpoint and was thought to be carrying an IED. Further information has resulted in this case being referred for further review. The review is still being undertaken and I am not in a position to say anything more about the matter at this stage.

Finally, there is the issue that Senator Trood raised about private security companies. We welcome the Afghan Ministry of Interior announcement of 17 October clarifying President Khazai's decree regarding the dissolution process for private security companies. The Afghan government has confirmed that private security companies will be allowed to continue their work guarding embassies and foreign diplomats, and protecting international military bases and weapons depots. Some details remain to be addressed, including how the decree will impact the international communities' development and reconstruction assistance.

I think that basically covers it.

CHAIR—Thank you. We have now completed opening statements, so we are turning to portfolio overview and budget summary. Senators Trood and Johnston indicated that they wanted to raise the strategic reform program and HMAS *Success* inquiry costs. Senator Johnston.

Senator JOHNSTON—For SRP we have \$790 million.

Dr Watt—In cost reductions.

Senator JOHNSTON—What does that comprise?

Dr Watt—I will get Mr Sargeant, who is responsible for this particular area, to do most of the talking.

Mr Sargeant—I did not hear the question.

Senator JOHNSTON—I think the secretary mentioned the figure of \$797 million in 2009-10. Can you tell us where that has come from?

Mr Sargeant—We achieved \$94 million in ICT.

Senator JOHNSTON—Where?

Dr Watt—In the information and communication technology.

Senator JOHNSTON—How did we achieve that?

Mr Sargeant—We consolidated some computing contracts into a single contract with Fujitsu which rationalised a lot of the delivery of Defence's central ICT services, desk services, fixed mobiles and mobile telephony services desks.

Senator JOHNSTON—Across which departments?

Mr Sargeant—In Defence.

Senator JOHNSTON—Which bits of Defence?

Mr Sargeant—All of Defence. It is the Defence administrative computing.

Senator JOHNSTON—That was \$94 million just doing that?

Mr Sargeant—That was one of the things. We also consolidated multiple contracts for terrestrial communication services into one new contract with a company called Dimension Data. This contract provides more responsive and flexible contracting arrangements with industry and greater vendor accountability through rationalisation of contract supplies. Essentially, the reform at this stage is to consolidate ICT contracts and to get the efficiencies from that contract consolidation.

Senator JOHNSTON—So \$94 million for ICT?

Mr Sargeant—Yes.

Senator JOHNSTON—Next?

Mr Sargeant—We achieved \$460 million for Smart Sustainment for this year.

Senator JOHNSTON—We need to have a look at exactly what you did there. Did you say \$496 million?

Mr Sargeant—\$460 million. That came out of a whole lot of things. This year we undertook a number of end-to-end reviews of various capabilities: C130s; B vehicles, that is Army's non-combat vehicle fleet; over-the-horizon radar and Mine Hunter Coastal. The cost reductions came from various sources, from controlling equipment sustainment costs through initiatives that include refurbishing rather than replacing equipment; disposing of obsolete stock; using standard offers and prime vendor arrangements, so being clever about some of the contracting arrangements; and taking advantages of economies of scale, so pumping up various activities.

Senator JOHNSTON—Let us go with the first of those. You mentioned mine hunters and non-combat vehicles. What was the first one?

Mr Sargeant—What I was talking about was what we have done this year. We have done a number of studies into end-to-end management of capability with a view to looking at how that might be done more efficiently and effectively in the future. Those studies are still maturing and coming to finality.

Dr Watt—We have Dr Gumley who could talk to you at more length about these, if you like.

Senator JOHNSTON—I am interested to know exactly how we saved the money. You gave me about five different things. One was cars; one was mine hunters and one was something else. I am interested to know exactly what we did in each of those areas.

Dr Gumley—You might recall in previous hearings about two years ago that we looked at the efficiency of the Defence industry and we worked out that we could take about a five per cent saving right through the industry by more appropriate contracting methods. In 2008-09, which led the SRP by a year, we achieved \$230 million of savings accordingly, and we did about \$260 to \$263 million in the financial year just finished. They are what I would regard as taking excessive fat out of industry. There were some practices right across the industry that could be improved. We worked on that for two years in a row and now those figures have

been delivered. There has been no diminution of capability because of it. It is just a more commercial way of doing business.

Senator JOHNSTON—Does the \$460 million incorporate 2008-09?

Dr Gumley—No. I am just saying that of the \$460 million about \$263 million was a continuation of the five per cent that we promised government back in February 2008.

Senator JOHNSTON—Where did we get that from?

Dr Gumley—It was just better contracting. DMO does 100,000 contracts a year. We looked at every way we could become more efficient in negotiating with industry. It meant, in times, ordering—as Mr Sargeant said—with more sensible order quantities; making sure that we hit the break points when we are buying things, because as you know most manufacturers have price break points; working hard on getting every bit of benefit out of foreign exchanges. There has been a range of what I call pure commercial work that achieved that \$263 million.

Senator JOHNSTON—So foreign exchange windfalls are incorporated in the \$460 million.

Dr Gumley—Some of it, but you might recall over that period the exchange rate went both ways. We had the dollar at the white paper time start at about 90c and then drop down to the mid-60s and then back again, so there were swings and roundabouts right through that period.

CHAIR—Are you saying that in terms of the savings of the SRP, foreign exchange movements are counted as part of future savings?

Dr Gumley—No, not as part of future savings. On our major acquisition projects, which is not SRP, government gives us no-win, no-loss on foreign exchange. However, when you are buying very small items, the no-win, no-loss provisions do not go to the very small items in sustainment. If you want a spare tyre for something, it does not go to that and you pretty much take the spot prices on the market. Where, over a couple of years, the exchange rate went from 90c back to 60c and back to 90c again, I was saying that there were swings and roundabouts in how we were buying some of our smaller spare parts. What you do with all of your sustainment fleets around the country is make sure that if the importer or the agent is making money on foreign exchange that we get our fair share of that. It is just a normal commercial bargaining, like any mining or infrastructure company would do.

Senator JOHNSTON—We will be here all day, I suspect, but can you give me a clear break-up of what services have been refined, improved in terms of efficiency, to go towards the \$460 million? Where do we get that number from? Can you take that on notice?

Dr Watt—We can take that on notice, remembering there may be some commercial-in-confidence issues, but we will do our best.

Senator JOHNSTON—We have got \$554 million, so we have got about \$240 million to go.

Mr Sargeant—In the non-equipment procurement strand this year we achieved cost reductions of \$343 million.

Senator JOHNSTON—What does non-equipment procurement mean?

Dr Watt—We buy a lot of stuff. This is stuff—

Senator JOHNSTON—I know you do.

Dr Watt—We have talked about stuff.

Senator FAULKNER—It is a technical term.

Dr Watt—We buy a lot of stuff; that is about as precise as I will get. We have our equipment procurement, which is either the major platforms or Dr Gumley's sustainment budget. These are things like our base support services and things like that.

Mr Sargeant—Where we have achieved the cost reductions are reductions in travel. People are travelling less. The cost of an airfare is reducing—

Senator JOHNSTON—Non-equipment is how much?

Mr Sargeant—Three hundred and forty-three million dollars.

Senator JOHNSTON—In excess of our \$790 million—

Mr Sargeant—Yes—we overachieved this year.

Senator JOHNSTON—Where was that? We have got some take-offs, have we?

Dr Watt—We have overachieved, as Mr Sargeant says.

Senator JOHNSTON—Just correct me if I am wrong: \$797 million is actually better than that?

Dr Watt—We have actually done better, but our target was \$797 million. That is why we say we have achieved it, because some of the overachievements may not be sustainable; they are once-offs.

Senator JOHNSTON—What does this comprise?

Mr Sargeant—Reductions in travel. People are travelling less. The cost of an airfare is reducing. There is more use of video conferencing technology. There are reductions in the number of removals. That is as a result of demand. The costs of removal suppliers have been decreased, principally driven by decreased separation rates, so the decreasing separation rates in the ADF are flying through to decreases in removals, which flow through to cost reductions. There are reductions in garrison support—

Senator JOHNSTON—What does 'reductions in garrison support' mean?

Mr Sargeant—Through the better management of garrison support contracts to make them more efficient, to ensure the provision of services on bases is more efficient; we have achieved cost reductions through that.

Dr Watt—We can tell you more about those if you would like.

Senator JOHNSTON—On notice, that would be lovely.

Mr Sargeant—There is a whole range of things tied up in that.

Senator JOHNSTON—So that is non-equipment supplies. What is the next one?

Mr Sargeant—Workforce and Shared Services. The story with Workforce and Shared Services is a bit complicated, but essentially, in terms of planned SRP initiatives, we achieved what we intended to do—that is, conversions of contractors to civilian staff. But there was an

overachievement in service personnel due to decreased retention, which means that we did not achieve the cost reductions in the workforce area that we were looking for this year, so we overachieved by \$130 million.

Senator JOHNSTON—Did you actually save \$130 million or you did not?

Mr Sargeant—We did not.

Senator JOHNSTON—You did not? So you fell short of your ambition by \$134 million?

Mr Sargeant—One hundred and thirty million dollars.

Senator JOHNSTON—So it is negative \$130 million.

CHAIR—Because your retention rates are up?

Dr Watt—Because our retention rates are up. We did the contractor conversions. They worked. They worked very well. But we have been successful with keeping our ADF people in, and of course that has meant that we are actually running above our AFS numbers and we have to fund that.

Mr Sargeant—In the last category there is a whole range of things around budget and financial management, management of minor capital programs and some reductions in known logistics, or some logistics cost reductions. Essentially, as we manage the budget more tightly we are removing some of the contingency that has been put in budgets in the past and that has allowed us to work more efficiently. The money that has been taken out of contingency is one of the savings that we have been able to achieve. The amount in those categories was \$255 million.

Senator JOHNSTON—You actually did save?

Mr Sargeant—Yes.

Dr Watt—There are two points to remember on this. Firstly, our achievements, such as they are, are scrutinised by the Defence Strategic Reform Advisory Board and they are comfortable with what we are doing. Secondly, they have been through our audit committee, the Defence audit review committee and, where relevant, the DMO's Materiel Audit Committee. Both independent chairs of those committees have signed off on the relevant parts of the savings. We are not just interested in just saving money but that we have saved money in a sustainable fashion. You can always save money—you can always save some money—but often the way you do it is not sensible.

Senator JOHNSTON—I am with you on that. In terms of attachment A to the 2009 Strategic Reform Program—which I am sure you are aware of—we have met our disclosed budget?

Mr Sargeant—We have.

Senator JOHNSTON—How far beyond that are we at the end of the day? It is a simple arithmetical calculation of what—

Mr Sargeant—About \$215 million.

Dr Watt—We are happy to have met our target.

Senator JOHNSTON—So you have saved about \$1 billion?

Mr Sargeant—Yes. The only comment I would make on that is that some of the savings achieved this year were savings that we are not likely to achieve in the future because of things like price variation and so on.

Dr Watt—Also, you have heard that we have got a lot of obsolete stock. We are not going to be able to do that to probably the same extent each and every year.

Senator JOHNSTON—Last time we met we talked about the review of allowances and other matters going to service and I think you were in the process of reviewing the allowances and the remote allowances and all of that. What has come of that? What do we have to look forward to in the future in terms of next year's cuts?

Dr Watt—We might involve Mr Minns and Mr Lewis in this.

Mr Minns—We are almost at the point where we would be presenting a proposal to government about how we would approach rationalised allowance structures within some weeks.

Senator JOHNSTON—You are obviously not going to tell me any more than that. I will leave it at that.

Dr Watt—The last time we did also talk about specific allowances, the removal allowance and so forth, and Mr Lewis talked about all the pets he is moving.

Senator JOHNSTON—That is right, remote allowances, pets and all those sorts of things which I actually was not too fussed about. But the point is there is a submission going to the minister that sets out the cuts.

Mr Minns—At this stage it will be a submission that says: here is an approach to review of allowances and their reform and it is a model of how we might approach the current system of multiple allowances with different triggering circumstances and move to a more, if you like, integrated, annualised model where we say these allowances are built in to the pay.

Dr Watt—They are two slightly different things. Mr Minns is talking about macro reform, looking at all our allowances. Mr Lewis was talking about a couple of specific allowances and how we might apply some capping on their generosity.

Senator JOHNSTON—But there will be savings?

Dr Watt—From Mr Minns's exercise it is too early to tell because it is not an exercise designed to produce savings. It is not part of SRP. From Mr Lewis's there might be something small but they will be very small.

Mr Lewis—As you may recall our last discussion on this subject was about introducing a reasonableness approach and there were some extreme examples that we noted—for example, in relation to pet removals—but it was not designed to be a major cost saving area.

Senator JOHNSTON—We have accepted that one of the prices of doing our business across this great country of ours is pet removals when we move people around. It is not unreasonable to have pets, big and small. What are we focusing on in the coming year in terms of what we are looking to cut by way of allowances and in terms of conditions? You do not know anything?

Mr Lewis—In relation to removals, as I flagged at the last estimates, this is not a substantive saving area for us. We are looking to introduce a set of arrangements to ensure consistent dealing with the issue across Defence, because we do find at the moment there are inconsistencies where different situations are treated differently. We would like to introduce a more standardised approach to that. But it does require us to get more data. We are continuing to mine data in relation to what the current circumstances are in order to form a set of protocols about what is reasonable. Then that will need to be discussed at senior levels in Defence before we promulgate that as a policy. When I say—

Senator JOHNSTON—When will they be discussed? When will we expect to see the outcome of all of your deliberations?

Mr Lewis—It is probably going to be early next year.

Dr Watt—Then, as I said, we are in the early days of Mr Minns's exercise. I would emphasise that this is about the rationalisation of allowances; it is not about cutting allowances.

Senator JOHNSTON—'Rationalisation' and 'cutting' are words that have had interesting inter-positions over the years—

Dr Watt—You and I both know that a rationalisation can be a cut or it can be a more generous allowance result. We do have a lot of allowances.

Mr Minns—Just to explain why there are a lot of allowances, the key issue about trying to simplify the framework is to support the reform in the payroll team which Mr Lewis is responsible for. It is about the complexity of the processing of a pay. If we simplify the framework the downstream savings occur in the payroll processing area and it supports SRP savings there. There is no intent to achieve savings through the process of rationalising and simplifying allowances itself.

Mr Lewis—It will also of course allow us to better deal with some of the problems we have been having with payroll errors that have been endemic in the system. Again, we spoke about this at the last estimates. They will put in place over the longer term a simpler set of allowances together with the systems improvements that we have discussed before which offer both significant efficiency potential as well as minimising errors made in pay.

Senator TROOD—In relation to your statement this morning, where you say on page 2 that the—

Dr Watt—You will have to forgive me, Senator. I have given my statement away.

Senator TROOD—It is the central paragraph where you say the cost reductions will increase to \$1.922 million in 2012-13. Are they additional to the \$797 million this year or are they cumulative savings?

Dr Watt—No—let me explain slightly differently. The \$797 million in 2009-10 is an annual number. Then the annual number for 2010-11 is something like \$1 billion—\$1.016 billion, as my friend Mr Sargeant says—and then each year the amount grows until 2013 when it is \$1.9 billion. They are annual savings and the size of the annual savings task grows. That is why we have got some reforms that are already working. We have still got some that have only just started to work and we have got others that have not yet kicked in at all.

Senator TROOD—It may be too much to identify the areas up to 2013, but can you give me some indication of where you think the major savings are going to come in those forward years?

Dr Watt—We can. The best thing to do is to either take it on notice—which we can do if you prefer—or draw your attention to the booklet that we published last year where we show year by year about 15 categories where the savings are coming from.

Senator TROOD—I am, of course, familiar with that booklet, but perhaps you can provide me with whether or not those categories remain the ones where you think the most savings are likely to come? In other words, are you on track to extract those savings from those categories?

Mr Sargeant—Yes, they do. We have planned savings in detail across all of those categories. Some of them are easy and they are the ones that are being done earlier in the program, and some of them are much more challenging, because they require process or system redesign. We have a fair degree of confidence about where the savings are and what needs to be done to achieve them. There will be some variation over time because nothing is ever as you completely plan it, and the other thing is that some of them will present challenges as we approach them. For example, in Workforce and Shared Services, we have a very clear agenda for how we would achieve savings in that area through consolidation services, contractor conversions to civilian staff and so on. In the ICT area there is a very well developed and clear strategy about infrastructure consolidation, which means that you can do things more effectively at lower cost. As we are dealing with very big investments and large computing capabilities, that takes time, but we are relatively confident that the schedules that are being developed are robust and will deliver both investments and the cost reductions that we are looking for.

In the area of Smart Sustainment, we are dealing with very complex systems and capabilities, but once again, we think that there are quite significant opportunities to do things more effectively and to get cost reductions over time. We have done our planning to quite a level of detail in terms of identifying areas and the sorts of projects which we would undertake, but we would also expect, as time goes by, other opportunities will present themselves, or in some areas our early optimism might be overstated.

Senator TROOD—One of the areas where you thought reform was possible to some extent, as I recall, was base rationalisation. What progress has been made in relation to that?

Dr Watt—It is important to distinguish between what we might call the things we do on our existing base infrastructure and the broader base rationalisation exercise. Whatever might come out of the broader base rationalisation exercise is not counted as part of the SRP savings. Although the Defence budget audit had a chapter on base rationalisation, they did not include any savings from it. The previous Minister for Defence commissioned some work to look at the strategic rationale for the optimal basing network. What the Defence budget audit did was look, if you like, at the financial rationale. It looked at the strategic rationale and where we should have bases in a strategic sense. That work was to be done by late this year or early next year. We are progressing that work. We expect to be going to the new the defence

minister with some broad strategic thoughts early in the new year and it will then be a matter for how he chooses to progress it. They are not counted in SRP savings.

Senator TROOD—Will the strategic base rationalisation exercise, undertaken by the former minister here on my left, cover all Defence estate or is it essentially bases? Are there criteria by which the bases are being included?

Dr Watt—No. It would cover the whole. We would be looking across the whole spectrum of Defence estate. Not everything that Defence owns is a base, but often things like weapons ranges or training ranges are related to bases. You would look at the whole mix rather than just 90 per cent. I emphasise that, whilst we have made some progress, we are nowhere near the definitive stage yet.

Senator TROOD—Dr Watt, do you expect this to be completed by early in the new year?

Dr Watt—Early in the new year and then, of course, it will have to go through an iterative process with the minister; a matter of government consideration and then the suggestion was that there would be some broader community consultations once government has had a chance to look at it. Clearly there will be a fair few of those.

Senator TROOD—Thank you.

CHAIR—Further questions on Portfolio Overview and Budget Summary?

Senator JOHNSTON—Can I ask the questions of CDF vis-a-vis Afghanistan that have just come to me?

CHAIR—Yes.

Senator JOHNSTON—We have a detachment from the 4th Field Regiment, Royal Australian Artillery of 16 gunners attached to the British Army. Where are they, how long have they been there and what do they do?

Air Chief Marshal Houston—They are contributing to the British effort in Helmand province. It is an arrangement that we have had with the British for some years whereby a rotation of 15 gunners or so gain experience of operating artillery in an operational environment. That has been in Helmand. I forget what year we started, but it was something like 2006, from memory. I can come back to you with more detail on that.

Senator JOHNSTON—Which particular piece of artillery are they operating?

Air Chief Marshal Houston—They are operating smaller guns than 155. They are British guns, 120 millimetre or so.

Senator JOHNSTON—How long will they be there?

Air Chief Marshal Houston—We finish this early next year and that will be the end of it.

Senator JOHNSTON—Do they preserve their identity as members of the 4th Field Regiment?

Air Chief Marshal Houston—They preserve their identity as Australians. They are an Australian detachment with the British gunners in Helmand province.

Senator JOHNSTON—Are they naturally based in England or do they come back to Australia in terms of rotation?

Air Chief Marshal Houston—No. It has been a very good program for us. The gunners go over to England and do their force preparation and mission rehearsal exercises over there. They then deploy to Afghanistan, work with the British, and then a short time after that—I am not sure if they go back to the UK for a short time—they debrief and then come back to Australia to rejoin their unit in Australia.

Senator JOHNSTON—Are you regularly aware of their status in theatre?

Air Chief Marshal Houston—Yes. They are under the national command of Commander Joint Operations, Lieutenant General Mark Evans and he exercises that national command through Major General John Campbell, who visits them on a reasonably regular basis.

Senator JOHNSTON—In Helmand?

Air Chief Marshal Houston—In Helmand.

Senator JOHNSTON—Thank you.

CHAIR—We still have the area of *Success*. Would you like to go there now?

Senator JOHNSTON—I would rather talk about a particular DMO matter if I can, but I am happy to move through.

CHAIR—A DMO matter proper?

Senator JOHNSTON—It is this Oakeshott Birdon Marine matter. It could be very quick, but it could be very long.

Air Chief Marshal Houston—I think it will be very quick if it is the matter that concerns me.

CHAIR—We can do it now.

Senator JOHNSTON—Birdon Marine are a business on the north coast of New South Wales. Have we had any dealings with them at all with respect to Defence contracting?

Dr Gumley—Could you repeat the question?

Senator JOHNSTON—Birdon Marine are a business on the north coast of New South Wales. Do they have any contract work from Defence?

Dr Gumley—Yes, they have had a number of contracts over the years. They have also done some disposal work. For example, they did the strip-out of the HMAS *Adelaide* when it was sunk off the coast of southern Victoria.

Senator JOHNSTON—Are you aware of what they are currently undertaking?

Dr Gumley—Yes. They do maritime maintenance work. Some years ago they did some work for our lands systems division on tsunami bridging equipment.

Senator JOHNSTON—Is that contract current?

Dr Gumley—No, they finished that contract in 2006.

Senator JOHNSTON—Anything current? Pacific class patrol boats spring to mind.

Rear Adm. Marshall—We currently have Birdon Marine engaged to conduct sustainment support for the mine sweeping auxiliary vessels which are based at HMAS *Waterhen* in Sydney.

Senator JOHNSTON—So they have a sustainment contract that is ongoing?

Dr Gumley—Yes.

Senator JOHNSTON—Are they seeking further work? Is there a tender that they are in?

Dr Gumley—Yes.

Senator JOHNSTON—For what?

Dr Gumley—The Pacific patrol boats. It is refitting nine Pacific patrol boats and then looking after them through life until whenever those boats go out of service.

Senator JOHNSTON—Approximate DCP band?

Dr Gumley—It is not a DCP band.

Senator JOHNSTON—I do not want to give a figure away, but just give me a rough number as to the way the contracts work.

Dr Gumley—The contract is of the order of \$50 million.

Rear Adm. Marshall—We announced in the press release that the value of the contract was estimated at approximately \$49.5 million. I think we were only announcing a preferred tenderer and therefore, there was no contract value.

Senator JOHNSTON—Can you say that again?

Rear Adm. Marshall—We were announcing a preferred tenderer.

Senator JOHNSTON—Were they the preferred tenderer?

Rear Adm. Marshall—Birdon Marine were not the preferred tenderer.

Senator JOHNSTON—When did you announce that?

Rear Adm. Marshall—I think it was 1 October.

Senator JOHNSTON—What was the date of the tender?

Rear Adm. Marshall—The tender was released in January of this year and closed in approximately March. I can confirm that for you.

Senator JOHNSTON—So the tender had been unresolved prior to 1 October when the announcement was made?

Rear Adm. Marshall—After the close of the initial tender period we went through and evaluated the tender responses. We subsequently went back with clarifying questions. We went through a BAFO, best and final offer, process and then had parallel negotiations with two of the tenderers, one of which was Birdon Marine.

Senator JOHNSTON—We are all aware of Mr Oakeshott, the member for Lyne. Were there representations made to Defence on behalf of Birdon Marine? Were there any letters, visits or appointments?

Rear Adm. Marshall—From Mr Oakeshott?

Senator JOHNSTON—Yes, from Mr Oakeshott.

Rear Adm. Marshall—I certainly have not had any. I have had no contact with Mr Oakeshott.

Dr Gumley—I will confirm that for myself as well.

Air Chief Marshal Houston—I note that there have been some allegations in the newspaper that I was approached while we were doing briefings during the caretaker period, but the words Birdon Marine were never mentioned in the briefings that were conducted for the Independents, of course Mr Oakeshott being one of them.

Senator JOHNSTON—That is all I want to ask. Thank you.

Senator TROOD—I have a question about the single security vetting agency.

CHAIR—I would like to get an idea here. In theory, we have done the opening statement, Portfolio Overview and Budget Summary. I suspect we are now about to spray all over the place. Instead of adhering strictly to the agenda, I would like to get some sort of idea of where the opposition might like to go and then that might help us all.

Senator JOHNSTON—I wanted to touch on the inquiry costs with respect to HMAS *Success* and then some Defence Housing matters, but it might be DMO—the Winnellie issue. I am sure somebody out there knows what I am talking about.

Dr Watt—It might be the Defence Housing Authority.

Senator JOHNSTON—No, they sent me back here last time.

Dr Watt—In that case it is the Defence Support Group.

Senator JOHNSTON—And also the double skinning of HMAS *Success*.

CHAIR—All right.

Senator JOHNSTON—And then *Minoora* and *Kanimbla* and submarines, just to keep us busy.

Senator TROOD—And I know Senator Barnett has some questions about obesity in ADF personnel.

CHAIR—I will make a note to go to Senator Barnett when we conclude with Senator Johnston.

Senator FAULKNER—And if it assists you, Chair, Senator Adams raised with me that she had some interest in progressing the military superannuation issue, but I suggested she talk to Senator Johnston about that. But just for the completeness of the record and to honour the conversation I had with her—

Senator JOHNSTON—And Senator Humphries is covering DMO.

CHAIR—Is military superannuation here or in Finance?

Dr Watt—No, it is here.

Senator FAULKNER—I certainly advised Senator Adams that it was here.

Dr Watt—Put it this way, it is mostly here.

CHAIR—Okay. We will contact Senator Adams after Senator—

Senator FAULKNER—There is no question the issues that she would wish to address if she decides to would be here.

CHAIR—Okay. So, military superannuation after Senator Barnett. I think we will work through those issues identified and then we will kick over to Senator Humphries.

Senator TROOD—I have questions on a single security vetting agency.

CHAIR—Why don't we go to you first and then Senator Johnston.

Dr Watt—We can do the Defence Security Vetting Agency fairly easily, I think.

CHAIR—We will cover Senator Trood's issues, we will work through Senator Johnston's, and we will ask the Secretary to advise the other officers who have indicated interest to get ready to come and ask their questions.

Senator TROOD—This will not take long, I do not think.

Dr Watt—Can we have Mr Merchant up here?

Senator TROOD—Thank you, Mr Merchant. I presume he has come to the table on my account; is that right?

Mr Merchant—That is right.

Senator TROOD—Thank you. I refer to the recent announcement about the creation of a single security vetting agency, which I gather is being managed by the Department of Defence; is that right, Mr Merchant?

Mr Merchant—That is correct.

Senator TROOD—By its name one gets the impression that it in fact is going to do security vetting across the whole of government; is that also correct?

Mr Merchant—Yes, that is basically correct. It is part of the government's move to achieve greater efficiencies through the centralisation of various service delivery agencies. We will be doing security clearances for all of government with some exceptions. So, the agencies that will continue to transact their own security clearances are ASIO, ASIS, ONA, the Australian Federal Police and also some Foreign Affairs and Trade clearances at negative vetting level 1 and above, particularly for people posted overseas.

Senator TROOD—They strike me as those agencies that make the most demands on vetting.

Mr Merchant—No. This is both national security and non-national security clearances. So, it includes a number of very large government agencies, including taxation, customs, border protection and immigration. In fact, the throughput of security clearances through this process we expect will double from what we have been transacting so far with Defence clearances alone. So, it is a very significant increase.

Senator TROOD—All agencies will be required to use these services but for those that have been excepted; is that right?

Mr Merchant—That is correct.

Senator TROOD—Is this vetting process essentially for people who are employed by the Commonwealth government or does it cover security vetting for asylum seekers, for example?

Mr Merchant—No, it certainly does not cover vetting of asylum seekers, but it does cover people, for example, in defence industry who provide services to the government that require access to classified material.

Dr Watt—We are already doing many of those because they in fact want access to defence materials.

Senator TROOD—Where is this being done at the present time within Defence? Which agency or which element of Defence is undertaking this work at the moment on your behalf and is it the intention to expand that unit to further expand this capacity?

Mr Merchant—Yes, it is being done as part of my group out of the Defence Security Authority. We have changed from the Defence security vetting component to the Australian Government Security Vetting Agency. In that process we are increasing its staff numbers. The staff numbers will go up to 228.

Senator TROOD—From where?

Mr Merchant—I think that is an additional 40 staff to what we have had at the moment, and that includes 29 staff that have come over to us from the Attorney-General's Department, which previously did some security clearances on behalf of other government agencies.

Senator TROOD—The other staff are being drawn from other parts of Defence; is that right?

Mr Merchant—They are our existing security vetting staff.

Senator TROOD—You are increasing by 40 and you have to find some from somewhere else. Where are they coming from?

Mr Merchant—They will be through an open recruitment process.

Dr Watt—Probably a point that I should make is that Defence will be doing the vetting on behalf of other agencies on a cost recovery basis. So, that is the way Mr Merchant will fund it.

Senator TROOD—What, per vet undertaken?

Dr Watt—Yes.

Senator TROOD—Is the rate a similar rate for all agencies or is it a differential rate?

Dr Watt—It depends on the level of clearance. I might again ask Mr Merchant to see if he can remember the rates. We are happy to give you those, by the sound of things.

Mr Merchant—Yes, I do not have those rates right in front of me, but as part of the discussions with other government agencies in setting up the Security Vetting Agency we have agreed on the costs that will be recovered for the different levels of security clearances. Obviously those costs increase as the security level sought is higher, because of the more involved background checking.

Dr Watt—I think I was partly responsible for this when I was in Finance. There are two things that have driven that raised concerns about security vetting and the Commonwealth as

far as departmental secretaries and agency heads are concerned. The first is its cost, which had been fairly high. When you are a small agency doing relatively few of these a year it is not surprising that it costs you a lot. By getting Defence to do it, the rest of the Commonwealth leverages off Defence's economies of scale and that makes sense on a cost recovery basis. In fact, Mr Merchant is not merely able to cover his additional staff that he needs on the basis of the cost he is recovering; there has also been a dividend return back to the budget—a small one.

Secondly, what departmental secretaries have found is that, when you try and transfer people, security clearances are often different. People ask a different set of questions and therefore find different things and you get someone and they say, 'Oh, you've got an X security clearance but that is not good enough, because I need a Y.' Most people at departmental secretary level have never quite understood why we have Xs and Ys. There should be one whole-of-Commonwealth security level at least outside the intelligence agencies, and that is what we will get out of this process. It does not stop agencies, if they have particular needs, asking additional questions if they want that or getting something additional checked, but it does guarantee that the basic checks will be done and everyone can guarantee anyone who has security clearance through this process has had a certain number of hoops to jump through and that is guaranteed.

Senator TROOD—Does that mean that for somebody who is cleared or vetted at a particular level all agencies can have confidence? Is there now or will there be in place a protocol as to the vetting that will take place at the secret level, for example?

Dr Watt—Yes.

Mr Merchant—Yes.

Senator TROOD—Has that been agreed or is that in the process of being agreed?

Mr Merchant—Yes, that has been agreed.

Senator TROOD—As part of this?

Mr Merchant—As the secretary has explained, a good part of the purpose behind it is to ensure transferability for security clearances across different departments.

Senator TROOD—On that point about transferability, what is the situation in relation to an individual who may have been vetted because they were in Defence, for example, with that vetting information presumably being held in the system. If they then move across agencies, will that information be available to the second or third agency to which they might move?

Mr Merchant—In this case it will not be necessary, because there will not be a need for an additional security clearance process to be undertaken in regard to that individual apart from the exempt agencies. Where a person who has undergone a Defence process clearance transfers to one of the exempt agencies Defence will make available the information that forms the basis of the security clearance.

Dr Watt—My understanding is that has actually always been the case; your security file goes with you. But in a sense that does not have to happen anymore, because the information is now held centrally with Defence, which is still doing the vetting.

Senator TROOD—Except for these particular agencies you have nominated, which will continue to undertake their own vetting.

Dr Watt—Except for those, as I understand it.

Senator TROOD—Might they take the work of the vetting agency as a base and then build on it or are they going to undertake their independent assessments as they are doing at the moment?

Mr Merchant—No, we have agreed with those agencies—and in particular with those in the intelligence community we are looking at top secret positive vet clearances—that they will accept the Defence top secret positive vet clearance; they will not redo that clearance. They may have some additional checks they need to do for employment purpose. For example, in regard to ASIS there are some particular characteristics, which I think you would appreciate, that they would need to look at, but that is not part of the basic security clearance process.

Senator TROOD—I think you said that DFAT was going to do some but not all of it. What is included from the point of view of DFAT in relation to this and which bits of it are they going to do themselves?

Mr Merchant—It will be the DFAT clearances at negative vetting level 1 and above.

Senator TROOD—You will do those?

Mr Merchant—We will do those, yes.

Senator TROOD—How many categories above does that leave DFAT to do?

Mr Merchant—There would be four that we would be doing.

Senator TROOD—Finally, have you tried to make some estimate of the numbers of vets that you are likely to do under this arrangement?

Mr Merchant—Yes. As I said, we think that our workload will in round figures double as a result of taking on this additional responsibility. We currently undertake slightly less than 25,000 security clearance transactions a year. We expect that figure now will be in the order of 50,000 a year.

Senator TROOD—Have you calculated the revenue that you might generate as a consequence of that?

Mr Merchant—We have done that. Essentially, as the secretary said, we will be doing this on a cost recovery basis. When we have prepared the business case, and we have presented this to government, we anticipate that in the first nine months of the agency's operation, which started on 1 October, it will save the government approximately \$4 million, and we expect then future savings per year of just over \$5 million.

Senator TROOD—That is a saving to government of \$4 million to \$5 million. How much of that revenue is going to be revenue that finds its way into the coffers of the Defence department?

Mr Merchant—We will only take those costs that cover the revenue that covers our costs. I do not have that figure.

Dr Watt—We can get that.

Senator TROOD—Perhaps you could take that on notice for me.

Dr Watt—We will.

Senator JOHNSTON—CDF, can I talk about the costs associated with our commission of inquiry in Sydney with respect to HMAS *Success*? Do we have an anticipated closure date on that?

Air Chief Marshal Houston—We are hoping to have the process finalised by 31 December 2010, with the handing down of the findings by His Honour Mr Gyles QC.

Senator JOHNSTON—This year?

Air Chief Marshal Houston—This year.

Senator JOHNSTON—Currently, I understand the rates are \$7,700 a day for him, \$3,600 a day for the lead counsel assisting, and \$2,400 a day for the two other counsel assisting. I think that is \$16,300 a day roughly. Is that correct?

Air Chief Marshal Houston—I will get HDL to come up. I can tell you the total cost through to 24 September.

Senator JOHNSTON—Yes, please.

Air Chief Marshal Houston—The total cost from 25 February to 24 September inclusive was \$2.57 million.

Senator JOHNSTON—Have we got any more evidence to go?

Air Chief Marshal Houston—Fundamentally the evidence has all been taken. As you would appreciate, it is quite a complex case. Evidence was taken from 114 witnesses over 47 sitting days, and notices of possible adverse findings have been provided to 31 ADF members.

Senator JOHNSTON—What do those costs include? Do they include all of the various counsel that have been retained by the—

Air Chief Marshal Houston—The costs include legal fees of \$2.116 million and office related expenses of \$79,474. This cost includes IT consumables, freight, printing, publication, stationery, office equipment and postage. There were travel costs of \$151,607; accommodation, \$83,725; meals, \$65,530; and miscellaneous expenses, \$46,665. These costs include general office services, hire, management and admin services—that is, contractors, minor expenditure and government common services. The costs do not include the military staff costs.

Senator JOHNSTON—Is there going to be a figure for military staff costs, because I note there are a fair few military staff involved in this?

Air Chief Marshal Houston—We can provide that to you. I will take that on notice.

Senator JOHNSTON—Is 31 December the date that the decision will be handed down—the findings?

Air Chief Marshal Houston—It will be 31 December 2010, yes.

CHAIR—Does that cost come out of the Navy budget or Dr Watt's budget?

Mr Cunliffe—I think it comes from a variety of sources. The commission of inquiry cell is actually attached to CDF's office. The sessional fees for those legal officers who are involved as counsel representing would come from the funds we manage effectively on behalf of the services and so, in a sense, they have several different destinations and also visibilities. On the one hand, we report them, for instance, when we report our legal spending, but equally they are actually service costs, not costs that I directly control. So, there is a variety of those. Some of the other costs are attached to the CDF expense area and some of the costs would of course be attached to each service for the staff who are provided in uniform to assist with the matter.

Dr Watt—Despite Mr Cunliffe's erudite explanation of the different sources of funds there is only one Defence budget. It is all out of the one budget one way or another.

CHAIR—That is understood. And the secretary is responsible for it.

Dr Watt—He is not the only one responsible for it. There are a lot of people responsible for it.

Senator TROOD—Did you say there were 31 individuals who had been notified of possible adverse findings in relation to the board of inquiry?

Air Chief Marshal Houston—Yes.

Senator TROOD—Do I take it that no action will proceed in relation to those individuals until the inquiry's report is finalised? Is that right?

Air Chief Marshal Houston—My understanding is that in response to those notices 30 submissions were received. So, obviously they are going to have to be resolved.

Senator TROOD—Submissions to the—

Air Chief Marshal Houston—To the COI, yes.

Senator TROOD—Does that allow him the opportunity to consider those submissions and decide whether or not he wishes to actually lay those charges or identify those individuals as people against whom charges should be laid?

Air Chief Marshal Houston—He is not in the business of laying charges, but my expectation would be that he would take those submissions on board and that has been taken into account in terms of the end date of 31 December 2010.

Senator TROOD—These are not 31 individuals who remain after submissions have been received, these are 31 individuals whom he has identified—

Air Chief Marshal Houston—That is right.

Senator TROOD—and who have been asked to respond. If they choose to do so, he will consider those submissions and will make final findings in his report?

Air Chief Marshal Houston—Yes, that is my understanding.

Senator TROOD—He will not make the charges, but following consideration of his report if charges are to be laid they will then follow?

Air Chief Marshal Houston—His report needs to be finalised. In terms of the business of whatever actions are taken against the individuals, that will come much later in the piece and he would not be involved in that. If I could take that on notice, I will come back to you and I

will describe to you where it goes after he has delivered his report. He is essentially trying to establish the facts of the matter, and that is what we have asked him to do. I would hope that we are much clearer about the circumstances around what happened on *Success* as a consequence of his work.

Mr Cunliffe—If I could just say that in a civilian environment it is a little bit like a royal commission. The royal commission would make findings and others would generally take action from that. They are two discrete processes, but obviously one is assisted by the other.

Air Chief Marshal Houston—I will come back to you with a fuller explanation.

Senator JOHNSTON—I would like to ask about the vacant houses at Winnellie that Air Force has control over. I am hoping someone is here who knows something about that. As you know, there is a major problem in availability of housing in Darwin. It is at crisis level and that is not overstating it. What are we doing about all of those very adequate properties in Winnellie? What is the plan? What are we doing into the future with them?

Mr Lewis—To put it into context, in 2007 Defence adopted a new and improved housing standard known as the New Housing Classification Policy to be phased in by 1 July 2017. Housing provided under the previous housing standards remained suitable for use during the transition period to allow time for housing that does not meet the new minimum standard to be upgraded or replaced. A large number of on-base houses in Darwin do not meet the new standard. You are probably aware of that. Additionally, the houses at RAAF base Darwin are noise affected.

Senator JOHNSTON—That is fairly logical.

Mr Lewis—The Defence estate strategic review recommended the continuing reduction of on-base serviced residents over the longer term in order to accommodate future capability requirements. In terms of where we are right now, there are 395 houses on RAAF base Darwin, including 105 that are currently vacant. Defence's intentions are to make surplus the houses that are uneconomical to repair or upgrade where possible. If it is possible for the houses themselves to be relocated and productively used then Defence will facilitate that.

Senator JOHNSTON—Define 'facilitate' for me.

Mr Lewis—Provided it is economical for a party to come in and lift the houses and remove them—and in a number of cases that is exactly what is happening in Darwin—

Senator JOHNSTON—Jinker them?

Mr Lewis—yes—that will be done. In some cases the houses are sufficiently dilapidated that there really is no potential for repair or recovery, and the houses will simply be demolished. But where possible we will relocate. The underlying land footprint is a core part of future capability requirements, so it is intended to be retained in RAAF Darwin. Of course, you would understand with urban encroachment we are very keen to ensure that we retain the footprint of RAAF base Darwin.

Senator JOHNSTON—As to future capability requirements, could you please expand on that for me? What is the time frame and what is the concept?

Mr Lewis—I think that work is still under way, but I can take that on notice.

Senator JOHNSTON—That is a phrase I am prepared to accept, but what have you told the residents who are in good houses that have been upgraded since 2007? What is their time frame? Surely you would have told them if you are going to move them out, if it is required for future purposes?

Mr Lewis—As I explained, this will be happening over a number of years. In fact, some of the housing to which future ADF members will be moving has not even been built. It probably has not even been planned. We are really giving you an early sense for a plan that will take a number of years to gestate.

Senator JOHNSTON—But in the meantime in the short term—certainly the next two to three years—a lot of good houses in Winnellie will be vacant, if not jinkered away?

Mr Lewis—Those vacant houses that will not be needed for future purposes we are looking for use in the Darwin region.

Senator JOHNSTON—When you say ‘use’, you are going to remove them?

Mr Lewis—Yes.

Senator JOHNSTON—But I am a little confused as to the long-term time frame with respect to the utilisation of that suburb. If it is three-plus years away, why would we not lease those houses out on a short-term basis commercially through real estate agents to alleviate the problem?

Mr Lewis—Because if the need is not there for the housing then we will seek to remove the housing.

Senator JOHNSTON—But I am telling you there is a civilian need for houses.

Mr Lewis—If the housing is useful for that purpose then it will be moved and will still be able to be used elsewhere.

Senator JOHNSTON—Who is going to pay for the removal?

Mr Lewis—In the instances we have had to date we have been able to arrange via contractors for the housing to be removed, and there has not been any substantive net costs, as I understand it.

Senator JOHNSTON—How does that work out? That sounds good.

Mr Lewis—The houses are not written down to zero. If the house is moved to another location then there is a value attached to that and it can be used in other parts of Darwin.

Senator JOHNSTON—How does the process work? Does someone say: ‘I really like that house. Would you move it for me?’

Major Gen. Cosson—We are going through a contract at the moment with Defence Housing Authority for the removal of houses from the Larrakeyah Barracks, where we entered into a contact with DHA. The contractor has actually purchased those homes to move offsite to then on-sell to people who are interested in buying those homes. What we would do for RAAF Darwin as well is look to enter into another contract with DHA to arrange for the removal of those houses to then on-sell.

Senator JOHNSTON—So, you would get a professional person, a corporate entity probably, who comes along and says: ‘I will have those five houses. I will remove them onto the land that I own and I will on-sell them’?

Major Gen. Cosson—That is correct. We have also entered into some discussions with the Northern Territory government and FaHCSIA to look at opportunities to purchase these homes to move to other sites as well.

Senator JOHNSTON—When do you expect there will be no houses left on Winnellie?

Major Gen. Cosson—With the houses at RAAF Darwin—

Senator JOHNSTON—I am sorry, RAAF Darwin.

Major Gen. Cosson—we are looking to offer homes to Australian Defence Force personnel as they move to Darwin into the new homes that DHA is building at the suburb of Muirhead. They are expected to be delivered over a period up until the financial year 2014-15. So, I would expect by the end of that financial year there would be no homes remaining at Winnellie.

Senator JOHNSTON—By 2014?

Major Gen. Cosson—By 2015.

Proceedings suspended from 3.33 pm to 3.50 pm

CHAIR—The committee will reconvene and I will hand over to Senator Johnston.

Senator JOHNSTON—I want to talk about the double-hulling job that has gone to the Singaporean contractor for HMAS *Success*. Have we signed the contract?

Rear Adm. Marshall—Was the question: have we signed the contract? The answer is: no.

Senator JOHNSTON—We have not signed the contract yet?

Rear Adm. Marshall—No. We have simply announced a preferred tenderer.

Senator JOHNSTON—That is interesting. So you have announced that the preferred tenderer is the Singaporean company—

Rear Adm. Marshall—ST Marine, yes.

Senator JOHNSTON—ST Marine. So we can talk about them.

Rear Adm. Marshall—Yes.

Senator JOHNSTON—Have we done an ILO assessment of the wages, terms and conditions of their employees?

Rear Adm. Marshall—We engaged the Australian Government Solicitor’s Office to do an assessment of the employment law and ILO compliance in Singapore, yes, in comparison with Australian terms.

Senator JOHNSTON—Can you release that report to the committee?

Rear Adm. Marshall—I do not see why not, although I do not have it here.

Senator JOHNSTON—That is all right. I will ask you to take that on notice. That is good. What does ‘in comparison with Australian terms’ mean?

Rear Adm. Marshall—We asked them to assess employment law and ILO compliance in Australia as well as in Singapore.

Senator JOHNSTON—So do the Singaporeans pay nine per cent superannuation as a compulsory payment?

Rear Adm. Marshall—I do not recall that the advice provided that information.

Senator JOHNSTON—Nine per cent on wages is pretty important. I would have thought that, on that basis, it would make the competition not a level playing field; wouldn't that be right?

Rear Adm. Marshall—The advice said that, broadly, the conditions were comparable between the two countries. It certainly indicated that there were some significant variations in individual provisions but that they were broadly comparable.

Senator JOHNSTON—Is ST Marine's dock facility a unionised facility?

Rear Adm. Marshall—I am not aware of the answer to that. I can get back to you on that.

Senator JOHNSTON—I would appreciate that. In 14 weeks we have to have the ship up there.

Rear Adm. Marshall—That is 14 weeks for the production period, yes.

Senator JOHNSTON—What happens to the crew while that is going on?

Rear Adm. Marshall—Part of the crew will be returned to Australia and part of the crew will remain with the ship in a ship-keeping role.

Senator JOHNSTON—How many personnel will remain and how many personnel will come home?

Rear Adm. Marshall—Those plans are being worked at the moment.

Senator JOHNSTON—I am interested in the fact that those plans are being worked, because we have a preferred tenderer and I would have thought they would have formed part of the cost equation.

Rear Adm. Marshall—Certainly, in the analysis, we did include an assessment of costs for having sailors and a production oversight team in Singapore and repatriating other sailors, members of the crew, back to Australia.

Senator JOHNSTON—How big is the production oversight team?

Rear Adm. Marshall—I do not have the exact figure, but I would estimate somewhere between five and 10 people.

Senator JOHNSTON—Are they Navy personnel or independent, private contractors?

Rear Adm. Marshall—Some of them will be Commonwealth employees, possibly Navy or Australian Public Service, and we will have some independent contractors.

Senator JOHNSTON—Does the contract include penalties for time overrun?

Rear Adm. Marshall—We have liquidated damages clauses in the contract.

Senator JOHNSTON—Based upon how many weeks?

Rear Adm. Marshall—As in whether there is a limit to the liquidated damages that we can claim?

Senator JOHNSTON—If you give them 55 weeks, they obviously will not have much incentive to hurry up, will they?

Rear Adm. Marshall—That is on the schedule agreed when a contract is signed.

Senator JOHNSTON—Which is how much?

Rear Adm. Marshall—A 14-week production period was the tendered period.

Senator JOHNSTON—So, after 14 weeks, they are subject to penalties. Bear in mind that we have crew being accommodated up there, personnel that we have to fly backwards and forwards et cetera.

Rear Adm. Marshall—Yes.

Senator JOHNSTON—So, after 14 weeks, they are on penalties.

Rear Adm. Marshall—If there is a delay that is the cause of the contractor, we can seek liquidated damages provisions from the contractor.

Senator JOHNSTON—Did ST Marine conduct a survey of the vessel before they gave their tender?

Rear Adm. Marshall—I am not aware that they did.

Senator JOHNSTON—That is interesting. So we can expect a variation, can we?

Rear Adm. Marshall—The nature of shipbuilding work is generally quite variable and I do not think we could allocate a variation solely to any single tenderer. In the tender evaluation, we do consider the risk that each tenderer may bring in their tender submission and in the production period as well as commercial aspects et cetera. In the case of ST Marine, they have quite a good reputation for conversions, modifications and length extensions of ships, certainly more so than some of the other tenderers, and I think that gives us a reasonable level of confidence in their competence to execute and to plan such an activity.

Senator JOHNSTON—After the tender contract has been executed, can you provide me, on notice, with the contract price and the estimated saving? I think there was only one other tenderer.

Rear Adm. Marshall—There were three tenderers.

Senator JOHNSTON—Tell me the next-best tenderer and what the estimated savings are, if you could.

Rear Adm. Marshall—Certainly.

Senator JOHNSTON—In addition, I would like to know about the terms and conditions regarding the 14 weeks.

Dr Gumley—My briefing note here has that liquidated damages are \$20,000 a day to a maximum of \$1.2 million.

Senator JOHNSTON—So let us talk about that \$1.2 million. How many crew are we going to have in Singapore?

Rear Adm. Marshall—If we just split in half the ship's company, we can say 75. I personally think it should be fewer than that, but let us start there.

Senator JOHNSTON—So it would be 75 staying in Singapore?

Rear Adm. Marshall—Yes.

Senator JOHNSTON—What is that per day?

Rear Adm. Marshall—As I have said, the plan is being developed. I have heard talk that they will stay in some apartments in Singapore, but I do not know the cost of those apartments.

Senator JOHNSTON—'To a maximum of \$1.2 million' would mean it is probably a month and a half. Haggle with me; no?

Rear Adm. Marshall—I will work with you.

Senator JOHNSTON—All I am saying is that the liquidated damages are very, very tightly controlled and, if there is an overrun of 50 per cent on the time here, we are not covered.

Rear Adm. Marshall—That may be the case.

Senator JOHNSTON—All right. I will be back here in February and hopefully the vessel will have been completed on time and within budget.

Rear Adm. Marshall—I expect to be back here in February and answering questions on this subject, and I look forward to giving you assurance of that fact.

Senator JOHNSTON—Thank you for that. We will come back and revisit it in February. Can I go to *Manoora* and *Kanimbla*?

Rear Adm. Marshall—Yes.

Senator JOHNSTON—Admiral, I am told that these two vessels will never see open sea again.

Vice Adm. Crane—I think it is way too early to get to that position.

Senator JOHNSTON—What is wrong with them?

Vice Adm. Crane—Perhaps I can give you a bit of the history here and explain what we are dealing with. Earlier this year, we put in place, in Navy, a process called a 'sea worthiness board'; it has been unashamedly borrowed and modelled on what the Chief of Air Force was talking about earlier in relation to airworthiness. The seaworthiness board is a group of retired senior officers, so they are independent from the process. The design is that they are there to be able to give me assurance about the ongoing safety of operating our capabilities within Navy. We ran two pilot programs with the board. The first was on the submarine capability, which came out with a very good result. The second was in relation to the ADF diving capability, which again was a good result, although there were some areas identified to me by the seaworthiness board that we needed to fix—and that is happening. On the recommendation of my fleet commander, the third program that we were looking at was the

LPAs. Initially, it was not the LPAs, as the LPAs were scheduled for later in 2011; but our view was that, given the age of these vessels and given their importance to the ADF in that they feature in many of our contingency plans, we needed to bring that forward, so we did that.

The seaworthiness board looked at the LPAs; it sat on 22 September this year. In the previous two months, it was examining much of the documentation that applies to the LPA capability, getting itself familiarised with the processes and the paperwork. On 27 September, I received a phone call from the chair of the seaworthiness board to apprise me of the outcomes. The bottom line was that the seaworthiness board had reached a position that there were some observed shortcomings in a number of areas within both LPAs. Those shortcomings, whilst perhaps not significant individually, in an aggregated sense were enough to cause some concern to the seaworthiness board and to me. The sorts of areas that I am talking about are some billet vacancies within the ship's company, some high-onboard training loads—this is training of the people on board, because these ships are unique—some levels of supervision experience lower than we would like, some maintenance challenges, some ILS challenges and some challenges around the certification basis. Now, as I say, the verbal report to me was that there was enough in there to cause me to be uncomfortable with this capability. I therefore recommended—and CDF agreed—that we should institute an operational pause on this capability while we got a better understanding of exactly what the aggregated risks were to this capability and, indeed, the safety of our people.

I make the point, as I am sure you well know, that these ships are 40 years old. They were first launched in 1970. *Kanimbla* was launched in February as USS *Saginaw* and, after being acquired by Australia, was commissioned into the RAN in August 1994. *Manoora* was launched in December of 1970 as USS *Fairfax County* and, again after being acquired by Australia, was commissioned into the RAN in November 1994. So these ships are getting old. As I say, that was enough for me to recommend to the CDF that we institute an operational pause while we have a much more forensic look at some of the things that have been reported to me.

Senator JOHNSTON—Is that for both or just one?

Vice Adm. Crane—For both. I received the written seaworthiness board report on Friday last week and I am in the process now of absorbing the detail of that report and determining a detailed way ahead. We have not waited to receive the report before doing that, of course. We have already commenced a technical investigation in both ships, essentially from masthead to keel, to understand what the challenges are. But, as I say, these are 40-year-old ships and they are showing signs of wear and tear—and, in terms of our people, I want to be assured that their continued operation is safe.

Senator JOHNSTON—At what time do you anticipate making a decision?

Vice Adm. Crane—I expect that, by the middle of or late next month, I will have the detailed assessment of the ships and what we need to do. As I say, we are not waiting until then; we are bringing forward already some routine planned maintenance from availabilities that were scheduled for next year so that we can get on with business. So I am expecting a full report by about the middle of next month and then we will be able to determine in detail the

way ahead. I expect that, given that late November is starting to push up against the December-January period, access to industry for some of the work that we might need to do might be a challenge, so I am factoring that into our thinking at the moment. But I cannot be more specific than that at this stage.

Senator JOHNSTON—That is fine. Let us go to submarines, if we may.

CHAIR—Before you go there: apart from this check that you instituted, what would have been their expected life?

Vice Adm. Crane—At the moment, these ships do not have a long period to run. We will decommission one of them at the end of 2012, and it is that crew that will stand by the first of our new LHDs. Then two years later, after we have introduced the first of our LHDs and achieved the same level of capability represented in the LPA, we will pay off the second LPA to man up the second LHD. The first one has two years to run, so that will be at the end of 2012; and the second one will be at the end of 2014. That needs to be factored into how we approach this current challenge.

CHAIR—What was the problem with the ship that almost went onto the rocks out of Sydney; was it engine failure or something else?

Vice Adm. Crane—That was a separate incident that is under investigation currently. They had a fire in the lagging above one of the engines.

CHAIR—A fire in the lagging? Is that the hoses?

Vice Adm. Crane—No. It is fire protection that goes around the exhaust lines. In the maintenance period that they had just come out of, that lagging had been renewed. It is not uncommon for new lagging, while it is being bedded in, to cause you difficulty and, for that reason, the ship had sentries posted on the new lagging areas. That lagging caught fire. The ship took the right sort of responses. They shut down power to that particular compartment, having activated the water-mist firefighting system, and that is when they lost power to the controllable pitch propellers. That process is still being investigated, but they are the facts of the incident.

CHAIR—How long did they take to get control back?

Vice Adm. Crane—I think they were without power for about 30 minutes.

CHAIR—So it was a significant period of time.

Vice Adm. Crane—Yes; and the commanding officer had called for tugs and tugs were on the way to assist.

CHAIR—And presumably would have got there in time.

Vice Adm. Crane—Yes. They got power back and I understand, as I am informed, he was able to release the tugs from duty.

Senator JOHNSTON—Submarine remediation: can you advise the committee of where we are up to on that?

Vice Adm. Crane—It would be my pleasure. I think we are in a position to be able to reassure you that at the moment we are on a very good track with our submarines. As you

would be aware, the target that we are working to is to have four submarines crewed and operating from Fleet Base West. Cycling the program through in-service maintenance, two or three are expected to be available for sea; and two of those three are expected to be deployable at short notice. Availability has improved this year and the Submarine Sustainability Program is really starting to deliver. Currently I have three submarines operating from Fleet Base West: HMAS *Farncomb* is due out of routine docking in December; *Collins* and *Dechaineux* are available; and *Waller* is in a routine, planned intermediate maintenance availability and that is about a six-week period, so it is within the 'available for sea' bracket, if you like. As I have mentioned, *Farncomb* is in intermediate docking and is due out at the end of the year, at December.

Senator JOHNSTON—So two of the four currently are not in the water.

Vice Adm. Crane—No. Three of the four are in the water. *Waller* is IMAV; that six-week period that is actually done in the water is the submarine is not docked.

Senator JOHNSTON—Is it in Perth or in Adelaide?

Vice Adm. Crane—It is in Perth. On the personnel front, we have had some consistent and sustained workforce growth since March this year. The projections for our workforce recovery have strengthened in this year, due to the improving platform availability in 2010. I am on track to generate the fourth sustainable crew for our submarines at the end of next year; that was and is part of the plan and we are well on track for that. We are currently at 78 per cent strength; that is, we had 522 qualified submariners as of 30 September. We have grown by 51 submariners, or about 11 per cent, in the last financial year. In addition, since the end of the last financial year into this year, we are seeing the same sorts of figures for this year and we are confident that we will be able to generate at least that figure and perhaps better for this year. We are looking for a net growth of 50 submariners per year, and we have achieved that in the last 12 months or in the last financial year. So we are pretty much on track to achieve our target of 550 by mid-2011.

Senator JOHNSTON—What about the *Collins* reliability?

Vice Adm. Crane—In the coms reliability space, we do have a new project running at the moment. There is a lot of work going on in the communications space. It is one of the things—

Senator JOHNSTON—I said *Collins*, not coms.

Vice Adm. Crane—I thought you said 'coms'.

Senator JOHNSTON—No. I think the coms are okay, hopefully.

Vice Adm. Crane—Yes, they are okay, but there is still a lot of work going on in the coms area, anyway.

Senator JOHNSTON—Maybe I should ask you about that!

Vice Adm. Crane—I am very proud of the communications and that is why I wanted to answer that question. Reliability, as I have said, for this year has been very good. Regarding *Collins* in particular, it is currently deployed and has been on exercises. Are you are talking about HMAS *Collins* or *Collins* generally?

Senator JOHNSTON—I am talking about HMAS *Collins*.

Vice Adm. Crane—HMAS *Collins* has been deployed this year and was part of Exercise Kakadu in the north. As I recall, we did have a small starter motor problem in *Collins* in Darwin, but that was resolved and *Collins* has continued with its deployment. It is currently either at sea or about to be back at sea.

Senator JOHNSTON—What is the status of *Sheean* and *Rankin*?

Vice Adm. Crane—*Sheean* remains in full-cycle docking in ASC in Adelaide and is due out in the middle of next year, from memory, and *Rankin* is about to enter full-cycle docking.

Senator JOHNSTON—And is due out when?

Vice Adm. Crane—She would be due out in three years time, after it enters the full-cycle docking.

Senator JOHNSTON—Thank you; thank you, Chair. SEA 1000?

CHAIR—Yes, you can go there.

Air Chief Marshal Houston—Chair, perhaps I could just clarify one aspect of my evidence earlier in the day about the Birdon Marine briefing.

CHAIR—Yes.

Air Chief Marshal Houston—I mentioned that this occurred with the caretaker briefing of the Independent MPs on 1 September. As I recall, I did not hear the word ‘Birdon’, but I understand that a person in the room did identify ‘Birdon’. But, just to clarify the record, I thought Mr Oakeshott said something to the effect of a firm in his electorate having greater success in winning overseas contracts than in winning contracts in Australia. But that was the extent of it. It was a passing reference. I did not take it to be an attempt to lobby me. Of course, I was in the company of the secretary, who I think can probably confirm exactly what happened.

Dr Watt—I can confirm that, Mr Chairman.

Air Chief Marshal Houston—I just wished to clarify that. I did not hear the word ‘Birdon’, but I believe that the word ‘Birdon’ was used.

Dr Gumley—Can I make a correction too. I sunk the wrong ship a moment ago. It was actually the *Canberra* that got sunk off Barwon Heads on 4 October 2009, not the *Adelaide*.

CHAIR—Thank you for that.

Dr Gumley—That will be of great relief to the crew.

Senator JOHNSTON—SEA 1000: we have spent \$6 million of what I think is the \$10 million, \$12 million, \$14 million or \$15 million that we have budgeted for. What have we spent the six on?

Rear Adm. Moffitt—To date, in contract work we have expended \$6.263 million of a total of \$19.8 million approved by the government for this project. At our last meeting I gave you an extensive list of the individual contract activities there, to which I can add only one additional in that time frame. That is not particularly out of the ordinary, given that we had anticipated a period where a federal election would slow our ability to get the necessary

approvals to go and do that work. The one additional piece of contract work that we have gone to was in June of this year. That is a contract for \$330,000 with the Rapid Prototyping Development and Evaluation organisation, which is a defence and industry joint venture. That is focused on the conduct of several workshops with industry to explore how industry in Australia might go about getting together in a teamed environment to oversee and conduct design activity related to submarines, particularly with respect to SEA 1000. So, in terms of expenditure, that is the only additional one that I can touch on since we spoke in June. I am on the threshold of several more activities in the relatively near future.

Senator JOHNSTON—Can you tell us broadly what they are?

Rear Adm. Moffitt—The period of time since we last met, with the federal election, is a planned reduction in our going-out activities simply to give us the chance for the caretaker period and the new government to come in and to get the new minister briefed. We have not had that opportunity yet; but in the next couple of weeks I expect that we will have our first opportunity to brief the minister on some of those activities. Until such time as the minister gives us the green light to do them, they are just plans.

But, essentially, I can say that they go to an examination of capability in respect of SEA 1000 in three broad areas. The first is some simulation and analysis of the top-level requirement, in a numerical sense, to take the broad description of the submarine as it is outlined in the white paper and bring it to a more detailed required ship characteristic statement around which there are detailed numbers, which we can then model in a computer simulation sense to bring us to a point where we can take those numbers and data and put them through a submarine design-modelling computerised system. We expect to do that work, in conjunction with organisations used by the United States navy, through an FMS case. So at one end of the spectrum that is really to refine into more detail something that we could go into the marketplace with in terms of a specification around the performances that we are looking for; at the other end of the spectrum is some work that we plan to undertake with the European submarine designers in respect of military off-the-shelf options that exist today.

Senator JOHNSTON—So you are looking at some MOTS.

Rear Adm. Moffitt—For SEA 1000, we are examining everything that exists in what I consider to be the option space.

Senator JOHNSTON—The policy framework or white paper does not anticipate a MOTS for this particular project, does it?

Rear Adm. Moffitt—That is correct; the white paper does not describe a conventional submarine that exists today; neither is a conventional submarine of that sort of specification, as we understand it, in prospect for us today from a potential vendor.

Senator JOHNSTON—So where does the description in the white paper come from?

Rear Adm. Moffitt—I would have to defer to the authors of the white paper on that.

Senator JOHNSTON—You would hope that someone drawing up specifications as broad as they are in the white paper had something in mind.

Vice Adm. Crane—The broad outline of the capability as described in the white paper was derived from the mission requirements that were set having looked at the strategic

requirement. As you might appreciate, at that stage there was no attempt to try to drill down to a materiel solution but to canvass the art of the possible, if you like, to try to stay within the bounds of reality. Admiral Moffitt is saying that all options now are on the table to look at how we might meet that and, if we do not meet it, what the implications of that would be. I think that is the approach.

Senator JOHNSTON—I completely accept that and I think fundamentally that is just the most obvious and logical way to go forward with this, because the description in the white paper, as we all know, is as you have described a capability wish that does not have anything in reality to back it up. The Japanese have something along the way, but conventionally. Who have we been to in Europe? Can you tell us?

Rear Adm. Moffitt—Yes. We have approached the four established submarine design houses in Europe, those being Navantia in Spain, DCNS in France, HDW in Germany, and Kockums, originally of Swedish parentage but now in the ownership of the German company ThyssenKrupp.

Senator JOHNSTON—I think we have spent \$6 million. Can you tell me how much we have spent on those four manufacturers?

Rear Adm. Moffitt—To date we have conducted a funded request for information activity with each of those four and, subject to our satisfaction with the information that was returned, we offered to pay \$300,000 for each, and we paid that sum to each of those companies. That was an activity early in 2009.

Senator JOHNSTON—What is our plan going into the next 12 months? I note that the DCP does not include SEA 1000 until 2016. Why is that?

Rear Adm. Moffitt—I will answer the first part of your question first. This is subject to the minister agreeing with my proposed plan of attack going forward. I would stress that I have not yet had an opportunity to discuss this with him, but we are planning to make a visit to government formally in the first half of 2011. There are a number of specific issues to be taken for government consideration during that, specifically a more detailed description than appears in the white paper of the strategic guidance for the application of the submarine capability in the future, which is obviously a highly classified document; an outline of our proposed strategy for approaching the program; and an application for some funding to begin that work.

Senator JOHNSTON—What is our scheduled time frame underlying all of our activity to this point in terms of boats in the water?

Rear Adm. Moffitt—There will be two drivers. It will be what it is that we seek to acquire, what government agrees to acquire and when that is going to be achievable, all of which are subject to a whole raft of quite variable determinations in terms of how the construction program goes forward, what it is that is to be built and so on, and therefore what is a realisable schedule from Australia's point of view.

Senator JOHNSTON—I think that is all eminently reasonable, but 2025 is not a fixed date and time?

Rear Adm. Moffitt—At this stage I think 2025 is a notional life of type of HMAS *Collins*, the first of the Collins class submarines. There has been only a relatively small amount of work done to date with a couple of desktop studies into what the actual life of type of the Collins class submarines is, and that is obviously another issue that will play into the whole equation of the future submarine capability.

Senator JOHNSTON—Thank you. I have no further questions.

Vice Adm. Crane—I would like to correct the date that I gave to Senator Johnston. HMAS *Sheean* is in full cycle docking and is due out in July 2012.

Senator JOHNSTON—I thought so.

Vice Adm. Crane—I think I said to you that it was 2011 and I apologise for that. HMAS *Rankin* starts its FCD in January and is due out in October 2013.

CHAIR—I cannot remember whether we had a discussion on the Rand report last time regarding the design aspects. I think it had just been received by government. Is that correct?

Rear Adm. Moffitt—Not quite. We were expecting it at any time. It comes in a number of parts. I think I said to the committee last time that the process we were going through was to work through those several parts with a fine-tooth comb to make sure that we understood exactly what it was that the authors were trying to say, and it is particularly the case in the submarine world, perhaps more so than I have experienced elsewhere in the military, that the US and Australia often find ourselves two countries divided by a common language. Our understanding of things can differ quite dramatically.

We are still in that process. We have had a number of iterations of the reports and have gone back with a number of questions. I have recently provided advice to the minister that we are very close to that point. Our contract with Rand allows them, as they always do with these sorts of things, to release the reports publicly once they are happy that their customer is comfortable with what is to be released. We are not far away from that point, and my anticipation is that it will be this calendar year that we will see that happen.

CHAIR—When that becomes a public document could you make a copy of it available to the committee?

Rear Adm. Moffitt—Absolutely.

CHAIR—We will go to Senator Barnett on obesity matters.

Senator BARNETT—There were two other issues, one being granting the VC medal for the Royal Australian Navy.

CHAIR—What was the third issue?

Senator BARNETT—The fuzzy wuzzy angel—granting a medal for PNG.

CHAIR—Senator Barnett.

Senator BARNETT—We will start with obesity. You will recall in February last year we first had this discussion. Major General Paul Alexander provided some responses at the time, for which I am most appreciative, and we have followed that issue since then. I would like to get an update on the level of concern that the ADF has with respect to obesity in the

Australian Defence Force. Based on advice that I have received in answers and other evidence it appears that some 14 per cent of the population of the Australian Defence Force is obese and some 62 per cent is either overweight or obese based on the BMI indicators. Do we have some updated figures that can be broken down to Navy, Army, Air Force, male and female? Secondly, with respect to the activities undertaken within the ADF to combat the obesity concerns in the ADF, what specific actions have been undertaken with respect to having a more regular physical activity? Evidence was put that 20 per cent of the ADF was largely inactive. What initiatives are taking place to address that in terms of physical activity and also healthy diet? Can you tell us what specific initiatives have been undertaken to advance the cause in that regard?

Major Gen. Alexander—I can go through the key health BMI statistics. The latest information we have is the 2009 calendar year. These will not vary very much from year to year. The latest information I have is that the service overweight rate is, as you have said, 41 per cent; the BMI rate above 30 is 14 per cent, for the total. Sorry, that should be 48 per cent overweight and 14 per cent above 30. In relation to male and female across the organisation, male is 40 per cent and female is 31 per cent. For overweight and for BMIs over 30, it is 14 per cent for male and eight per cent for female. I can break those up into services.

Senator BARNETT—If you have those figures with you.

Major Gen. Alexander—I will just go through it. For the Army, overweight male is 49 per cent and greater than 30 BMI is 14 per cent. Female is 30 per cent overweight, and seven per cent greater than 30. For the Air Force, male is 53 per cent overweight and 17 per cent BMI greater than 30; females are 32 and seven per cent. For the Navy, the figures are 53 and 17 per cent for male; 27 per cent and 13 per cent for female.

Senator BARNETT—Out of that group do you know how many of those are in active duty?

Major Gen. Alexander—Those are all the active duty figures. I can give you the reserve figures if you require them.

Senator BARNETT—Could you take that on notice? I do not want to delay the committee.

Major Gen. Alexander—I can table the reserve figures.

Senator BARNETT—That would be fantastic.

Major Gen. Alexander—I need to take that on notice.

Senator BARNETT—Thank you. In terms of these figures from the Monash report, have they been updated where we have had 20 per cent of the ADF that are undertaking higher levels of more vigorous activity and 20 per cent are largely inactive? Have those figures been upgraded?

Major Gen. Alexander—There has been no follow-on study done in relation to the activity levels. I can make general statements in relation to activity within the Defence Force, but there have been no studies apart from that Monash study in relation to activity rates. Bear in mind that there is a requirement for all three services to maintain their operational readiness, as you are well aware, and part of that is their need to undertake physical fitness.

Senator BARNETT—I will go to the next question. As at 30 October 2009 approximately 8.3 per cent of the ADF personnel were not deployable on medical grounds. That is an answer to a question that you gave me at the time. Has that figure been updated?

Major Gen. Alexander—I will have to take that one on notice.

Senator BARNETT—That is fine. Turning to the initiatives that have been initiated or changed in the last 18 months to address this concern, which was raised in the 2009 February estimates—18 months ago—do you have some specific initiatives that you can share with the committee that you are now undertaking to address this matter?

Major Gen. Alexander—There are general initiatives in relation to Defence health and wellbeing across the organisation. Those initiatives are in relation to annual wellness checks that we still conduct for every individual within Defence. That means that an individual's weight, height and broad BMI is assessed on an annual basis at this stage. Therefore, anybody with a BMI above 30 prompts a response from the health system so that they are then analysed in relation to their health and wellbeing. If through that check a BMI of 30 comes up—and we have indicated the percentages of those particular individuals—we will then go and do a health and welfare analysis. We look at and discuss their diet, lifestyle, exercise levels and particularly whether there is comorbidity in relation to obesity—whether it is obesity as it stands or whether it is obesity that has related to it in particular hypertension, hyperlipidemia, diabetes, any other musculoskeletal or other endocrine type of disorders. That is the focus. Depending on whether there is comorbidity in place, we offer an individual entrance into the Defence rehabilitation system. In other words, if we feel that there is comorbidity and there is a requirement to more actively manage these individuals, they are offered and undertake rehabilitation.

Senator BARNETT—One of the reasons I ask is that I am aware of a new report from the USA where, of course, we know their obesity rates are one percentage point larger than Australia at 15 per cent. This report came out last month in September. It is the National Bureau of Economic Research Working Paper *Unfit for service: the implications of rising obesity for US military recruitment*. It assesses 'the percent of civilian military-age men and women' who meet current military enlistment standards for weight, height and percentage of body fat and finds it has fallen significantly. But also there are reports, which are available, referring to the changes in the physical activity regime that is now being undertaken in the US military, and one of those is headed 'Army is making soldiers fit to fight but without the sit-ups'. They talk about the changes in the physical activity regime that their armed forces are undertaking. I draw your attention to a report that came out in April this year that is headed *Too fat to fight*. It is by retired military leaders who want junk food out of America's schools. It is a report that is released by those retired military leaders.

This is an issue in the USA. This is an issue that is being seriously addressed and considered and acted on in the USA. Based on the figures that I have and that you have and that are on the public record, they are one per cent higher than us. Fifteen per cent of their defence force are considered obese; we are at 14 per cent. We are level pegging. This is an issue in the US. I have done some preliminary research on that. You would no doubt have far better contacts than I in terms of what they are doing to address the concerns that they have. I am really bringing this to your attention. I have raised it over a number of months, for a long

period of time. I think it is a serious issue. I know that last time we spoke, Mr Houston, you indicated it was an issue and you would be considering it seriously. I raise it again for your consideration. If you had any further response I would welcome it.

Major Gen. Alexander—I agree with you that this is a very, very important issue not only for the Defence Force but for the nation. It is a national issue, as you are well aware. I know your enthusiasm in relation to this issue not only within the Defence arena but outside the Defence arena.

We are looking at a multifactorial approach to this. You have mentioned several initiatives in relation to healthy eating. I think that is a very important initiative. In relation to physical wellbeing and exercise, that is something we do concentrate on already inside our Defence Force and I believe all three services have quite active programs in relation to that.

The other area where we are taking further action in relation to a factor that relates to obesity is alcohol. With the cooperation and the undertaking from the Chief of Army, who started this program, we are now looking at undertaking a preventive health and wellbeing program in relation to alcohol. That is currently being scoped and we are in the process of going to open tender to partner with an organisation to focus initially in the alcohol space to make changes there. That will be announced over the next four to six weeks as the tender completes.

The other area that we have spoken about previously that I think is important is in the area of recruitment. We have been conducting research in relation to recruitment where, as you know, we currently recruit between BMI 30 and 33, so we have a program where, subject to the fact that people pass fitness tests and they are otherwise well, we at this stage recruit to a BMI of 33.

The study that is being undertaken is conducted by the Centre for Military and Veterans' Health on behalf of Defence has just been completed. We are anticipating the full report on that over the next three to four weeks. Depending on the findings in that particular report, as a health organisation we will be making recommendations back to the CDF and the service chiefs should those findings indicate that there may be no advantage or some disadvantage in recruiting.

It is very much a multifactorial approach. The nutrition standards are constantly being reviewed. We have an organisation that researches nutrition standards. I feel when it comes to the Australian Defence Force approach to nutrition it is completely different to the US approach to nutrition. We do not have Burger King on bases. We have healthy eating on bases.

There are other service countries' data that we have also become privy to over the last three weeks and I am happy to share that with you. Some Canadian data is very alarming in fact. It is much higher than the US and Australian rates. I think we are looking at an international issue that we really do have to put some effort into.

Our initial focus is going to be in the alcohol space. We will be doing pilot and cultural surveys of the organisation to scope out what the individual's attitudes are in relation to alcohol and how we can change that as not only a health and wellbeing but a cultural issue within the organisation. I hope that gives you some idea of our multifactorial approach.

Senator BARNETT—Can I head to the Victoria Cross medal and why we do not have any VC medals for an Australian seaman. Of the 97 VCs awarded to Australians, 93 have gone to members of the Australian Army, four have gone to airmen and of course none to personnel of the Royal Australian Navy. By comparison, 117 VCs have been awarded to members of the Royal Navy out of the total of 1,353 VCs that have been awarded since 1856. Similarly, out of the 94 Canadians who have received a VC, four were seamen. Of the 25 VC winners from New Zealand, one was a seaman, William Edward Sanders. There have been a number of reasons put forward as to the reasons why this has occurred in Australia. The most often cited reason for the lack of a VC being awarded to a member of the RAN concerns administrative factors and a possible lack of will by some British and Australian naval officers. Until approximately December 1942—this is my understanding and the evidence I have been given—gallantry awards for the RAN were decided on by the Admiralty in London. Can confirmation be given to that and any other reasons why that is the case?

In particular I wanted to raise a couple of nominees for consideration that are on the public record. Ordinary Seaman Teddy Sheean was on the *Armidale*. There were 49 survivors out of 149 and he, as you know, strapped himself to the guns as the ship went down, shooting at the Japanese Zeros to protect his mates who were in the water being fired upon and people could see the light of the ammunition going off as the ship sank below the water. All the evidence suggests that he should posthumously be awarded a VC. That is a view that I hold and I know many others, including in this parliament, hold. I ask for further consideration of that.

Secondly, Captain Hec Waller was on the *Perth* in 1942 where 218 of the 700 survived. That battle was in the Java Sea in the Sunda Strait. There are a couple of others that have been suggested: Captain Henry Stoker, World War I—he was the captain of the submarine in the Dardanelles—and Lieutenant Commander Robert Rankin who was on the *Yarra*, which sank in March 1942. Thirteen of the 151 survived.

I wonder if we could address that initial question and then perhaps go to the nominees?

Air Chief Marshal Houston—I guess we will take on board your thoughts and have a look at it, but we do not generally look at these things retrospectively because it creates all sorts of other follow-on difficulties for us. But, given what you have raised this afternoon, we will take a look at it and come back to you as to the way ahead.

Senator BARNETT—If you could outline the method of your review to consider the views that I have put, and certainly the views I know of others not just in this parliament but in the community, I would welcome that. I am aware of the end of the war list and the push to have that reopened. That is one method perhaps of dealing with these matters. There are other methods, including legislative methods through the parliament. But I would welcome your indication to this committee as to what type of review you might consider appropriate in taking on board my views and the views of others.

Air Chief Marshal Houston—One of the difficulties we have here is that first of all there needs to be a recommendation from somebody who was there, and that is generally a senior officer—a commander who was on the spot. Then there is a requirement for three eyewitness statements that relate to why this individual should be recognised for heroism with the award of a Victoria Cross. But we will take on board your—

Senator BARNETT—Could I just respond to that very quickly? In terms of Ordinary Seaman Teddy Sheean, my understanding is that you have all that evidence. You have that corroborated. You have the detail of his act of bravery, which was something quite outstanding. That is on the record. It is known. There were witnesses. There are witness statements. Commendations have already been granted for Teddy Sheean, so that is on the public record. In fact I know that has been raised previously in the parliament by Mr Sidebottom, who is the federal member for Braddon.

Air Chief Marshal Houston—In response to some of those representations, we have had extensive searches of the archives both in Defence and also in the Australian War Memorial and to date we have found no recommendations for any nominations for RAN staff, naval staff, to be awarded the VC. But we will have a look at it and come back to you with a response. I think we should do that, given your representation here this afternoon.

Senator BARNETT—I wonder if Vice Admiral Crane would care to comment or respond? Do you feel disappointed on behalf of your colleagues, or personnel, that this is the situation we are currently in? Do you agree that it was the Admiralty in London who did not act prior to 1942? Is that one of the key reasons why nothing happened prior to 1942? Perhaps you could answer that question.

Vice Adm. Crane—Firstly, let me go back to the lack of any VCs in the RAN. I think that is an issue that we do need to look at. It is difficult to rationalise why that might be the case. As you have pointed out, it is a fact that up to and including the Second World War the process for a service award for, in particular, the Royal Australian Navy went through the Admiralty. My understanding, as the CDF says, is that we cannot locate any recommendations in relation to the award of a VC. The individuals that you have noted are certainly outstanding people and we have recognised them in our Navy in many other ways.

The names of Sheean, Waller, Stoker and Rankin are embodied in our heritage. Certainly their acts and their service are well recognised. I would certainly support the CDF's view that we need to go and have a look at how we might be able to correct this particular issue.

I understand that there may be a way forward. Things have changed now for the honours and awards areas in Australia, and perhaps there is an opportunity for us to relook at what we might do. But I also support the CDF's view that we are talking about events that in Stoker's case are nearly 100 years old. That is going to be a challenge. It is not impossible, but it is going to be a challenge.

Senator BARNETT—Understood, but of course in Stoker's case it is my understanding that the captains of the two other submarines were granted a VC. But in the exact same situation Captain Henry Stoker was not granted a VC and it seems to me that it was an administrative stuff-up where there was a lack of will at the Admiralty House in London, and it is as simple as that.

Vice Adm. Crane—I did not raise Stoker in any way, shape or form to suggest that he might not be one we look at. It was simply to perhaps reiterate the challenge of time, which we will have to overcome somehow.

CHAIR—Prior to the last election the government took a proposition about the creation of some sort of independent body or tribunal. Does that have a role in this?

Air Chief Marshal Houston—That is exactly where we are going to go. We have an independent honours and awards tribunal and we will refer this particular case, this representation that the Senate has made on behalf of naval personnel, to that committee. I do agree with him, the like of Sheean, Waller, Stoker and indeed several others in the Navy—their actions under fire were just unbelievable and they should perhaps be recognised. I do not want to raise expectations. There are very strict rules associated with Victoria Crosses and at the end of the day the final approval has to go to Buckingham Palace, and there is a very rigorous process associated with it. We will let the Honours and Awards Tribunal have a look at it and obviously we will go forward from there. We will come back to you and let you know how that process goes.

Senator BARNETT—I thank you for your feedback and a positive response in that sense. I am aware there is a national tour of VC medals by the Australian War Memorial at the moment, which is a tremendous thing that is happening around Australia—including coming to Tasmania—for which I am very appreciative, and it recognises Harry Murray VC, Australia's most highly decorated soldier emanating from Tasmania. I should mention, obviously, that John Simpson and Gunner Albert Cleary have not been granted VCs and I know there are issues regarding those two as well. Did you want to reflect on those two?

Air Chief Marshal Houston—Yes, I would reflect on that. The John Simpson one has been around for a long time, and a lot of people would strongly support some sort of recognition for those two. However, we come up against a number of limitations and constraints in terms of the award of a VC, particularly after so much time and given the very strict rules that apply to the award of VCs. So I guess, again, I think those have been looked at exhaustively and we will take on board your representation.

Senator BARNETT—The Fuzzy Wuzzy Angels—medals to the PNG nationals, for which we are deeply indebted and thankful that it is happening, albeit 65 years later. It is good news that it is happening. Could you update the committee on the number of medallions that are being awarded, the number of applicants and the numbers awaiting approval? I am also seeking confirmation that there were some 50,000 PNG Fuzzy Wuzzy Angels, as they are affectionately known, during World War II. Of course, that means there is a whole lot that we are still missing out on. Perhaps if we could get an update that would be appreciated.

Air Chief Marshal Houston—We will take that on notice.

Senator BARNETT—You do not have those figures with you?

Air Chief Marshal Houston—No.

Senator BARNETT—I was hoping you might have those figures with you.

Air Chief Marshal Houston—We will get back to you. I am sure we can get those figures for you and we will respond with the written word.

Senator BARNETT—When you do respond, please include the number of medallions granted, applications made, applications not accepted, applications awaiting approval and then the likely number that you anticipate will be made in the foreseeable future. Then I would like a response to the question of how many we are missing out on. We know there were some 50,000 or thereabouts who supported the Australian men at Kokoda during World

War II in PNG. The question is: how many are we missing out on? Have you given any consideration to that?

Air Chief Marshal Houston—I have not been in the detail of this at all for obvious reasons but, given again your representation here this afternoon, we will take a look at it and we will come back to you in writing. I am sure we will be able to obtain most of the information you seek.

Senator BARNETT—My understanding is the medallions are for the Fuzzy Wuzzy Angels themselves or their widows but not for other family members. Perhaps you could outline the reasons why that is, because for the family members, if their mum and dad have passed away they are missing out and they have nothing. I am just thinking for and on behalf of those families. Can some sort of recognition be granted to them or consideration be given to them to say, ‘Thank you for the service of your dad’ or for this person in that community. I think it would do a great deal of honour and respect to those communities where those men lived. I raise that for consideration.

Senator Feeney—Obviously this is a matter that we will respond to you more fulsomely about, but I am aware that there have been some significant challenges in terms of advancing these medals. Those challenges are perhaps obvious. They go to the obvious age of many potential recipients. There have been very significant logistical challenges in terms of identifying people who are entitled to this medal. There is the question of life expectancy and the simple and unfortunate truth that many of the Fuzzy Wuzzy Angels are no longer with us. I am aware of the fact that this program has encountered some pretty significant—obvious but nonetheless significant—challenges.

Senator BARNETT—Noted, and thank you.

CHAIR—Senator Abetz.

Dr Watt—Before you go on to a fresh round of questions, we are in a position to table some material on the MEAO sustainment, if you would like that, and also to answer a few questions.

CHAIR—Proceed.

Dr Watt—If I could get Mr Brown and Air Marshal Binskin to the table. Mr Brown has some questions to answer first, I think.

Air Chief Marshal Houston—Chair, I have something to update the committee on in response to the question from Senator Johnston on artillery in Afghanistan.

CHAIR—Do you want to go first, Mr Brown, or CDF?

Air Chief Marshal Houston—While they are getting ready I will just put this into the record. In terms of the 4th Field Regiment—15 gunners attached to the British Army—the question was where are they, what are they doing, how long there, what artillery are they operating? I can confirm, as I said: located in the regional command southwest area of operations in Hilmand province. The current contingent, which is provided by the 1st Field Regiment, is currently split. One of the detachments is located in the vicinity of upper Greshk Valley in support of the Danish Battle Group. The second detachment is located in the vicinity

of Nahri Sarraj in support of 2 Parachute Battle Group. I note that these locations could change through their deployment.

They are reinforcing the Royal Artillery regiment that supports the British Taskforce in Helmand. In terms of each rotation, they spend six months in Afghanistan which is preceded by approximately six months force preparation and integration in the United Kingdom. The rotation commenced in 2007 and, as I mentioned, the last rotation will complete next year, and the precise time is March/April 2011, as the United Kingdom will be adapting their artillery commitment. They operate the UK 105 mm light gun, which is nearly identical to the Hamel guns used by the Royal Australian Artillery.

CHAIR—Thank you, CDF. Mr Brown.

Mr Brown—In relation to some questions raised by Senator Johnston during my time in the chair here, I can now advise that the bank guarantee that has been obtained by Adagold has been underwritten by the Commonwealth Bank.

Dr Watt—A very substantial balance sheet.

Mr Brown—In relation to when the current contract comes to an end with Strategic, it will conclude at midnight on 23 October 2010. In relation to the actual details of who is currently providing the contract, it is under the service order AO052A/07-08; it is with Strategic Aviation Group Pty Ltd; the ABN is 80 059 547 723; the service is actually being performed by Strategic Airlines Pty Ltd, ABN 82 131 128 571. In relation to the two aircraft that are being supplied, I would note that they have a primary aircraft and they have a backup aircraft. The registration for the primary aircraft is OY-KBN—it worries me that I know this; it is a Danish registration! The secondary aircraft registration is CS-TQM and that is a Portuguese registration. Both registrations are in the name, at the moment, of Hi Fly.

Air Marshal Binskin—To close out Senator Johnston's concerns about the overall safety and airworthiness process with regard to the MEAO sustainment contract, the Defence Airworthiness, Coordination and Policy Agency, DACPA, provides advice to Joint Movements Group as they go through the tendering process. During the tendering process precontract military aviation regulation 5 is the overarching airworthiness document and it is based on existing Civilian Aviation Safety Authority regulations. Under this regulation, if the operator holds an Australian Air Operator's Certificate with a regular public transport designation then no further information is required. That is based on the fact that the Civil Aviation Safety Authority has a robust surveillance system in place for an Air Operator's Certificate that is more stringent again for those companies that have a regular public transport designation.

If someone is chosen that does not have a regular public transport designation there is an extensive list of waiver requirements that needs to be considered by me as the Defence Airworthiness Authority. These include operational imperative, details of the operator, aircraft owners, country of registration, maintenance level, foreign air operator's certificates or prior Civil Aviation Authority approvals, accidents and incidents in the previous two years, recent management plans and review of airworthiness management policies.

Post contract, if the company chosen has an AOC with an RPT designation then no action is taken by the Defence Airworthiness, Coordination and Policy Agency unless there is an

issue that is highlighted. If an operator does not have an RPT designation then we conduct, in conjunction with CASA, the Civil Aviation Safety Authority, a ramp check to ensure compliance with airworthiness regs. In this particular case you have the tail numbers of the aircraft and the details of the aircraft. DACPA assessed Hi Fly—not Adagold but Hi Fly as the operator, not the broker—and confirmed that they do have an Air Operator’s Certificate with RPT endorsement in Portugal. Based on this, CASA, the Australian Civil Aviation Safety Authority, has issued a Foreign Aircraft Air Operator’s Certificate, and that is the equivalent to the Australian standards. Therefore, they have met the intent of the requirements. I also understand that once the contract is signed Hi Fly will be applying for an Australian AOC and RPT designation.

CHAIR—Thank you very much.

Dr Watt—I notice Senator Trood leaving. I was also going to offer him a couple of answers. Sorry, Senator.

Senator Feeney—You can run but you cannot hide.

Dr Watt—Senator Trood asked two questions about the security vetting agency. The first was: what are the rates for cost recovery for other agencies? The rates are: firstly, top secret positive vet, \$6,792; negative vetting level two, that is top secret negative vet, \$1,758; negative vetting level 1, that is secret and confidential, \$638; and baseline vetting, which is restricted or protected, \$334. I have spared you the cents; I have rounded them. In terms of overall cost recovery and the revenue received, cost recoveries have been agreed in a charter with other government agencies, and our business case analysis shows that we expect to receive \$7.5 million in 2010-11 and \$9.8 million in 2011-12. We have an open book policy with those agencies in terms of the costs we are recovering. Those agencies have the ability to challenge our proposed cost recovery. If I know my colleagues, they will keep a fairly close eye on what we are charging.

Senator TROOD—I think Mr Brown has one more.

Mr Brown—For the benefit of *Hansard*, I would like to note the tabling of the Deloitte report, the AGS report, the David Charlton statutory declaration and the Mark Clark statutory declaration. To complete the issues on the aircraft, each aircraft is capable of carrying 200 passengers. It has 150 cubic metres of cargo space with 25,000 kilograms capacity for baggage and cargo, with an all-up capacity of 42,200 kilograms.

Dr Watt—I note for the benefit of *Hansard*, the AGS report has redactions in it and so do the two statutory declarations. They go to the Commonwealth’s legal position on all matters that are commercially sensitive.

CHAIR—Understood. I have one question. I just glanced through the Department of Defence documentation and the examination of the procurement process. On page 2 of the executive summary it states:

In performing the engagement—

this is Deloitte—

... there are a number of limitations—

including a number of dot points, and then critically:

We did not interview any of the tenderers or Major Charlton. We did not verify the information obtained through interviews and in the tender responses. We did not verify the information obtained through online media sources. We did not check the integrity and accuracy of the information contained in the financial viability spreadsheets.

If Deloitte were doing the second inquiry—for want of a better description—and it was a process check on a previous probity report, why would they not have gone to either the original source material or interviewed the tenderers who were complaining of certain matters, in putting together the reports for your consideration?

Mr Brown—The issues pertain to the fact that they are aware of the report prepared by my department, were cognisant of that, had reviewed that and believed that many of the issues had been addressed in it. There was also a very tight time frame and they did not want to duplicate the effort. To work to the time frame they had to be very specific. We had set out terms of reference, which they were very keen to stick to. That was the limitation on it.

CHAIR—Asked and answered. Thank you.

Senator HUMPHRIES—I wanted to ask you to run through the projects of concern. As a person new to this area, I would like to understand how those projects are identified and who determines that they are projects of concern.

Dr Gumley—There is an element of judgment about how they are selected to be on the list. As you are well aware, some of these Defence projects are enormously complicated, with technological challenges, cost and schedule issues. We have a number of red light, orange light, green light-type traffic light systems, but after that it actually requires a judgement. Most projects start off fairly well. They take a year or two to get into trouble, if they are going to get into trouble. You do your best to remediate but, once you start to see patterns where the remediation is difficult, that is the time when it comes on to our project of interest list. We then put a lot of energy into trying to fix them and then they reach another stage where it is advantageous to the Commonwealth to spread the concerns further and involve the minister so that we get maximum attention to fixing the deficient project. It is a mixture of objective and subjective concerns and ultimately it is a judgment call.

Senator HUMPHRIES—Can you assure us that, if there are 10 projects of concern identified at any given time, these are the 10 most concerning projects in front of Defence—that is, there will not be other projects of greater concern that are not placed on that list for reasons of operational or even political sensitivity?

Dr Gumley—Given that it is a judgment call, I do not think you could ever make that absolutely the case. There are a number of measures in place. Firstly, we have the major projects audited by the Australian National Audit Office. Next month there will be 20 tabled to the JCPAA, with 22 projects on the list this year. It has been gradually growing. We had 15 last year. That is not the number of projects of concern; that is the number that have been regularly audited by the Audit Office. That is intended to go up to the 30 biggest and most sensitive projects, which will be audited every year with independent verification from ANAO. Being on the major projects report is not the same as being a project of concern. What we do inside DMO, working with the whole of the Defence portfolio, is look at the projects that are late, going over budget, not going to deliver the capability, or have developed a series

of commercial or technical risks that require major work to overcome. It is a matter of constantly purviewing and going through all of the projects in the portfolio every month to see the ones that are in difficulty.

Senator HUMPHRIES—We had the list published in a media release last week by the ministers. Can you take us through each of those projects and outline why they are of concern and what the time frame is to address those concerns?

Dr Gumley—I will hand over to Mr King, who traditionally does this.

Mr King—One of the penalties for a project that is listed on the projects of concern is that they come under my management, because they also get the CEO's and the minister's attention. This whole process started off in late 2007, and I suppose I would say it has matured as a process. It was initiated on the basis of giving increased focus on remediation or indeed cancelling a project where that was required. Since we started the process, six projects have been either cancelled or remediated and there are now 11, because it is a dynamic process with projects going on to the list and coming off the list as circumstances dictate.

The project value of the projects on the list is about \$11 billion, but I want to stress that most of the projects are not on the list because of cost overruns and in fact only about \$5.2 billion of the total project money for those projects has been spent to date. Of the projects that have either been cancelled or remediated there is about \$5.5 billion worth of projects that have been successfully dealt with over that period.

I can give you a brief summary of each project and broadly why it is there. The first one and the highest priority is really not so much a project but an activity. It is the Collins class. You may have been in here earlier, but it was certainly explained. I think most people are aware why the Collins class sustainment activity is on that list. I am happy to explain more, but if you like I will go on to some of the others.

Senator HUMPHRIES—I noted what was said before about that project. Is there something else, from your point of view, that you would like to add to that?

Mr King—Only that we have it under intense management now. We have formed a leadership group between the Chief of Navy, myself and the CEO of ASC to work out remediating the Collins sustainment activities. It gets that attention very regularly and we are making progress, but like most of the major projects on this list there are no miracles. They are often technically challenging and they take time to fully remediate or be dealt with. I do not think there is much else to add except that we are trying to find a new rank for Air Vice Marshal Deeble, because it is quite breaking with tradition to have an Air Vice Marshal running a maritime project. We are thinking about something like 'Under Sea Vice Marshal'. I suspect that might have to be referred to some committee.

Senator HUMPHRIES—I think I heard a curse from outside the room. He might not have liked that idea.

Mr King—I will just run through the list in no particular order. Joint Project 129 is a tactical unmanned aerial vehicle. It was a project started in December 2004, on government approval. The total project value is about \$135 million. It was to be deployed early, but we ran into problems with the first contract, which was with Boeing. That project was cancelled,

from memory, in about September 2008 at no cost to the Commonwealth, and we have reinitiated the project. We have now had government approval to proceed with a replacement air vehicle called the Shadow 200 from the United States. That approval was received in April 2010. We have a letter of offer process that comes under what is called the foreign military sales process, and that was signed, from memory, in August 2010. We expect the initial capability to be delivered into theatre towards the end of 2011 and that is courtesy of the support of the US Army, which we are negotiating with to divert the first system into theatre to support our operations. We are very dependent on and grateful for their support. That is a project that I would rate in the remediation track and looking like we are on track to succeed with that project.

Senator HUMPHRIES—It was an off-the-shelf project?

Mr King—It was not. It is now. It was initially intended to be an off-the-shelf project in the first tranche. We added some requirements, which made it very hard for the contractor to deliver, and that is why we reset and restarted the project.

Senator HUMPHRIES—Has that increased the cost?

Mr King—No. That project will likely return a small amount of money to the DCP, at the moment. It is a foreign military sale and one of the requirements of the foreign military sales process is that we have to pay whatever it costs. We do, of course, get very thorough costings from the US, and all the elements at the moment would indicate it will go into theatre for the materiel aspects for the budget. The next project is Joint Project 2043, which is a high-frequency modernisation. This is a very old project. You will find as we go through them that a lot of these project are quite old and started up before we had the ‘two-pass’ Kinnaird process. Some of these point to the need to have process improvement, which of course we have implemented over the more recent years inside Defence. This project was approved in December 1996. We had initial project approval in 1996 dollars, which has been escalated up from \$505 million to \$663 million. So far we have spent \$413 million. The prime contractor is Boeing and this project is making very good progress now having been reset. We anticipate being able to report to the minister in a few months time that this project could be considered for removal, but we have some more work to do to complete that. This is the high-frequency fixed network that supports our units and operations, and generally it is making good progress. Some work remains to be done, but it is on the right track.

Senator HUMPHRIES—You told the committee in June that you expected it to be removed from the list very soon.

Mr King—Yes.

Senator HUMPHRIES—When you say ‘very soon’ do you mean in the next few months?

Mr King—I would anticipate that, but it is a finalisation of the final acceptance of all the capabilities and then, of course, very clearly, to make sure that the minister agrees with our approach, to removing it.

Dr Gumley—To answer your question, we hope that some time early in the new year, somewhere between January and about March, we might be in a position to make a recommendation to the minister.

Senator HUMPHRIES—I understand that designated mobile platforms were the problem in obtaining the rollout of this technology. Is there a particular problem with those platforms at the moment and when we are talking about mobile platforms what are we referring to?

Mr King—The two elements are your fixed transmitter receiving sites and then ships or vehicles that want to use that site. That is what the mobiles are. The remediation was about the fixed site and not the mobile elements. What we are saying on the mobile elements is that there is still remaining project money to upgrade where required mobile elements for the project, but they are not part of the project of concern. That is ongoing work and normal business for Defence.

Senator HUMPHRIES—Thank you.

Mr King—The next project is Joint Project 2070, which is a lightweight MU90 torpedo. This project was approved in July 2001 with a current budget of \$650 million and an expenditure of \$401 million. The project was descoped. It was originally intended to be ships, Anzac and Adelaide class, as well as helicopter and P3. The government approved descoping this project because of the challenges of integration. There are two elements to the problem with this project. The first was the initial performance of the torpedo and the second was the integration costs and complexity in both ships and aircraft. The complexity of integrating into aircraft went beyond the project, beyond being a worthwhile investment and so government approved the removal of the air integration aspects of the project. It was the subject of an adverse ANAO report earlier this year.

I would report, as I did at the last estimates, that since that time this project has been making very good progress. We have now analysed over 180 firings from Europe in particular. We have conducted a number of our own firings, and we have one more planned acceptance test and evaluation firing for later this year in northern waters, where the Navy, in particular, has an interest to understand the performance of the torpedo in warm shallow water, which is rather unique to the Australian operating environment compared with the European environment.

There are a couple of issues left that are really about bringing it into service. We have established that the torpedo works around the parameters that we anticipated. We have integrated it into the Anzac and Adelaide ship class. We are preparing for it in the air warfare destroyers. We have set up the torpedo maintenance facility and the mobile facility that recovers the test torpedos, treats them and then returns them to the torpedo maintenance facility for refurbishment. That is the last of the work that has to be done.

One of the issues that we had was a mobile target. This torpedo is very smart, and we cannot talk about all the capabilities here, but it means that you have to have a very smart target. There were two in the world that were available. We had pricing on those. The lease cost for one year was about \$18 million. To buy one was about \$80 million. The determination was made that those targets did not really completely test the system as installed in a ship, and so the preferred course at the moment, subject to safety case and safety analysis, is to use the Collins class submarine as a target, which will prove the system. That probably sounds a bit adventurous, but in fact we do that for other torpedo types, so it is not ground-breaking in that sense. What we need to do for the Chief of Navy is demonstrate a

safety case, using work done by DSTO and so on, to demonstrate that separation, safety, turnaway and if, in extremis, an impact from—let me stress—a passive torpedo would not represent any risk to the Collins class.

This project has some important work to be done. The Navy in particular wants to complete operational tests and evaluation next year, which does more work in understanding the complete capability of the torpedo, particularly in this warm shallow water environment. But despite a very troubled history, I would say this project is on the stability to grow in confidence that we will deliver this capability to the military. Initial material released in the first half of next year, and hopefully operational release in the first half of the following year.

Senator HUMPHRIES—The other firing that you talked about to be conducted by DMO is the one on the Collins submarine? Is that the one?

Mr King—No, that is against a static target. The two types of testing that we do are acceptance testing—that is the materiel aspects—which is conducted, if you like, by DMO and of course by the Navy, but under our test program. Operational tests and evaluation to see how it performs against mobile targets in shallow water and so on is planned by the Navy later next year.

Senator HUMPHRIES—Thank you.

Mr King—The next one is Air 5077, the Wedgetail. This project was approved in 1997. Total project approval at the moment is \$3.8 billion. Expenditure to date is about \$2.8 billion and the prime contractor is Boeing. We had some very good progress on this project last year, with the initial acceptance of two aircraft and since then a third aircraft. The Air Force also took the aircraft to RIMPAC this year and used it in a high-density exercise environment. We are now working through the final process to final acceptance of this aircraft. We originally scheduled final acceptance for December of this year. It is more likely to be March or June of next year, but overall the program has stabilised significantly. As we briefed before, we have made a commercial settlement with Boeing because there will be some deficiencies, but acceptable at radar performance at final delivery. Part of that settlement enables us to continue to refine the radar performance and, in particular, to use a company in Australia, CEA, a specialist in radar technology, to work with Northrup Grumman and Boeing to improve that radar performance over time.

Senator HUMPHRIES—This is CEA based in Fyshwick?

Mr King—CEA based in Fyshwick, which is owned in part by NG. It is a very good settlement. There are various elements to it, but this element, which allows us to continue to work and improve the radar over the life of the aircraft, is a very important aspect of that settlement.

Senator HUMPHRIES—You said there were some, to use your word, deficiencies with respect to the settlement that had been reached in terms of the capacity of the radar and the arrangement between Boeing and the Commonwealth. Can you expand on that slightly? What do you mean by ‘deficiencies’?

Mr King—There are about 10,000 requirements for this aircraft in the contract. One area where it will be partially deficient at delivery is in what we call pulse Doppler tracking, which

is tracking targets in the cluttered environment. In a very busy radar environment picking out targets in that environment is a particular aspect. We will have a performance, but not at the performance level that was anticipated by the contract. It is now understood what that deficiency will be, and it has been accepted as a reasonable deficiency to still provide a good operational capability at acceptance, but we have been compensated for that deficiency. The Commonwealth has been compensated in a number of ways, including the release of IP so that we can upgrade the radar and other elements over time. There is a cash element, too. I have briefed committees in private because the settlement, which I think is a very good settlement, is one that we have undertaken to keep confidential.

Senator HUMPHRIES—There was plan for construction of a facility on the ground at RAAF Tindal as part of this exercise. Has that been completed?

Mr King—I will pass to Air Vice Marshal Deeble, who is also the project manager for this.

Air Vice Marshal Deeble—Currently the Tindal facilities are in work but have not been accepted. We are still working through some op facilities and some maintenance facilities for the operations out of the Tindal Air Base.

Senator HUMPHRIES—When do you expect that to be completed?

Air Vice Marshal Deeble—The majority of that work should be completed by the end of this year.

Senator HUMPHRIES—Thank you.

Mr King—The next project is Air 5333, Vigilair, or the Aerospace Surveillance and Command and Control System. This was originally approved in 1992 with a budget now of \$275 million, of which \$205 million has been spent. Since we renegotiated this contract with Boeing and it being rebaselined on schedule, it is maintaining that rebaselined schedule. The initial operational capability has now been established. There is still about 15 per cent of the requirements to be met. Although we are on a very positive track for this project, we still have a little while to go, because sometimes at the end of a project the last 10 per cent is the hardest bit to accomplish. But it has definitely been on a good trajectory and, interestingly enough—and perhaps indicating some of the value of having projects of concern and focussing on getting capability working—another project that was on the projects of concern was the FFG upgrade. The first of the FFGs have now deployed but, interestingly, a Wedgetail, an FFG and the Vigilare system have been sharing data links between them. Three projects on their list are now starting to come to fruition and starting to show real significant capability gains for the ADF. I would say Vigilare is in a good position, improving, with some way to go yet and some work and attention needed.

Senator HUMPHRIES—Has delivery of the Northern Regional Operations Centre at Tindal been achieved?

Mr King—Yes, it has.

Senator HUMPHRIES—Thank you.

Mr King—The next one is Land 121, phase 3, medium-heavy component. I am not sure whether you are familiar with all the Land projects, but they have lots of elements to them. I sometimes struggle a bit, but this one I understand. This was because of an unsuccessful

tender process for the medium-heavyweight component. We made a preliminary selection of a vehicle where the process was then terminated and we have gone back to tender for these vehicles to three companies.

CHAIR—This is the trucks?

Mr King—Yes. It is the medium-heavy component of phase 3. Just trucks, as someone would say, but not me. The total budget is approximately \$2.9 billion for the whole phase 3 element. Currently we have only spent \$51 million of that. We are in the tender evaluation stage now and it is nearly completed. We expect to be able to provide advice to government quite shortly on the outcome of that process, and we would anticipate having a contract signature in the latter part of next year. Once again, since we have put this one on a new schedule, it is maintaining that schedule, as we committed to.

CHAIR—What has been the problem with the tender process in this one?

Mr King—The original tender process, as I recall, had some issues related to the vehicles offered and the status of the vehicle compared to what had been offered in the tender. Also, there were some particular concerns about the process.

Dr Gumley—Yes. Test vehicles arrived in Australia that did not meet specification.

CHAIR—Tell me if I am wrong, but is the \$51 million for the tender process for replacement of the truck fleet—

Mr King—No. It is misleading the way I quoted that. There are two elements to phase 3. One element is a lightweight and one element is a medium-heavy. The money is being spent on the lightweight, which is the G-wagons from Mercedes. We have not spent anything like that on the tender process.

Dr Gumley—They are turning up at the moment.

Senator HUMPHRIES—How many pages did the request for tender run to?

Mr King—The second request for tender?

Senator HUMPHRIES—Yes.

Mr King—I do not remember. I can say this, though. If you are going to the point of whether we were being responsive enough and simple enough for a COTS or MOTS buy, in this particular case I met with the companies in person, for that very reason, and asked them whether what we were asking for was reasonable and whether they had any doubts about it. I spoke to each of the company representatives and their teams individually. I also gave them the opportunity to follow up with me, and we also gave them as a structure that, if they had anything that they thought we were asking for that was driving costs that were unreasonable, to raise those issues with me or with the group, and I can say none was raised with me. I particularly wanted to make sure that we were not overspecifying or driving them in an incorrect direction.

Senator HUMPHRIES—I suppose it could be said that it is not in their interests to quibble with the details of the tender because all extra specifications mean extra work and therefore extra dollars at the end of the day.

Mr King—It could. But I attended the briefing and I particularly made the point that, because we know that we need to get value for money, if anything we were asking for was driving costs I gave them the opportunity to not just raise it with the team but to raise it with me directly and I would follow it up with the team. So they had every opportunity to do that. We certainly did not want to unintentionally drive up costs.

CHAIR—This is not a project that is technically advanced or breaking a new area. We are buying a set of trucks—light, medium and heavy. Other projects over the years have had a whole range of peculiar problems. Why is this project on the projects-of-concern list? What is so difficult about it? I have never quite been given the answer to that.

Dr Gumley—A number of things have happened to the project as it went through. First of all, although you have the prime movers there are also a lot of modules that go on the back of the trucks. These can be put on the ambulances. They can be control modules. They can be carrying modules. They can be bulk-liquid modules. There are all sorts of modules that go on the backs of the trucks. There is an area of integration that goes in. But even that is not so complex.

With hindsight—which is often a wonderful place to be—I think what really caused the problem was a decision made around 2006 or 2007 to up-armour the trucks and make them have a lot more ballistic protection than they originally had. That was for true protection. Once you start doing that they become heavier. Once they become heavy you need bigger engines, bigger brakes, bigger everything, so you are moving up to a different sort of class of trucks. Looking back on it—

CHAIR—They brought in armoured vehicles—

Dr Gumley—They are not armoured vehicles but they are more robust than a standard truck driving up the Hume Highway, as you would probably expect from an ex-Army truck.

CHAIR—They are trucks, as you say, with those complications but this project is nowhere like the FFG upgrade or the Wedgetails. In terms of technical complexity or systems integration issues I can understand why there were problems in those with hindsight but not with the purchase of a set of light, medium and heavy trucks for the transport of men and equipment. Is that too simplistic?

Mr King—I think the response is that sometimes it is not just technical complexity, it is commercial or contractual complexity. In this case we were terminating a tender process. We were going back into a tendering program. Senator Humphries just sort of asked the question: were we doing it as efficiently as we can, were we making sure that we were doing it in a way that was not driving up costs? Sometimes projects need that oversight to make sure that they do not inadvertently strive for the best when good or better would be good enough.

Dr Gumley—Sometimes you can have knowledge or symmetry between the customer and the supplier. The customer says ‘I’ll just have that little widget added,’ or ‘Just add that, please,’ but in fact it adds quite a bit of complexity and cost to a project. Certainly when it came to armouring these vehicles we probably got it wrong some years ago and it has caused us to be where we are now.

CHAIR—What you say about the up-armouring some years ago is the root cause of the problems—

Dr Gumley—It is one of them. Another is the complexity of many different modules sitting on many different types of prime mover.

Senator HUMPHRIES—What was the cost of this project?

Mr King—The total project approval is \$2.9 billion. I do not have the number here for this element of the project. Maybe I can get it sent for.

Mr King—The next project is C1448 Phase 2B, which is the Anzac ship missile defence upgrade for the Anzac class frigates. The date of government approval was September 2005. The current budget is \$459 million and current expenditure is \$242 million. This project is technically challenging. It is the integration of new radar in the Anzac ship class. It was having quite some difficulty when it came onto the list. However, progress over the last 12 or 18 months has been very good and as predicted, so that is a good indicator that we are not slipping again. The radar is developed by CEA Technologies in Fyshwick. By international standards it is a relatively low-cost phased array radar.

The first system has been fitted to the first ship in Perth and will start testing later this year in Western Australia. At the moment we are allowing until about June next year for testing but, given the complexity of this program, it could take a little longer. I say that only out of age and experience. The plan is to complete it by June next year, but it is challenging.

The technology in land-based testing—and we have done a lot of testing both here in Fyshwick and in partial systems which we have taken to sea—is very, very promising, offers a great capability and I think offers an enormous export opportunity for Australia once this technology is brought to fruition.

Once that testing program is successful—the current plan is for mid next year—we will then put a case to government about putting the remaining seven systems in the rest of the ships. When we started this program the probability of failure was rated higher than the probability of success. I would say the probability of success is now very much higher than failure at this point.

Senator HUMPHRIES—I am aware that I am chewing up time and there are three more projects. Could you put a summary of those on notice for us?

Mr King—Sure.

Senator Feeney—As to those projects there is obviously the LPA, which has been covered to some extent.

Senator HUMPHRIES—Sorry?

Senator Feeney—I am just remarking on the fact that one of those projects was significantly discussed earlier today. You might find—

Senator HUMPHRIES—Which one is that?

Senator Feeney—That was the LPA warcraft.

Mr King—The projects that we are concerned with are actually the LCM.

Senator Feeney—Okay. I stand corrected.

Mr King—But I can provide information on that.

Dr Gumley—The amount of money for the medium-heavy trucks is \$1.7 billion of the total.

Senator HUMPHRIES—How many trucks?

Dr Gumley—We don't know yet. That will depend on the price.

Senator ABETZ—Who can tell me about Minister Rudd's visit to Pakistan from the Defence perspective?

Air Chief Marshal Houston—I think I can.

Senator ABETZ—Were security arrangements required at the camp for the visit?

Air Chief Marshal Houston—Sorry?

Senator ABETZ—Were special security arrangements required for the visit at the camp, which I understand we call Camp Cockatoo?

Air Chief Marshal Houston—The visit also entailed a meeting with two other very important people: the foreign minister from Pakistan and—

Senator ABETZ—I understand that from a previous performance with foreign affairs, but that was not at Camp Cockatoo.

Air Chief Marshal Houston—Camp Cockatoo was in Multan. You might—

Senator ABETZ—I am talking about Kot Addu, the visit to the camp, just so we know here to save time.

Air Chief Marshal Houston—I think the Pakistanis were advised that Prime Minister Rudd would be visiting Kot Addu and—

Senator ABETZ—Was that Foreign Minister Rudd?

Air Chief Marshal Houston—Foreign Minister Rudd.

Senator ABETZ—I think you may have mentioned another descriptor before—

Air Chief Marshal Houston—Yes. Fundamentally—

Senator ABETZ—If Senator Feeney had something to do with it, I think that we will not go there.

Senator Feeney—Thank you for your assistance.

Air Chief Marshal Houston—He visited. He saw them at work—

Senator ABETZ—But were there any special security arrangements required for that visit?

Air Chief Marshal Houston—All I am aware of is that the visit was conducted in a routine manner. The gates to the camp were left open at the time. Basically, Minister Rudd observed the patients being treated. My understanding is that, to all intents and purposes, it was just a completely normal visit. In terms of the security, the Pakistan government was providing the security for all of our people and I am not aware of whether there was any

increase by the Pakistanis to accommodate Foreign Minister Rudd. My understanding is that probably there was not.

Senator ABETZ—Could you take that on notice for me, please, and ascertain whether there was any increased security provided either by Australian personnel or Pakistani personnel. Can you also check for us entry into the camp was restricted and whether the gates were open during Minister Rudd's visit?

Air Chief Marshal Houston—I can certainly do that but my understanding is that certainly in terms of the Australian security there was no change to it and the Pakistani security was fairly substantial on the ground at Kot Addu and there were no changes to that during the visit. But I will confirm that.

Senator ABETZ—If you can I would be obliged. Is it correct that Lieutenant General Mark Evans happened to be in Pakistan at the same time as Minister Rudd?

Air Chief Marshal Houston—Yes, that is true.

Senator ABETZ—He was there not for the purpose of Minister Rudd's visit but for the purpose of undertaking risk assessments for a proposed outreach program, is that correct?

Air Chief Marshal Houston—Lieutenant General Evans visited because we were going to embark on an outreach program and his visit was planned in advance of us being notified of Minister Rudd's visit. He was subsequently going to visit Afghanistan, also on a preplanned visit. All we did was adjust the visit by 24 hours so that he could be present when the minister visited both Multan and Kot Addu.

Senator ABETZ—Lieutenant General Evans's task of undertaking a risk assessment for the outreach program was delayed by at least 24 hours because of his being—

Air Chief Marshal Houston—No, it was brought forward. The reason we did that was essentially because we wanted to economise on resources. It made sense that the two visits be brought together, and that is precisely what happened. The same C130 was used out of Al Minhad to go into Multan.

Senator ABETZ—I am not questioning that. If costs can be saved and it is convenient, that is all good. But Lieutenant General Evans's purpose of actually going to Pakistan in the first place was to undertake risk assessments for the outreach program. Was that risk assessment that Lieutenant General Evans was to undertake delayed because of Minister Rudd's visit?

Air Chief Marshal Houston—No, it was not. Indeed, after General Evans's visit we embarked upon the outreach program.

Senator ABETZ—Or the assessment of it?

Air Chief Marshal Houston—We had a plan. I discussed the plan with General Evans before he departed. He then went in there. He just wanted to go in and have a look for himself at what was happening on the ground and talk to people. He was able to do that assessment and immediately after he got back we embarked on the outreach program on the basis of what he had learnt during his visit.

Senator ABETZ—I understand all that. Lieutenant General Evans accompanied or was with Minister Rudd in the camp during the visit, is that correct?

Air Chief Marshal Houston—That is correct, yes.

Senator ABETZ—But for Mr Rudd's visit, Lieutenant General Evans, one assumes, would have been able to embark on the purpose of his visit to Pakistan immediately, without accompanying Mr Rudd.

Air Chief Marshal Houston—Lieutenant General Evans achieved all his objectives during the visit.

Senator ABETZ—Yes, we understand that, but were they delayed by 24 hours because of Mr Rudd's visit?

Air Chief Marshal Houston—No, on the contrary. Lieutenant General Evans's visit was brought forward 24 hours, so in fact the assessments were done 24 hours in advance of when we originally planned them.

Senator ABETZ—So, he went to Pakistan earlier; is that what you are saying?

Air Chief Marshal Houston—That is correct.

Senator ABETZ—Than he otherwise would have done.

Air Chief Marshal Houston—That is correct.

Senator ABETZ—And 24 hours earlier. During that 24 hours he would have been accompanying Mr Rudd.

Air Chief Marshal Houston—No, he flew in on the same aircraft as Minister Rudd. He then was with him during Minister Rudd's visit to the camp and I am not sure what then happened but essentially Lieutenant General Evans then went on eventually to Afghanistan. I can get the detail of that for you.

Senator ABETZ—No, that going to Afghanistan was not part of my area of interest. How long then did the lieutenant general accompany Minister Rudd?

Air Chief Marshal Houston—Can I take that on notice, because I do not have a briefing on it?

Senator ABETZ—All right.

Air Chief Marshal Houston—Let me put it this way: I do not think there was any interference with what Lieutenant General Evans was seeking to achieve and he then went on to Afghanistan. I know that, for example, the visit to Kot Addu was a very short visit and, for example, if I give you the—

Senator ABETZ—What does 'short' mean?

Air Chief Marshal Houston—In terms of the visit, they departed Al Minhad by RAAF C130; they arrived at Multan at 12:45; they hopped straight into a Pakistan military helicopter and departed at 13:00; they arrived at Kot Addu at 13:20; they visited the task force, who were treating patients at the time; they had discussions with the joint task force; they had a briefing by the Pakistan military on the flood relief operations; and at 14:45 they departed Kot Addu for Multan. They then, as I understand it, departed Multan at 17:15 by RAAF C130,

back to Al Minhad, arriving at 20:30. During the two-hour period before they departed Multan, Mr Rudd met with Pakistan Foreign Minister Qureshi.

Senator ABETZ—Can I interrupt you? If you had all that information, could you provide that to us on notice but advise whether the lieutenant general was with the minister at all times.

Air Chief Marshal Houston—No, I do not think he was. They went into—

Senator ABETZ—I want to know the general's movements during the minister's visit, not Minister Rudd's itinerary.

Air Chief Marshal Houston—The minister and CJOPS had different itineraries at Camp Cockatoo, but they shared the same aircraft to get in there and get out of there.

Senator ABETZ—Was the general with Minister Rudd at any time once they were in Pakistan?

Air Chief Marshal Houston—My understanding is while they were flying on the—

Senator ABETZ—Only whilst they were flying?

Air Chief Marshal Houston—Pakistan military helicopters.

Senator ABETZ—So the general was not part of Mr Rudd's entourage or visiting party to the camp?

Air Chief Marshal Houston—They arrived together and my understanding is they left together and that was it, and, of course, they were on the aircraft together.

Senator ABETZ—I am sorry, that still does not help me. So, if they visited together and left together, when did the general then undertake the risk assessment for the outreach program?

Air Chief Marshal Houston—As I mentioned to you, we had a concept of operations for the outreach program. He and I had a look at that program. We talked about it and General Evans said to me he would want to go to Pakistan to talk to the commander about the risks—about some of the ways that it would be accomplished—and he felt that until he had had that chance to speak directly with the commander on the spot he was not in a position to sign up to the outreach program.

Senator ABETZ—I understand all that, but did that occur during Mr Rudd's visit to the camp or not?

Air Chief Marshal Houston—I will get back to you on that.

Senator ABETZ—That is what I am trying to nail down. As I understand it, the general was going to Pakistan for the purposes that you have outlined. You and he had a discussion about risk assessments for the outreach program, but he wanted to check for himself on the ground and have discussions to ascertain the risks for himself—a good, reasonable thing to do; no criticism at all. The suggestion has been made to me that that risk assessment that was going to be undertaken was delayed because of Mr Rudd's visit.

Air Chief Marshal Houston—Quite the contrary. It was brought forward because we wanted to economise on the use of the very scarce airlift that we have in the Middle East.

Bear in mind those C130s are used to service our operations in Afghanistan as well, so there was great advantage in bringing the two visits that were planned within 24 hours of each other, to bring the transportation arrangements together.

Senator ABETZ—He arrived 24 hours earlier than was planned, but from what I can gather he spent that 24 hours with Minister Rudd and then he undertook the risk assessments. Is that correct?

Air Chief Marshal Houston—No, my understanding is the—

Senator ABETZ—He undertook the risk assessment—

Air Chief Marshal Houston—As I have said to you—and I have had a direct communication from the Chief of Joint Operations, General Evans—the foreign minister and the Chief of Joint Operations had completely separate programs on the ground at Kot Addu. I could not be plainer.

Senator ABETZ—Right, but they arrived together and left together, so that was just fortuitous that he was able to undertake the full risk assessment conveniently in the same time that Mr Rudd's entourage went around the campsite.

Air Chief Marshal Houston—We had done considerable work on the risk assessment before General Evans had even got into theatre. He just wanted to, as we would say in the military, eyeball the commander, talk to him about how he felt about it, have a look at the arrangements for force protection on the ground, and after he did that he was satisfied and we embarked on the outreach program. This is the first time anybody has suggested to me that there was any sort of delay. On the contrary, this visit enabled us to get on with business and conduct the outreach program.

Senator ABETZ—How long was General Evans in the camp for?

Air Chief Marshal Houston—I will come back to you in detail on that. In fact, what I will do is give you a detailed itinerary for General Evans and what he was doing during the visit.

Senator ABETZ—That would be very kind if you could do that. We then did embark on the outreach program, you are saying?

Air Chief Marshal Houston—Absolutely.

Senator ABETZ—I will check; I thought AusAID told me yesterday that they did not because—

Air Chief Marshal Houston—They did not, but the ADF did.

Senator ABETZ—Right. I was told that at all times it was a joint project between the two organisations. I did not know—I am sorry—that you had parted company at some stage. I can fully understand that, with the risks involved, AusAID might not be involved but the defence forces would be.

Air Chief Marshal Houston—We embarked on it but AusAID had a separate, if you like, chain of command, and it was necessary for them to basically consult with Mr Baxter.

Senator ABETZ—I understand that that is where some of the confusion in my mind may have arisen, because I assumed that at all times that it was a joint project and that is how it

had been explained to me, but clearly that did not eventuate as initially anticipated. Would that be fair?

Air Chief Marshal Houston—It was a joint project and, as is always the case in these joint projects, there are different what I would call command arrangements—control arrangements—for elements within the deployment. We have, if you like, those same factors to deal with in Tarin Kowt at the moment. We have Federal Police there. My people can go and do something and there may be, for example, some limitation on the Federal Police doing something similar because they are not, if you like, equipped and prepared to go and do that sort of work, or whatever it happens to be.

Senator ABETZ—Is the camp still a joint operation?

Air Chief Marshal Houston—Absolutely.

Senator ABETZ—But the outreach is not?

Air Chief Marshal Houston—Let me come back to you on that.

Senator ABETZ—Nothing much rides on it, other than the fact that it is helping to clear up some confusion. In the information that I was provided with, it was suggested that it was a joint project at all times and then it stopped, but that is from the AusAID point of view. In relation to the other matters, if you could get back to me on notice I would be obliged.

Air Chief Marshal Houston—I certainly can.

Senator ABETZ—Thank you very much.

CHAIR—Time is coming to a close. Senator Macdonald.

Senator IAN MACDONALD—I have a suspicion this may have been referred to earlier today, but it is slightly parochial for me. Can you tell me what Defence's position is on its proposed cruise ship terminal in Townsville, which I understand is needed for landing helicopter dock ships of 20,000 tonnes or more? First of all, has it been mentioned before, today?

Air Chief Marshal Houston—No, it has not, but we will get the—

Dr Watt—We have got the right person here.

Air Chief Marshal Houston—Fortunately, by good luck.

Senator IAN MACDONALD—As you know, wharf 10—

Mr Lewis—I am still here, but I am afraid I have not heard the question. Would you mind repeating that for me?

Senator IAN MACDONALD—I am referring to wharf 10 in Townsville. The proposal for a cruise ship terminal there has an estimated cost of \$75 million, of which the federal government has already committed \$30 million. The state government has committed \$32 million and the Townsville City Council will provide \$4.8 million to realign some local roads, leaving a shortfall of just \$8 million. There is some suggestion that as the interest of the Commonwealth in this cruise/Defence ship terminal is entirely military, it is, I understand, teetering at decision stage at the moment but is still short \$8 million. I just wonder how important the terminal is to Defence?

Mr Lewis—I do not have any notes on that with me at the moment, but I am aware of the issue. Negotiations are underway with the Queensland government in relation to the matter. We are looking for a partial use of the facility, so there is a discussion to be had about what number of days per year that wharf will be required for Defence purposes, what proportion will be available for cruise ships and how costs would be apportioned. Those discussions are currently underway, and I am afraid if you want more detail on that I would probably need to take it on notice.

Senator IAN MACDONALD—I am interested in just how important it is to Defence; that is really the starting question.

Mr Lewis—It is very important for us to have use of that wharf for the LHDs in time, but we do not need full-time access to the wharf. That is why we need to work out an appropriate apportionment.

Senator IAN MACDONALD—The LHDs are currently being built, as I understand it. Is that correct?

Mr Lewis—Yes.

Senator IAN MACDONALD—If they were on stream at the moment could they berth near Lavarack barracks in Townsville?

Mr Lewis—I would need to take that on notice. My understanding is the timing is fitting in with the acquisition of the capability in broad terms, but I do not have precise details.

Senator IAN MACDONALD—Is there anyone in the services who might be able to indicate just how important it is? Having these LHDs built is great, but if we cannot use them near Australia's biggest military base then it seems to be rather pointless, or am I wrong in that assumption?

Mr Lewis—No. They are very important.

Vice Adm. Crane—Clearly a berthing capability in Townsville is very important for our LHDs. Your question is: can they berth there now? My understanding is, yes. The question is: can they load in the way in which they are designed to be loaded? That is the issue we need to tackle. There are a couple of approaches that could be taken towards providing that loading capability, and that is the issue that the Deputy Secretary of Defence Support is wrestling with.

Senator IAN MACDONALD—The Commonwealth government has already committed \$30 million towards that, not from the Defence area as I understand it. Are you familiar with that?

Mr Lewis—I believe it is Defence money.

Senator IAN MACDONALD—It is Defence money? Do you know how the \$30 million was calculated, if it is Defence money?

Mr Lewis—I am sorry, I do not have that detail.

Senator IAN MACDONALD—Would anyone?

Dr Watt—I suspect we could take that on notice and get you an answer. We do not have the answer here and now.

Senator IAN MACDONALD—Do you know when it was committed?

Mr Lewis—Tragically, no.

Dr Watt—We can take that on notice too.

Senator IAN MACDONALD—Is it too small an amount to figure in the—

Dr Watt—No.

Senator Feeney—It is not too small an amount.

Dr Watt—We just do not have the answer to hand. We had not expected these particular questions and we have let many of the relevant people go.

Senator IAN MACDONALD—Let who go?

Dr Watt—The relevant people.

Senator IAN MACDONALD—Just help my education: who are the relevant people?

Mr Lewis—It is the personnel inside the Defence Support Group, my group. I happen to still be here, but my group is no longer with me.

Senator Feeney—There was a discussion earlier about who we might be able to release on the basis of what questions we were anticipating.

Senator IAN MACDONALD—I am sorry about that. You will have to take it on notice. I am clearly interested. It seems to me to be commonsense, as an essential facility for the defence forces. We have got all but \$8 million towards the cost of constructing the facility, which will be a substantial facility for Townsville in the broader sense, but certainly important for Defence, so you are telling me. It would seem to me that there is room for discussion and negotiation.

Mr Lewis—We are always willing to discuss. We are also looking for an appropriate and reasonable arrangement, particularly with the state government, in relation to relative utilisation of a critical piece of infrastructure.

Senator IAN MACDONALD—Is it with the state government or with the port authority?

Mr Lewis—I think it is both.

Senator IAN MACDONALD—I am sorry you were not fully notified, for which I apologise. Are you reasonably confident that you can come to some arrangement that is good for Defence that will allow those who have the primary responsibility for constructing the wharf to actually go ahead and construct it?

Mr Lewis—I would certainly like to think so and I think we are reasonably optimistic. I could not say that I have been briefed on it in the last few weeks, but from the last I heard, productive discussions were being held.

Senator IAN MACDONALD—I am sure you do not need the help of anyone else, but if you ever did there are any number of people around Townsville with some influence who would be only too happy to help you. Without naming names, I know Ewan Jones would be

very keen to lend any assistance that he could, plus the Chamber of Commerce, Townsville Enterprise Ltd, the mayor, everybody else—not to mention me. Thank you for that. I just have a couple of other brief questions, firstly, about the trauma centre in Defence health. I understand that Defence health is well down the track to establishing its first trauma centre to care for injured ADF members who need long-term rehabilitation. Is that correct?

Major Gen. Alexander—Can you give me more information? We have a number of projects going on at the moment, but none that has been referred to as a trauma centre.

Senator IAN MACDONALD—I understand that it has similarities to what is being proposed with the United States Walter Reed Army Medical Centre in Washington. Does that ring a bell?

Major Gen. Alexander—Are you referring to the rehabilitation centre at Walter Reed?

Senator IAN MACDONALD—Yes. I am told that Walter Reed provides command and control primary care and case management for service members receiving treatment for wounds suffered when deployed in the war on terror. The unit works to promote their timely return to the force or transition to civilian life. Does that sufficiently identify what I am referring to?

Major Gen. Alexander—I think you are referring to the rehabilitation centre based at Walter Reed that looks at taking injured personnel from the Middle East and then has a holistic rehabilitation program that looks at mental health, physical wellbeing, any requirements for prosthesis and then integrates the entirety of occupational medicine in the one centre to take them back through to continued service.

Senator IAN MACDONALD—That sounds like what I am talking about. It is named the ‘Warrior Transition Brigade’ at Walter Reed. Is that what you are talking about?

Major Gen. Alexander—Yes. That is the same one. As a proposal at the last election the government indicated that it intended to develop a new policy in relation to rehabilitation for the Australian Defence Force. That was part of a new policy proposal. We are currently looking at scoping how we can basically develop a rehabilitation centre along the same lines as what our allies are doing. At this stage we have not proceeded into anything other than scoping what we may or may not do in relation to a similar centre in Australia. I think it would be fair to say, though, that as a concept we are looking at partnering with some organisations, because the number of personnel that we would need to have transitioning through such a complex rehabilitation centre is small and we think that it would be a much better utilisation of public funds for us to partner with an organisation, be it a state government or other health organisation, so that there is broader utilisation of such a centre.

Senator IAN MACDONALD—It would not be solely for military personnel?

Major Gen. Alexander—That is the way that we will be scoping it out. It would be a broader centre, absolutely.

Senator IAN MACDONALD—Have you given any thought as to where it might be established?

Major Gen. Alexander—It is very early days at this stage. No, we have not isolated locations at this early stage.

Senator IAN MACDONALD—From your point of view, what are the criteria? On what basis do you decide what you want and where you want it?

Major Gen. Alexander—We would look at the concentration of troops. Firstly, it would need to be in a location, probably a major centre, so that we would have the necessary higher level research medical rehabilitation skills available in that centre. It would need to be a major centre, and then for us to get utilisation it would need to be located in proximity to our large military bases. That is what we are thinking of at this stage.

Senator IAN MACDONALD—You need somewhere that has specialist medical practitioners?

Major Gen. Alexander—Yes.

Senator IAN MACDONALD—Somewhere that is close to a major military base?

Major Gen. Alexander—Major military, yes.

Senator IAN MACDONALD—Somewhere that has other uses for it besides the military?

Major Gen. Alexander—We certainly think so at this early stage. As to having a dedicated centre, say, on a military base, we think that we could get better utilisation of the resource if it was partnered with another organisation.

Senator IAN MACDONALD—You do not think there is enough ‘work’ for it solely for Defence use?

Major Gen. Alexander—That is really what we are looking at at this stage. What we are talking about is complex rehabilitation of young adults. There are not many centres in Australia that take that to the highest level, so it would be quite advantageous to have such a centre in a major health environment.

Senator IAN MACDONALD—Close to the university would be good, with a medical school?

Major Gen. Alexander—Absolutely, yes. That is exactly right. We are thinking along those lines, and whether we would partner with a state health department and a university to develop such a centre. We have not really gone anywhere down that road at this stage.

Senator IAN MACDONALD—Probably somewhere that has an NRL football team and perhaps a league basketball team. Does that all come into it?

Major Gen. Alexander—That probably does not come into our consideration in relation to this matter.

Senator IAN MACDONALD—It could be part of the rehabilitation, interaction with those sorts of—

Major Gen. Alexander—It will not come into my consideration.

Senator IAN MACDONALD—It is just that there is clearly a place that fits all of those things that springs to mind, but of course I do not want to be seen as trying to influence.

Dr Watt—It wouldn’t be a place that had a wharf as well, would it?

Senator IAN MACDONALD—Yes. If it had a new wharf it would be very good as well. What you are telling me is that it is at the very early stages?

Major Gen. Alexander—Very early stages.

Senator IAN MACDONALD—I could not ask you when it is likely to be operational?

Major Gen. Alexander—It is too early.

Senator IAN MACDONALD—General, is it your area that is doing this?

Major Gen. Alexander—At the moment we have the lead on that, yes.

Senator IAN MACDONALD—You have the authority for expenditure of money to investigate, if not construct or establish?

Major Gen. Alexander—At this stage we have very good visibility of what has been done overseas. We know the Walter Reed Centre. There is another centre down in San Antonio in Texas called the Intrepid Centre, which is along very similar lines, and there is a complex rehabilitation centre in the UK as well. We know how those centres operate. To establish a centre along those lines would take significant resources. Therefore, we would need to very much examine the utility of such a centre, both within the Defence environment and outside the Defence environment. I think, whilst it is very early days, it is something that we are going to consider partnering on with another organisation.

Senator IAN MACDONALD—I look forward to talking to you about it in estimates committees in the future.

Major Gen. Alexander—Thank you.

Senator IAN MACDONALD—I have two other issues that I want to try to get to before 6.30 pm, for the convenience of the committee. My knowledge of these things is limited, so forgive me if I am asking the wrong things. Please also alert me if perhaps anything I ask seeks information that is not available at public meetings like this. I understand that in Afghanistan the Dutch Apache helicopters were withdrawn last weekend; is that correct?

Air Chief Marshal Houston—That is not correct. The Dutch helicopters will continue in Afghanistan until the middle of November.

Senator IAN MACDONALD—What happens then?

Air Chief Marshal Houston—Essentially, they are withdrawn. We are into the winter season, a time of lower operational tempo, and essentially we will be using American helicopters more extensively.

Senator IAN MACDONALD—Is the deal done with the Americans? Will they come in as the Dutch leave?

Air Chief Marshal Houston—We have often had US helicopter support in Afghanistan. In terms of the Apache capability, we are working with our American friends. As you know, there are American Apaches in Afghanistan and we see them from time to time in the Tarin Kowt area. Indeed, they deploy forward on occasion to support our operations. We are working through some of those issues to put in place suitable arrangements post the withdrawal of the Dutch helicopters in mid-November. So we still have a bit of time.

Senator IAN MACDONALD—Does ‘suitable arrangements’ mean that they will be available on demand when they are needed by Australian forces?

Air Chief Marshal Houston—They will be available, but we are working on the arrangements that will be put in place post the Dutch and those arrangements have not been finalised yet. But let me assure you that there are Apache helicopters remaining in Afghanistan and we are working through those arrangements over the next month or so.

Senator IAN MACDONALD—At what level are those arrangements made?

Air Chief Marshal Houston—Those arrangements are being worked through in the ISAF context at the moment.

Senator IAN MACDONALD—I am sorry, what is ISAF?

Air Chief Marshal Houston—ISAF is the organisation that is running—

Senator IAN MACDONALD—What does it stand for?

Air Chief Marshal Houston—The International Stabilisation Force in Afghanistan.

Senator IAN MACDONALD—The head of which is?

Air Chief Marshal Houston—General Petraeus.

Senator IAN MACDONALD—Is it an integrated decision?

Air Chief Marshal Houston—One of the things that we have to understand about Afghanistan is that it is a coalition operation, and I talked about that this morning. Essentially, we work with our coalition partners. I should make a correction here: the stabilisation forces are in Timor. What we have in Afghanistan is the International Security Assistance Force, and the commander of that is General Petraeus.

In terms of how it all works, a lot of nations—47 nations—have contributed resources into Afghanistan. Adjustments are made all the time to capability on the basis of what is available. You do not have to own the capability to be able to access it. We are working with ISAF colleagues on arrangements for post the Dutch helicopter withdrawal.

Senator IAN MACDONALD—I think I will leave that there, because I do want to mention one other matter before we go. Perhaps we could come back to you at some later time, perhaps even privately, on the assurance that there will be helicopter support when it is needed by Australian troops.

Air Chief Marshal Houston—There is a US helicopter battalion at Tarin Kowt collocated with our people. I think the concern is the attack helicopters and what their dispositions might be. If you like, we will come back to you later on about what those arrangements are.

Senator IAN MACDONALD—Can someone just tell me the state of Scherger air base? It is a bare base obviously.

Dr Watt—Yes, I think we can do the state of Scherger.

Air Chief Marshal Houston—Scherger is a bare base, as you know. I do not know whether you have been there. It is about 30 kilometres from Weipa.

Senator IAN MACDONALD—It is a bare base, so it is used when you need it.

Dr Watt—That is correct.

Air Chief Marshal Houston—It is used from time to time for exercises involving the ADF.

Senator IAN MACDONALD—I read in the papers that it is now going to become a detention centre. What impact will that have on Defence operations, if any?

Dr Watt—None.

Air Chief Marshal Houston—No impact on the ADF exercise program. We do not have any exercise currently planned for the use of Scherger.

Senator IAN MACDONALD—But if we are suddenly in a war and we need it as a forward base, does the detention centre impact upon the operations?

Senator Feeney—In the event of a war priorities obviously are transformed.

Senator IAN MACDONALD—I am really trying to find out the Defence preparedness for use of that base and whether that is affected by the detention centre. I do not know much about the detention centre. Nobody does, I might say. Is it inside the wire? Is it outside the wire? Is there a fence down the back?

Air Chief Marshal Houston—We do not have any activities planned at Scherger.

Senator IAN MACDONALD—For how long?

Air Chief Marshal Houston—The thing is that the only parts of the base that are going to be used are the accommodation blocks.

Senator IAN MACDONALD—But used by whom?

Air Chief Marshal Houston—We would still have—

Senator IAN MACDONALD—Used by whom?

Air Chief Marshal Houston—They will be used for the support of the department of immigration.

Senator IAN MACDONALD—The only part is the accommodation—

Air Chief Marshal Houston—Well, they are not going to be on the runway. We will still have a runway and we will still have all the aviation support infrastructure available if we need it.

Senator IAN MACDONALD—Where do your people live if you need to use it, if the accommodation is full of—

Air Chief Marshal Houston—We do not anticipate having to use it. As I say, we have—

Senator IAN MACDONALD—Why do we even have it if we never anticipated we might use it?

Air Chief Marshal Houston—We basically do not require it in the immediate future. It is as simple as that. Our strategic circumstances at the moment are pretty good. As you know, this was set up to defend the north of Australia. We do not anticipate any circumstances in the immediate future where we will need Scherger for the defence of Australia.

Senator IAN MACDONALD—So why do we keep it?

Air Chief Marshal Houston—Because sometime in the future there may be a requirement to use a base in that location in Northern Australia, but that is certainly not in the immediate future. That is something we would very much see in the longer term.

CHAIR—I am going to have to interrupt you there.

Senator IAN MACDONALD—Do not cut me off just at this moment.

CHAIR—It is 6.30 pm and the time has expired.

Senator IAN MACDONALD—But I would think that you would be perhaps—

CHAIR—I am speaking. We are going back to the officials now to wrap up.

Dr Watt—Could I just respond to a question that you asked. I think we should perhaps give you a little more information on it. It was about why Deloitte had not done certain things in preparing their report. Mr Brown can give you some explanations, which basically relate to the fact they were very happy to rely on the work that was already done. But I will ask him to do that. We would be happy to provide the committee with a letter from Deloitte in the next day or so confirming that, if that would help.

Senator ABETZ—There were officials coming to the table who were going to tell me about Scherger. I am not going to be able to finish that, but could I ask them to tell me on notice whatever they were going to tell me had you allowed me to continue?

CHAIR—Yes. They will take that on notice. Dr Watt, I asked the question. I was satisfied with the answer. I do not require correspondence from Deloitte. If you want to do that, so be it.

Dr Watt—Thank you. We may do it anyway.

Senator Feeney—We will just send you the correspondence.

CHAIR—Did you want to add anything? I was satisfied with the response.

Mr Brown—No, that is fine.

Air Chief Marshal Houston—Could I just clarify my response to Senator Abetz? I also have a response to Senator Johnston over an issue he raised. I think I am probably comfortable to put the response to Senator Johnston on notice if it is a problem, but I would prefer to put it into the record if I could?

CHAIR—Do you want to read it into the record now?

Air Chief Marshal Houston—Yes. Firstly, in regard to Minister Rudd's visit to Pakistan, Minister Rudd and General Evans travelled together on the C130 from Al Minhad to Multan. They both embarked on a Pakistan military helicopter to go to Kot Addu. They had separate programs at Kot Addu. General Evans achieved all of his objectives and essentially stayed for a longer period at Kot Addu than Minister Rudd. Minister Rudd departed Kot Addu at 14.45 and General Evans departed later in the afternoon. They joined up in Multan and embarked on the same C130 that departed Multan at 17:15.

In terms of the outreach program, the military commenced the outreach program immediately after General Evans's visit. AusAID needed to do a separate risk assessment,

which was completed sometime after the ADF commencement of the outreach program, and they too went on the outreach program. So we were all joined up after the AusAID risk assessment was complete.

In terms of the response to Senator Johnston in regard to the HMAS *Success* COI, written submissions from potentially affected persons were received by the commission. A number of oral submissions, supplementary to the written submissions, have been heard by the commission. The commission is now considering those submissions together with the evidence heard while preparing the final report. The president of the commission of inquiry, Mr Roger Gyles, has advised me that he intends to submit his report into the incidents on board HMAS *Success* and report in to command by 31 December 2010.

In accordance with the administrative inquiry processes within Defence, the report from the HMAS *Success* commission of inquiry will be forwarded to me as the appointing authority. The commission itself has no executive authority to implement its findings and recommendations. Decisions in relation to the commission's findings and recommendations are the responsibility of the appointing authority—in this case, me. The report will be subjected to detailed departmental analysis and review to consider the findings, their ramifications and how agreed recommendations will be implemented. Given the complexity of the matter and the likelihood that there may be matters raised which have whole-of-Defence implications, this phase of analysis and review can be expected to take some time in order to ensure a rigorous approach. A response to the report, including an implementation plan, will then be developed. Thank you very much for your indulgence.

CHAIR—Thank you, CDF. Thank you, Dr Watt, Dr Gumley, and respective officers of the ADF and the DMO. Thank you, Senator Feeney, for presiding today.

Proceedings suspended from 6.35 pm to 7.30 pm

Department of Veterans' Affairs

CHAIR—We will now go to the budget estimates for the Department of Veterans' Affairs, and I welcome Mr Campbell and the officers of the department. Senator Ronaldson will begin his questions.

Senator RONALDSON—Mr Martin Rowlands is a retired paratrooper with 3RAR. Secretary, I am going to discuss this matter with your department on Thursday when I have my initial briefing, particularly in relation to some decisions made concerning his income and entitlement to compensation, but I will not go through that now. I indicated to the gentleman that I would raise it tonight and that I would discuss it on Thursday, which I think would be a more appropriate forum than tonight. I know we have only got 2½ hours maximum, so the chair has asked me to be finished by 11, which I will certainly be happy to do, because I am here to help obviously.

Senator Feeney—I used to say that.

Senator RONALDSON—I want to follow up some answers to questions on notice. I note that the answers to questions from last estimates were due by 30 July. Were you aware of that?

Mr Campbell—Yes, I was.

Senator RONALDSON—Standing order 26 of course gives an extended period of grace—through to 7 October. Do you remember apologising to the committee—and I was not here; if I am misquoting you I am sure you will tell me very quickly—for the tardiness of responses from the department last time around. Given, I understand, that these answers did not arrive from the last round of estimates until 5.30 pm on 8 October, there seems to be another fair degree of tardiness again with these answers. I am just wondering whether you might have a response.

Mr Campbell—I cannot remember the exact words I used at the last estimates, but I will accept your paraphrasing of them. With the questions that were raised at the budget estimates on 1 June which, as you said, were due on 30 July, the department provided draft responses to the then minister's office on 13 July and 16 July. We certainly had provided them well and truly in the time frame set by the Senate.

Senator RONALDSON—Was that all of the answers?

Mr Campbell—Yes, they were on two different dates—13 July and 16 July.

Senator RONALDSON—I cannot remember. When was the election called?

Mr Campbell—Saturday, 17 July.

Senator RONALDSON—Were you instructed to get those answers in by that date or was it just—

Mr Campbell—No, that was just the date. It was coincidental that they went to the minister in the week before the election was called.

Senator Feeney—Indeed, the day before the election was called.

Mr Campbell—One lot and then some were—

Senator RONALDSON—When was the minister sworn in, Parliamentary Secretary?

Senator Feeney—I will have to take that on notice.

Mr Campbell—On 14 September.

Senator Feeney—There we are.

Senator RONALDSON—On what basis, given that the department provided responses in plenty of time and given that—what did we say? Was it 16 September?

Mr Campbell—Fourteenth.

Senator RONALDSON—And these responses were not provided to the committee until 8 October.

Mr Campbell—What happened there was that on 20 September we were given a revised date for tabling of answers, which was 8 October, so what I decided to do to help the committee was to have my staff go through all the answers to update them where we had more recent figures to meet the new deadline of 8 October.

Senator RONALDSON—How many questions had updated figures?

Mr Campbell—Probably about a third to a half of them. But my point was that the minister was sworn in on the 14th, and we were told several days later that the new tabling

date was 8 October. We worked towards that date and that was then subsequently brought forward very recently because of the bringing forward of this hearing from tomorrow evening to this evening. I would argue that in both cases the original timetable, when we got them provided by 13 and 16 July to the then minister, and then when we had the date of 8 October we took that time to do the updating, and we met the time frame.

Senator RONALDSON—Even if you had met the timetable, I presume you would be happy to acknowledge that it is an enormous delay and the committee getting these answers so close to estimates is something I am sure that you would be very anxious to ensure was not a precedent.

Mr Campbell—I apologised to the committee last time, but this time I have set out that I do not believe the department is at all at fault. We did all we could to get them to you in a timely fashion. The election intervened and with the new time frame and ministers being sworn in I admit I took the time to actually update questions because I thought that would be useful to the committee, but we still got them to the committee on the day we were originally told but which was then brought forward one day.

Senator RONALDSON—I take it that it would be your intention to meet the committee's deadline for the tabling of—

Mr Campbell—The commitment I gave to the last estimates hearing remains.

Senator RONALDSON—That is great news. Parliamentary Secretary, I gather that we will have your undertaking that the minister will provide those once they have been provided to him by the department. They will be given to the committee in plenty of time for the next Senate estimates as well?

Senator Feeney—You can be confident of that.

Senator RONALDSON—I am not, but I am pleased that you are. Can I now move on to a matter raised by Senator Kroger at the last estimates? It was question 15 and it related to information in relation to the gold card. This is question on notice No. 15. I think we were talking about a 60 per cent increase in the number of income support payments forecast in 2009-10, which I think from recollection was that they would be reassessments arising from the global financial crisis. Are we on the same page with this issue?

Mr Campbell—Yes.

Senator RONALDSON—I assume that you would accept that the gold card is not an allowance and has never been described as an allowance?

Mr Campbell—Yes.

Senator RONALDSON—I know that you most definitely will agree with me that a gold card is not a means-tested income support pension, but I need to ask you that for the completeness of the question. I know that your answer to that is most certainly not.

Mr Campbell—Certainly not.

Senator RONALDSON—In this answer to question on notice 15 the department has indicated that a 60 per cent increase in the number of income support payment claims forecast in 2009-10 was in large part contributed by the global financial crisis, but I also note that the

number of claims for a gold card were also included in this figure, according to the answer. My understanding from looking at the 2010-11 PBS is that with the veterans' income support and allowance aspect, the quantity is the number of income support beneficiaries. So clearly that is not the gold card. I am just wondering why the gold card would have been included in those figures, given it does not come under either the definition of an allowance or a means-tested income support pension, and given that under the deliverables the quantity is described as the number of income support beneficiaries.

Mr Campbell—That is a very good and a very technical question. I will ask Mr Telford to take us through that.

Senator RONALDSON—I have read a lot about you in previous Senate estimates, Mr Telford, so I am pleased to be here with you.

Mr Telford—Thank you.

Senator Feeney—All good, we trust?

Senator RONALDSON—Absolutely.

Mr Telford—As to the claims we talked about here—and to some extent the questions you refer to are partially correct—what we were looking at in terms of the number of claims we were processing where we excluded, as you say, those applications to determine qualifying service for a gold card potentially or into the future, that work can be considered as claims processing. It is a claim for a benefit of some nature, either now or into the future. In terms of being able to give a full picture of what claims we are actually processing, to actually only give a statement about the number of those claims which related purely to income support did not give the full picture of what the activities undertaken by the department were. So when we revised the figures to give a more fulsome outline of what workload the income support area was undertaking, it was quite appropriate to include those processes which involved the determination of whether a person had qualifying service in terms of being able to qualify for a gold card, whether it be a 70 or whatever period.

Senator RONALDSON—I, of course, bow to your far greater knowledge of these matters than mine, but under program 1.1, Deliverables, it says quite clearly, 'Process claims and reviews in order to deliver means-tested income support pensions and allowances to veterans and their dependants.' We have all agreed that a gold card is most certainly not a means-tested income support pension and neither is it an allowance. I am sorry, I fail to see how it can possibly fit under that definition of what the rationale was and what you are actually trying to achieve by having it there.

Mr Telford—It is an indication of the workload that is being undertaken in terms of processing of individuals claims.

Senator RONALDSON—But 'in order to deliver means-tested income support pensions and allowances to veterans'; it is narrowed down to that parameter, not other applications that you might be processing. It is quite clear: '... in order to deliver means-tested income support pensions and allowances to veterans and their dependants'.

Mr Telford—The gold card, as you would well know, delivers health care, and that is, as you would also understand, under outcome 2, but there has to be some place within the

department whereby we actually process whether or not that individual is eligible for a gold card, whether that relates to their qualifying service, whether it relates to the fact that they are in excess of the means test or a whole range of other tests that we need to apply. To us it makes sense to include the processing of that particular activity within the income support area, where the expertise and the knowledge and the understanding of what processing a claim means to be. To suggest that we would—if this is what you are suggesting, with all due respect—process the eligibility of that gold card within the health system would clearly not be the most efficient, in my view, way of determining a person's eligibility.

Senator RONALDSON—You and I are going to get on famously over the next two or three years if we do not pre-empt what each other is going to say. What I will say to you is: does it not on the face of it seem strange to you, given the definition of these figures and the comments made, to have it in there? I do not want to waste any more time on this—not that it has been wasted but I do not want to spend any more time on it—but do you think it might be appropriate somewhere to actually clarify what the rationale for doing this is? It is lost on me. I think to someone looking at it from outside it may well be lost on them.

Mr Campbell—Sometimes in agencies we do things in the way of trying to get some information out. If this has caused some confusion for you and your colleagues, then I think we will in our additional estimates document look at putting some clarifying words in.

Senator RONALDSON—Thank you. I think that might be useful.

Mr Campbell—Point taken, Senator.

Senator RONALDSON—I want to ask about Senator Kroger's question 28, I think it was, in relation to the review of the cost of veterans' pharmaceuticals—this is one of your updated ones, I think, Secretary. As of 10 September there were 79,871 veterans with qualifying service but not receiving disability pension. In the tables attached to the answer, veterans with DP and qualifying service were also 79,871. Is that an extraordinary coincidence or a typo? It is the last one as well—table 1, veterans with disability pension and qualifying service by age group. You will see on the bottom right-hand side, 79,871. It just seems an extraordinary coincidence that you have the same number of people with and without qualifying service. It may just be an extraordinary coincidence or there might be a typo. Can you take on notice to have a look at it? There might be a quite simple explanation.

Mr Campbell—I do not believe in such extraordinary coincidences. I might ask Mr Douglas if he can throw some light on it.

Mr Douglas—I think we will have to take that on notice, because I also do not agree with such extraordinary mathematical coincidences.

Senator RONALDSON—I am sure there is quite a simple explanation.

Mr Campbell—We will check, but I think probably B should say that as at 10 September there were 79,871 veterans with qualifying service receiving disability pensions.

Mr Douglas—I would put my money on that as well.

Mr Campbell—We will confirm that.

Senator RONALDSON—Thank you very much. I need to slow down a little bit; I do not want to breach my word to you about when we are going to finish. I want to take you to question 39, again from Senator Kroger. This was in relation to the Harmer review and the question about passing on the \$30 per week increase to the single service pension—DVA disability pensions—and the cost of that. I will wait for you to find that answer.

Mr Campbell—We have it.

Senator RONALDSON—I think this calculates it out at \$587.3 million over four years. It was arrived at by applying an increase of 11.4 per cent to all rates of DVA disability pensions. I believe I am quoting that answer correctly?

Mr Campbell—Yes.

Senator RONALDSON—I have a preliminary question. Given that you have kindly indicated that you updated a number of these questions, I am just wondering why that was not updated to include the September indexation? Also, I understand that there are updated pensioner statistics on your website up to June 2010, so I am just wondering why the benchmark was retained at March 2010, given both those events.

Mr Campbell—The reason this one was not updated was that this has been an issue that has been the subject of some discussion with the veteran community. I wanted to be consistent with the \$587.3 million. If the committee would like an update to reflect current numbers and current index rates from September, we would be quite happy to take that on notice and provide it.

Senator RONALDSON—You have probably answered your own question. There is a lot of interest.

Mr Campbell—We will provide that on notice.

Senator RONALDSON—Just so I am absolutely clear on the cost for the 2013-14 year, I understand from the table that it is simply found by multiplying the projected number of disabled pensioners in that year by the 11.4 per cent increase based on that March 2010 pension rate. Again, if I am wrong, please correct me, as I am sure you will. Is that \$121.90 multiplied by 26, which of course are the fortnights in a year, multiplied by 29,546, which is the projected number of TPI pensioners in 2013-14—totalling \$93,642,624?

Mr Campbell—Yes.

Senator RONALDSON—Just to clarify, the 2010 and 2011 year is lower to take account of there not being 26 payment fortnights in that year; is that the explanation for that?

Mr Telford—I am not sure. It would make sense.

Senator RONALDSON—There must be an explanation for it, because it is less there. You can take that on notice.

Mr Telford—Yes.

Senator RONALDSON—Obviously increasing the base rate increases the overall cost of the disability pension, but on these figures I do not think you have taken into consideration the compounding cost of biannual indexation increases, have you? I think you have your 11.4 per cent factored in, but I do not think there is a compounding factor in there, is there?

Mr Telford—As I understand it, these are based on 2010-11 dollars.

Senator RONALDSON—Yes. To give an accurate figure, to not have that compounding cost in there makes that figure of—help me with the figure please.

Mr Campbell—\$589 million.

Senator RONALDSON—At least \$597 million, I think it was. That is really quite misleading, because you have really only got half of the equation. If you put the 11.4 per cent in and put it into the out years and if you have not got the compounded six-monthly indexation in there, it is a totally unrealistic figure, isn't it?

Mr Telford—As is sometimes the way these figures are done, it is based on 2010-11 figures. It takes into account that it compounds inasmuch as they continue to receive that amount of money over that period of time. There is that compounding factor, if you get what I mean.

Senator RONALDSON—If it looks like a duck, walks like a duck and quacks like a duck then there is a fair chance it is a duck. I do not think that you can use the 11.4 per cent on the back of the 2010-11 figure and not have the compounding biannual indexation in there as well.

Mr Telford—I am agreeing with you. There are two elements. We certainly did not put the indexation in, because if we expressed it in the 2010-11 figures—taking into account the caveats you are pointing to—that is correct; we do not necessarily know what the figure is going to be for indexation in the years going forward, anyway.

Senator RONALDSON—Is that entirely accurate, that you cannot put an indexation figure in there or an assumed indexation figure? The debate has been about the cost of potentially a policy of doing X. This is what the debate has been about and that is why it has been done in an out year context, by having it over four years. That is ostensibly what governments and oppositions are using as the basis for funding and policy decisions. You cannot have the 11.4 per cent without having at least a notional biannual indexation included in those figures as well. Can you go back and do that and then come back to me?

Mr Telford—Certainly.

Senator RONALDSON—Mr Campbell, are you happy with that?

Mr Campbell—Yes.

Senator RONALDSON—Disabled pensions were not included in the formal response to Harmer because I take it that none of their pensions come under the income support. Is that the reason they were effectively excluded from it?

Mr Telford—That is correct.

Senator RONALDSON—Just out of interest, is it strictly right to refer to these as disability pensions, given the accepted vernacular for pensions in the country? Is there perhaps a better descriptor that might more reasonably express the notion and the nature of this payment? It is not a rise or fall. I am interested as to whether there has been any consideration given to whether this is the appropriate descriptor for this benefit?

Mr Campbell—It is a term that has been used for many years by the parliament and by the community, but equally the community understand, quite rightly, that these are compensation payments. They are compensation and the legislation makes it quite clear that they are compensation payments.

Senator RONALDSON—I am not entirely convinced the general community does—

Mr Campbell—No, I am talking about the veteran community. I understand the point you are taking and sometimes confusion arises, but the fact is that the veteran community understands that the disability pensions in our system are compensation payments. They are not akin to disability support pension from the family and community services area, which are income support.

Senator RONALDSON—I suppose it was the potential perception from an outsider's point of view about the nature of the description. I am happy to give my learned colleague a couple of minutes.

CHAIR—What do you want, Senator Macdonald?

Senator IAN MACDONALD—As always it is to help a constituent and never political from me.

CHAIR—We are on corporate and general matters.

Senator IAN MACDONALD—It is a general matter. It is a preliminary inquiry. A constituent came to me over some deformities to her body. She indicated that her father had been at Maralinga and she was conceived at that time. I said to her that I would make some inquiries. I said that I was sure that she would not be the first that had explored this area. She is seeing a solicitor.

CHAIR—This is not compensation and general matters.

Senator IAN MACDONALD—The general matter is: has the department been involved in this sort of thing before or is this an original/new area? I will only be less than five minutes.

Mr Telford—I will make my answer less than five minutes, to assist you. The issue of the impact of the British nuclear tests in Australia has been researched over a very long period of time, which I am sure you appreciate. As you would also know, there was not demonstrable evidence from the SIMS report which suggested that in terms of epidemiological results people were exposed to levels of ionising radiation that would cause significant health defects. That said, though, we did not include in that particular study the children, and the issue of people involved in those particular tests. However, there has been significant study, particularly around the atomic bomb in World War II in Hiroshima and Nagasaki, where longitudinal studies, which have been overtaken now since that event, have not shown, to my recollection of the studies, any significant intergenerational birth defects.

Senator IAN MACDONALD—It was indicated to me that the United Kingdom government was actually recognising, had accepted, some liability along these lines. Are you aware of that? Can you confirm or deny it?

Mr Telford—I am aware that those particular participants have been given standing to pursue that particular activity. As I understand it, the court has not yet handed down any findings in that regard.

Senator IAN MACDONALD—So the standing is given by—

Mr Telford—The statute of limitations has been removed.

Senator IAN MACDONALD—I am sorry?

Mr Telford—The statute of limitations has been removed to allow them to pursue their claims.

Senator IAN MACDONALD—So that is in flux there. Will the UK result influence the Australian position, would you think? Or is it a bit—

Mr Telford—I could not comment really.

Senator IAN MACDONALD—Has the department, on behalf of the government, obviously, had claims in the past, or is this the first time it has ever been raised?

Mr Telford—We have ongoing claims from people who were involved in the British nuclear tests.

Senator IAN MACDONALD—I mean in this instance, where—

Mr Telford—No, I do not know of any in respect of children. No.

Senator IAN MACDONALD—An unborn child of a serviceman who worked there—there is some suggestion the serviceman is suffering from impacts but that is a different issue, I guess.

Mr Telford—That is correct.

Senator IAN MACDONALD—There have been claims on that. Have they been successful or otherwise?

Mr Telford—There have been both successful and unsuccessful claims.

Senator IAN MACDONALD—Thanks very much.

CHAIR—Senator Ronaldson.

Senator RONALDSON—I want to get to the arrangements for the new minister. How many staff does the minister have?

Mr Campbell—Given that the minister has responsibilities covering three departments, I would have to take that on notice.

Senator RONALDSON—Can you please get me that information, including the number of staff that are directly supported by your department; how many DVA computers are there; how many DVA supplied mobile telephone handsets or BlackBerrys are there; how many DVA DLOs are in the minister's office; how many are in Minister Griffin's office; how many DLOs from other departments are in the minister's office; and—I appreciate you are taking all this on notice—

Mr Campbell—We can answer some of those questions here, now.

Senator RONALDSON—Why don't you just give me the lot?

Mr Campbell—We can answer the questions with regard to our department. I do not want to answer in respect of the minister's responsibilities in health or in defence science and personnel.

Senator RONALDSON—All right. Perhaps give me what you have got then. Can I just finish off with this so that they are all together? Is your department the main agency responsible for resourcing the minister when he is in his office?

Mr Campbell—Yes, and I was going to say that.

Senator RONALDSON—For the fit-out et cetera?

Mr Campbell—Therefore we are the ones who are providing phones, desktops, BlackBerrys et cetera, yes.

Senator RONALDSON—Why don't you give me what you have got, then what you have not got?

Mr Campbell—While Ms Dobb is getting the figure out for computers, I can tell you that DVA has one DLO and had one DLO in the former minister's office. DVA has a graduate. On our graduate year, we put in three graduates there for several months each and we have been doing that for years. At the moment there is an officer from my department who is acting as an adviser in the minister's office, so in effect you can say that there are a DLO, a graduate and a person who is acting as an adviser.

Senator RONALDSON—Is that usual?

Mr Campbell—Certainly, the DLO and the graduate are not unusual—

Senator RONALDSON—I understand that. I meant the adviser.

Mr Campbell—There are provisions under the MoPS Act for departmental people to act as advisers—

Senator RONALDSON—Yes, I am aware of that, because, as you know, that is where I came from. But how often does it happen with your department?

Mr Campbell—Not very often at all.

Senator RONALDSON—Has it ever happened before?

Mr Campbell—It certainly happened with previous ministers, yes, under both governments, but only for short periods of time. So what is happening now is not unusual. Indeed, it is usual.

Senator RONALDSON—Perhaps just for the sake of completeness can you take on notice to provide prior examples and the length of time that you had someone in there as an adviser.

Mr Campbell—Certainly. I will go back a couple of ministers just to show that it happened under both governments.

Senator RONALDSON—I will take your word on that, but I am just concerned about the time. How long is it anticipated that officer will be in an advisory capacity?

Mr Campbell—That has not been discussed with me, but my guess would be not for that long—but she has only been there for some weeks.

Senator RONALDSON—What is this officer's title in the minister's office?

Mr Campbell—She is an acting adviser on veterans affairs. We have some figures here tonight on computers but they are not complete. Do you want us—

Senator RONALDSON—Just—

Mr Campbell—Take it on notice?

Senator RONALDSON—Yes, just take the lot on notice. I am sure the parliamentary secretary will have all the answers to this.

I want to talk about the government's election commitments. I gather that the Labor Party's veterans affairs policy was released a couple of days after the coalition's. It was not accompanied by a major launch, I gather. It is a bit surprising. Nonetheless, can the department please provide me with a full breakdown of the government's election commitments, including any deadlines for delivery and what legislative requirements will be necessitated by way of either regulation or legislation to implement those election commitments.

Mr Campbell—You are talking about the 2010 election, I suspect?

Senator RONALDSON—Yes.

Mr Campbell—I will ask Mr Douglas and General Stevens to come to the table.

Mr Douglas—One of the major commitments of course in relation to—

Senator RONALDSON—I am sorry to interrupt. How about I ask you another question on which I think you will probably be able to give me a fuller answer and then we will not be going back over old ground? In the current minister's media release on 6 October, he stated:

The Federal government is investing heavily in compensation, support and healthcare, and to illustrate our commitment we have announced another \$246.4 million for initiatives, including \$152.7 million to help veterans with chronic health problems, in the latest federal budget.

On a rough calculation, that leaves \$93.7 million left over from that \$246.4 million that was announced. Is that \$93.7 million actual new money; and, if so, where is it to be spent?

Mr Douglas—You have me at a disadvantage. You are reading from a piece of paper that I can recall but I do not have in front of me, nor can I—

Senator RONALDSON—I will just—

Mr Douglas—Certainly, on the \$152.7 million—

Mr Campbell—I think there is some confusion here, Senator. Your initial question was about 2010 election commitments, and the issue that you have just now talked about is not a 2010 election commitment but a measure that was put into the 2010-11 budget.

Senator RONALDSON—That may well be.

Mr Campbell—It is. It is a measure for preventable admissions to hospitals.

Mr Douglas—That is the \$152.7 million. The senator is asking about the remaining \$93.7 million, which, from my recollection, would be accounting for F111 and the Clarke initiative—but without the benefit of the piece of paper I cannot confirm that. I think from recollection that might be—

Senator RONALDSON—I am sure the parliamentary secretary will have it on his brief.

Mr Campbell—Certainly, Mr Douglas is right. What you are talking about there are the various measures that were in the 2010-11 budget, with F111, Clarke and preventable admissions to hospitals being the three major issues.

Senator RONALDSON—Just so that it is really clear, this is a media release on 6 October and it reads:

The Federal government is investing heavily in compensation, support and healthcare, and to illustrate our commitment we have announced another \$246.4 million for initiatives, including \$152.7 million to help veterans with chronic health problems, in the latest federal budget.

Are you saying that that whole \$246.4 million was the budget announcement?

Mr Campbell—There was \$55 million for F111.

Senator RONALDSON—Was that in the budget?

Mr Campbell—Yes. And there was money for Clarke. Okay, Senator, what we have here is that the Clarke review was \$59 million over four years; F111, \$57 million over four years; and then there were a number of smaller items that came through from the health portfolio, together with the preventable admissions.

Senator RONALDSON—So there was \$152.7 million.

Mr Campbell—Yes, but there are savings. This is where it becomes complex: there are savings because the preventable admissions give rise to savings from our hospitals. But, if you take the \$150 million and add in the F111 of \$57 million and war widows of \$59 million, then there are savings that flow from preventable admissions and then there are other items that come through from measures in other portfolios. All of this will be spelt out in our portfolio budget statement.

Senator RONALDSON—It is a very confusing press release. Whichever way you look at it, whether the \$246.4 million was the amount in the budget or this is a post-election, if you like, overview of what had been spent and it was \$246.4 million minus the \$152.7 million in the budget, it is actually quite confusing. We can go around and around in circles here, but can you take that on notice, please? I am sorry, Mr Douglas; I did interrupt you about what the deadlines for delivery of election commitments are and how they are going to be implemented.

Mr Douglas—The commitment made by the government in the course of the election for the pharmaceutical reimbursement scheme has the scheme operating from 1 January 2012; that is because the pharmaceutical copayments work off a calendar year, not a financial year. Therefore the initial payments would occur in early 2013 after the expiry of that concession year.

Senator RONALDSON—That is that pharmaceutical announcement?

Mr Douglas—Correct.

Senator RONALDSON—I do have a number of questions on that but I think that probably comes under another outcome.

Mr Douglas—Outcome 2, Senator.

Senator RONALDSON—So you would not want me going down there now, Chair, would you?

Mr Campbell—Do you want General Stevens to talk about the other election initiative?

Senator RONALDSON—Yes, please.

Major Gen. Stevens—There was an election commitment to provide \$3.3 million to ensure Australian interpretation in the Vietnam Veterans Education Centre, which is a centre to be constructed adjacent to the Vietnam memorial in Washington. That centre has congressional approval for construction. It is in the fundraising stage at the moment and the \$3.3 million allows us to place Australian interpretation in that centre and to support the centre.

Senator RONALDSON—I am a bit biased. I think the Ballarat POW memorial is sensational, but I have got to concede that the Washington memorial is very special. I have to say it is a good use of funds.

Senator TROOD—How much is to be raised for that interpretation centre in Washington? Can you tell me that?

Major Gen. Stevens—Their fundraising total is in the order of US\$80 million.

Senator TROOD—When is it expected that the work will begin on the construction of the centre?

Major Gen. Stevens—The advice that we have is 2012.

Senator TROOD—Thank you.

CHAIR—Senator Ronaldson. Is that all the questions on election commitments?

Senator RONALDSON—No. There is the veterans pharmaceutical issue and there was material in the 2010 election papers. If you are happy I will deal with that under corporate. With the government's commitment to reimburse pharmaceutical costs, exactly how many veterans will be covered? The Labor Party's election material said up to 70,000 veterans, but from the answers that you gave to some previous questions and we getting back to that 79,871 again. So there is a substantial discrepancy, especially given there is a maximum number of about 122,000 disabled veteran pensioners. We have the Labor Party saying 70,000 veterans and on your own figures those with qualifying service is at about 79,871. Did the Labor Party cut loose the 10,000 people? What is the explanation for this election material?

Mr Douglas—I am not too sure where you get the 10,000 from.

Senator RONALDSON—It is 79,871 because they are the ones with qualifying services under the government's election policy. Correct me if I am wrong. They are the ones who are able to access this increase in pharmaceutical. It is 79,871. The Labor Party's election material says up to 70,000 veterans, so there are potentially 10,000-plus veterans who seem to have

been neglected by the Labor Party. I am just wondering if there are some other qualifying factors put in there that would have seen 10,000 people come off the entitlement.

Senator Feeney—Perhaps I can dispatch this. I understand the number to be 80,000. The advice that I have here is that up to 80,000 veterans is the correct number and the number the government is working from, so that is the contemporary number.

Senator RONALDSON—Despite your election material saying up to 70,000?

Senator Feeney—If you have read ALP election material with that forensic detail then your reward is that you now possess a number different to that which is in front of me.

Senator RONALDSON—I have some good news—that was the easy stuff to get through; I have the rest of it here. Hopefully we will have plenty of time to get through that and we can have a look at the forensic matter. You are now saying this was a misleading piece of information and it is actually 80,000.

Senator Feeney—I am happy to indulge you in a spirit of goodwill, but the press release that Minister Alan Griffin put out said something to the effect that it estimated 70,000. The number the government is now basing its calculations upon is up to 80,000. I do not think that it is a matter of great importance.

Senator RONALDSON—When you look at our policy compared to the government's, I do not think the veteran community would agree with you. But, given the time, I am not going to have a debate about that. So where will the processing of these claims take place?

Mr Douglas—There will be no need to process claims. At the end of the calendar year we will have the information courtesy of pharmacists and reporting to Medicare Australia. Therefore, we will know those people who have consumed pharmaceuticals at a level in excess of the concession rate. We will automatically calculate the repayment to be made to them, based on the government's commitment at least, and then there will be automatic deposits into their accounts early in the following calendar year.

Senator RONALDSON—A cheque or electronic transfer?

Mr Douglas—Electronic transfer.

Senator RONALDSON—Will that involve Centrelink?

Mr Douglas—No, not at all.

Senator RONALDSON—And it will not involve any income tests for those who are receiving social security payments, for example?

Mr Douglas—This is, of course, entirely hypothetical because the government has announced a commitment but has not yet taken a decision. On the basis of what we have interpreted the commitment to be, there is no need to claim and there is no involvement of any other agency, other than Medicare Australia, under its existing arrangements in providing the data to us.

Senator RONALDSON—You said they have made the commitment, but what do they need to do to implement that commitment?

Mr Douglas—The decision involves expenditure of funds and such a decision is normally taken during the budget process.

Senator RONALDSON—That was going to be my next question to you. The funding for this commitment is a promise and not, at this stage, a specific allocation of funds?

Mr Douglas—That is the standard arrangement which applies to every election commitment.

Senator RONALDSON—I was just clarifying that. What is the cost that you have for the Labor Party's commitment?

Mr Douglas—The government committed some \$18.2 million over the forward estimates period, but the department is now in the process of preparing its draft submission for government to consider in the budget process.

Senator RONALDSON—Will that require any specific legislation to ensure that this payment is exempted from the Centrelink income test?

Mr Douglas—As I understand it, this would be a compensation payment. I am happy to take advice from my legal colleagues, but our initial advice is that there is no legislative amendment necessary.

Senator RONALDSON—Parliamentary Secretary, will you give the veteran community an ironclad guarantee that these reimbursements will be exempt from the income test applied by Centrelink?

Senator Feeney—I will make your remarks and your questions clear to the minister and, if there are matters that I have to take on notice, I will duly do that. You would appreciate that as a parliamentary secretary, for me to give a guarantee in those terms, would be for me to exceed my authority.

Senator RONALDSON—Do you acknowledge that if this was not appropriately clarified that it would be totally inappropriate and, indeed, an appalling attack on the veterans community if this was treated as income and the income test was applied by Centrelink?

Senator Feeney—I am pleased that the government's election commitment to reintroduce the pharmaceutical reimbursement scheme has attracted your belated enthusiasm and I am sure we will welcome that enthusiasm in the Senate when the matter comes before us.

Senator RONALDSON—I am not sure how it can be belated; I have only been doing this for a couple of weeks. It seems like a lot longer, but it is only a couple of weeks. While we are talking about it, it is a pity that the government did not follow our lead in relation to this where the qualification was claiming a disability pension paid at the rate of 50 per cent of the general rate or above and the amount was some \$38 million. I think the veteran community will be watching this very closely.

Senator Feeney—I fear not everyone finds your banter as scintillating as I do and you might wander back on to topic.

Senator RONALDSON—We have so many chairs in this committee. I am not used to this.

Mr Campbell—While you are looking for your next question—

Senator RONALDSON—No, I have it here.

Mr Campbell—I am sure you do. My memory failed me and people who know me well are surprised. We have loaned two staff to the minister at the moment, so he has two on loan and not one, as I said before. There are actually four departmental staff in the minister's office at the moment. We will cover all of that when we come back to that.

Senator RONALDSON—I suspect that is getting way outside normal.

Mr Campbell—Not at this time of the process when offices are being set up.

Senator RONALDSON—I will wait with great interest for the answer to the question on notice. Mr Douglas, I would like to ask you a question. This is just a general interest question. Is there any evidence of a relationship between the level of a disability and the number of scripts per year for veterans?

Mr Douglas—No.

Senator RONALDSON—Has there been any research done in relation to that?

Mr Douglas—No. 'Research' is a term that I consider in a fairly formal sense, but there is clearly no direct relationship. There is clearly a correlation. A person with a higher level of disability is more likely than not to have a higher consumption, but that is on an average figure. If you go down and look at individuals there is no direct correlation.

Senator RONALDSON—You mentioned average figures. Have you calculated what the average reimbursement per veteran will be from 2013?

Mr Douglas—I believe we may have, but I do not have that figure to hand. I would be happy to take that on notice.

Senator RONALDSON—One would assume there would have to be some element of that properly costed.

Mr Douglas—Over a forward estimates period of \$18.2 million with up to 80,000, one could calculate a simple arithmetic average, but I would prefer to go and have a look at a more scientific calculation for you.

CHAIR—I would like to interrupt you and hand over to Senator Ludlam who wants to ask some questions about Maralinga and then we will return to you.

Senator RONALDSON—Can I beg your indulgence, Chair? I just have one question left on this particular aspect.

CHAIR—You can do that. Senator Ronaldson.

Senator RONALDSON—In answer to question 30 from the last estimates, I understand that the department said—if I am incorrect, I apologise, because I do not appear to have it in front of me—and I quote:

It is estimated that approximately 60,000 veterans reached the safety net threshold of 60 scripts in 2009. For partnered veterans within this group pharmaceutical consumption by the veteran's family counts towards reaching the 60-script threshold.

Is that the situation?

Mr Douglas—Correct.

Senator RONALDSON—And the rationale for that is?

Mr Douglas—We are a taker in this regard and not a maker, in that the concession is a matter of the responsibility of the Health and Ageing portfolio. So I really could not answer that question for you.

Senator RONALDSON—You may be able to answer this for me. I might be completely missing the point, but does this not disadvantage single veterans who might be equally unwell, but still need to have 60 scripts on their own for the year?

Mr Douglas—I am only charged with implementing a decision of government once it is taken.

Senator RONALDSON—No, I am asking is that correct?

Mr Campbell—Your interpretation is correct.

Senator RONALDSON—Has that ever been looked at? I have got to say it just seems sort of extraordinary to me. It is no reflection on the part of veterans but I do not want to in any way reflect on what is happening to them. I think it is entirely the right policy but it does seem to completely disadvantage—

Mr Campbell—The only comment I would make is that this has been policy for a number of years.

Senator RONALDSON—It is not a reflection on the government. It just seems to me to be grossly unfair that you have one group that can get that 60 and that a single person has to get the 60 on their own.

Mr Douglas—If I may just add something which might assist? One of the challenges in this area is that the granularity of data is not as fine as one would like in order to take rational decisions all of the time, so that to dig away to get more accurate data was likely to significantly increase the administrative cost of implementing any particular scheme.

Senator RONALDSON—My grandfather said to me when I was a young man, ‘If you do not learn something new every day you have had a miserable day,’ and I have learnt something new today and that is the expression ‘granularity’. It may well be a reflection on me but can you explain to me what granularity is?

Mr Douglas—Certainly. When one goes to a pharmacist to fill one’s prescription, one usually does so as a family unit, if there are multiple members of the family receiving pharmaceuticals. So you take all of the prescriptions and have them filled and take them up to the counter to make your payments. The difficulty is in discerning which prescription relates to which person because it is all part of a family unit, particularly in cases—not in ours all of the time, of course—where you have multiple names on a single Medicare card. What I am saying is that you do not often get good, detailed data from that process to discern which of those scripts was filled in relation to perhaps the gold or white cardholder and which of them was filled in relation to the Medicare cardholder when they are purchased as a family unit.

Senator RONALDSON—But do we all agree that, irrespective of the granularity, it is still 60 scripts for the wider unit and 60 scripts for the single unit?

Mr Douglas—Absolutely.

Senator LUDLAM—I have a couple of issues that I would like to raise that relate to issues that I have raised in here before regarding British nuclear testing in South Australia. The test series that I particularly want to address tonight was, I think, referred to at the same time as the Totem series of nuclear weapons tests that occurred at Emu Fields between 15 and 27 October 1953, and they directly affected the Woomera township. Is it the case that, after those tests, ordnance, aircraft, clothing and earthmoving equipment and some other debris from the Totem series were sent back to Woomera for decontamination and disposal?

Mr Bayles—I am not in a position to answer your question. I do not know the detail of that particular incident that you are referring to. I would have to take it on notice.

Mr Campbell—I suspect that that one is probably more appropriately directed to the Department of Defence.

Senator LUDLAM—They have gone. Am I able to put that to the department through you? Let us see where I get to at the end of this series of questions and we will work out what accrues to where. That might be useful. What I am interested to know is where the disposal site is that resulted from those tests and particularly if we know whether there are dump sites at the Amberley air base for ordnance, aircraft, clothing and so on that would have been sent there for decontamination and disposal bonfires.

Mr Campbell—They are not issues for the Department of Veterans Affairs.

Senator LUDLAM—That is fine. I will come to the human impacts in that case and hopefully this will be something that you are able to help us out with.

Senator Feeney—If you give me those questions I am happy to pass them on.

Senator LUDLAM—Thank you very much. You would probably be aware that among those seeking compensation through the British courts—which we have addressed in this committee before; I think this is the proper place for these questions. I am not asking directly about the court actions but just whether you are aware that in relation to the Woomera babies there was a wave of infant deaths as a result of those tests. They died without explanation. There are more than 60 of them. Those families attribute it to the nuclear testing at Maralinga. It was raised in the *Adelaide Advertiser* in 2003 and I am happy to table some of the press clippings that I have here. Can you confirm that after that issue was raised in 2003 the then Defence minister, Robert Hill, said that medical staff would investigate sealed records of the baby deaths and that the minister would make a statement if the inquiries found anything of public importance? No statement at the time was made. Can you confirm whether or not there was an investigation into those sealed records?

Mr Campbell—Again, if that was a question raised of the then Minister for Defence I think that the question should probably go back to the current Department of Defence.

Senator LUDLAM—Is it likely that the agency that conducted the investigation was Defence?

Mr Campbell—I do not know whether it was.

Senator LUDLAM—That being the case, that is who we should pursue. Does the Department of Veterans' Affairs have any recourse at all where we have got families who are pursuing records of children? Is that something that you would assist them with? If they are

effectively pursuing records that are not available and not in the public domain—these are in many cases the parents of deceased children as a result of these tests—is that something that your department would take any kind of hand in?

Mr Campbell—There is no statutory basis for us to undertake that, no. The answer is no.

Senator LUDLAM—If they are families of veterans there is no door that anybody could knock on that would be in your department.

Mr Campbell—People can come and talk to us but we have no authority to seek out such documents. There is nothing in the responsibilities of the department that gives us the authority to seek out those documents.

Senator LUDLAM—That is fine. I am not trying to muck you about. If this is squarely the responsibility of Defence I do not want them sending me back to you guys or to health or to somewhere else; that is all. So if you can help me pin down who we should go to that would be good. The Department of Defence is your best guess—

CHAIR—No, all the Secretary is saying is that it is not Veterans' Affairs.

Senator LUDLAM—But you are not close enough to the portfolio to tell me whose responsibility it would be? Otherwise I have to wait—

Mr Campbell—We are talking about something that unfortunately happened a long time ago. Your questions to me up until now have been DVA and I am saying DVA, no. I am not sure where those records would be held or what type of records that we are even talking about, but I certainly know that we do not have them and we do not have any way to access them.

Senator LUDLAM—I will have to leave it there and not take up any more of your time.

Senator Feeney—As I said, I am happy to pass those questions on to the Minister for Defence.

Senator LUDLAM—I might just mark these up and provide them to you on notice.

Mr Douglas—I would like to add to remarks I made earlier in respect of Senator Ronaldson's question to do with research on the relationship between pharmaceutical consumption and the level of disability pension.

CHAIR—In a minute you may. I asked Senator Ronaldson whether we had concluded Corporate and general matters.

Senator RONALDSON—No, I still have a number of questions on that.

Mr Douglas—The department commissioned a study by the Australian Institute of Health and Welfare in 2002 which looked at gold card veteran and war widow health care costs compared with the rest of the community. That study confirmed that pharmaceutical usage was particularly high for veterans on some of the higher rates of disability pension. That confirms my answer to you that there is a relationship without necessarily being a direct correlation.

Senator RONALDSON—Can you give me a copy of that?

Mr Douglas—I am happy to arrange a copy of the study on health care usage and costs.

Senator RONALDSON—That is terrific. That would be great. Parliamentary Secretary, I have been very kindly provided with a copy of a posting from Minister Griffin on 11 August where he said there would be an estimated 70,000 eligible veterans, those with qualifying service and who are receiving a disability pension, who could receive a reimbursement under this measure, so I did just actually want to quote from something but I knew it was there. I now turn to the relationship between the VVCS and the department. What is the relationship between the VVCS and the department from a management perspective? Are the staff of VVCS employees of DVA, for example. Is Mr Penniall—

Mr Carmody—The staff of VVCS are DVA employees.

Senator RONALDSON—Is Mr Penniall a member of the DVA executive?

Mr Carmody—Yes, he is an executive of DVA and reports to me.

Senator RONALDSON—As to the information sharing protocols which exist between—I will call them—the two organisations, are the VVCS computer systems separate to the DVA system?

Mr Carmody—All of VVCS's records are stored separately. We work very diligently to ensure that there is essentially no crossover between VVCS and the department. The veteran community is very concerned to make sure that that is the case and we work very hard to keep it that way.

Senator RONALDSON—How are those files stored separately and what privacy mechanisms are in place to protect the files of those clients?

Mr Penniall—The VVCS files are kept separately in the VVCS offices. This is the client files. They are usually in locked store rooms. We also have electronic data which is obviously available to VVCS on our electronic system but it is only accessible by VVCS staff.

Senator RONALDSON—Could you just run that past me again?

Mr Penniall—There are VVCS clinical files—client files—and they are maintained at the VVCS offices in secure file rooms. We also obviously have electronic data on VVCS clients which is on our electronic data systems but that data is only accessible electronically to the VVCS staff.

Senator RONALDSON—How do they do that, with passwords?

Mr Penniall—With passwords, yes.

Senator RONALDSON—If a VVCS staff member gave the password to a DVA employee, could they access those files?

Mr Penniall—You would also have to know how to operate the VVCS data systems, which are very separate and discrete from the DVA data systems.

Senator Feeney—It does sound like we are delving into the hypothetical.

Senator RONALDSON—I do not know whether it is hypothetical. I am just trying to ascertain what the arrangements are and what the level of access is or the potential level of access. I do not think the veteran community views this as a hypothetical issue. I think they view this as a very real issue, and I will be raising another matter of concern as to the

relationship between the VVCS and the department. I am not a computer wizard, but this electronic material is held in the same system but it is a separate system?

Mr Carmody—There are security access protocols in place to protect the information, as you would expect. Certainly I think Mr Penniall has made the point that the way the VVCS material operates is different, so you would have to work your way through it. In terms of the hypothetical, hypothetically anyone could pass their password to anyone, but we have protocols in place to ensure that does not happen, and our staff act responsibly.

Senator RONALDSON—The VVCS has a role in the post-deployment psychiatric assessment of ADF personnel; yes?

Mr Penniall—VVCS can provide counselling support to—you are talking about current serving members?

Senator RONALDSON—Yes.

Mr Penniall—Current serving members—if those members themselves have eligible service or if those members are referred to VVCS by Defence medical officers.

Senator RONALDSON—Where does this assessment normally take place?

Mr Penniall—The assessment itself usually takes place either over the phone through a detailed phone assessment or in the VVCS offices, traditionally. Then ongoing support or counselling may be offered either in the VVCS centres or by our contracted outreach providers. As you would appreciate, there are many people who need some counselling support who do not live in or near our centres.

Senator RONALDSON—I understand. Are personnel encouraged to seek out the VVCS, do you know?

Mr Penniall—People who need some support are certainly encouraged to seek VVCS.

Senator RONALDSON—Who encourages them?

Mr Penniall—Just before I get to that, current serving members obviously are supported as well by the ADF health services in terms of their own psychology and medical support. So, there are many supports in service but for those who need support by VVCS, there is encouragement by both VVCS advertising and by our ongoing liaison with the ADF itself.

Senator RONALDSON—Are the VVCS staff available to see people on base?

Mr Penniall—Usually, we do not see people on base. We do have an outreach to Lavarack Barracks one day a week where we see some clients but traditionally.

Senator RONALDSON—The Lavarack Barracks involved two weeks of intensive post-deployment psychiatric assessment—a debriefing. Is that right?

Mr Penniall—You would really have to address that to the ADF.

Senator RONALDSON—No. The VVCS are, I understand it, involved in a joint venture with the department; is that right? They are doing it at Lavarack Barracks and that is exactly what you said before—VVCS staff are seeing personnel on base, and they are doing it at Lavarack—so, why do I need to go to the Defence department to ask you that question?

Mr Carmody—I think the implication was that we are running a two-week, intensive, post-deployment program at Lavarack Barracks; we are not doing that. We are on Lavarack Barracks and Defence refers clients to us, but we are not actually running a two-week, post-deployment program as far as I am concerned.

Senator RONALDSON—How is the joint venture going and how is it being evaluated?

Mr Carmody—I am not sure what joint venture you are referring to. I will ask Mr Penniall.

Mr Penniall—I am not sure either. Which specific joint venture are you referring to?

Senator RONALDSON—At Lavarack; is it just VVCS who are involved in this process or are Defence involved as well?

Mr Penniall—I am sorry, I am not sure exactly what process.

Senator RONALDSON—You said you have VVCS staff on base at Lavarack.

Mr Penniall—Yes.

Senator RONALDSON—What are they doing?

Mr Penniall—They are actually providing one-to-one counselling services.

Senator RONALDSON—Is that being done as part of a trial program for VVCS staff on base in conjunction with Defence or is it just a one-off; what is the arrangement?

Mr Penniall—The arrangement is, as we said earlier, we do provide services to some current serving members. Given the situation in Townsville we found it useful to actually use some premises on Lavarack base to provide those services. It is convenient for the current serving members themselves, and both VVCS and the staff at Lavarack have a very good working relationship. It is not a trial; it is a case of us just providing services to those current serving members at this stage.

Senator RONALDSON—On base, what personnel security do you have so that someone walking into the VVCS office is not seen by 2,500 people going in to get some counselling? What discretion processes do you have in place?

Mr Carmody—The separate room that is provided for counselling within Lavarack Barracks is part of the medical complex. My presumption is—Mr Penniall might answer it—that those who attend to that facility are referrals.

Mr Penniall—Yes, that is correct.

Mr Carmody—Essentially, referrals by ADF medical personnel. Those referrals could be referred to us at our facility in Townsville but given the volume of work we occasionally put someone on the base, avail ourselves of the facilities on the base and do the counselling there. It is essentially the same sort of counselling service that we would provide off base in locations around Australia.

Senator RONALDSON—Is this called ‘Project Lifecycle’?

Mr Penniall—No, there is what was called—and I will hand over to Mr Douglas—a lifecycle set of projects and one of those was in Townsville. VVCS was one of the organisations—

Senator RONALDSON—At Lavarack?

Mr Penniall—Broadly, in Townsville.

Mr Douglas—The arrangement you are referring to was known as the family collaborative project. It is one of a series of projects which was announced as part of the 2007 election commitments by the government and it was one of a series of projects, in this case involving the provision of psychological services and mental health services to eligible people in Townsville. It was involving a collaborative approach to delivery of those services on both the provider side of the equation and the client side of the equation. There was a process of engaging someone to—

Senator RONALDSON—You mean Defence and—

Mr Douglas—No. Defence, while part of the process, were not the exclusive group or owner of either the clients or the delivery. This was using psychologists practising in the Townsville area; this was using psychiatrists, general practitioners, social workers, VVCS counsellors, working with people who receive mental health—

Senator RONALDSON—So, it was a joint project between VVCS and the Department of Defence, was it not?

Mr Douglas—Yes, jointly auspiced, but it was not exclusively for serving Defence members.

Senator RONALDSON—This is not a trick question; I am just trying to ascertain—

Mr Douglas—I am certainly trying to be clear in my answer.

Senator RONALDSON—whether there has been, as I said, ‘Have there been any joint arrangements?’, and Mr Penniall said, ‘No’, and you are telling me there have been and I just wonder is that something that is continuing; is it something that was a one-off or a two-off and has it been evaluated? Was it worthwhile?

Mr Douglas—It was a one-off.

Senator RONALDSON—Has it been evaluated?

Mr Douglas—An evaluation is, if not final, then close to being final. The evaluation tells us that while there were benefits to this approach it was also an expensive way to do things and did require the use of a facilitator to make it happen, which when the funding for that facilitator was removed, required the goodwill of those involved and that was not necessarily able to be sustained.

Senator RONALDSON—There has been a bit of pulling teeth to get it but, anyway, I have now got the answer that I was looking for about 10 minutes ago. When will that evaluation be released?

Mr Douglas—I would have to take that on notice.

Senator RONALDSON—Okay. Can I just go on, please, and ask Mr Penniall how many VVCS facilities are there across Australia and how are they located? How many and where are they collocated with DVA offices?

Mr Penniall—There are 15 facilities across Australia. They are located in all capital cities plus a range of other locations, for example, in Albury Wodonga, Launceston, Lismore, Maroochydore, Newcastle, Southport and Townsville. So, there are 15 in total.

Senator RONALDSON—Their collocation?

Mr Penniall—They are collocated in Darwin at this point. For example, places like Hobart have been collocated in the same building but with separate entrances, separate waiting rooms, separate reception areas and the like.

Senator RONALDSON—Have you had any feedback from ex-service organisations in relation to the collocation; any complaints about it?

Mr Carmody—Yes, we have had some feedback about the collocation in Darwin. We have not had any feedback from the clients, but we have had some feedback from a couple of ex-service organisations about the collocation.

Senator RONALDSON—I suspect you have not heard back from the clients because the clients have expressed their concern to the ex-service organisation. That is the very reason that they have not actually complained themselves, because they are concerned about it. I would not, I am afraid, take a great deal of heart from the fact that it has come through the ex-service organisation.

Mr Carmody—We do talk quite a great deal to the clients.

Senator RONALDSON—I know you do and I have got to say you do it very well, but I am saying to you in this case the fact that it is an issue means they are not going to come to you about it, they are going to go to the ex-service organisation for that very reason. I understand that the issue with the Darwin one was that to access the VVCS you had to present to the DVA main counter first; is that correct?

Mr Carmody—It is a shared waiting room, yes.

Senator RONALDSON—The answer is yes?

Mr Carmody—Yes.

Senator RONALDSON—I understand that it was so bad there had to be soundproofing put in between the walls of the DVA and the VVCS; is that right?

Mr Carmody—When we first moved into the premises a couple of years ago some soundproofing work was done and at that time the staff in the centre all agreed that that was adequate. Since then we have had some discussions in the last 12 months and the view has been that it is not adequate, so we are in the process of doing some more.

Senator RONALDSON—I understand the previous minister undertook that there would be no further collocations because of the concerns expressed by the ex-service organisations and, particularly, the Vietnam Veterans Federation; is that right?

Mr Campbell—The then minister and I agreed that there would be no further collocations for the time being and we would see what was happening, including we would be doing some data on the attendance of members to, particularly, the Darwin office.

Senator RONALDSON—It would be very, very, very cynical, would it not, for someone to say that you will review the situation when the lease has actually come up on some of these premises and that is the reason that that undertaking was given; because they are a long-term lease and it was not possible to do it anyway? Once they come up the situation might change.

Mr Campbell—I cannot talk for the former minister but I do not like being called cynical in a negative way and the way I think you just said it.

Senator RONALDSON—I do not think I called you cynical, did I?

Mr Campbell—I think you were implying it. I am sorry if you did not; I thought you were.

Senator RONALDSON—No, I said ‘a cynic’. I am assuming that you are not cynical about this, Mr Campbell.

CHAIR—It is nine o’clock. The committee stands adjourned.

Proceedings suspended from 9.00 pm to 9.14 pm

CHAIR—The committee will come to order. We are still dealing with corporate and general matters. Senator Ronaldson.

Senator RONALDSON—Can I indicate that I will need the Australian War Memorial tonight and can I now, still under the corporate and general matters portfolio overview, turn to the MRCA review? How is the review progressing?

Mr Campbell—I will ask Mr Bayles to come to the table, but the review is progressing well. It is a very complex issue and I am hopeful of having a report to the minister by the end of the calendar year.

Senator RONALDSON—By the end of the calendar year. When the steering committee was appointed, what skill sets were required for the appointment? Was there a round of applications? Were the positions advertised?

Mr Campbell—No, the steering committee is made up of the following: I chair it, representing the Department of Veterans’ Affairs; Major General Craig Orme, representing the Department of Defence; the Department of Treasury; Department of Finance; Department of Education, Employment and Workplace Relations; and there is a private sector expert, Peter Sutherland, who has been working these matters for many years. There was no advertising. In addition to that, two members of PMAC have been attending all meetings as observers but they partake in the discussion, and the committee has met on a number of occasions with representatives of the ex-service community.

Senator RONALDSON—Why was there not an invitation to the ESOs to be observers along with PMAC?

Mr Campbell—PMAC members are also representative of the ex-service community.

Senator RONALDSON—I know that. I am asking the question why were the ESO round table not asked to provide a representative as well as PMAC?

Mr Campbell—At the same time as the PMAC had two observers we agreed with the round table that there would be four representatives of the ex-service community that would meet on a very regular basis with the committee and with the department.

Senator RONALDSON—I will ask the question again. Why were PMAC chosen to have representation but the round table representatives were not?

Mr Campbell—Because the committee was set up by the then minister; that was a decision taken by the then minister.

Senator RONALDSON—Were PMAC involved straightaway as observers or did that come later on after some representations?

Mr Campbell—From memory, there were two or three meetings before PMAC came along, but I am not sure. There might well have been the term ‘representations’ but I do not recall it as being vigorous or aggressive, but there certainly would have been discussions. I think there were only one or two meetings before they came to the meetings.

Senator RONALDSON—Had the ESO, or the round table, made any requests for similar attendance to PMAC?

Mr Campbell—The ESO round table requested their involvement and we agreed quite readily.

Senator RONALDSON—But you did not agree to them being—

Mr Campbell—Their involvement—

Senator RONALDSON—Can I just—sorry, Mr Campbell, can I just finish?

Mr Campbell—No, I am not being combative here.

Senator RONALDSON—Can I just finish? They were not offered the same level of representation as PMAC; is that correct?

Mr Campbell—I do not think I could agree with that. They have four representatives that meet regularly with the steering committee where there are only two for the other. So, their involvement is done in slightly different ways but I do not think that any of the ex-service community represented through the round table would argue that they are not having their voices and their views heard by the steering committee.

Senator RONALDSON—What is expected of the members of the steering committee? Are there any KPIs in relation to attendance, or anything in writing or verbal?

Mr Campbell—No, and indeed there are always competing pressures for members of the committee. Nobody has attended all meetings and I would not expect that, but all members are partaking in the drafting and all of the substantive discussions.

Senator RONALDSON—There would be an expectation that they would attend committee meetings, presumably.

Mr Campbell—No, given the number of people involved and given the competing pressures on individuals, I do not think it is fair to say that it is an expectation they would attend all meetings.

Senator RONALDSON—There would be an expectation that they surely would attend some committee meetings.

Mr Campbell—I think the expectation is that all departments would be represented and, indeed, I think that most meetings have had all of the departments represented. There might

have been one or two meetings when one of the departments was not there, but certainly at all meetings the Department of Veterans' Affairs has been there, the Department of Defence has been there and the private sector person has been there. I think it would be very exceptional that the other departments—there might have been one or two during the budget process when one or two of the other departments were not represented, but it is not fair to say that there has not been representation in the main at all meetings by relevant portfolios.

Senator RONALDSON—Were the departments appointed to the steering committee, or the individuals?

Mr Campbell—There were individuals, but it was agreed that proxies could attend if the individual was not available.

Senator RONALDSON—So, it was individuals. The expectation was that the individuals would be at these committee meetings unless they were required to have a proxy. If it was going to be a laissez faire approach, surely the departments would have been appointed to the steering committee and then they nominate someone, but there are actually specific people on the committee, are there not?

Mr Campbell—Because the minister wrote to his ministerial colleagues, but to my mind and to other people it was always, ultimately, the departments who are represented.

Senator RONALDSON—The steering committee is supported by a secretariat?

Mr Campbell—Yes.

Senator RONALDSON—What are the full-time equivalents involved in that secretariat?

Mr Bayles—At the present moment there are three departmental staff, including myself, on the secretariat, but the secretariat has varied in size over the course of the review, depending upon the amount of work involved.

Senator RONALDSON—Just getting back, I presume there is some expectation that the steering committee members would attend the public hearings as well.

Mr Campbell—There was never an expectation that all members would attend the public hearings. There was an expectation that at each public hearing there would be at least one member of the steering committee.

Senator RONALDSON—What role has PMAC played in the development of any potential recommendations?

Mr Campbell—PMAC, as a committee, has not been providing submissions or input as a committee to the review. Their two observers there have, however, fully partaken in the discussion.

Senator RONALDSON—They have not made a formal submission; that is not on the DVA website?

Mr Campbell—No, they have not made a formal submission.

Senator RONALDSON—What will be the level of consultation between the round table representatives who are out to one side and the PMAC representatives who are part of the

process? Will they be consulted on the recommendations before they are given to the minister or before they are released publicly?

Mr Campbell—At the meetings that they are attending the draft recommendations have been discussed, yes.

Senator RONALDSON—Both organisations; both groups of representatives?

Mr Campbell—The issues that are being discussed have been discussed with both the representatives of the ex-service organisations and the two members from PMAC, yes.

Senator RONALDSON—Are there any matters that have been discussed with the PMAC representatives that have not been discussed with the ex-service round table representatives?

Mr Bayles—PMAC observers have been attending all of the committee meetings except maybe the first couple, and so they have listened to all of the discussions within the steering committee. The ex-service organisation round table representatives that the secretary is referring to have had a number of discussions with the steering committee, in steering committee meetings, as well as a number of discussions with the secretariat.

Senator RONALDSON—Can you take on notice how many meetings PMAC has attended?

Mr Bayles—Yes, I can answer that.

Senator RONALDSON—Can you take on notice how many briefings the four ESO representatives have had in relation to this inquiry?

Mr Bayles—Yes.

Senator RONALDSON—Mr Campbell, I have at some length looked through the transcripts of the public hearings and it is interesting that, Mr Bayles, you have attended Sydney, Brisbane, Townsville, Perth, Darwin, Canberra, Hobart, Melbourne and Adelaide; is that right?

Mr Bayles—I attended all of the public meetings and chaired those meetings.

Senator RONALDSON—Would it be fair to say, Mr Bayles, that apart from Treasury and a Peta Furnell, who apparently was the representative on behalf of Finance, the rest of the committee have attended the majority of the public hearings?

Mr Bayles—I should correct—Peta Furnell is the Treasury representative.

Senator RONALDSON—What did I say?

Mr Bayles—You said ‘Finance’.

Senator RONALDSON—My apologies. You are absolutely right; Treasury, yes.

Mr Bayles—I would have to go back through the attendance records—

Senator RONALDSON—Jenny Chynoweth is the Finance representative.

Mr Bayles—for the public meetings to give you a correct answer to that question. Certainly, there were committee members at the public meetings and I would need to go back through the records to answer your question precisely.

Senator RONALDSON—I will tell you. Major General Alwyn only missed one and that was Sydney. Jenny Chynoweth missed Sydney, Brisbane, Townsville, Perth and Darwin—she was represented otherwise on two occasions out of those five by someone else—and she attended Canberra, Hobart, Melbourne and Adelaide. Michelle Baxter missed Sydney, but went to Brisbane, Townsville, Perth, Darwin, Canberra, missed Hobart, was at Melbourne and missed Adelaide. Peter Sutherland was at all of them. You, Mr Bayles, were at all of them. Mr Campbell, you are the chair of the steering committee?

Mr Campbell—Yes, and I had Mr Bayles representing me at the public hearings.

Senator RONALDSON—I was going to get onto those; you have jumped ahead of me a bit.

Mr Campbell—That is where I thought you were going.

Senator RONALDSON—No, I am heading down there but I wanted to get some other things done before we got to that. How many meetings of the steering committee have there been, Mr Bayles?

Mr Bayles—To date, 30.

Senator RONALDSON—Mr Campbell, how many of those have you attended?

Mr Campbell—I would have to take that on notice. I do not know, but I certainly have not attended them all.

Senator RONALDSON—Would it be a third, a half or two-thirds?

Mr Campbell—At least a half.

Senator RONALDSON—I am sure someone can find that out for me pretty quickly tonight, can they?

Mr Campbell—I suspect so, yes.

Senator RONALDSON—Get back to me tonight on that.

Mr Campbell—We will see what we can do.

Senator RONALDSON—Thank you. Mr Bayles, can you please provide me with an attendance register for each of these meetings, including the date, location of the meeting and those who attended? I do not expect that tonight.

Mr Bayles—Do you mean of the steering committee or of the public meetings?

Senator RONALDSON—No, the steering committee.

Mr Bayles—Yes.

Senator RONALDSON—Mr Bayles, those nine locations—and I am now getting back to the public hearings—they were mainly the capitals but you went to Townsville, which was the only one that was outside the majors. How would you judge the success of those meetings?

Mr Bayles—That is a difficult question. The meetings were to provide people an opportunity to come and speak to the committee and the secretariat and have their input to the review.

Senator RONALDSON—Did you keep numbers? Sorry to interrupt.

Mr Bayles—We did have numbers. We did attempt to count the numbers at public meetings and I would have those numbers.

Senator RONALDSON—I do not expect those tonight. Was there any similarity in the issues in a national sense? Were roughly the same issues being raised? Were they different issues geographically based?

Mr Bayles—There was quite a range of issues raised in the public meetings, some concerning the legislation, some concerning policies and some concerning administration. There were some common issues that were raised and they generally reflected issues that were also in the written submissions to the review. So, yes, there were some issues that came up regularly at the meetings, not necessarily at all meetings, but there were certain issues that would come up frequently at public meetings, and then there would be one-off issues that would be raised from individuals at meetings or from ex-service organisations.

Senator RONALDSON—Mr Campbell, can I ask you on what basis you would not have attended at least half of those public hearings?

Mr Campbell—I have read reports of all of the public hearings and, indeed, I think I have read the transcript of all of the hearings. I think you will appreciate that my position is a rather busy position and I delegated the chairing of those to Mr Bayles, in whom I have absolute confidence.

Senator RONALDSON—Your level of commitment to your job and the amount of time that you put into it, I can assure you, is not in any way in question, but I do have a number of questions in relation to this inquiry. I fail to see how it is possible for the chair of the committee not to attend a public meeting to at least understand and be in a position to ascertain the sorts of issues that the public and the community have raised in relation to this matter. That is probably a comment. This is a comment as well. I would be interested to see how many of the steering committee meetings you attended as chair. I will ask you this question. I think this is a real issue in relation to this review. This is a reflection on the process; it is not a reflection on you, but it seems to me that, given that you are the secretary of the department and you are chairing an independent review of one of the principal acts that your department administers—you are the president of the Repat Commission, the chair of the Military Rehabilitation Compensation Commission—are you not placed in the extraordinarily invidious position of almost being the poacher and the gamekeeper?

Mr Campbell—I do not think so. The only way I can respond to that, at this stage, is to ask you to wait until the report is finalised and published. We can argue about it, but ultimately what I would say here is: wait until the report is finalised and becomes public.

Senator RONALDSON—My argument most certainly is not with you. My argument is with the process. I have seen a lot of inquiries and I have seen an enormous number of potential conflicts of interest, both on my side of politics and on the other side of politics. Quite frankly, I cannot see a more glaring example of a potential conflict of interest than the one you have been placed in in relation to the chair of this committee. As I said, in my view it is an absolute case of the gamekeeper and the poacher. I have some sympathy for you, but I am prepared to take your comment to wait and see what the outcome is.

Mr Campbell—Thank you.

Senator RONALDSON—Parliamentary Secretary, it has been intimated by the previous minister and maybe by the current minister—I have not spoken to him about this, have not read anything about it, and I take those previous comments at face value—about commitments in relation to extensive consultation following the release of the review. I gather with the Clarke review—Secretary, you will know this better than me—in 2003 a report was made public, responses were called to the recommendations and there was a response in 2004. Is my information roughly correct in relation to that?

Mr Campbell—Yes.

Senator RONALDSON—Parliamentary Secretary, following the public release of the document does the government propose to seek feedback on the recommendations prior to the release of the government's views on it? Has there been a timetable determined for this? Will there be public consultation in the major capital cities and Townsville as there was with the inquiry itself? Will there be involvement from the steering committee and any further consultation? Is there any process in place in relation to community feedback and consultation in relation to this?

Senator Feeney—No. As I understand it, the minister has not made a determination on any of those matters at this time.

Senator RONALDSON—Do you know when that is likely, because we are ticking away quickly towards the end of the calendar year. We are now towards the end of October. If I might say, this is a very significant issue, and I am sure that those at the table would be far better briefed on this than I, but in my view there is certainly a very strong view from the service community that they want a good amount of time to have some feedback into this prior to any final decisions being made.

Mr Campbell—Perhaps I could clarify a comment that I made just so there is no confusion. When I said the report by the end of the calendar year, that is the committee providing the report to the minister.

Senator RONALDSON—I understand that. If I did not make my question to the parliamentary secretary clear on the back of that, then it was in that context. I know that it is policy discussion and therefore outside my purview, but when are we likely to have some feedback to people about the process? Perhaps I can say this first. I assume that the report will not be released at the end of December and the government respond to it without appropriate consultation. Would that be a reasonable statement?

Mr Campbell—That is a matter that I would want to take back and discuss with the minister. I can take that on notice. I do not know what the minister and the government propose to do once they get the report at the end of the calendar year, in terms of publication, government response and consultation.

Senator RONALDSON—Parliamentary Secretary, will you give an undertaking to the ex-service community and others that the government will provide an appropriate level of consultation, following the release of this report, prior to the government making a decision?

Senator Feeney—I will take your remarks back to the minister and as a question on notice.

Mr Campbell—I can add to that. In the recent 12 to 18 months there have been a number of reviews done in the portfolio: the pharmaceutical review, the BEST and TIP review. Every one of those has involved a situation where the report has gone out and there has been substantial consultation. I note that as a historical record.

Senator RONALDSON—That is why I am not pursuing this any harder now but I do want a level of comfort, at least from the parliamentary secretary's point of view as the representative of the government, that there is acknowledgement that there will need to be an appropriate level of consultation, given the seriousness of this matter, prior to any decision being made.

Senator Feeney—I have nothing to add to what I have already said.

Senator RONALDSON—Mr Campbell, I would like to take you to the question of offsetting of compensation under MRCA. I have to say that I am finding it a little difficult to get my head around this offsetting, but I will have a go at it and I am happy to work through you with this because it seems to me, quite frankly, that the precedents are difficult to properly interpret. I do not know whether the AAT in relation to Cunningham actually throws a lot more light on the whole thing. I will put to you that there is a lawyer with some experience in the area of veterans law who has co-authored an article, which will be published in a legal journal shortly. I am sure if you are not aware of it that you will know this man when it is released. It is quite a detailed paper. The article is built around the James case. I would like to make sure that I have my facts right before I go on to the matters of substance. Lieutenant James has two accepted disabilities under SRCA, specifically a right ankle injury in June 1992 and a left knee injury in June 1997. Has he been compensated separately for those injuries?

Mr Telford—I am not aware of this case.

Senator RONALDSON—This is James v the Military Rehabilitation and Compensation Commission.

Mr Telford—Can you give us a moment?

Senator RONALDSON—Yes.

Mr Bayles—I do not know the specific details of the case, but I am aware of the case. I understand the issue that I think you are going to get to, but I cannot go into specifics.

Senator RONALDSON—I understand that. There was the issue of offsetting of compensation under MRCA with compensation paid under other acts, including SRCA and the VEA.

Mr Bayles—Correct.

Senator RONALDSON—James had two accepted disabilities under SRCA and in July 2004, after MRCA, James suffered a right knee injury. He then filed a claim with MRCC, was successful from the point of view that the injury itself was accepted, but he received no compensation because he had already been compensated for earlier and different injuries. My understanding is that this was a new injury on a different part of his body and it beggars belief that it would not have increased Lieutenant James's level of permanent impairment. It does seem strange. I will ask you whether you agree and if you say you are not prepared to answer

then I will not ask you again. It would be hard to imagine a situation where a new injury in a different part of the body does not, in some way, increase someone's level of permanent impairment. That is a matter of common sense. If you do not want to answer then that is fine. I will make the comment. I am seeking a response, but if you do not want to then that is fine.

Mr Bayles—I am aware of the issue and it is one of the issues that is being considered as part of the MRCA review. There have been submissions made by ex-service organisations on this very issue. It is commonly referred to as offsetting of new injuries against old injuries. That is the common expression and you may have heard of that. It is an issue that is before the review. The legislation provides that the MRCC must develop a methodology to deal with these cases and some ex-service organisations have raised concerns about the methodology.

Senator RONALDSON—I will get to that. You can tell me whether this has been raised and whether it will be addressed in this review. Former Minister Vaile said—I will quote this from *Hansard* because it is quite important:

A member who suffers an injury or illness after that date will be able to combine prior impairments from SRCA and the VEA with the new arrangements 'to get the best possible outcome'.

My understanding is that the act provides that the Military Rehabilitation and Compensation Commission can prepare a guide which contains one or more methods of determining the amount of PI compensation to which a person is entitled when a new claim arises. The act gives the commission the option of creating more than one guide to handle these situations. Is that right?

Mr Bayles—I believe so.

Senator RONALDSON—Why is there only one guide in place? I am sorry; I have misled you. That is what Cunningham was about. There is only one guide. Under the guide they can prepare a guide which contains one or more methods of determining the PI. What has happened is that the commission has only prescribed one method, whereas the act enabled them to have one or more methods of determining PI, which seems to be the issue. Is that being looked at by the review committee to determine why the commission, having been authorised by the act to prepare a guide which contains one or more methods of determining PI, has made the decision that there will only be one method which has led to the offsetting issue that we have at the moment?

Mr Bayles—The issue the review has been considering, because it has been raised in submissions with the committee, is the question of the methodology itself. The methodology has been produced by the MRCC. That is the issue that is being considered by the steering committee to the MRCA review: the methodology, itself, and the results that it produces in particular cases.

Senator RONALDSON—Do you know why the commission chose to have only one method under the guide to determine PI when they were given the option to have one or more methods?

Mr Bayles—I cannot answer that question.

Senator RONALDSON—Can you take that on notice for me?

Mr Campbell—We would have to go back and have a look at the history of this because there have been a number of members of the commission since 2004.

Senator RONALDSON—Just so I am clear, if someone had a new injury under the VEA which was accepted, and there was an increase in the PI, it would not be offset if all those injuries were under VEA—is that right?

Mr Bayles—Correct. There is, though, a methodology under the VEA that involves whole-person impairment. So, when you have multiple conditions accepted under the VEA, the assessment of the rate of pension is determined using a whole-person impairment method. It is not an arithmetic arrangement; it is a combination.

Senator RONALDSON—Are they more than likely to be given a higher level of PI and therefore a higher level of pension under the VEA than if they were under MRCA?

Mr Bayles—They are completely different pieces of legislation.

Senator RONALDSON—I understand that.

Mr Bayles—The scales are different.

Mr Telford—We need to be clear whether we are talking here about offsetting, which is about the principle of not being compensated for one injury under the two pieces of legislation, or something like the case of James, where, in terms of his second injury, it was a matter of whether his whole-of-person impairment had increased. There was no offsetting involved in that particular case. It was a matter of the combination of the two injuries that he had and whether or not that created a greater level of disability for him than did having the one injury. They are separate concepts.

Senator RONALDSON—And Cunningham?

Mr Telford—I do not know about Cunningham.

Mr Bayles—I believe Cunningham is a similar case to James, but I will check that.

Senator RONALDSON—This is where I take issue with you, Mr Telford; I am sorry. I thought the Cunningham and James cases were similar, but the summary by Carstairs, the senior member of the AAT, was: ‘Whatever discretion might have been available to the commission to choose to incorporate one or more methods by which old and new injuries might be assessed, it chose to have one method only. The mandated matters were that old injuries and new injuries both had to be counted. In that sense the legislation did not provide a clean slate upon which injuries that occurred after the introduction of MRCA would be examined.’ I think that case did actually address that issue and I think that Cunningham, the applicant, was not successful on the basis that Senior Member Carstairs formed the view that the commission had chosen one method only, and while the act enabled them to choose one or more methods they chose to use one method only and there was nothing that the senior member could do about it. We might have a further discussion about that perhaps on Thursday if the opportunity arises. But in any event this offsetting is part of the review?

Mr Bayles—That is correct.

Senator RONALDSON—I will just finish this aspect of it on the basis that we are now seeing some seriously wounded defence personnel coming out of Afghanistan. If they are also

eligible under VEA or SRCA are they going to be subject to this offsetting as well? My understanding is that they will.

Mr Telford—It is possible. I am hypothesising.

Senator RONALDSON—We will hypothesise that they have some eligibility under the VEA or SRCA. If they do, someone returning from Afghanistan having been wounded in Afghanistan is, on my understanding, potentially subjected to the offset arrangements that have been the discussion today, which I think is, quite frankly, absolutely appalling and totally inappropriate, and I will be looking forward to seeing the outcome of this. In my view it is completely untenable for those people to be subjected to this offset issue.

CHAIR—I thought when the previous government passed the MRC Act that, for all accidents or injuries arising for members of the defence forces that gave rise to compensation and the like, they were going to lodge future claims from a particular date under the MRC Act. I am hearing Senator Ronaldson say that the claims arising now—

Senator RONALDSON—Under MRCA.

CHAIR—out of Afghanistan can be lodged under the VEA and the SRCA.

Senator RONALDSON—No, that is not what I said. What I am saying is—

CHAIR—It is the MRC Act.

Mr Campbell—Just for the record, any incident, injury, wound or anything that has occurred to a serving member of the ADF from 1 July 2004 is covered under MRCA, but that is not the point that Senator Ronaldson raised.

Senator RONALDSON—No, the point is that if someone is wounded in Afghanistan and they have entitlement under VEA or under SRCA then, on my understanding, the offset provisions will apply to anyone who is injured in Afghanistan who has an entitlement for PI under either SRCA or VEA. This is where the offsetting provisions will come in. That was the unfairness of the—

CHAIR—For injuries that occurred prior—

Senator RONALDSON—The injuries received now will be potentially offset against the injuries for which they are getting compensation under the VEA or SRCA. Indeed it may, as it did with James, mean that they will not receive any increase in compensation at all. That is my understanding.

CHAIR—I see that point. If a soldier is involved in operations now, post 1 July 2005, and he receives his first accident, injury or wound—whatever—does he have more than one act under which he can lodge a claim?

Senator RONALDSON—No.

Mr Campbell—Only MRCA.

Senator RONALDSON—Only MRCA.

Senator Feeney—But we are talking about people who are wounded twice.

Senator RONALDSON—They can come under MRCA only if they are injured after—

Mr Campbell—Whenever you go from one act to another there is always an issue of transition. As Mr Bayles said—and I have been saying this when I have been talking to people—I think one of the most difficult issues the review committee is actually looking at is this issue of a transitional PI. It is one of the most difficult issues.

CHAIR—But a soldier with no injury but service prior to 1 July 2005—

Mr Campbell—It is 2004.

CHAIR—A soldier who receives an injury post 1 July 2004 only has access under the MRC Act, notwithstanding prior service. That is offsetting—

Mr Campbell—What Senator Ronaldson is raising is this issue: when a member or former serving member is getting compensation under one act and then something happens at a subsequent time and coverage is under another act, what does the law say about one being offset by the other? Often there is no offset, but in some cases there is an offset and that is what the senator is raising. This is an issue that the steering committee is well aware of and is looking at.

CHAIR—Is this argument akin to aggravation of a pre-existing injury in the workers compensation jurisdiction?

Mr Campbell—No, it is not the same background.

CHAIR—I will not pursue it any further.

Senator RONALDSON—The bottom line is that Minister Vale said that combining prior impairments from SRCA and VEA was a new arrangement to get the best possible outcome, and clearly with the definition that the commission has used—or the choice of only having one method—it has not had that, and I am very pleased that it forms part of this review. This is the last matter under the general matters. I turn to the ANAO performance audit report No. 11, which I am sure will not surprise you at all.

Mr Campbell—Ms Spiers will take your questions on this.

Senator RONALDSON—The ANAO performance audit report No. 11 into direct source procurement analysed the way DVA and three other agencies managed the tendering and contracting process—is that right?

Ms Spiers—That is correct.

Senator RONALDSON—And point 45 of the report, on my understanding, is that FaHCSIA, DVA and the ACC were only able to demonstrate adequate consideration of the procurement process in 33 per cent, 15 per cent and 7 per cent respectively of their direct source procurements in the audit sample. So for DVA that was 15 per cent. I am sure that that report gave DVA no joy. Can you give the committee any justification for this appallingly low rate?

Ms Spiers—I agree the rate is disappointing, but I think if you read the—

Senator RONALDSON—The fact that you acknowledge it means I will not take you to task on the description. So, yes, you were disappointed.

Ms Spiers—The reason DVA was actually put forward for this audit was its overall low number and low value of direct sourcing audits. Part of my response to you is that, in the context of procurement in direct sourcing, the results were disappointing, but I would put to the committee that this is one form of procurement and our main source of procurement is actually going to open tender. In fact, if we look at health procurement, for instance, we have just over \$5 billion annually that we procure through health services. The majority of that is through open tender. I would agree that it is a poor result, and as soon as we got some of the preliminary results I was briefing the secretary on those results and we were already looking at taking remedial action.

Senator RONALDSON—I will get to that in a second. I am pleased to hear that. From your point of view, was there any evidence that there was a higher rate of adequate consideration on higher value contracts versus lower value contracts?

Ms Spiers—I would agree that we had a range of direct sourcing—

Senator RONALDSON—I do not think you should agree with me. Can I just caution you: I am asking whether from your point of view there was a higher rate of adequate consideration on higher value contracts than on lower value ones.

Ms Spiers—Without agreeing with you, Senator, of the contracts that were examined by the ANAO in that period for direct sourcing, the values range from about \$150,000 to \$1.5 million. What the results do not show, in the comments made by the ANAO, are which ones of those were the ones that were deficient in the documentation versus those that were appropriately documented.

Senator RONALDSON—One of the damning outcomes of this report, Ms Spiers, was that while you would assume there would be a higher rate of adequate consideration for high-value contracts, the Auditor-General remarkably found in the majority of cases:

... it was not evident that one or more CPG obligations, requirements or specified sound practices had been met, including for higher valued procurements.

So not only was it appalling—or ‘disappointing’, to use your words—in relation to low-value contracts, it was also in relation to higher-value ones. I accept that I need to get a life, Ms Spiers; I have been told that for a long time. These are just some of the contracts I have been through today. I, at the next estimates hearing, will ask you a considerable number of questions in relation to departmental contracts. I want to put you on notice in relation to that.

There is a huge amount of outsource contracts from the department, a massive amount. I will be asking you questions in relation to that. I am not going to do it today except to say to you that going through this it was clear to me—I am not going to mention the person’s name, the contact name, because that would be totally inappropriate—there was one particular person who constantly had select procurement with the ones they were handling and mixed in with that were other people from the agency dealing with exactly the same organisation doing exactly the same services where it was open tender. I am not in any way alleging any wrongdoing, but I am asking you: have you identified officers within the organisation who are more likely to seek direct procurement than open procurement?

Ms Spiers—That is a very difficult question to answer. I accept your observation of the material you have got but, equally, what you would not have before you—and I could not

answer even if I had a review of the material—whether there was a particular need that meant that those procurements that were direct sourced were time critical and there was not time to go out to any other form of procurement or whether the person involved was relying on leveraging off on work that had already happened from a procurement process and the reputation of the particular organisation.

Senator RONALDSON—This was across the board. I am not going to mention the person's name. It would be totally inappropriate. I am asking you: what has been the level of consultation and, dare I say it, did you get anyone in to tell the staff what the rules were and where they were going wrong?

Ms Spiers—I have had one-on-one discussions with individual managers, we have revamped our training and our awareness for all staff. At a senior executive forum earlier in the year we ran a special awareness session for all SES reminding them of the requirement for procurement generally and specifically for direct sourcing procurement.

Senator RONALDSON—This department is seriously under the pump financially and I would have thought it was in the interests of the department, Mr Campbell, to make absolutely sure that you were getting complete and utter value for your dollar. The ANAO was quite damning that the DVA was guilty, along with these other departments, of not demonstrating that it was getting value for money in relation to these contracts. Ms Spiers, I need you to tell me that you are taking this very seriously. Quite frankly, I am not entirely sure that you just speaking to the branch heads is—

Mr Campbell—Ms Spiers has made it clear we are taking seriously. There was more than speaking to branch heads. We have held training sessions with the SES. We have taken it seriously and I presume that at some point in time you are going to maybe privately show me those contracts because based on what you have said about those contracts I would like to see them.

Senator RONALDSON—Sure.

Ms Spiers—I would like to clarify the last point with you. You used the words that the department was not demonstrating value for money. I am not taking exception to those words except that often what we discovered when we looked at things is that they were not documenting the efforts they had taken to achieve value for money. I think that was more the focus of what the Auditor-General was saying. It was the lack of documentation to support the value for money proposition in terms of the procurement, not that it was necessarily not a value for money procurement—if I can make that distinction.

Senator RONALDSON—I accept that, Ms Spiers. Can I just say that at No. 30 it says: Nevertheless, the agency guidance did not always lead to selection of an appropriate procurement method and sound Direct Source procurement practices.

You have now responded to that and the agency guidance will ensure that the issues raised in No. 30 in this report are being addressed.

Mr Campbell—I would like to add to that. Some of the timing might have been a bit strange. We started to address it when we saw the draft discussion paper from the ANAO—we did not wait for the final audit report.

Senator RONALDSON—Mr Campbell, I think I know you well enough to know that it would be more surprising if you had not responded when you saw it than that you had.

Ms Spiers—The final point on the procurement issue is also that the recommendations from the Auditor-General were focussed not only on agencies making sure that they had clear documentation and support to the staff that were deciding on issues of procurement, but it was also a focus on the Department of Finance and Deregulation to ensure they provided suitable guidance and instruction. It is a combination of agencies improving their management of procurement as well as guidance from Department of Finance and Deregulation.

Senator RONALDSON—Just quickly, Ms Spiers, there are about 21 entries totalling about \$10m for pharmaceutical advisory services. Can you explain to me, as the new kid on the block, what they are please? What do these contractors advise the department on? Are they chemists or are they—

Mr Campbell—Mr Douglas, will answer that question.

Mr Douglas—The department administers a scheme known as the Repatriation Pharmaceutical Benefits Scheme. Part of that scheme is that there is a large number of drugs, as there is in the standard PBS, which require prior approval before the prescriber can complete the prescription. DVA runs a veterans' affairs pharmaceutical advisory centre and that is a 24/7, 365 service available to prescribers and that is staffed entirely by contracted pharmacists who give the approval and who give advice to prescribers in relation to using particular pharmaceuticals.

Senator RONALDSON—Is this advice on drug treatments? Or is this advice on availability for the veteran to access the service? Is that what we are talking about?

Mr Douglas—They advise on a very wide spectrum of issues related to the dispensing and consumption of pharmaceuticals.

Senator RONALDSON—Is there no-one else doing that for any other organisations?

Mr Douglas—No.

Dr Killer—The department is very serious about the management of pharmaceuticals with our veterans. The issues of pharmaceuticals are very complex, as you know, particularly when you have veterans with multiple co-morbidities—four or five different conditions. The complexities of this lead to multiple medications and new medications. Quite frankly, some practitioners are not as familiar with the particular multiple medications as our specialist pharmacy advisers are. So the advisers not only give approval but very frequently give advice, and doctors ring our veterans affairs advisory centre for advice on these pharmaceuticals. So it is a quality service aimed to produce not just approval. In fact, I suggest approval is the second leg; the first leg is quality.

Senator RONALDSON—Sure, that is true. I acknowledge all that. I thought if there was someone who was doing something similar you could—dare I say it—co-locate with them. But that is a perfectly reasonable answer. With the medical advice for compensation claims, there are a whole lot of family trusts. Some of your colleagues are operating under family trusts, and others are operating on their own. Medical advice of compensation claims and

medical advice services to primary health totals about \$5-odd million. Very quickly, what do they relate to?

Mr Douglas—We engage with a range of different advisers that cover off not only general practice issues but also issues to do with allied health specialties such as hearing, audiology, psychology et cetera. So that covers the gamut of advisers in relation to treatment issues.

Senator RONALDSON—I do not want to be rude and interrupt you. I think you have answered that question for me. These are all open tender contracts, are they?

Mr Douglas—Correct.

Senator RONALDSON—What length of time are these contracts normally for?

Mr Douglas—They are normally around the order of three years, but I would like to take that on notice. Invariably there are extension provisions.

Senator RONALDSON—Perhaps Ms Spiers can do this. Can you get me the details of the extent of advertising and the nature of the advertising when these large contracts come up, particularly in relation to the ones I have been discussing with Mr Douglas and Dr Killer?

Ms Spiers—Certainly.

Senator RONALDSON—Can I take you to one contract now, and then I will leave the contracts alone. It is to Robson Huntley and Associates to provide advice, assistance and analytical support to the secretary in respect of the military compensation review. It is some \$850,000. What do we know about that?

Ms Spiers—While Mr Bayles is coming to the table to answer your question, may I say that you mentioned that at the next hearing you would be asking detailed questions about particular contracts. As you have seen from this evening, I have responsibility for the policy to do with procurement, but the individual contract managers have the detail on the contracts.

Senator RONALDSON—Thank you. I just want to let people know that in all likelihood I will be asking questions about contracts.

CHAIR—Contracts generally or contracts in health services?

Senator RONALDSON—Generally.

Mr Bayles—The contracts that you are referring to are for consultancies to assist the MRCA review. We contracted through Robson Huntley three individuals who had experience in the development of the military compensation scheme back in 2004. We contracted three particular individuals who had substantial experience to offer to the review. They have conducted research, prepared papers, drafted parts of the report.

Senator RONALDSON—Can you give me a breakdown of what they have done, please, with their \$850,000? I have had a look, and this particular company does not appear to have a website. The only information I could find about them was on www.business.com.au, where there was a business location in Monaro Crescent, Griffith and nothing else about it. ASIC has them at Level 1, 18 Napier Close, Deakin. If I have not looked them up correctly, I will apologise in advance. But this is an organisation which, from what I have seen, we have just spent \$850,000 on and that does not even have a website.

Mr Campbell—Senator, I can assure you that the Commonwealth got value for money from the individual consultants involved. We will come back to you with full details about who they were and what they did.

Senator RONALDSON—If you tell me you got value from them, I am quite happy to accept that. That is it from me for the portfolio overview matters, Chair.

CHAIR—In that case, we will go to outcome 1: compensation and support.

Senator RONALDSON—Secretary, I have been provided with two letters—and the lady does not want to be identified—following a DFISA payment, the latest indexation, on 20 September. This lady and her husband received a letter. It was a two-part letter, as you may be aware. You have the Australian government part of it, which says, ‘This is what you get,’ and then the payment advice attached to it. The staple had been unpicked on both of these letters—presumably they are automatically generated and are automatically stapled. The back part of it, the payment information attachment, was for someone else. I do not know what an STG is, but it has a payment destination to completely different people, with the amount that they received. This person rang DVA in Sydney. They had the wrong date of birth for her and when she asked them to get it sorted out, she was told she would have to travel to Centennial Plaza. This just seems remarkable to me. According to this lady—and I have no reason to disbelieve her—it had been unpicked. The front letter advising her and her husband of what she was getting was not the same as the payment details that were on the second part of the letter. How could that possibly occur?

Ms Spiers—I am responsible, aside from procurement, for privacy as well and what you seem to be alluding to is an issue of a privacy breach of the lady in question and her husband, and the other individual’s details that are attached. I can only surmise that somehow this has been part of an automated mail-out that has somehow mismatched the front letter with the bottom letter. But I can assure you that if you provide details I will investigate that, as part of making sure that it was a one-off issue and not an issue—

Senator RONALDSON—I am sure my adviser is listening to this—he had better be. We might even bring that down on Thursday, but I will have to take the name off. The issue I have is that the staple had been taken out and re-stapled—that is the issue. There are some issues in relation to deseal-reseal, and I do want to ask the War Memorial one very quick question. I understand that the department has received a letter from the VVF of Queensland, in relation to this issue about a hearing at Southport—and I think you will probably have some details on that—where there was an allegation of inappropriate behaviour by a senior advocate. I think there has been a response received from the department, to a Mr Malcolm Wheat. This is a VRB matter.

Mr Campbell—Senator, we send a lot of letters and so we are not across every one here tonight. Was this a letter from the department or a letter from the principal member of the VRB?

Senator RONALDSON—It might have been from the VRB, you might be right. This was a letter that was sent to the minister from the VVF—from the Queensland president.

Mr Campbell—But it was to do with a VRB issue?

Senator RONALDSON—Yes, it was.

Mr Campbell—They are not here tonight. I would have to take that on notice. We can go through it but I am not across the particular case you are referring to.

Senator RONALDSON—Thank you. Does anyone at the table know? The way it has been put to me is that at the hearing the senior member was aggressive and unnecessarily inquisitorial, which, as you know, is not part of the act—in fact the act states that it should be everything bar that, with a little formality, et cetera. There was some medical evidence that was produced which apparently sent the senior advocate into a bit of a tailspin. Then the senior advocate asked this applicant, and the ESO representing them, for additional medical information which was ‘to be based on legal precedent.’ I have absolutely no idea what that could possibly refer to. Has anyone at the table got any idea, or will you take that on notice?

Mr Campbell—Because I do not have the letter, and obviously it was one that was handled by the VRB, I will have to take it on notice. If you can give me a copy of the letters we will have to work it through.

Senator RONALDSON—Sure. The list of statutory appointees was tabled last week and it shows that 20 members of the VRB have been appointed for the last three months of this year. Why is it only for three months, do you know?

Mr Campbell—There were some issues in the VRB last year, and as a result of that there was a new principal member appointed. At the same time we were going through the process of advertising and recruiting the new member, the terms of the members of the VRB expired. So to give the new principal member a chance to be appointed and to get his feet under the desk we extended all the members’ terms. He then went through a complete round of interviews earlier this year. He completed those and had a report finalised, would you believe, at around the time the election was called. To make sure that we had them, because we had to wait until after the caretaker period to make these appointments, we extended them for that period of time.

Senator RONALDSON—I will put some questions on notice in relation to this. It seems a fairly decent per diem of \$611 a day, so I would be interested to get some details about how many cases they hear, et cetera.

Mr Campbell—Do you want me to do that on notice, or do you want to do it at the next hearing?

Senator RONALDSON—I will submit a formal question before the time we have got to do so. I was going to ask you some questions about the assistance being given to the widows and dependants of soldiers who have been killed in action in Afghanistan. Has there been a single contact point or contact person who manages these widows and dependants that is separate to the normal way?

Mr Campbell—Not one for the number we unfortunately have. The process is quite a detailed one. DCO is the organisation that first contacts the family, including the widow. At the point in time when the family are ready to talk to us we go and speak to them at a place of their choosing, usually their home. So we have a single point of contact for the widow and the family, and we have a single point of contact for Defence to contact us.

Senator RONALDSON—This answer is quite involved, and I am mindful of other questions.

Mr Campbell—I am assuring you that we do.

Senator RONALDSON—Perhaps you could just take it on notice and give the community a bit of an overview?

Mr Campbell—We can give you listing of how the DCO and we interact, and then how we interact with families. But I can assure the committee that we do have a single point for each of the families to contact.

Senator RONALDSON—I then want to turn to the deseal-reseal but I know that Senator Trood has some questions and I will listen intently to his. They may well be matters that I was going to ask as well.

Senator TROOD—I want to point your attention to a press statement from former minister Mr Griffin, from July this year, in relation to payments under the F111 fuel tank maintenance program in which he alluded to various things, including the fact that an estimated 2,400 workers would now have easier access to compensation and health care from the department as a result of the allocation of funds. I wonder whether you have any statistics as to whether or not there has been an increase in the number of applicants following on from Minister Griffin's statement.

Mr Bayles—The figure of 2,400 is an estimate of the total potential pool of individuals who would be covered by the government's response to the committee of inquiry's report.

Senator TROOD—Sorry, Mr Bayles, do you mean the government's response to the parliamentary inquiry report?

Mr Bayles—The parliamentary inquiry report, yes. You may recall from the last Senate estimates that I mentioned one of the activities we would be doing would be to look at previous cases where tier classification had been rejected for individuals. We are about 80 per cent of the way through 501 reviews. Out of that process we have accepted 300 individuals as being tier classified—that is, tier 1, 2 or 3. That will give them access to the easier compensation pathway, which is section 7(2) of the Safety Rehabilitation and Compensation Act. There are 300 who have been classified as eligible to claim conditions that they may have as related to their F111 experience.

In addition to the reviews that we have been doing, the latest figure I have is 128 fresh applications for tier classification. Out of those we have determined about a quarter of them. My figures are that 26 of those have been accepted as tier classified. So in total there are about 340 people who have now been accepted as a tier 1, 2 or 3 and will have access to that compensation provision if they have conditions that they want to claim.

Senator TROOD—Of the 300 that you have reviewed, have you been in touch with all of those people, or will you be doing that?

Mr Bayles—Yes, we write to them and in many cases we ring them to discuss what benefits are available to them. There is a series of steps that we have to go through for them to claim compensation and then for us to assess the level of compensation, the nature of benefits

that would be available to them, and assess the level of compensation. We are not into that stage at this point. We are still focusing on determining tier classifications.

Senator TROOD—How long do you expect it to be before you complete the review of the tier classification?

Mr Bayles—I expect that we will have the 500 reviews completed by possibly the end of this calendar year but more likely very early in 2011.

Senator TROOD—What sort of time is it taking you to undertake a review of a single case?

Mr Bayles—It depends on the level of evidence. In some cases we can determine it very quickly—in the space of a day or two. It depends on the amount of evidence that is already on the files. In some cases we have to get further defence records and that might take us some time to get those records and then assess those. In some cases we have to ask the applicant for more evidence and they may have to go and get that evidence, which could include a statutory declaration. That could take some weeks for that to come back and then for us to process.

Within the first three months and one week we had processed 300 cases. What we concentrated on at the beginning was to accept the ones that we could accept readily, and that is the ones that we had very little need to go out and get extra evidence on. We had the evidence to accept them.

Senator TROOD—I see. In the same press statement the former minister referred to the ex gratia payments to people in relation to health needs, and he noted:

This scheme has not been extended or expanded, but surviving partners or estates of those who died before September 2001 and did not receive an ex-gratia payment may now be eligible for one ...

My question Mr Bayles is this: since that announcement have there been applications from surviving spouses, partners or estates that you have received?

Mr Bayles—Yes, senator. There have been three applications received but we have also looked at a further 28 cases we were aware of. Our records indicated that personnel on our database had died before the cut-off date of 8 September 2001. Of the three cases that we have received plus the 28 that we have looked at there is one that is still undecided, so there have been 30 decided. Out of those 30 decided we found that 16 had no entitlement to a tier classification. In other words, the personnel or the worker who died was not able to be classified as a tier 1, 2 or 3. We found that 13 of them were tier 3, which does not attract an ex gratia payment. Ex gratia payments are only there for tier 1 and tier 2. We found one individual who was tier 1 and we have been able to make an ex gratia payment to the estate.

Senator TROOD—I see. Were all of the three new applications found to be sound applications or were they among those who were not tier entitled?

Mr Bayles—I will just check. I think I have that information. Of the three new applications we received, one of them is still undetermined; we are still investigating. Of the other two, the personnel who served were classified as tier 3 so they were not eligible for an ex gratia payment but the individual would have been potentially entitled to compensation under the Safety Rehabilitation and Compensation Act for a condition they had claimed.

Senator TROOD—Have the people been advised of the results for all of those cases settled?

Mr Bayles—Yes, I believe so. I will check but I think that would have happened.

Senator TROOD—There are some people who began common-law proceedings in relation to some of these activities. Can you tell me how many common-law proceedings you are still defending, or have they all been resolved or settled?

Mr Bayles—Common-law action on this particular issue is really the responsibility of the Department of Defence. You would have to ask them for the numbers of common-law claims and where they are at.

Senator TROOD—You are not managing the common-law claims?

Mr Bayles—No.

Senator TROOD—You are only managing the compensation claims?

Mr Bayles—Correct.

Senator TROOD—That is all the questions I have, thank you.

CHAIR—Senator Ronaldson do you have any further questions on this matter?

Senator RONALDSON—Chair, do we have a spill over day with this committee or do I need to get everything done by 11 pm?

CHAIR—You have to get everything done by 11 pm tonight.

Senator RONALDSON—That is a pity. So I am absolutely clear about this, Mr Bayles, is it right that recommendation 8 of that report on the handling of claims under the SRCA was that the SRCA or VE Act be used in the assessment of claims?

Mr Bayles—The recommendation refers to healthcare and compensation provisions. It talks about 7.2, a provision of the SRCA. It says that the provisions of SRCA should be made available to the widened group. That in fact is what is happening. The reference to the Veterans' Entitlements Act in the definition is unnecessary.

Senator RONALDSON—Are all claims being handled under the SRCA regardless of the date on which the individual first presented with a condition?

Mr Bayles—Some of these members may have VEA coverage and they would be entitled to claim any conditions under the VEA that they believe may be related to their VEA period of eligible service. Most of the claims have been made under the SRCA, but it would depend on the individual case and their desires as to under which act they want to claim and what their eligibilities are.

Senator RONALDSON—I understand that, but I am asking whether, regardless of the date upon which someone first presented with a condition which was at some stage later identified as being part of their exposure, they would be dealt with under the SRCA irrespective of when they first presented with the condition. Is that the way you are applying this matter?

Mr Bayles—All in this group have SRCA entitlement. Some of them have VEA entitlement as well, but all of this group have SRCA entitlement—that is, eligibility. I think

the issue that you might be getting to is around dates of effect and the ability to pay permanent impairment. Is that the question that you are asking?

Senator RONALDSON—I suspect that it may well be.

Mr Bayles—There is an issue around permanent impairment payments and a question was asked at the last Senate estimates around dates of effect. I attempted to answer that question and there was a follow-up question on notice which was answered, question 17 I believe.

Senator RONALDSON—Yes.

Mr Bayles—Legislation in this area is extremely complex. It is the transitional provisions in relation to the SRCA 1988. We answered question 17, but it is a very complex piece of legislation and it can happen that an individual may have a condition that has to be accepted under the 1971 act as opposed to the 1988 act. The benefits available would then be under the 1971 act.

Senator RONALDSON—Why would that be as recommendation 8 made it quite clear that it was either the SCRA or the VEA? I am very mindful of the time, but I will give you a quick scenario and please tell me if I am wrong. My understanding is that my office has been contacted by someone who is involved in the DSRS program. In January 1998 he presented to his doctor with dizziness. However, it was not until 2002 that his condition was finally diagnosed and considered related to his time in the DSRS team. I understand that DVA is claiming the gentleman's condition was determined before the SRCA came into effect and therefore he cannot claim non-economic loss under the SRCA as part of the DSRS response. In broad terms, is this individual ineligible for assistance based on the date upon which he first presented with a condition? Will others be assessed in the same manner if they attend a doctor with some symptoms before the December 1998 beginning of the SRCA?

Mr Bayles—The SRCA legislation of 1998 absorbs previous legislation and a person's entitlement will depend a lot on the question of the date of effective liability. The date of effective liability is a complex scenario. It needs to take into account a number of relevant dates. It could be the date an injury occurred. If it is a disease it could depend upon the date of first treatment. It could depend upon the date on which that disease incapacitates a person to work or it could depend upon when that disease causes an impairment. So it is very complex. There are three different acts—the 1938 act, the 1971 act and the 1998 act.

Senator RONALDSON—I understand and I am very mindful of that. Am I right that recommendation 8 said that, irrespective of when someone first presented and when it was first diagnosed, whatever it was, the claim would be dealt with under the SRCA irrespective of whether under the act itself they do formally fall within it? Is that what recommendation 8 said, that it extended it to include the fact that everyone could access the SRCA irrespective of the timing of conditions being diagnosed et cetera? Is that what recommendation 8 said?

Mr Bayles—The parliamentary inquiry report—

Senator RONALDSON—I am sorry, Mr Bayles, but is my reading of recommendation 8 correct?

Mr Bayles—I do not know what is in the mind of the committee when it makes its recommendations. The government response is to provide SRCA eligibility according to the

legislation as it is now. The government did not accept a proposition that is in the committee's report that talks about date of effect being 2001, the date of the board of inquiry report. That proposition was canvassed in the report. Whether or not the committee intended its recommendation 8 to encompass that I cannot say, but the government did not take up the proposition that was canvassed in the inquiry report.

Senator RONALDSON—It is probably a matter of half an hour, which we have not got. We will pursue this on another occasion. Chair, in fairness to the Australian War Memorial, I will put the rest of my questions on notice. I thank Mr Campbell and the department for their assistance tonight.

CHAIR—Thank you, Senator. Mr Campbell, I thank you and your officers for your assistance tonight and we will see you again in due course.

[10.43 pm]

Australian War Memorial

CHAIR—I welcome Major General Gower and officers from the Australian War Memorial. I believe Senator Ronaldson has some questions.

Senator RONALDSON—Can I cut to the chase with an issue I have got. I did have about an hour of questions but I need to get to it very quickly. I understand that there was a meeting of the committee around 10 or 11 August. Is it the council? Is that right?

Major Gen. Gower—It is the Council of the Australian War Memorial, yes.

Senator RONALDSON—Was it around 10 or 11 August?

Major Gen. Gower—Yes, that would have been the council's August meeting.

Senator RONALDSON—There was a meeting of the council around the 10 or 11 August?

Major Gen. Gower—Yes.

Senator RONALDSON—My understanding is that the funding situation facing the memorial was discussed at that meeting. Is that correct?

Major Gen. Gower—It is discussed at every finance and audit committee meeting. That committee reports—

Senator RONALDSON—Was it discussed at this meeting?

Major Gen. Gower—as a matter of course to the full council meeting the next day.

Senator RONALDSON—And the council discussed the funding situation confirming that?

Major Gen. Gower—Yes, they did. They do that at every council meeting.

Senator RONALDSON—Was there an indication that there was a shortfall of some \$5 million a year as a result of a reduction in funding from the federal government? Was that raised at the meeting?

Major Gen. Gower—The matter of funding is always discussed. We are not exempt from efficiency dividends and things like that. We do make a point of every year coming up with a balanced budget, unlike the situation that pertained about 20 years ago where the memorial

was allowed to run into significant recurrent debt—we do not operate like that. It requires council to put a lot of effort into looking at options so that we can arrive at a balanced budget in accordance with the appropriation that one is provided with.

Senator RONALDSON—At that meeting, what were some of those options that were discussed?

Major Gen. Gower—There were a number of options.

Senator RONALDSON—Can you go through them for me?

Major Gen. Gower—Well, I am not quite sure where this is leading as much as council—

Senator RONALDSON—With the greatest respect, I will be the judge of where this is going. Can you just answer the question.

Major Gen. Gower—Senator, can I please finish, if I may.

Senator RONALDSON—I have asked you a question, can you please answer it.

Major Gen. Gower—Yes, I am attempting to answer it the best I can so, please, if you could perhaps bear with me I will attempt to respond. It is not unusual for a council or a finance and audit committee to look at all sorts of options; such as, we are not holding our annual carols this year; we are reducing a number of activities within the galleries which visitors have appreciated in the past; we—

Senator RONALDSON—What sort of activities are they?

Major Gen. Gower—These are things like gallery theatre and school holiday programs, but we were fortunate enough to be able to get sponsorship for some of that. There are things like plaque dedication ceremonies for veterans. We now try to pool those because we get economies of scale with the hire of chairs and layout and staff costs. We did inherit a commitment for grounds maintenance and water from the restrictions placed on the National Capital Authority about 18 months ago—they were passed onto us. So that was a commitment we had to meet. There are a whole range of things you look at when you are balancing a budget. For example, we do a number of things—not entrepreneurial things, but we run e-business, we run a shop and we charge for staff consultancies. There is interest on funds that has not been committed, there are donations and there are sponsorships. Out of that, for example—

Senator RONALDSON—They are revenue issues, with the greatest respect, and I am asking you about the expenditure.

Major Gen. Gower—Yes, but it goes to the appropriation. Once you have some indication of how much money you might have—your estimates for the next budget period—you are in a position to frame a budget with some degree of confidence. But it is not a thing which is arrived at overnight and it requires quite a lot of corporate planning.

Senator RONALDSON—It does.

Major Gen. Gower—There is a SWOT analysis coming up with what we see as priorities for the coming years, and it is not unusual for council to look at a whole range of particular matters.

Senator RONALDSON—And indeed, at that meeting on August 10 and 11 August, one of the cost-saving measures that was discussed was the closing of the memorial for one day each week to save cost, was it not?

Major Gen. Gower—That was put forward amongst a range of other options whereby savings might be hardest—

Senator RONALDSON—Thank you. I am sorry to interrupt—

Major Gen. Gower—No, excuse me; if I may finish. That was immediately put aside as being unacceptable. I guess you got this information from an RSL national president's newsletter, where he, for whatever reasons, chose to talk about council matters—of which he is a member—and flew that particular issue.

Senator RONALDSON—It was not, actually—with the greatest respect.

Major Gen. Gower—He did say he opposed it. Well, just about everyone opposed it. Nonetheless, if you are looking seriously at a balanced budget, you look at every option that is available.

Senator RONALDSON—Is there a reduction in federal government funding?

Major Gen. Gower—The efficiency dividend, Senator, applies to us and we do not resile from that, and we do our best to cope with that. In total, this coming year, it is \$1.3 million, I think. So that is a reduction, and over time there is some pressure. A thing like Anzac Day is tremendously popular, and people attend in increasing numbers every year. Some years ago, because of the age of the veterans, we decided to erect stands so that after the march—past they could go up into the stands. Those stands are also used for the Dawn Service, which has been attended by up to 30,000 people. Now, those stands are going up in cost, as indeed is the cost of staging Anzac Day, with extra visitor numbers. So if you look over, say, a five-year period, you will see where the cost of providing services—and the public have come to expect a very high standard of service provision—comes with a bottom line. Those sorts of things put pressure. I will give you another example.

Senator RONALDSON—If I could interrupt you for a second, I have a quick question for the parliamentary secretary, if you will indulge me, and then I am happy to get back to you. Parliamentary Secretary, we have now ascertained that there is probably going to be close to a \$5 million shortfall next year. We know there is an efficiency dividend shortfall of \$1.3 million. The *Australian* states—

Senator Feeney—Senator, perhaps I should interrupt you before you proceed. There is not a \$5 million shortfall.

Senator RONALDSON—There is a \$1.3 million efficiency dividend?

Senator Feeney—But that does not realise a shortfall; that is pressure on the budget.

Senator RONALDSON—That is right.

Senator Feeney—The War Memorial still produces a balanced budget.

Senator RONALDSON—So \$1.3 million is the efficiency dividend.

Senator Feeney—I agree with you, the general should be complimented for balancing the budget, but that is what is achieved.

Senator RONALDSON—Part of the pressure that this organisation is under has led to them actually considering—although dismissing—closing the Australian War Memorial for one day a week. Can I quote to you, please, from the *Australian* of 7 September. I know that you do not attack the *Australian* like some of your colleagues do, because they have been very good to you.

Senator Feeney—Oh, give me a moment—only give me a moment!

Senator RONALDSON—Can I quote you a part of this article. It is in relation to the Building the Education Revolution and it says that is expected to waste about \$2 billion in the eastern states alone. The Home Insulation Program: \$680 million, minimum, waste.

Senator Feeney—Senator, estimates is a process for you to ask questions. We are not also asked to endure your hyperbole.

Senator RONALDSON—I will ask you the question. You have wasted billions of dollars and yet the Australian War Memorial, one of the absolutely fundamental monuments in this country—

Senator Feeney—We have found something we can agree on.

Senator RONALDSON—Your government has put this organisation in the position where they are thinking of closing it for one day a week to meet costs. Parliamentary Secretary, are you immediately going to go back to your minister and demand of him that the shortfall, which will potentially lead to the Australian War Memorial closing for one day a week, is immediately topped up to avoid what I would call a slur on this country.

Senator Feeney—Senator, your confected outrage deserves a response, and I will give it one. The efficiency dividend does impose significant challenges for small agencies. That is a matter of fact. You might know something about this because, of course, for 11 years the Howard government routinely used efficiency dividends in its own budgetary management. I think it is also worth making the point that, despite your desperate attempts to make hay, it is clear that this proposal was rejected out of hand by the council and you are not, I think, going to be able to successively make a story on the back of it.

Senator RONALDSON—The fact that it was even raised—

CHAIR—Senator Ronaldson, Senator Feeney is responding to your question.

Senator Feeney—I guess I was providing the senator with free media advice there, which may not be welcome.

Senator RONALDSON—I think people would be absolutely appalled, and I hope they read about this tomorrow—I really do.

Senator Feeney—I trust they will go to General Gower for a comment and the story will end very shortly.

Senator RONALDSON—Do you agree with me that the Australian community would be absolutely appalled that the council of the Australian War Memorial were required to even

contemplate—which they did—closing the Australian War Memorial for one day a week as a cost-saving measure?

Senator Feeney—Senator Ronaldson, if you were paid by the word the last few moments would have been a credit to you, but there is no question here. The matter was raised before the council. It was dispatched forthwith by the council. General Gower has been clear.

Senator RONALDSON—But doesn't it concern you that it got to that stage? Does it not concern you that it got to the stage where they have to contemplate taking that sort of action? Tell me it concerns you, please.

Senator Feeney—It is apparent that that course of action was not contemplated.

Senator RONALDSON—It was contemplated. That is why it was raised. Of course it was contemplated.

Major Gen. Gower—Senator, can I relieve you of your concerns—

Senator RONALDSON—No, I am going all right, thank you very much. I am having a chat to the parliamentary secretary.

Major Gen. Gower—I can categorically assure you that it is not contemplated. As I mentioned right at the start, when I attempted to give you an explanation, council from time to time looks at a range of options and possibilities—and it would be remiss if it did not do that because the council of the Australian War Memorial is empowered by its governing act to look all matters pertaining to the conduct of business of the Australia War Memorial. Amongst that is ensuring there is a balanced budget. A whole range of considerations are looked at as part of that. The matter was not contemplated. Why a member of council took some idea he wanted to communicate to his membership I know not. I disassociate myself from that particular newspaper article. The council looks at a range of matters, and one would expect it to from time to time.

Senator RONALDSON—Did the person that you are alleging gave this information—which was actually wrong—raise that as an option, or was it raised by someone else?

Major Gen. Gower—This is council business that goes on.

Senator RONALDSON—Was it raised by him or raised by someone else?

Major Gen. Gower—It was not raised by the person who was reported in the *Courier Mail* and I think in a News Ltd—

Senator RONALDSON—Who raised it?

Major Gen. Gower—The matter was not raised specifically to be approved. It was raised amongst many—

Senator RONALDSON—Who raised it?

Major Gen. Gower—I have responsibility for council business, putting matters before council.

Senator RONALDSON—So you raised it?

Major Gen. Gower—No, I am not being pinned—'I raise' as if I raised one thing. I raise lot of things in council.

Senator RONALDSON—But you raised this subject.

Major Gen. Gower—I do not know how to get this across you.

Senator RONALDSON—Yes or no?

Major Gen. Gower—No, I am not going to answer yes or no. I am not in a court. I am trying to explain to you and give an explanation. We always have a balanced budget at the Australian War Memorial, and to get that condition you would expect us to do proper planning and take responsibility, and we look at times at all sorts of things—SWOT analysis, for example, strengths, weaknesses, opportunities and threats.

Senator RONALDSON—There is an opportunity to close one day a week.

Major Gen. Gower—You look at many things you think are bizarre, but you look at them and put them aside then look at something else. That is how a proper business operates, and you would expect it to operate in that fashion, I would hope. We have an impeccable record of financial management.

CHAIR—Thank you, General. Thank you, Senator Ronaldson. Thank you, officers, for attending this evening. I thank everyone else. I thank Hansard in particular for the last couple of days.

Committee adjourned at 11.00 pm