



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES  
COMMITTEE

**Reference: Regional Partnerships Program**

THURSDAY, 10 FEBRUARY 2005

CANBERRA

BY AUTHORITY OF THE SENATE



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## SENATE

### FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

Thursday, 10 February 2005

**Members:** Senator Forshaw (*Chair*), Senator Watson (*Deputy Chair*), Senators George Campbell, Heffernan, Moore and Ridgeway

**Substitute members:** Senator Barnett for Senator Watson, Senator Brandis for Senator Heffernan, Senator Carr for Senator George Campbell, Senator Murray for Senator Ridgeway, and Senator O'Brien for Senator Moore

**Participating members:** Senators Abetz, Brandis, Boswell, Brown, Carr, Chapman, Colbeck, Conroy, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fifield, Harradine, Knowles, Ludwig, Lundy, Sandy Macdonald, Mackay, Mason, McGauran, McLucas, Murray, O'Brien, Payne, Robert Ray, Sherry, Stephens, Tchen, Tierney and Webber

**Senators in attendance:** Senators Barnett, Brandis, Carr, Forshaw, Murray, O'Brien and Stephens

#### Terms of reference for the inquiry:

To inquire into and report on:

- (1) The administration of the Regional Partnerships program and the Sustainable Regions program, with particular reference to the process by which projects are proposed, considered and approved for funding, including:
  - (a) decisions to fund or not to fund particular projects;
  - (b) the recommendations of area consultative committees;
  - (c) the recommendations of departmental officers and recommendations from any other sources including from other agencies or other levels of government;
  - (d) the nature and extent of the respective roles of the administering department, minister and parliamentary secretary, other ministers and parliamentary secretaries, other senators or members and their advisers and staff in the process of selection of successful applications;
  - (e) the criteria used to take the decision to fund projects;
  - (f) the transparency and accountability of the process and outcomes;
  - (g) the mechanism for authorising the funding of projects;
  - (h) the constitutionality, legality and propriety of any practices whereby any members of either House of Parliament are excluded from committees, boards or other bodies involved in the consideration of proposed projects, or coerced or threatened in an effort to prevent them from freely communicating with their constituents; and
  - (i) whether the operation of the program is consistent with the Auditor-General's 'Better Practice Guide for the Administration of Grants', and is subject to sufficient independent audit.
- (2) With respect to the future administration of similar programs, any safeguards or guidelines which might be put in place to ensure proper accountability for the expenditure of public money, particularly the appropriate arrangements for independent audit of the funding of projects.
- (3) Any related matters.

**WITNESSES**

**DE JONG, Mr Bill, Acting Assistant Secretary, Regional Operations Branch, Department of Transport and Regional Services..... 1**

**DOLMAN, Dr Gary Stuart, Assistant Secretary, Regional Communities Branch, Department of Transport and Regional Services..... 1**

**RIGGS, Ms Leslie, Acting Deputy Secretary, Department of Transport and Regional Services..... 1**

**YUILE, Mr Peter, Deputy Secretary, Department of Transport and Regional Services ..... 1**



**Committee met at 3.35 p.m.**

**DE JONG, Mr Bill, Acting Assistant Secretary, Regional Operations Branch, Department of Transport and Regional Services**

**DOLMAN, Dr Gary Stuart, Assistant Secretary, Regional Communities Branch, Department of Transport and Regional Services**

**RIGGS, Ms Leslie, Acting Deputy Secretary, Department of Transport and Regional Services**

**YUILE, Mr Peter, Deputy Secretary, Department of Transport and Regional Services**

**CHAIR**—I declare open this public hearing of the Senate Finance and Public Administration References Committee. Today we are continuing the committee's inquiry into the administration of the Regional Partnerships program and the Sustainable Regions Program. Since the last hearing the committee has agreed to publish several more submissions to the inquiry, which are available from the committee's web page. Today the committee will continue taking evidence from officers of the Department of Transport and Regional Services. I appreciate the cooperation of the department for being in attendance again today.

I will not repeat in full all the usual introductory remarks about parliamentary privilege, the powers of the Senate and the position in respect of officers of a department of the Commonwealth or a state not being asked to give opinions on matters of policy. You are already very familiar with that. However, as I am sure you are now aware, at the start of the second day of hearings, the question arose of taking evidence under oath or affirmation from certain witnesses. The committee adjourned at that stage for a private meeting and ultimately resolved by majority that we would require all witnesses to give their evidence under oath or affirmation. I might say that I take the view that if it is to apply to one it should apply to all. But, as has also been pointed out, the deliberate giving of any false or misleading evidence to the committee may well constitute a contempt of the parliament and, in that sense, the same obligations are applicable whether the evidence is given under oath or not. I now ask the secretary to administer the oath or affirmation to the witnesses.

I thank the witnesses and particularly welcome Dr Gary Dolman today. You were not available for the last hearing, so thank you for coming along. Before we begin our questioning, I invite you to make a further opening statement with regard to matters before the inquiry or in relation to any updating of information you may wish to provide.

**Mr Yuile**—At the last hearing there were a number of questions that we took on notice and undertook to come back to you about. I have not seen from the committee any consolidated list of questions that you consider are still outstanding, but today we will provide some follow-up information on those questions that we kept a note of and, if we have missed any, we will follow up with the secretariat and make sure that we cover those.

The first question which we undertook to come back to you on was one which Senator O'Brien asked us to pursue, which was about releasing applications for those proponents who were unsuccessful or who might have withdrawn their applications. We indicated at the time that

our view had been that those applications which were unsuccessful would presumably attract a different level of public scrutiny from those for which appropriated funds had been or were being expended. We thought that it was in the interests of the applicants and the details of their applications that we treat them appropriately and not prejudice opportunities that the applicants might wish to pursue under other funding sources or use to reconsider and recalibrate their applications and come back to us with an application. We undertook to seek a view from the minister on that.

I sought advice from the minister's office. They indicated that the view of the minister was the view we had taken about treating those applications appropriately, given that applicants may wish to reapply or seek other funding sources. To treat them sensitively was a reasonable position. Equally, the minister wanted to be helpful to the committee and, if the committee wishes, we will write to those unsuccessful applicants and seek their agreement to provide the applications to the committee, which would be consistent with what we would do in a freedom of information situation as well. That is our response on that question.

You asked us for evidence in relation to the New England north-west ACC and their advice as to how they considered the New England maths centre project. We have advice from them, which we can table together with advice as to why the project had not been listed on the ACC web site.

You asked us to expand the table in our submission on the distribution of Regional Partnerships funding to take in additional detail of projects that have been withdrawn and those that are currently under consideration. As I recall, you asked for two extra columns. We have done that, and we will table that.

You also asked, in relation to the role of the area consultative committees, about the differences between their role under Regional Partnerships and the legacy program or the previous program—the Regional Assistance Program. I might invite Ms Riggs to comment on that.

**Ms Riggs**—RAP was a program that ran in three or four rounds a year. All applications were required to be submitted directly to ACCs. The ACCs did have some role in assisting applicants that sought their help in developing those applications. That is a significant difference from Regional Partnerships where applications are made to the department.

The second element of the ACC role in relation to RAP was that it then made a decision as to whether to endorse or not endorse a project. It provided a priority for all the project applications in a single round that came within their geographical service area. That is different from the process for Regional Partnerships where, while we ask ACCs both for their comments and for their assessment of the application, their prioritisation is not against other projects; it is against a benchmarked categorisation of priorities 1, 2, 3, or 4. The ACC's recommendations in relation to RAP were made to the department and the decision maker for RAP was a delegate within the department. In Regional Partnerships the recommendations are made both to the department to assist us in our assessment and also directly to the minister as we discussed when we were together last. In addition, the RAP program when it was first run and constructed under the now Department of Employment and Workplace Relations had very much an employment and jobs creation focus, and of course Regional Partnerships has a broader community development focus



with both an economic and social wellbeing capacity, so the ACC's charter has been broadened beyond a fairly employment and job creation related role.

**Mr Yuile**—I think that Senator O'Brien asked for a copy of the Regional Assistance Program guidelines and application form—we will provide that. He also asked for details of the area consultative committee executive officers national conference—and we can table some information about that conference. Equally, there is a list of multiyear regional partnerships projects—we can table that. I think there was also a table included in an email to area consultative committees around the election commitments which have been undertaken and which were possibly to be funded under the Regional Partnerships program—subject, of course, to decisions of government. We can obviously share that email as well.

The secretary of the department has forwarded a letter to you concerning the data in the tables that were provided to the committee on 27 January. That followed a couple of questions last time—I think from Senator Carr—in relation to the date of application and date of approval columns, which clearly were odd and did not reconcile. We undertook at that stage to look into those two instances. Since the committee's last hearing we have embarked upon a program of going through the whole of our data tables to look again at the electronic TRAX system and our records in that, and reconciling those with the paper records which are held in regional offices around Australia. We are in the processes of trying to finalise that as quickly as we can in order to provide the committee with an update of that table to ensure that we have done those reconciliations and, to the best of our ability, certainly ensured that that information is correct. In the letter from the secretary to you, Chair, he explains the issue of applications which are lodged electronically as opposed to those which are lodged in hard copy and the way in which we have been recording those and our need now to double-check all those records.

**Ms Riggs**—I know that we have made reference in this letter to our grants management system, TRAX. The first elements of functionality of that system were introduced with the start of the program on 1 July 2003. At that time the system really electronically comprised only a single way of applying. We have since expanded that to include two electronic ways to apply and, of course, we accept hard copy applications. We have since added some functionality in relation to TRAX to support our staff in recording the outcomes of their assessments of projects but the system is still underdeveloped in relation to providing support for the capture and reporting of data relating to the process of an application. Because of that we have a small number of associated spreadsheets in addition to hard copy files in relation to project applications. The data that we compiled into spreadsheets for this committee was hand compiled from those various sources. Senator O'Brien's questions about two particular projects alerted us to the fact that there were some problems with that data. It may have been Senator Carr's question. We are now very carefully crosschecking the data in those sources to ensure that we provide the most accurate information possible.

**Senator CARR**—Are there any other changes you have made since those spreadsheets?

**Ms Riggs**—I am aware that for example there are some dates that will change in some of the tables that we have provided to you. I would be reluctant to quantify or to talk about other elements of data in those tables until the staff have completed the detailed crosschecking that we have asked them to undertake and that has been under way during the course of this week.

**Senator CARR**—When do you expect that to be completed?

**Ms Riggs**—Obviously we would like to provide that to the committee as soon as possible. We could say that it might be possible as early as tomorrow—that would be my wish, Senator, but I would like to get it as right as we possibly can. If that takes us a day or two longer, I crave the committee's understanding that it would be in all our interests for us to get it right rather than to have to again provide you with a further update later.

**Senator O'BRIEN**—When was the error in relation to the Tumbi Creek project, application No. 1028, known to the department?

**Ms Riggs**—When it was raised in our earlier appearance before this committee, in terms of those data tables.

**Senator O'BRIEN**—I am asking you about the specific error.

**Ms Riggs**—There is an error in the data tables. In the tables we provided to this committee, as the secretary's letter says, there are two dates recorded under the date of application. They are shown in the data tables this committee currently has from us as 24 June 2004 and 11 July 2004. It was when staff checked those after our appearance before this committee and the question that either you or Senator Carr asked about those dates that we became aware that there was an error. That was when the staff checked the dates.

**Senator O'BRIEN**—Was it in the last couple of days or last week, early last week?

**Ms Riggs**—We appeared before you all day last Wednesday. We had some other activities last Thursday. I cannot promise you that it was Thursday or Friday but my understanding is that it would have been on either of those two days last week.

**Senator O'BRIEN**—This information was published. Why did the department not immediately draw that to the attention of the committee secretariat?

**Mr Yuile**—Senator, I think it was in the process of checking not only that information but the other information that we began to realise that we needed to cross-check the paper records and the electronic version. I guess we became preoccupied with that issue and realised when we were told we would be coming back to the committee that we would, obviously, be addressing it today.

**Senator O'BRIEN**—I am curious as to, if there was a view that the document might be inaccurate, why at least the committee was not told that we could not reliably refer to the document because it was felt there were inaccuracies that were being checked. Why did that not occur?

**Ms Riggs**—I think that, as Mr Yuile has said, the staff involved in the administration of regional programs, having realised that there were some errors there, became concerned to find the extent of them and to provide comprehensive advice to this committee. In that context, there was an oversight in terms of perhaps letting Mr Yuile know that that was there and, therefore, we

did not make a judgment about letting the committee know. That is to be regretted, and we apologise for it.

**Senator O'BRIEN**—But this was the second iteration of the document. There were a number of specific questions from the committee about whether we could now rely upon the document. I think, as the secretary's letter indicates, as best you were aware the document was then accurate. Now we are more than a week hence from that hearing and, after a reference to certain matters by the minister in the House yesterday, the committee receives a letter from the secretary of the department saying that there are some errors and the tables are being reviewed. When were you and Mr Yuile aware that there were errors and that the tables were being reviewed?

**Mr Yuile**—Senator, I think we have endeavoured to answer that question.

**Senator O'BRIEN**—I would like to know a day.

**Mr Yuile**—A day for the whole thing?

**Senator O'BRIEN**—The day when you, Mr Yuile, and you, Ms Riggs, were aware that there were errors in the document which had been the subject of specific questioning as to its reliability.

**Ms Riggs**—Senator, to the best of my recollection, I sent a quite explicit email to staff in the administration area of my division within the department asking quite explicitly, as a result of follow-up from this inquiry, that every date be checked and that they undertake some analysis of how many dates needed to be changed and so on. My recollection—and perhaps during the break I can seek to see whether there is someone in the department who can check that—is that I sought that advice formally on Friday morning. My further recollection is that advice in relation to specific dates that needed to be changed did not come to me until earlier this week. Whether that was Monday or Tuesday, quite frankly I do not recall, but it was not until early this week.

**Senator CARR**—Ms Riggs, I asked you several questions on this issue to which you replied 'to the best of my knowledge the information was accurate'. I did that for a purpose—namely, I wanted to rely on the documents, as Senator O'Brien has indicated. I am surprised it has taken so long to tell us there is a problem.

I am further surprised by the letter that appears to have been received today, 10 February, in which you say that the chronology provided yesterday by the department to the Minister for Local Government, Territories and Roads and used in his statement to the House of Representatives on 9 February 2004 also requires clarification. You say here, 'The first application was received on 10 June 2004 and approved on 24 June 2004, and a further application seeking additional funds was received on 25 June.' So this is the third set of dates?

**Ms Riggs**—Yes.

**Senator CARR**—Is it the case that you misled the minister as well?

**Ms Riggs**—I have answered every question I have been asked about this in good faith. I have not been particularly happy about the fact that, when I have had cause to ask for people to be

sure that the information they have given me is correct so that I can convey it to this committee and one of the ministers in this portfolio, that information has been adjusted now on two occasions. But it is the truth, and there has been no attempt to mislead. The questions have always been answered in good faith.

**Senator O'BRIEN**—I think the import of my questions and those of Senator Carr, given the assurances we were given that this document was to be relied upon, has not been acknowledged. Why did it take until this morning for information to come to the secretariat that the document was not to be relied upon? It was a document in the public domain. It was a document that had been the subject of some questioning as to its accuracy. It was a document which you have now admitted you were aware earlier this week was inaccurate—on Monday or Tuesday. I want to know why the department did not feel it was incumbent upon itself, and at the first opportunity, to advise the committee that it could not and should not rely on this document.

**Ms Riggs**—I have already tried to explain that officers in the department became caught up, if you like, with the process of trying to check every element of information we had given you and that, in their concern to achieve as much accuracy for this committee as they could and in our concern to support them in doing that, we may have failed to ask ourselves the question which would have given rise to the outcome that you point to having wanted, which is advice to this committee that we were aware that there may have been further inaccuracies in that data and that we were seeking to secure the best possible information. I have already apologised for the fact that in our desire to be accurate we have not been as timely as you would have wished.

**Senator O'BRIEN**—I think it is more than that, isn't it? I think it is not just that it is not timely. I think there is an onus upon the department—given that the document was in the public domain and that it had been the subject of questioning regarding its accuracy—to say, on the first occasion when you became aware that it might be inaccurate, 'We had better let people know that this is not a document which should be relied upon at this stage.' What do you say to that, Mr Yuile?

**Mr Yuile**—I can understand your frustration and I can only reiterate the apology given by Ms Riggs. We were preoccupied with having realised that there was an issue that we needed to address, and I think we overlooked the fact that we should have or could have addressed it earlier than today.

**Senator O'BRIEN**—How is it that the date of 24 June against application No. RP1028 changes to 10 June? I do not completely understand that from the letter.

**Ms Riggs**—The member of staff who was entering data into the spreadsheet—that is, in effect the table that you have in front of you—made a mistake. They transcribed two dates which should have appeared in the date of approval column and they put them into the application date column. I believe that to be that case.

**Senator O'BRIEN**—And it is the same for the second application, is it?

**Ms Riggs**—The two dates—24 June and 11 July—should have been in the column immediately to the right of the one to which they were actually entered. They are the two dates of approval, not the two dates of receipt of the applications.

**Senator O'BRIEN**—Then how does the date of approval appear? Where does that come from?

**Ms Riggs**—I can only speculate that, in having inaccurately transcribed data from whatever other sources that person was transcribing data from—having put data which should have been in one column in the preceding column—there was then a kind of muddle-up and data got misplaced in the next column. I simply cannot do better than say that these are tables. An individual had to sit at a keyboard with a screen in front of them and enter data from other sources in order to compile them. They are not automated extracts from other places. Clerical errors have regrettably occurred in relation to this project.

**Senator O'BRIEN**—The document that we are talking about now was the second iteration. I think you told us last time that it had been the subject of some review requiring the second iteration.

**Ms Riggs**—The second iteration was provided to you because, in respect of projects approved, we had added a further column in order to provide you with an additional element of the data that the committee had sought. That was fundamentally the major effort and difference between the first iteration and the second iteration.

**Senator O'BRIEN**—In looking at the document, I think you said that there had been some review of other information as well.

**Ms Riggs**—I did.

**Senator O'BRIEN**—So there had been some review of data which was in the first document?

**Ms Riggs**—That is what I said. I believe that I said that. I believed that to be true at the time, and I still believe it to be true.

**Mr Yuile**—I think the major focus, which is what Ms Riggs was referring to, was to address the additional data area that the committee had sought. We were seeking quickly to respond to you because we were already conscious that we were several days after the chairman had asked for that information. I think you are right that there would have been some review, but the major focus had been on the additional information that was being sought.

**Senator O'BRIEN**—There were some questions asked about projects where the date of application and the date of approval were the same. The Tumbi Creek application was one of them. I am not sure if it was raised, but it is one of the applications that has the same date for application and approval appearing in the document. Did the department look specifically for that occurrence to check those particular circumstances where it appeared from what the committee had been informed that the date of application and approval were the same—or did that not strike you as something strange that should be checked?

**Ms Riggs**—I do not have in front of me a copy of the request quite explicitly made of staff, nor do I recollect every conversation that I have had with staff since we were here Wednesday of last week. My recollection is that I did ask them specifically to look at dates where the date

received and date approved columns had dates very close together. That process is still under way, as we have described.

**Senator O'BRIEN**—Can you explain what is required to check that?

**Ms Riggs**—The staff first of all have to check an electronic system called TRAX and, having made some judgment about that, they then have to make contact with the relevant regional office and the regional office has to examine a paper based file, which might be a multipart paper based file.

**Senator O'BRIEN**—In this case, can you tell us what happened? Was it simply a transcription error—there was no documentation problem, no problem with checking and no going back to an original source to check the information that is on TRAX?

**Ms Riggs**—I have described to you as best I can what I believe to be the case in relation to the data that is in the second iteration, if I can continue that language.

**Senator O'BRIEN**—I just want to be sure.

**Ms Riggs**—I have described it to you. I believe that it is a case of an officer transcribing data and, in effect, slipping a column and then, when things got a bit wrong, they just got a bit wrong.

**Senator O'BRIEN**—So, if I understand it, this was not a case of different sources of information having different information but a simple transposition error?

**Ms Riggs**—Sorry, Senator, we are talking about the data in the table that gave rise to members of this committee asking certain questions of the department and my having subsequently asked for certain checks to be undertaken. I am trying to describe what gave rise, in the case of the Tumbi Creek project, to the data that is in the table that you have seen.

**Senator O'BRIEN**—My question is about that, not about the other.

**Ms Riggs**—I believe that in transcribing data from other sources—I think that is what I have already said to you this afternoon—the error occurred. I have not actually examined the officer concerned as to what those other sources were.

**Senator O'BRIEN**—Do I understand it correctly from the third-last paragraph of Mr Taylor's letter that there was other advice provided to the minister which differs from the advice now provided to the committee?

**Ms Riggs**—You may be aware that the Minister for Local Government, Territories and Roads made a statement in the House of Representatives yesterday evening. In that he set out a sequence of events, with some dates attached to them. The department provided advice to the minister to assist him in the preparation of that statement, which we have chosen to describe in this letter as 'the chronology'. So it was information we compiled in order to assist the preparation of this statement. That has in it a sequence of dates. At the top of the second page of his statement the minister has said:

On 1 July 2004 Wyong council lodged a revised application seeking an additional \$680,000 from Regional Partnerships.

Because by this morning it was clear that this was a matter about which we needed to be absolutely careful, I had cause to ask that I be provided with faxed copies of the relevant extracted pages from the paper file held in the office that has to date managed this project. In providing those, that office had to acknowledge that the information they had provided to us in Canberra in order for that chronology to be constructed was in fact not strictly accurate and that the second application had been received first on 25 June. I have now sighted that letter and the letter of 1 July, and that is why I can say to you with some confidence that the third-last paragraph of Mike Taylor's letter of today is, to the best of my knowledge, accurate.

Please understand, I do not wish to sound critical of any of my staff, but that is what has happened on this occasion. That is why I can be absolutely confident about that. You will appreciate that the checking task involved in a table that includes information in respect of some 500 approved projects and over a hundred not-approved projects is on that basis a considerable task.

**Senator O'BRIEN**—What does 'a further application seeking additional funds was received on 25 June' mean as against the statement 'this application was formally confirmed by the Wyong Shire Council on 1 July'? I take your earlier answer to be saying that that was in the form of a written confirmation.

**Ms Riggs**—That is right. The letter of 25 June had as an attachment a completed Regional Partnerships application form. On 1 July the same person in the Wyong Shire Council wrote again to the department, and the letter says, 'I wish to confirm that the application attached to the letter of 25 June'—that is why I have used that language in assisting Mr Taylor in writing this letter.

**Senator O'BRIEN**—So there was a letter with an application and then a letter confirming that the letter with the application was being pursued?

**Mr Yuile**—That is correct.

**Ms Riggs**—That is correct.

**Senator O'BRIEN**—Can we have copies of those?

**Ms Riggs**—Consistent with good FOI practice, I would just like the opportunity to confirm with the shire council that that is not a problem.

**Senator O'BRIEN**—Was the original application received in written form or electronically?

**Ms Riggs**—The application received on 10 June I understand also to be a hard copy application—on paper.

**Senator O'BRIEN**—And, as far as you are aware, it was not the subject of a subsequent written confirmation.

**Ms Riggs**—As far as I am aware, there was not an equivalent follow-up letter some few days later.

**Senator O'BRIEN**—Is there a reason that in the third-last paragraph of Mr Taylor's letter there is a special reference to Wyong Shire Council in relation to the letter of 1 July? Is it a different source of information from the applicant?

**Mr Yuile**—Just to repeat the source, it was the Wyong Shire Council, as I recall, because I sighted the same correspondence. The same person signed the two letters.

**Senator O'BRIEN**—Both on the header of the Wyong Shire Council?

**Mr Yuile**—Yes.

**Senator O'BRIEN**—In relation to this process, I just want to get something else clear. When an application has been approved, how does it come to be notified on the web site? Presumably it is not put on the web site until after it is announced—is that right?

**Ms Riggs**—That is correct. The process is that we receive the documentation with the minister's signature on it back from the office. One of the steps that follows is updating TRAX. That signals to our regional office that they can begin preparing the funding agreement. Another step is that that project is added to the Regional Partnerships web site.

**Senator O'BRIEN**—How do you know when it has been announced?

**Ms Riggs**—We do not always know when a project is announced. It is not part of the department's process.

**Senator O'BRIEN**—But presumably you do not put it on the web site before it is announced.

**Ms Riggs**—The formal documentation does not come back from the minister's office until the announcement stage is completed. That is part of the process, as we described to you last week, that is carried out in the minister's or parliamentary secretary's office.

**Senator O'BRIEN**—You do not have a checking process? It is just, if it comes back from the minister, you put it on the web site

**Ms Riggs**—That is right.

**CHAIR**—Mr Yuile, you said in your opening remarks that you had some documents to table. It might be appropriate if we do that now.

**Mr Yuile**—Yes, sorry. One thing I wanted to add was that Senator Murray had asked us a question in relation to Indigenous projects, both within Regional Partnerships and within departmental programs. We are confirming that information and will provide that to you as soon as we can.



**CHAIR**—When we have seen the documents you can formally table them. I have an issue I wanted to raise. One of the matters we left with you at our last hearing was this question of getting details from the ACCs regarding their recommendations. We had some debate about that and—I am paraphrasing—the department was not prepared to provide that information, as it was deemed to be advice to the minister.

**Mr Yuile**—It is advice we take into account as we prepare our assessment and finalise our advice to the minister. The advice from the ACCs, together with our assessment, forms part of our formal advice to the minister. That is the background.

**CHAIR**—I know that is your argument. In our hearing on 2 February, on page 9 of the *Hansard*, Ms Riggs said:

Perhaps our desire to consider this matter further, including our conversation with the minister, goes precisely to your question. You are making reference to a judgment that he has made in the past, and I think it would be wise for us in those circumstances to have a dialogue with him before we conclude our consideration of the matter that you are asking us to reconsider.

Senator O'Brien said:

How quickly can contact be made with the minister to have that dialogue?

It was a discussion about when you might be able to speak to the minister. Can you tell us what the state of play is? Have you managed to consult with the minister and get an indication as to whether or not the department might reconsider its position and make that material available to the committee?

**Mr Yuile**—I think I did respond earlier to this question of applications that have not been approved—

**CHAIR**—But this was broadly, this was all—

**Mr Yuile**—And in that conversation we also canvassed the fact that the advice from the area consultative committees was something in which the committee was interested and also something on which we had commented—in view of the fact that we take that information into our assessment process and it forms part of the advice. We had responded that we did not regard it as appropriate to pass on the area consultative committee advice, and that was confirmed.

**CHAIR**—It was confirmed by the minister?

**Mr Yuile**—Yes. The advice we received back through his office was that that was an appropriate position to take.

**CHAIR**—Was that a written response?

**Mr Yuile**—No, it was oral advice.

**CHAIR**—Can you say who from?

**Mr Yuile**—From one of his members of staff.

**CHAIR**—It was not sent to you by email?

**Mr Yuile**—No, it was not.

**CHAIR**—This committee has written to the ACCs and the SRACs requesting that they provide the committee with—I will put it in short terms—details from their minutes of the consideration of the applications and any recommendations that they have made. We made it clear to those ACCs that we wanted details pertinent to the projects, but we understood that there might be information in there that might be commercial-in-confidence which could be treated as in-camera, excised or deleted.

We have received indications from a number of the ACCs that they are prepared to comply with the request. We have also received indications from just over half—I cannot tell you the exact number at the moment—of the ACCs who say that they will not comply with the request. Others are still considering the position. It is interesting that in many of those cases it appears that the ACCs rely on advice from the department that they should not provide that information. For a number of them the response is, ‘Look, don’t ask us; the best place to get this information is from the department because they have it on the TRAX system.’ That puts the committee in a somewhat difficult position because we wish to get this information in order to carry out our job properly but the ball is bouncing back from the ACCs to the department. Some ACCs are complying and some are not and, as I said, it is quite clear that a number of those are now relying quite clearly, from the words they have used in some of their responses, almost word for word on what we have heard from the department. So I would be interested to know whether you have any comment to make on that. I would be particularly interested to know whether you have given any advice to the ACCs with regard to this request.

**Ms Riggs**—After the committee’s secretary sent a letter seeking information from ACCs and SRACs—on Friday of last week, I think—a number of staff in the department, myself included, had requests from ACCs as to how they might approach it. Because those requests were quite numerous, certainly more than a dozen and getting on for 20 ACCs asked for advice, we provided advice to the ACCs. That was as part of our weekly email to all ACCs and I am happy to table a copy of that.

**CHAIR**—Thank you.

**Senator CARR**—Have you advised the ACCs about the prospect of having this information subpoenaed by this committee?

**Ms Riggs**—The tenor of the advice was to indicate to ACCs that how they responded to the committee’s request was a judgment that they would have to make. They are independent bodies. However, it would have been inappropriate for us not to draw their attention to certain clauses in the contract and the handbook, which are the two documents that govern the relationship between ACCs and the department, and in particular those elements of the documents that require ACCs to behave in ways that are consistent with Commonwealth laws on freedom of information and so on.

**Senator CARR**—Did you provide them with advice on the powers of the Senate to subpoena documents?

**Ms Riggs**—No, Senator, we did not.

**CHAIR**—Did you advise them that the Senate has power to override the legislation that you referred to? I assume you referred to the Privacy Act?

**Mr Yuile**—Yes, we did.

**Ms Riggs**—We did mention the Privacy Act.

**CHAIR**—But did you tell them that the Senate has the power to override those provisions?

**Mr Yuile**—No, Senator.

**Senator CARR**—Did you seek legal advice before you sent that email to the ACCs?

**Ms Riggs**—The material that is in that advice had been the subject of discussion between officers in the regional programs area of the department, in relation to another matter, and our legal advisers. I do not believe that we specifically sought legal advice in relation to the inclusion of the words that we included in the weekly email to ACCs.

**Senator CARR**—In your discussion with the legal officers of the department, was the question of the powers of the Senate considered?

**Ms Riggs**—Yes, I believe it was.

**Senator CARR**—So you are confident then that the advice that you have provided to the ACCs is consistent with your legal obligations with regard to the powers of the Senate?

**Mr Yuile**—Could you repeat the question, Senator?

**Senator CARR**—I asked, ‘In your discussions with the officers in the legal branch, presumably, of the department, did you consider the powers of the Senate?’ and you said you had. I am asking you now: are you now confident and are you able to assure the committee that the advice that you have provided to the ACCs is consistent with your legal obligations with regard to the powers of the Senate?

**Ms Riggs**—I have to say to you that I do not believe that the discussions were held from that perspective. I think you seek to import a weight onto our obligations in relation to the power of the Senate without being specific about what they might be or which of those obligations you might have particular concerns about. So I think I would have to say that it is not a question we have considered in those terms, and I would prefer that I have an opportunity to have other conversations, including perhaps with our legal advisers, before I answer that.

**Senator CARR**—I understand that answer. The situation arises here where we have a dispute in terms of the normal conventions as to what is ministerial advice and, therefore, what is

beyond the powers of the Senate to seek an opinion from you on. I for one take the view that it is not correct that senators should seek from you disclosure of advice to the minister. Now the issue arises as to whether or not the deliberations of the ACC would normally and properly be regarded as matters that go to advice to the minister. That is the nub of the question. You have now advised the ACCs not to comply with our request.

**Ms Riggs**—That is absolutely not what we have done, Senator.

**Senator CARR**—What have you done?

**Senator BARNETT**—Chairman, that is putting words in the mouths of the witnesses and in fact is quite inaccurate—and you know it, Senator Carr.

**Senator CARR**—When we have a look at this document we will establish the nature of the advice you have tendered. Are we able to get an indication of where the document is?

**CHAIR**—It is being photocopied. It is quite a number of pages. We will have it shortly.

**Mr Yuile**—It was certainly an attempt to draw out the various considerations that ACCs would need to make in coming to a judgment.

**Senator CARR**—I would like to read the document because there are some serious issues here.

**Senator BRANDIS**—That should not be left on the public record unanswered, though. It is being put to you by Senator Carr that, by the document we are about to see, you sought to encourage ACCs to disobey or defy orders of the Senate made through this committee. What do you say about that?

**CHAIR**—Order!

**Senator CARR**—Senator, be fair dinkum. I did not say that.

**Senator BRANDIS**—I think that was the pretty clear implication of the questions.

**CHAIR**—Senator Brandis, it is one thing to try and verbal a witness; it is just as bad to try and verbal a senator. I think you are.

**Senator BRANDIS**—I think it is a bit unfair to the witnesses for Senator Carr to have characterised their evidence in the way in which he just did. So in fairness to the witnesses I will ask the question—or you ask it, Mr Chairman; it does not matter—so that they are given the opportunity to state plainly what it was that they intended by the communication we have been discussing.

**CHAIR**—I think the witnesses had ample opportunity to respond to Senator Carr's question, and they did respond. I did not hear the witness take any particular offence at the nature of the question—you may have something more that you wish to put on the record. I might say that at

this stage the senators have not had the chance to read the document in full, because it is being copied.

**Ms Riggs**—I would like to read to you a sentence from this advice. It is written as a paragraph and it stands out quite well. It says:

Ultimately, the question of whether an ACC or SRAC provides the requested information to the Senate Committee is one for individual Committees to decide.

**CHAIR**—I will formally note that you have tabled this document. We are getting copies made. It is a lengthy section in your weekly email that you referred to. It says in the second paragraph—

**Senator BARNETT**—Is this the same document that the witness was referring to?

**CHAIR**—This is the document that has been tabled.

**Senator BARNETT**—Right—which we do not have yet.

**CHAIR**—It is the only copy we have at the moment; we are getting copies made.

**Senator BARNETT**—Can we do something else while it is being copied?

**CHAIR**—I want to follow up this point at this stage. It states:

DOTARS wishes to provide Committees with the following information to assist ACCs and SRACs decide if they should respond to this request from the Committee.

Why did the department take the view that it needed to do that?

**Ms Riggs**—I think I have already explained that somewhere between a dozen and perhaps as many as 20—which is about a third of the ACCs—had rung either staff in Canberra or staff in their regional offices and said, ‘What should we do about this letter?’ I thought in that context it was appropriate that we should include advice to all ACCs to help them form their views.

**CHAIR**—You are aware that there was a reference in the letter to the ACCs that if they required any further advice or information or clarification they could contact the secretary of the committee. That was in the letter. Did you redraw that to their attention? The department has taken it upon itself, as your words here say, ‘to assist ACCs and SRACs decide if they should respond’—not in what way they could respond, such as what type of information may or may not be appropriate, but, rather, whether they should even respond. That is the point that is of major concern.

**Senator BARNETT**—Mr Chairman, you asked a question, so can you—

**CHAIR**—I had not finished it. Listen, I am running these proceedings, Senator Barnett. I had not finished—

**Senator BARNETT**—You asked a question.

**CHAIR**—I will determine when I have finished asking the question. That is the point that is of concern to the senators who have raised this issue and that is what I am asking you to answer: why did the department feel that it needed to advise on whether ACCs ‘should’—or clearly, by implication, should not—respond?

**Ms Riggs**—Senator, I hear your question. In response to it I will reiterate the fact that ACCs sought advice from us and I believe it appropriate in those circumstances that, rather than respond to each ACC that sought advice, we give equal advice to all ACCs. Secondly, I draw your attention again to the sentence that I have already read out, which says:

Ultimately, the question of whether an ACC or SRAC provides the requested information to the Senate Committee is one for individual Committees to decide.

**CHAIR**—Yes, that is there, but the very next paragraph starts out:

In determining if or how they wish to respond to this request ...

Not determining just ‘how’ they wish to respond but ‘if’ they wish to respond. The option is in this advice—

**Senator BRANDIS**—They may not need to respond.

**CHAIR**—Excuse me, Senator Brandis. You are putting the option in this advice to the ACCs, clearly raising with them the option that they could decide not to respond. You are giving advice in that regard, aren’t you?

**Mr Yuile**—I think, again—

**CHAIR**—You are. Isn’t that what you are doing?

**Mr Yuile**—I think we were endeavouring to put the information before the ACCs and SRACs so that, as our email says, they can make the judgment. That is what we were endeavouring to do—give them some information in order to consider the committee’s letter.

**CHAIR**—So the department deemed it appropriate to advise the ACCs that, in making a determination in respect of a response to this letter, there was an option for them to not supply the information? That is in your advice, isn’t it?

**Senator BRANDIS**—Are you quoting the words?

**CHAIR**—Yes.

**Senator BRANDIS**—Are they the very words? I do not think you are.

**Senator BARNETT**—It does not say that.

**Senator BRANDIS**—That is not quite what it says.

**CHAIR**—I will read it again:

DOTARS wishes to provide Committees with the following information to assist ACCs and SRACs decide if they should respond to this request from the Committee.

I think that is pretty clear.

**Senator BRANDIS**—Before you said ‘provide information’. What you put before was ‘provide information’.

**CHAIR**—That is a different paragraph.

**Senator BRANDIS**—I am simply making the point, if I may—

**CHAIR**—You are making an argumentative point.

**Senator BRANDIS**—No, I am simply, in fairness to the witness, making the point that it may well be that no response was appropriate in a particular case because the ACC may have had nothing relevant to say.

**CHAIR**—You can rest your case, Senator Brandis.

**Senator CARR**—Did you consult the minister’s office on this email?

**Ms Riggs**—No.

**Senator CARR**—So the words were not cleared by anyone outside of the department, just your departmental legal advisers?

**Ms Riggs**—I have already explained the nature of the discussion with legal advisers and the fact that it was about this in the broad rather than this as an advice to ACCs.

**Senator CARR**—So you did not consult with the minister’s office. Did you consult with any other ministerial office—for example, PMO or anyone else?

**Ms Riggs**—No.

**Senator CARR**—The Attorney-General’s Department?

**Ms Riggs**—No.

**Senator BARNETT**—She has already answered that question.

**CHAIR**—Order! You may not like the line of questioning, Senator Barnett and Senator Brandis, but you will have an opportunity, if you so wish, to pursue your own questions. We do

not want to have a repeat of the sorts of interruptions and attempts to derail the questioning that occurred the other day. Senator Carr has asked a question. I ask the witness to respond.

**Senator BARNETT**—Can I foreshadow that we would like to ask some questions, and it is now a quarter to five.

**CHAIR**—I acknowledge that. I will also point out for the record, as you have put that on the record, that on at least two occasions now in this inquiry I have privately asked senators of the government and the minor parties whether or not they had any questions to ask. They were not looking for the call.

**Ms Riggs**—Chair, I believe the question that you believe to be still outstanding from Senator Carr is whether I consulted, in preparing this advice, with any minister's office other than my own. I believe that I have answered that, but I will answer it again. The answer is no. I would like to draw your attention to the second paragraph in Mr Sands' letter to each ACC, which says:

To assist the progress of the inquiry, I ask that you advise me in writing by no later than 5.00 p.m. on **Wednesday, 9 February 2005** whether or not your ACC agrees to provide this information.

I have to say that it seems to me that that does appear to provide an opportunity for ACCs to make a judgment, and the language that you have read out from our advice to ACCs seems to me also to provide an opportunity for them to make a judgment, as to whether to respond in the affirmative to your letter or not. I do not see them as being at odds.

**CHAIR**—That is a very neat debating point that you have just put, but you are completely misrepresenting what has happened here. The committee made a request in writing to the ACCs for information. We set down a timetable and asked those committees to let us know whether they would be providing that information or not. We requested the information and we asked them to let us know whether they would be providing the information or not within the time frame specified. That is the proper interpretation of the request. The request was not, as you have sought to interpret it, that somehow the committee was giving them the option to comply or not comply with the request.

**Senator BARNETT**—On a point of order, Mr Chairman—

**CHAIR**—Rather, we made a request to the committees and asked them to let us know whether they would comply or not.

**Senator BARNETT**—I am raising a point of order, Mr Chairman.

**CHAIR**—The chair was speaking.

**Senator BARNETT**—And I am raising a point of order.

**CHAIR**—I was answering the comments from the witness. I will recognise your point of order in a moment. That is the interpretation, Ms Riggs, that should be put on that correspondence. What is your point of order, Senator Barnett?



**Senator BARNETT**—The point of order is that in your dissertation you were putting a point of view which was clearly not put by the witness.

**CHAIR**—There is no point of order. You can go back and read the *Hansard*.

**Mr Yuile**—Ms Riggs can speak for herself eloquently, as you have seen, but I think it is a bit unfair to suggest that it was a cute debating point. That was not—

**CHAIR**—It was. I do not resile from that.

**Senator BRANDIS**—I think you are being argumentative now.

**Mr Yuile**—I am just saying that we took the letter—

**CHAIR**—We do not have time to continue this debate. Ms Riggs sought to put to the committee her interpretation of what our letter meant and then drew the point from that that it was consistent with the advice being given by the department, and I responded to that. Let us leave it at that. We will move on.

**Senator BARNETT**—The ACCs are made up primarily of volunteers; is that correct?

**Ms Riggs**—Area consultative committee members are all volunteers.

**Senator BARNETT**—They meet monthly or thereabouts?

**Ms Riggs**—They would have different meeting patterns to be consistent with their articles or memorandum of association, but I would typically describe many of the ACCs as meeting not less frequently than every two months and usually an executive committee would meet more frequently than that.

**Senator BARNETT**—This request—and I put it as a ‘request’ because that is what it is—that is being put to them by this committee has been considered by those ACCs, no doubt in accordance with the handbook, which I think you have referred to in your submission to us. You also referred to the contract with DOTARS. So they are obviously trying to respond in accordance with their constitutions and the rules and the guidelines, which are set out.

**Ms Riggs**—Our advice was intended to support them in considering this request in precisely those terms.

**Senator BARNETT**—The advice that you have put to these ACCs is to bring to their minds the terms and conditions of the guidelines, the handbook and their modus operandi so that they can properly and fairly respond to the request of the committee.

**Ms Riggs**—That was certainly our intention.

**Senator BARNETT**—And you think you have done that adequately, fully and comprehensively.

**Ms Riggs**—We believe that the advice that went out in our email of Monday of this week was the appropriate advice for us to share with all ACCs, given the nature of the letter from this committee.

**Senator BARNETT**—A view that has been put by me and I think some others around this table, although not all and perhaps not even the majority, is that if these ACCs are demanded—and it is not a request but a demand—to get this information, there are issues in regard to confidentiality and financial information that, if it got into the public arena, they would be concerned about. Is that one issue that needs to be considered?

**Ms Riggs**—That certainly is a potential issue.

**Senator BARNETT**—In terms of the volunteer effort of the people on the ACCs, they do not want to breach the trust and goodwill of others in the community who they relate to from time to time, and they would be concerned about an impact on the relationships that they have with members of the local community, whether they be businesses or just community leaders.

**Ms Riggs**—One of the things I frequently hear from chairs and members of area consultative committees is that the biggest reward they get is seeing the faces and being part of an event within their community that exists because of something the ACC has done. Whether that is because it is the launch of a project that the ACC has supported under Regional Partnerships or whether it is because the ACC has sponsored some other activities, such as the grants writing workshops or the bringing together of people to talk about regional development, members and chairs frequently say to me that those are the rewards. It is the satisfaction of other members of the community with the work of the ACC that is the reward that the members of these committees get.

**Senator BARNETT**—That is exactly the same sort of feedback I get in Tassie and from other places as well, so that is consistent. But in regard to the requests by some of those ACCs that have come back to the department, do they consider it as onerous or a potentially onerous request?

**Ms Riggs**—I do not believe that any of them have necessarily expressed concerns in those terms. The requests that I am personally aware of for advice about the nature of this committee's request of them, in this case, have been more to establish their legal obligations in respect of their contractual arrangements with the department and so on. I think for many the issue of what the volume of the request might be might have been a second order consideration when they had got through that first order set of considerations.

**Senator BARNETT**—There is a view that I share: I do not want to unfairly overburden the ACCs in their endeavours to meet requests of a Senate committee. I do not want to see the ACCs gutted as an effective community entity in the various communities—regional communities in particular—around Australia. That is a fear I have about any requests that might be undue or unfair to them. Your email request seems to set out the terms and conditions fairly and accurately. It seems to me that is what you have done. Do you have any further comments to support that view or to back that up?

**Ms Riggs**—It seems to me that, given the nature of this committee’s request, the terms in which it was expressed by the committee’s secretary and the terms of the formal things underpinning the relationship between the department and ACCs—the matters you have already referred to: the contract and the handbook and the references in those to various forms of Commonwealth legislation and also to the governance arrangements for the committee itself, such as its own memoranda and articles—the advice that the department provided to them, which was sought, as I have said, by something in the order of a quarter to a third of the ACCs, represented an appropriate underpinning for the ACCs to be able to make the ‘on balance’ judgment that in essence is the centrepiece of that advice. I am speaking in terms of the sentence from that advice that I have already read out twice for this committee today.

**Senator BARNETT**—I have not been through all that advice because it is reasonably long: it is comprehensive; it refers to the handbook and it refers to the contract and the guidelines. Can I just recap? Last week when you appeared before this committee, the committee left with you a number of questions and requests for information. Fulfilling those requests has been reasonably onerous. You and your department have been busy in doing that, and you have done that to the best of your ability. Is that right?

**Ms Riggs**—Since we left here—it was actually a room or two down the hallway, so I shall say ‘since we left the building’—last Wednesday, the teams in national office that are responsible for Regional Partnerships and, to some extent, the team responsible for Sustainable Regions and the communication channels between those teams in national office and our regional offices have been working exceedingly hard. It has all been about matters that pertain to this inquiry and our desire to service this committee as we should.

**Senator BARNETT**—Thank you for that. I flag with the chairman that I have questions in regard to follow-up from last week, but I have finished my line of questioning on this email and I am happy to pass on to Senator Brandis.

**CHAIR**—It might be helpful if we can conclude questions on this; we may have to come back to it after people have had a chance to read it and study it. Senator Brandis, I think you had some questions.

**Senator BRANDIS**—Ms Riggs, you have said a number of times that the purpose of the email was to provide advice to the ACCs, not the SRACs, and not to give them an instruction. Was that your intention?

**Ms Riggs**—Yes, and I believe that is absolutely borne out by the sort of language that is in here. For example, we say—

**Senator BRANDIS**—I will take you through the language. I think you have been the victim of selective quotation at the hands of Senator Forshaw and Senator Carr, so I want to give you the opportunity to address this document in its wholeness rather than simply one sentence which has been selectively picked out of it. Let us start with the sentence that Senator Carr and Senator Forshaw focused on:

DOTARS wishes to provide Committees with the following information to assist ACCs and SRACs decide if they should respond to this request from the Committee.

You would agree with me, wouldn't you, that that plainly flags the option or—

**CHAIR**—Senator Brandis—

**Senator BRANDIS**—Let me ask my own questions, Senator Forshaw.

**CHAIR**—Senator Brandis, as I have said and as you well know, whilst we do not strictly follow the rules of evidence regarding leading questions—

**Senator BRANDIS**—No, we do not.

**CHAIR**—I think it is appropriate if you could at least try and phrase your questions as questions rather than as long leading comments.

**Senator BRANDIS**—I will phrase my questions as I choose. I am going to take the witness through the document systematically so that the full meaning of what was conveyed to the recipients of the documents, rather than selective quotation, can be before the committee.

**CHAIR**—It would be appropriate if you were to ask the witness—

**Senator BRANDIS**—I will ask my own questions as I choose, Senator Forshaw.

**CHAIR**—Senator Brandis, order! I am chairing this inquiry, whether you like it or not. Rather than you trying to put into the mind of the witness a meaning, I think it is appropriate if you ask the witness the simple question—to explain what she meant by a particular sentence.

**Senator BRANDIS**—I will frame my questions as I choose, Senator Forshaw.

**CHAIR**—So you will put words into the mouth of the witness; that is what you will do.

**Senator BRANDIS**—Ms Riggs, I have directed your attention to the sentence that you were asked about at length by Senator Carr and Senator Forshaw. Do you accept that that introduces to the recipient of this communication that there should be a process of consideration as to whether or not there will be a response to the request?

**Ms Riggs**—I believe that it does, and I believe that that is entirely consistent with the second paragraph of the committee secretary's letter to each ACC.

**Senator BRANDIS**—I am not criticising you for that. I have called for a copy of the letter which is being provided to us momentarily. The balance of the relevant portion of the email, which goes on for about a page and a bit, then directs the recipient's attention to the various considerations to which regard might be had in deciding whether or not there should be a response and what that response should be.

**Ms Riggs**—It first of all describes the position the department has taken in relation to its response to requests from this committee, and I believe that to be appropriate background for us to share with the ACCs in the context of the committee's request of them.

**Senator BRANDIS**—Quite. What I am trying to put to you, Ms Riggs, is that, if you do not take the sentence out of context or quote it selectively but if you see it in the context of the entire document, there is a logical structure to this. The sentence which is taken out of context by other senators and about which you were asked questions in isolation introduces the question. Then there is quite a logical and systematic canvass of the considerations to which regard ought to be had.

**Ms Riggs**—And indeed that is where I would have proceeded. After setting out the background to our own considerations and the conclusions we had come to, this advice does then seek to step through, in a structured way, those elements of the relationship embodied here and those obligations that we believed it was appropriate that this department draw ACCs' attention to in their consideration of the request from this committee. I say again: we did that in the context that many ACCs had sought advice from us about those matters.

**Senator BRANDIS**—I imagine that it is not often that citizens who constitute the executive committees of ACCs or SRACs get letters from Senate inquiries. We have a copy of the letter here. The important paragraph is the second paragraph. Let me read it to you:

To assist the progress of the inquiry, I ask that you advise me in writing no later than 5.00 p.m. on **Wednesday, 9 February 2005** whether or not your ACC agrees to provide this information.

Do you see that?

**Ms Riggs**—Yes.

**Senator BRANDIS**—So plainly this is not exercise by the Senate of a power which it does have to order the production of documents but an inquiry on behalf of this committee whether or not the ACC or the SRAC agrees—to use the very words of the letter—to provide the information. This is a request to perform a voluntary act. Is that your understanding?

**Ms Riggs**—That is how I interpret that paragraph.

**Senator BRANDIS**—But it may not be the way, without some guidance, someone unused to these procedures would. Would you agree?

**Mr Yuile**—It is a bit hard to be sure exactly how people would respond. But I think the very point we have tried to make is that, in assuming that this would raise questions for some people, we thought it would be appropriate—and I might come back to this point. With due respect, Chair, it was not a cute debating point; we were just simply saying, in the context of being asked whether or not the ACCs agree, that we were being asked and we sought through the email to give the balance and range of considerations that ACCs would need to take account of in coming to a conclusion.

**Senator BRANDIS**—Just to finish this off, let me take you through the structure of it. After the sentence which frames the question, about what consideration you should have regard to in deciding whether or not to respond—I am paraphrasing—there are about three paragraphs that set out the department's position. Do you see those on the second page of the document?

**Mr Yuile**—Yes.

**Senator BRANDIS**—And then the sentence to which you, Ms Riggs, have been at great pains to direct the attention of Labor senators—that is, the statement:

Ultimately, the question of whether an ACC or SRAC provides the requested information to the Senate Committee is one for the individual Committees to decide.

That is really the gravamen of this, isn't it?

**Ms Riggs**—I think that is absolutely a pivotal sentence in this whole advice.

**Senator BRANDIS**—But nevertheless you go on, if I may say so, helpfully, to set out some of the appropriate matters to which the ACC should have regard in making its own decision. You say:

In determining if or how they wish to respond ... each ACC or SRAC should maintain an awareness of their responsibilities and obligations under relevant Commonwealth legislation ...

Do you see that? And then you direct their attention to their obligations under the Privacy Act—

**Ms Riggs**—Yes, that is correct.

**Senator BRANDIS**—which does impose obligations and limitations upon what can be provided by ACCs and SRACs to which they ought to direct their attention.

**Ms Riggs**—Yes, that is correct.

**Senator BRANDIS**—Obligations under the Commonwealth Criminal Code likewise, which potentially provide limitations on what can be provided.

**Ms Riggs**—That is certainly what we ask them to consider.

**Senator BRANDIS**—Then you say:

In addition, ACCs should ... have regard to their Constitution, Rules of Incorporation and relevant State or Territory incorporations legislation—

which may potentially impose legal limitations on what the ACCs and SRACs can voluntarily provide—that is, not under compulsion of an order of the Senate but voluntarily.

**Ms Riggs**—The ACCs would be particularly covered by that. The SRACs are not incorporated bodies although we have contractual arrangements with a statutorily established body in respect of each in providing their support services. Certainly, the ACCs are all governed under their memorandums or articles of association and the relevant state law which gives force to those.

**Senator BRANDIS**—And, of course, as I am sure you are aware, documents provided to this committee become public documents unless the committee resolves otherwise. So it is appropriate, isn't it, to have regard to considerations of commercial-in-confidence matters, for example?

**Ms Riggs**—I believe that to be true.

**Senator BRANDIS**—The author says in the next paragraph:

Where ACCs and SRACs elect to provide information to the Committee, it would be appropriate to seek the consent of individual applicants to disclose details of their applications ...

Do you think that is a proper consideration for them to have regard to?

**Senator CARR**—I am surprised she wrote it in the letter.

**CHAIR**—This is an examination of the bleeding obvious, is it?

**Senator BRANDIS**—What I am trying to do, Senator Forshaw, is correct the record by getting onto the record all the matters that you chose to ignore when you mischaracterised and dealt in isolation with a single sentence.

**CHAIR**—We will get to all of the things that were left out too. We will come to that shortly, so you carry on, Senator Brandis.

**Senator BRANDIS**—Ms Riggs, do you think it proper that an ACC or SRAC decision maker would always, in response to a request like this, have regard to the interests of third parties?

**Ms Riggs**—As the sentence that follows that identifies, that advice is provided to be absolutely consistent with the good practice that we would follow as the department if we were asked to provide information about third parties which we felt to be potentially sensitive in some way to them. We would give them an opportunity to provide us with their best advice about whether they would prefer to see it held close or not.

**Senator BRANDIS**—When you say, 'your best practice', I see you direct their attention to the Freedom of Information Act. Now that does not directly bind them, I imagine, but do you regard your procedures and protocols in dealing with FOI requests as being a model of best practice in analogous circumstances?

**Ms Riggs**—Yes, I do.

**Senator BRANDIS**—And that is the purpose of that paragraph?

**Ms Riggs**—Yes.

**Senator BRANDIS**—Then you direct their attention to the fact that they may also have obligations under the ACC charter, the ACC handbook and their operational funding contracts with the Commonwealth.

**Ms Riggs**—That is right.

**Senator BRANDIS**—And then you say:

In particular, DOTARS would alert ACCs to clauses in the funding contract relating to record keeping, disclosure of information, protection of personal information and compliance with laws and Commonwealth policies and how these will impact upon each Committee's decision whether to provide information.

There are privacy issues here, aren't there?

**Ms Riggs**—Without knowing how each ACC—

**Senator BRANDIS**—Sorry, let me rephrase that: there may be privacy issues.

**Ms Riggs**—That is what I was going to say. There may be.

**Senator BRANDIS**—Those privacy issues may, as I said a moment ago, be of the nature of commercial-in-confidence issues, but they may be broader issues than merely commercial sensitivity, may they not?

**Ms Riggs**—They may be, although I would expect that it would be predominantly in that commercial area that this might become most sensitive.

**Senator BRANDIS**—It would be a commonplace, would it not, in funding agreements, that there might be limitations on the disclosure of commercially sensitive matters which are part of the contractual rights of the service provider with whom the entity had the relative contract?

**Ms Riggs**—It is in fact increasingly rare for contracts between the Commonwealth and a service provider to make provision for anything other than some very clearly specified elements of the contract to be subject to confidentiality provisions, but that is still certainly an avenue available to that contractual arrangement.

**Senator BRANDIS**—Finally, relevantly to this rehearsal of the relevant considerations, at the foot of the second page of the document you say:

In making a decision on whether to disclose particular information, ACCs and SRACs should also consider and balance the implications providing this information could have on applicants and the Committee (including its members and staff) within their community.

Would you like to elaborate for us, please, on what you mean by that—and the considerations that underlie that observation?

**Ms Riggs**—This goes to the same types of matters that Senator Barnett has raised. In addition to drawing your attention back to those sorts of issues about the standing of the committee and the rewards for individual members of the committee, I think potentially there is another side of that, and that goes to matters that Mr Yuile and I discussed with this committee on Wednesday of last week. That is the issue about applicants—particularly those whose applications may have been rejected or who may have chosen to withdraw their application—needing to be in a



position where there is considerable discretion exercised about the release of details of those matters in order that they have an opportunity to seek to explore whether or not they might wish to reword an application, reapply, and/or apply to other funding sources, including through commercial arrangements. So there are sensitivities that go also to those notions about the standing of the committee and its relationship with applicants in the community.

**Senator BRANDIS**—Perhaps this point has been made, but I just want to reinforce it: these ACCs and SRACs are community based organisations, aren't they? They are not part of government in any ordinary understanding of the term.

**Ms Riggs**—That is right, but clearly through a contractual arrangement they have some relationship, and they undertake certain activities in response to that contract.

**Senator BRANDIS**—Do you think it would be appropriate for the department to tell community based non-government organisations that they should, without having regard to considerations of third party interests, voluntarily and without compulsion, provide documents to a public inquiry which would then become matters of the public record? Do you think that would have been a responsible thing to do? That is the implication of what is being put to you by Labor senators.

**Ms Riggs**—I think the fact that our weekly email to ACCs, in the week immediately following their receipt of the letter from Mr Sands, setting out the matters that we covered over the past several minutes, provides ample demonstration of the fact that we believed it was necessary and appropriate for the department to provide this advice for ACC's consideration.

**Senator BRANDIS**—It amounts to this: you say that it is ultimately a matter for you but these are the things you should take into consideration in making your decision. That is what this says, isn't it?

**Ms Riggs**—That was certainly our intention in compiling the advice in this way.

**Senator BRANDIS**—Thank you.

**Senator CARR**—Ms Riggs, you would be aware that this was an agreed letter that the committee sent to all ACCs, would you not?

**Ms Riggs**—I do not understand the question.

**Senator CARR**—This was a letter that was constructed as a unanimous decision of this committee, its wording agreed to by the representatives of the government and the opposition.

**Ms Riggs**—No, I did not know that.

**Senator CARR**—That is fair enough. I appreciate that.

**CHAIR**—I do not think Senator Barnett really meant that either.

**Senator CARR**—Ms Riggs, can I take you to this question of the confidentiality information. I have an attachment called ‘Application assessment process’ from your submission. This deals with the extracts from what I understand to be the application forms that grant applicants are advised of. It goes to the issue of confidentiality. I want to ensure that I have this right. Perhaps you could correct me where I am wrong. Are grant applicants advised that commercial-in-confidence claims are not granted automatically?

**Ms Riggs**—I do not know the document that you are referring to.

**Senator CARR**—It is from your submission, I understand. The document is headed ‘Information you should know. Application and assessment process.’ It says:

Applications to Regional Partnerships can be submitted at any time. There are no closing dates on rounds to submit applications and no specific dates for announcements.

**Ms Riggs**—You had not indicated that that was specific to this submission or to this program.

**CHAIR**—It is advice to the ACCs.

**Senator CARR**—It is advice to the ACCs. It is information provided to this committee by the department. It says:

In certain circumstances the Department will treat application and Funding Agreement information as confidential. These circumstances include those required under legislation and where the applicant has made a claim for confidentiality and the Department agrees to the request. As the Department does not automatically classify commercial information as confidential the applicant must contact the Department to make a claim for confidentiality and obtain the Department’s agreement to the classification.

Is that true ?

**Ms Riggs**—We actually discussed this last Wednesday, I believe.

**Senator CARR**—Is it true?

**Ms Riggs**—I believe you when you say that that is what appears in a document that forms part of our submission. I believe it is true when it says that those circumstances might ‘include’, but that is not a limiting list of the circumstances in which that might occur, but those circumstances might include that.

**Senator CARR**—It says:

As the Department does not automatically classify commercial information as confidential the applicant must contact the Department to make a claim for confidentiality and obtain the Department’s agreement to the classification.

That is a matter of administrative practice. That is true—is that not the case?

**Ms Riggs**—In formally determining whether something is confidential, yes, I believe that is the case.

**Senator CARR**—Also is it not the case that the Commonwealth, in all its contracts, has a clause that says:

... the Commonwealth is subject to requirements that result in disclosure of some applications and contract information. Also, Parliament and its committees have the power to require the disclosure of Commonwealth contracts and contract information.

In fact your document here says:

The ACC acknowledges that the Commonwealth may be required to provide information in relation to Operational Funding or this, as required by the operations of any law, judicial or parliamentary body or government agency and accordingly it can give no undertakings to treat any of the ACCs information or this Contract as confidential information.

Is that not a clause in the contract?

**Ms Riggs**—I do not know, Senator. I do not have it in front of me.

**Senator CARR**—Well, you should. It is in your email. There is a provision in all Commonwealth contracts about the nature of commercial-in-confidence and particularly confidential information, and it covers those elements, does it not?

**Ms Riggs**—I tabled my copy of this full advice, I regret to say. That included the attachment that you are referring to. I do not have the attachment in front of me. Perhaps the secretariat could assist me. I now have the attachments. Could you draw my attention to the paragraph?

**Senator CARR**—It is 15.1, disclosure of information. Does it not say:

... it can give no undertakings to treat any of the ACCs information or this Contract as confidential information.

**Ms Riggs**—This is an extract from the ACC's operational funding contract and needs to be read in the context of that. This is the contract that governs the operational funding that we provide and I am quite confident that it has a definition of 'information' in it that would be about matters that were produced under the terms of that contract. I would want to take some advice about that notion of ACC's information. Otherwise I would say to you that I believe this to be limited to the notions to do with the grant that we make to ACCs to support their administrative and operating arrangements.

**Senator CARR**—I appreciate that, because you have indicated to me that you have already sought legal advice from your officers in the legal branch. So I would have presumed they would have covered this already. I also draw your attention to the information provided to every applicant for a grant under this program. I quote again:

It should be noted that the Commonwealth is subject to requirements that result in disclosure of some application and contract information. Also, Parliament and its committees have the power to require the disclosure of Commonwealth contracts and contract information. These requirements override the protection provided by confidential classification.

Is that not the case?

**Mr Yuile**—In relation to contracts entered into I think that is what the clauses say.

**Senator CARR**—In applications, is that not the case? Is not that information provided to every applicant?

**Ms Riggs**—If you are reading from our submission and our submission says that—

**Senator CARR**—I presume it is your submission.

**Ms Riggs**—this in the application form, then—

**Senator CARR**—It was attached to their submission to begin with. I will table the document so we both have the document.

**Ms Riggs**—That would be most helpful.

**Senator CARR**—I am presuming it is a departmental document that I am quoting from. It is regional partnership application funding information provided to applicants.

**CHAIR**—Can we continue with this at the moment or does the document need to be provided?

**Senator CARR**—All I want to know from that—

**CHAIR**—Does the witness need to have a look at the document?

**Ms Riggs**—Yes.

**CHAIR**—We are getting a copy. We will come back to that. Senator Murray had some questions on this. I am hoping to finish this off fairly soon.

**Senator MURRAY**—Ms Riggs, you would agree that the parliament and the Senate are charged with the responsibility of having oversight of the expenditure of taxpayers' money, wouldn't you?

**Ms Riggs**—I believe that to be true, yes, Senator.

**Senator MURRAY**—Is it your belief that, whether a matter is to be held in confidence or in camera by the Senate or is to be held as a public document, there are matters relating to the expenditure of taxpayers' funds which can be kept from the Senate?

**Ms Riggs**—If there has been a clear decision to expend taxpayers' funds and that decision is embodied, for example, in a funding agreement or a contract between a body capable of representing the Commonwealth and the recipient of those moneys, then I do not believe that there are very many circumstances in which that ought not be absolutely examinable.

**Senator MURRAY**—Would you consider that there is one interpretation, depending on the reader of your email, which might say to the recipient that there are a number of considerations which would entitle an ACC in receipt of taxpayer funded grants to withhold information? I will just pick a few out of your email: Privacy Act, Criminal Code Act, consent of individual applicants, Freedom of Information Act, ACC charter and the funding contract itself.

**Ms Riggs**—This advice is not about information that comes into being directly as a result of the funding agreement between us and an ACC. It comes into being as a result of one of the activities they do as part of that and it relates to information from third parties. Those third parties may or may not end up being recipients of government money in their own right. Where they end up being recipients of government money, as I have already said to you, there are probably very few circumstances in which information about the moneys that are to flow to that body, once embodied in a contract or funding agreement, ought be withheld from this committee. But I do take a different view about some of the sensitivities that we have explored already in this committee about those who might ask for but not receive government funding.

**Senator MURRAY**—Personally, I readily accept people will have different interpretations on receiving the same letter. Would you except that is a reasonable point of view?

**Ms Riggs**—I think it has been demonstrated this afternoon, Senator.

**Senator MURRAY**—Yes. Is it possible that, regardless of your intent, somebody might read this as inclining them to the view that they must be extremely careful as to whether they provide any information at all or as to the type of information they provide?

**Ms Riggs**—That is highly speculative for me to answer but I acknowledge that no matter how well we might seek to construct the information we convey, whether orally or in writing, it is capable of interpretation other than that which we intended.

**Senator MURRAY**—I want to take us down this path. Let us assume that a recipient of this has formed the view that they should not cooperate with a Senate inquiry for reasons which they consider valid and reasonable. As I understand it, and correct me if I am wrong, you are entitled in the examination of applications and once a grant has been made and approved to in fact examine a number of issues or material facts which otherwise would not be available to other people, such as commercial-in-confidence issues. That is correct, isn't it?

**Mr Yuile**—That is right, Senator.

**Senator MURRAY**—When you have your funding contract here, you are listing it under the contracts register and identifying it as having confidential matters in it as required by the Senate order, aren't you?

**Ms Riggs**—I want to be very careful about the answer I give because we do not have contracts with our grant recipients, we have funding agreements.

**Senator MURRAY**—So why did you use the phrase 'funding contract'? It is in your email. Sorry, you might not find it easily. It is on page 2, about the third paragraph from the bottom. It reads:

In particular, DOTARS would alert ACCs to clauses in the funding contract relating to record keeping, disclosure of information, protection of personal information and compliance with laws and Commonwealth policies and how these will impact upon ... Committee's decisions whether to provide information.

**Ms Riggs**—We call the formal document that exists between us and each of the ACCs a funding contract. In fact, I am told by people with legal expertise that they would be hard to enforce under the normal definition of contract law. What we have with each grant recipient is a funding agreement.

**Senator MURRAY**—In your opinion, that therefore quarantines these funding agreements from the Senate order requiring that all contracts are on the contracts register, which is on the web site, as you would know, and have their confidential areas identified in the manner required by the Senate order. I remind you, just in case it is absent from your memory, that this is an area dealt with by the Auditor-General in, I think, five reports to date.

**Ms Riggs**—I am checking, because I am really confident that if we are required to put it there we put it there, irrespective of what we call it. But I am equally confident that there is a difference between a contract and a funding agreement, and I am not sure if ours are covered by the order. I am seeking advice for you at the moment.

**Senator MURRAY**—I do not require you to answer immediately. Through the chair, I will ask the secretary to give you the formal description and terms of that Senate order and the nature of the Auditor-General's reports into that so far, so that you can respond specifically and tell us whether or not your funding agreements are caught up in that.

**Ms Riggs**—Absolutely.

**Mr Yuile**—Is this for funding agreements with ACCs or funding agreements with applicants?

**Senator MURRAY**—This is for any contract or agreement which is relative to this inquiry; that is my interest.

**Mr Yuile**—Sorry, we will have to ask about that.

**Senator MURRAY**—Thank you. I am happy for you to take that on notice, if the secretary can follow that up. Continuing this line, if we stay with the person whose interpretation was that they do not or should not provide information to the Senate committee, do you provide any advice to the ACCs or the applicants, or the grantees—because they might be different—as to what powers the Commonwealth Auditor-General has with regard to these issues?

**Ms Riggs**—I believe, and I will ask someone to find it, that in our standard funding agreement—not necessarily in the agreement with the ACCs but in the agreement with applicants—there is a clause that makes clear that, once they are in receipt of money from the Commonwealth, they have to disclose their use of it and it is open to public and Auditor-General examination. I believe that is there.

**Senator MURRAY**—If you cannot lay your hands on it readily, again, I am more than happy to accept the answer on notice, because I want to be very clear that somewhere in this process

there is someone capable of going to the heart of these issues and examining them on an independent and objective basis. If it is the case that the Senate is unable to access these requirements and conditions, and the department will not release them to us because of your relationship with the minister and the protocols you consider appropriate, there needs to be someone who is examining these—so you can see that it is a third party outside the direct, normal reach of the Commonwealth Auditor-General. What I would like in response to my question on notice is not just what advice you have given or do give to the ACCs, applicants or grantees and anyone else involved in the process as to the powers of the Commonwealth Auditor-General but also whether you consider that there are any aspects of the grants which are outside the purview of the Commonwealth Auditor-General. Is that clear?

**Ms Riggs**—Certainly. I understand what you are asking for.

**Senator MURRAY**—I want to know if the Auditor-General is constrained in examining things because of, for instance, the Privacy Act, the Criminal Code Act, the consent of individual applicants, the Freedom of Information Act or the ACC charter if the Auditor-General needs to find out whether proper process and proper procedures have been followed.

**Mr Yuile**—I think I understand that question. I certainly take it seriously—in the seriousness with which you have asked it. The email does apply in response to the committee secretariat's letter, which asked them for all minutes and recommendations concerning local regional partnership applications. A lot of the conversation we have had this afternoon has been about those applications which were not successful. That was certainly the beginnings of this when we discussed it in the inquiry a week and a half ago. The question of funding agreements, that is to say where an application has been successful, I do not think has been something that we have been asked for—that is, the funding agreement. So I just want to make sure—

**Senator MURRAY**—Let me respond in clarity.

**Senator CARR**—That is not what the letter says; it says 'all recommendations'—

**Senator MURRAY**—Let me respond to make it clearer. The letter, which I think has been tabled, asks for all minutes and recommendations concerning local Regional Partnerships program applications. So it could be applications which were successful and applications which were not successful. I recognise that there is a difference with what is not successful. But, you see, we have to be clear here—we are in a situation where a Senate committee in its interest in oversight of the expenditure of taxpayers' funds wishes to establish if the matter has been handled objectively, professionally, independently and properly, if I can summarise it in that way. If for some reason ACCs do not provide us with the material we want and it does not transpire that we ever get the information—and I am not assuming we will not; I am not forecasting the future—we would want to know who, ever, could look at this properly. I want to know if there is any other restraint on, for instance, the Commonwealth Auditor-General, because the next step for the committee if ACCs are uncooperative is obviously to consider putting the Commonwealth Auditor-General onto the case. That is the purpose of my question.

**Senator CARR**—That is clearly an option that is available to us. The other goes to the question of subpoena.

**Senator MURRAY**—I leave my questions there. There is no deadline for the answers to my questions above any that the chair might seek to impose.

**Senator CARR**—Can I confirm with you that you now have a copy of the document that I was quoting from which purports to be ‘Information you should know: application and assessment process’?

**Ms Riggs**—Yes, I have a copy of that document.

**Senator CARR**—Do you recognise that to be a departmental advice?

**Ms Riggs**—There is nothing on it that would indicate that it is, but it looks to me as though it is an extract from perhaps the Regional Partnerships web site, which sets out—

**Senator CARR**—The application form itself. It reads:

Submitting your application with the Department ...

Presumably that is you?

**Ms Riggs**—It is the department.

**Senator CARR**—So that presumably is you, then it gives a web site address of [www.regionalpartnerships.gov.au](http://www.regionalpartnerships.gov.au). I presume that is you?

**Ms Riggs**—Senator, it is not me at all, but it is staff for whom I will take responsibility.

**Senator CARR**—I do not particularly imply—

**CHAIR**—Can we get on with the questions.

**Senator CARR**—Is it the case that under the confidentiality heading it states:

... Parliament and its committees have the power to require the disclosure of Commonwealth contracts and contract information. These requirements override the protection provided by a confidential classification.

**Ms Riggs**—It certainly states that in respect of contracts and contract information.

**Senator CARR**—What do you understand that to mean?

**Ms Riggs**—Something that is embodied in a contract and is defined in that contract to be contract information for the purposes of that contract.

**Senator CARR**—When I read extracts from the operational funding documents, there is a reference to treat any of the ACCs’ information or this contract as confidential information. So there are no undertakings to treat any of the ACCs’ information or this contract as confidential information; what do you understand that to mean?



**Ms Riggs**—I take it to mean that we give no undertakings in respect of those matters.

**Senator CARR**—I therefore ask you: how is it that you are able to advise the ACCs that there is information that they should not provide to a committee or may consider not providing to this committee—the terms of the contract, the terms of the applications and the information itself?

**Ms Riggs**—These are extracts from the operational funding contract between the department and the ACC. I do not have in front of me here a definition of ‘ACCs’ information’, and I would want to consult that in order to answer your question precisely. I seek leave, Chair, to take that on notice.

**Senator CARR**—That is fair enough.

**CHAIR**—Senator Carr may be referring to it in a shorthand way but he did say earlier that on a number of occasions it refers to contracts, contract information and applications.

**Senator CARR**—Yes.

**CHAIR**—The clear import of this is that the powers of the Senate, or the powers of the parliament, relate to overriding the provisions of that legislation with regard to what surrounds the contract and the contract information. I put it to you that that would include material relevant to the application.

**Ms Riggs**—I do not know if that is the case—

**CHAIR**—No, you are going to take that on notice.

**Ms Riggs**—and that is a matter that we would need to explore.

**CHAIR**—Yes. But in any event that was not pointed out in your advice to the ACCs, was it?

**Mr Yuile**—Certainly I thought the contractual arrangement with the ACCs was raised.

**CHAIR**—No, it was not pointed out, as I read your advice in the email. I did not see pointed out anywhere that the parliament—I made this point earlier—and its committees have the power to require disclosure and that those requirements override the protection provided by a confidential classification. Whilst you provided advice in some detail about the operation of the Privacy Act and other matters, nowhere in the advice is there a clear indication to ACCs that the parliament and its committees have these powers. Remember, this was your advice to ACCs following their request, apparently—or their seeking of information—about a request by a parliamentary committee for information. I find it surprising that you did not seek to draw to their attention that most important point about the powers of the parliamentary committees, given that you were advising them on how they might respond to a request by a parliamentary committee.

**Senator CARR**—You are saying that ACCs are not part of government, that they are independent and that some of the information is sensitive. I acknowledge it is sensitive. There is

a provision here to do with where the work of the committee is frustrated; the allegation may well be made that the sensitivity you are trying to protect is in fact political sensitivity.

**Mr Yuile**—I cannot respond to that. I was trying to remember the opening part of your point, about the ACCs being part or not being part of government.

**Senator CARR**—They are not part of government.

**Mr Yuile**—We had a conversation earlier about that—we have a funding arrangement with them, but they are incorporated bodies and they are independent bodies. They provide services for us and advice in relation to applications.

**Senator CARR**—Thank you very much.

**Proceedings suspended from 5.44 p.m. to 5.58 p.m.**

**Senator O'BRIEN**—I have some questions about the SONA procedures, or 'guidelines' as they have been variously referred to.

**Ms Riggs**—They are procedures.

**Senator O'BRIEN**—I am not going to haggle about it. There is an advice to the minister signed by Mr Taylor in which they are referred to as both guidelines and procedures. Let us not haggle about it. It is a document, whether you call them guidelines or procedures, that sets down certain things, and I want to explore that. As I understand it, the person responsible for making decisions about potential SONA projects is branch head of regional communities in the national office. Is that Dr Dolman?

**Dr Dolman**—That is correct.

**Senator O'BRIEN**—Dr Dolman, do you determine whether or not a project should be considered under those SONA procedures?

**Dr Dolman**—That is what the procedures say. Yes, that is what I do.

**Senator O'BRIEN**—Is it open to anyone other than you to make such a decision?

**Mr Yuile**—I recall that Ms Riggs might have answered that question the last time we met and that—

**Ms Riggs**—But I am happy to answer it again. As Dr Dolman's supervisor, and indeed, Mr Yuile being my supervisor, in Dr Dolman's absence or if he were to seek guidance, I believe that I would—indeed, I have been involved in consideration of applications that might be considered under these procedures.

**Senator O'BRIEN**—What about ministers? Are they able to make that decision as well?

**Ms Riggs**—At the end of the day, every decision to fund or not fund a project under the Regional Partnerships program is made by a minister on the basis of advice from the department, and that advice would contain some indication from us that we had brought the SONA procedures to bear. I think therefore that it is probably appropriate to regard the processing under the SONA procedures as being a matter for departmental decision but the decision whether to fund or not fund or not fund a project as still lying with the minister.

**Senator O'BRIEN**—Taking a step back, it would be initially a matter for officers of the department—Dr Dolman or you, for example—as to whether the procedures would be looked at or applied to a particular application.

**Ms Riggs**—That is right.

**Senator O'BRIEN**—Would a minister suggest that that be the process before the departmental officer made that consideration? Did that happen?

**Ms Riggs**—Hypothetically, I guess it is possible for ministers to suggest many things in discussion or even in writing to departmental officials. But I do not believe, in the very small number of cases of projects that have been considered under these procedures, that the decision to bring them into play was made other than by a departmental official.

**Senator O'BRIEN**—I said 'suggest', you said 'decision'. I am not sure if we are talking about the same thing, so I will raise that point so you can clarify it for me.

**Ms Riggs**—I cannot recall an occasion on which I have heard such a suggestion from a minister.

**Senator O'BRIEN**—I am trying to understand the process that the department would use to decide to go beyond the published guidelines for Regional Partnerships and go to the unpublished procedures about SONA. Can you explain that to me?

**Dr Dolman**—As Ms Riggs has just explained, they are used very rarely. Essentially it is for projects where there is a strong case for funding the project on national interest and because it meets the published criteria relating to the program; however, there are administrative reasons why we need to override some of the eligibility criteria.

**Senator O'BRIEN**—Do I understand you to be saying that it is used for a project which seems to pass all other tests but some limited provision of the guidelines and therefore SONA procedures allow the project to proceed notwithstanding that minor failure?

**Dr Dolman**—In essence, that is the case. Because Regional Partnerships is a discretionary program, with or without the SONA procedures, ministers still would have the discretion to make those decisions.

**Senator O'BRIEN**—Would that mean that, in every case an ACC would support the project when it was to be processed under the SONA procedures?

**Ms Riggs**—I think two comments might be relevant. We may have described to you on Wednesday of last week the fact that there is not necessarily a single ACC involved in a project that is being considered under the SONA arrangements. For example, one of the criteria that would bring you into this area is where a project goes across the boundaries of an ACC; it is a state-wide or national project. Then we have other arrangements that the SONA procedures describe, I believe. I think it is also fair to note that an what we might describe as an ACC's or, alternatively, a representative ACC's recommendation about a project is one of the elements that the minister considers in formulating a decision about whether to fund a project or not. So no more—and I hope no less—than any other project would there be a presumption that the minister's final decision would be based only on the projects that an ACC or the representative ACC does or does not support.

**Senator O'BRIEN**—That may well be. I am taking from your earlier answers that, under the SONA procedures, before the matter went to the minister for consideration, it would have been the subject of a recommendation from the department. Is that right?

**Dr Dolman**—That is correct, as is the case for all Regional Partnerships projects.

**Senator O'BRIEN**—In every case where the matter was considered by the department under the SONA guidelines, would the ACC or relevant or chosen ACC have made a decision to support the application?

**Ms Riggs**—I think the notion of whether they supported individual applications or generically support applications goes into that realm of advice from the ACC which we embody in our advice to the minister, and no more than in relation to any other project are we going to tell you whether or not they were supported by the ACC. They may or may not have been supported by the ACC, the representative ACC or the alternative.

**Senator O'BRIEN**—I am asking about the department's role, not the advice to the minister. What I am asking is, before Dr Dolman decided whether to tick the box of the SONA procedures, was he—not the minister—guided by an ACC recommendation? Can you answer that?

**Dr Dolman**—I do not think that is the case. We do not always have the ACC advice at the time that the decision about whether or not to go with the SONA procedures is made. Essentially, it is one of whether or not there is any need to use the SONA procedures relating to one of the reasons why they are in place. The reasons that have been invoked relate to the greater coverage of a particular project, so it covers more than one ACC area; reasons relating to whether or not a payment is being made to a government entity, which are ineligible under the normal administrative arrangements; or other reasons. It is more those administrative reasons that we look at in terms of whether or not the SONA procedures need to be invoked.

**Senator O'BRIEN**—Is it the case that, prior to the department's consideration, any of these projects would have been recommended by a minister or a parliamentary secretary?

**Dr Dolman**—I am not sure what the question means.

**Senator O'BRIEN**—I am asking about any of the projects considered under the SONA procedures.

**Dr Dolman**—Is it if the decision was taken by the minister to approve the project prior to us—

**Senator O'BRIEN**—Is it the case that, before the department—yourself or Ms Riggs—made a decision to implement the SONA procedures, there was a recommendation by a minister or a parliamentary secretary to positively consider an application?

**Ms Riggs**—I think that sometimes in relation to matters under this grant program, like any other grant program, ministers or parliamentary secretaries may be aware of a funding application. Another member of parliament may indeed have raised it with them.

**Senator O'BRIEN**—Yes, but I am not asking about them; I am asking about ministers and parliamentary secretaries at the moment, so perhaps you can confine the answer to that.

**Ms Riggs**—Sorry, I thought I had said that. Forgive me. In respect of any application, a minister or parliamentary secretary may be aware that it is around, because, for example, another member of parliament may have raised it with them—indeed, sought to indicate their support.

**Senator O'BRIEN**—Sure.

**Ms Riggs**—On the basis of that communication between members of parliament, for example—or perhaps even residents in an electorate—a minister may have started to form a view, such as: 'That looks like a good or a bad project,' or 'I want to know more about that project.' But at the end of the day, in relation to Regional Partnerships projects, we would not necessarily know about that.

**Senator O'BRIEN**—You can only tell us about what you know. I am not asking you to speculate about what is out there in the ether. I am asking: were any of the projects considered by the department to be appropriate for the application of the SONA procedures the subject of a positive recommendation by a minister or a parliamentary secretary?

**Senator CARR**—Earlier in this question round I asked you that. You undertook to provide us with a list of projects where the minister had sought advice from the department with regard to moving them along—seeking to encourage the processing of applications. The University of New England was one. Has that list been provided?

**Ms Riggs**—I think I indicated at the time that it is a fair amount of work to compile such a list.

**Senator CARR**—I see.

**Ms Riggs**—Senator O'Brien, you used the term 'a positive recommendation'. What do you mean by that?

**Senator O'BRIEN**—I mean a positive recommendation: that a minister or a parliamentary secretary gave an indication to an officer of the department, either directly or through a staff member, that they viewed that application in a positive light.

**Ms Riggs**—In respect of one approved project, which we assessed utilising some dimension of the SONA procedures, I can say that I attended a meeting in the minister's office prior, indeed, to the receipt of an application. In the course of the meeting about that potential project the minister was supportive to the prospective applicants about receiving an application. He indicated that he thought it sounded like a good project.

**Senator O'BRIEN**—Which project was it?

**Ms Riggs**—The UNE maths and science centre project.

**Senator O'BRIEN**—Is that the only one that has been the subject of a positive indication that you are aware of, Dr Dolman?

**Ms Riggs**—There is one other that is in a slightly different category but that perhaps I should make note of. We provided advice to a minister or parliamentary secretary in relation to co-funding of what is called the Crocfest arrangements. We did that under SONA. That was actually as a result of a cabinet decision. In effect there was a decision by government that several departments would contribute to the costs of running Crocfest, and we were one of those departments.

**Senator O'BRIEN**—There wasn't an announcement at that stage, was there? Or was there?

**Ms Riggs**—I would have to check the record to see the sequence of events.

**Senator O'BRIEN**—I am just trying to fit it in with the procedures where that is one of the criteria. There were no other applications considered under the SONA procedures that were the subject of such a positive indication, if I can put it that way?

**Ms Riggs**—The grant to Primary Energy for feasibility and planning work in relation to an ethanol plant in Gunnedah was one about which the then minister Ian Campbell wrote to me in the middle of last year, indicating that he believed that the project ought to proceed.

**Senator O'BRIEN**—That is it? There are no more?

**Ms Riggs**—I believe that is it.

**Senator O'BRIEN**—I was going to ask had any of the projects been rejected, but that is a redundant question now.

**Dr Dolman**—How is that a redundant question?

**Senator O'BRIEN**—Because you have said that there are the only two and they have both been approved, that is why.

**Dr Dolman**—Any of those projects which had ministerial support?

**Senator O'BRIEN**—Yes, had any projects which had been suggested be considered under the SONA procedures been rejected. That is a redundant question, isn't it?

**Dr Dolman**—Yes.

**Mr Yuile**—I think the question was whether the projects be positively considered. I do not know—

**Senator O'BRIEN**—No, I changed that to 'have the SONA procedures applied'.

**Mr Yuile**—I think that is a different question.

**Senator O'BRIEN**—Is it a different question? Well, I should ask it then.

**Ms Riggs**—No, I had not interpreted the Senator's question to be: a positive recommendation from the minister and that the SONA procedures should apply. I interpreted it as: for projects that were considered under SONA, had any of them been the subject of a positive recommendation from the minister for consideration.

**Senator O'BRIEN**—Yes, it was; you are right.

**Ms Riggs**—It was a departmental judgment that the SONA procedures needed to apply.

**Senator O'BRIEN**—Yes.

**Ms Riggs**—I need to draw your attention to two other projects for which we used SONA which were the subject of cabinet consideration. One of them I made reference to in last week's hearing, and that was the decision, in effect, to transfer some money from the Regional Partnerships program to part fund the sugar industry restructuring package. I believe the second was a decision that support be given to the Slim Dusty centre.

**Senator O'BRIEN**—In Eidsvold?

**Ms Riggs**—No, it is at Kempsey. You will forgive me but my brain is not entirely clear about the precise nature of that direction. There was a disposition to fund, but I would have to check the record on how that was expressed.

**Senator O'BRIEN**—The department was encouraged to find a way?

**Ms Riggs**—I hope the department would always seek to find a way to deliver on a cabinet decision, if it were possible to do it within the tools we had available to us.

**Senator O'BRIEN**—You would know your recommendation was not going to be rejected, wouldn't you?

**Ms Riggs**—I think it would be highly unlikely in those circumstances.

**Senator O'BRIEN**—It is probably a redundant question too. I want to ask some questions about the process that led to these guidelines or procedures being established. Dr Dolman, what role did you have in their development?

**Dr Dolman**—I was involved in preparing the advice that was provided to Minister Anderson that set up those procedures.

**Senator O'BRIEN**—Which other officers were involved in the development of the SONA procedures, or in the preparation of the advice, if that is the appropriate way of couching the question?

**Dr Dolman**—I think there were two other staff involved from within my branch.

**Senator O'BRIEN**—You were the senior responsible officer?



**Dr Dolman**—Yes.

**Senator O'BRIEN**—I understand that the first SONA procedures were approved on 15 September 2003. Is that right?

**Dr Dolman**—I have not got the date, but September 2003 is correct.

**Ms Riggs**—The broad parameters of the SONA procedures were first approved for Regional Partnerships in September 2003.

**Senator O'BRIEN**—So when did the actual procedures take form as a document as a guide to the department?

**Dr Dolman**—In September 2003.

**Ms Riggs**—We would have had draft arrangements in place very soon after the minister's agreeing that that was appropriate, but there was a formal release of the SONA procedures as part of the procedures manual in an update of that manual which was done in November 2003.

**Senator O'BRIEN**—And you are going to supply that to us, aren't you?

**Ms Riggs**—You have the current copy of the procedures manual. It is part of our submission.

**Senator O'BRIEN**—Yes, but were you going to supply the iteration of September 2003, or am I mistaken there?

**Ms Riggs**—I am not aware that you had asked for it.

**Senator O'BRIEN**—I will ask for it now. Is that difficult?

**Ms Riggs**—Subject to consideration about whether that might be a problem, yes, we can provide you with that.

**Dr Dolman**—I can probably short cut it. The only difference is the paragraph that talks about who takes a decision.

**Senator O'BRIEN**—Explain the difference to us. I am happy to have a short cut and less paper.

**Mr Yuile**—Hear, hear.

**Dr Dolman**—The only change is the paragraph at the end of page 2 of the procedures that talks about who decides whether a project is suitable for consideration under SONA. That was inserted because of concerns that a number of people would like to have SONA applications. We needed a process, I guess, to decide.

**Senator O'BRIEN**—Which is the change there?

**Dr Dolman**—That whole paragraph was added. That is the only change.

**Senator O'BRIEN**—So that was not in the September 2003 iteration?

**Dr Dolman**—No.

**Senator O'BRIEN**—When was it added?

**Ms Riggs**—In March 2004, but again it would have been drafted somewhat earlier than that and formally released with an updating release of the procedures.

**Senator O'BRIEN**—So that was the subject of some advice to the minister and approval, was it?

**Ms Riggs**—No. These are internal procedures. They are not the subject of clearance by the minister. In fact it was my concern that officers at many levels and in many of our regional programs offices around the country were seeking to say, 'We'll do that under SONA,' and I thought that we needed clarity and consistency in the application of these procedures. It was at my request that Dr Dolman and his staff drafted that paragraph for inclusion, and I actually cleared the text of the paragraph.

**Senator O'BRIEN**—Remind me where the impetus for the procedures originated.

**Mr Yuile**—This arose in the conversation we had the week before last out of the Auditor-General's report on the RAP and the suggestion in that report that the then issue around projects of national significance—I think that is what they were called—that there was a suggestion or recommendation from the Auditor-General that there should be greater clarity and transparency around decision making. I think the document attached to our submission that you have, which runs through against the ANAO best practice guide and the various recommendations and how we have translated it, would indicate that this was one of those recommendations. Indeed, all of the recommendations in that report were picked up and indeed recommendations from other ANAO reports—not necessarily related to our programs but incorporated into our practices and administrative procedures. That is the origin of these procedures and their inclusion within our operating manual for our staff.

**Senator O'BRIEN**—Before they were implemented, was there some sign-off by the minister?

**Dr Dolman**—That is correct.

**Senator O'BRIEN**—And that was Minister Anderson?

**Dr Dolman**—Yes.

**Senator O'BRIEN**—Can you explain why the RAP had a projects of national significance component but at the outset in the published guidelines Regional Partnerships had just one set of guidelines in operation?

**Ms Riggs**—I cannot answer the first part of your question. I do not know why projects of national significance were created in the Regional Assistance Program. That is back in history and way before my time, or Dr Dolman's—and, as you know, it was in a previous department. The notion of having a capacity for flexibility was one that we had perhaps assumed would continue since Regional Partnerships subsumed several previous programs, one of which was the Regional Assistance Program. But, with the best will in the world, the actual writing of procedures and guidelines and so on for this program happened in a relatively short space of time and the reality is that we forgot to make explicit reference to it.

I would note that the procedures, even as they exist now, are written in terms of a notional allocation. Indeed, they are called the Strategic Opportunity Notional Allocation procedures. The notion of a notional allocation—that is, an indication to ACCs of what sort of level of project funding they should aim for—is one that we tried to operate in the first year of operation of Regional Partnerships and found that it was not working effectively. So we are now using a different form of encouragement for ACCs. These procedures will be the subject of some updating to reflect that change in our internal administrative practice the next time there is an update to the procedures manual.

**Senator O'BRIEN**—Should I understand the procedures to mean that a project that is not eligible for funding under the published guidelines may be found to be eligible with the application of the SONA procedures?

**Ms Riggs**—That is a possible outcome of the procedures.

**Senator O'BRIEN**—Was that a reality? In other words, were projects approved under those procedures that would fall foul of the—

**Ms Riggs**—Yes, and I believe I made this quite clear on Wednesday of last week.

**Senator O'BRIEN**—You probably did.

**Ms Riggs**—There are two. One is the funding of the new mobile network on Christmas Island, where the funding has been made available to Telstra, which as a government body would not be eligible to apply for or receive funds under Regional Partnerships without the application of SONA procedures. Those procedures allowed us to recommend to the minister that he might contemplate waiving the guidelines to that extent. The second was the transfer of money to the Department of Agriculture, Fisheries and Forestry to make a contribution towards the costs of funding the Sugar Industry Reform Program. It also would not be eligible without a waiver of the guidelines to that extent.

**Senator O'BRIEN**—The Regional Partnership program guidelines were, I thought you said, drawn together quickly. What time scale did that involve?

**Ms Riggs**—I said that there was some pressure in respect of bringing together the program at the time. My recollection is that there was a form of guidelines, which the department sought the minister's clearance of in late 2002, in order to guide us in developing our procedures. There was a further form of the guidelines approved by the minister somewhere in the middle of 2003 but prior to 26 June, which I believe I recall correctly as the launch date for Regional

Partnerships. That was the published form of guidelines. I believe that there has been one revision to the guidelines since, which was very modest in nature. In essence, the guidelines were finalised and published quite close to the launch date of Regional Partnerships although, as I have said, we had had an operating or guidance set of guidelines—to help us in developing our procedures, the first version of our procedural document, the support system and so on—for our staff for about six months before the program was launched.

**Mr Yuile**—Again, my recollection is that it was very much designed to try and bring together the best experience we had of the various legacy programs that were brought together—the Regional Solutions Program, the Regional Assistance Program and so on. We had had experience with different programs and we were obviously seeking to meld them and get a good operating set of guidelines for Regional Partnerships.

**Senator O'BRIEN**—So there were two drafts, if I can put that way?

**Mr Yuile**—I should defer to others to answer that. I would be surprised if there were not more, in a sense. When you are working on these sorts of programs and these sorts of guidelines you are iterating all the time and internally testing things out. You are having small groups from national office and regional offices who have experience with these things and trying to refine them as best you can. I am not sure that Ms Riggs will want to be tied to saying there were two drafts. It is an iterative process and that is our usual experience when you are working up a new program. Am I correct?

**Ms Riggs**—That is absolutely correct. Prior to the start of the program there were two versions that went to the minister for endorsement as the broad rules for the program—the guidelines. My recollection is that one of those was sent just before I joined the department late in 2002. The second one was quite close to the launch date of 26 June 2003.

**Senator O'BRIEN**—Can we have copies of those?

**Mr Yuile**—It was in our advice to the minister. I think that was what Ms Riggs was saying.

**Ms Riggs**—There is no question that you can have a copy of what was launched on 26 June 2003.

**Senator O'BRIEN**—I have that.

**Ms Riggs**—Yes.

**Senator O'BRIEN**—But I am asking you if I can have the other, and if you need the minister's approval to give it I am asking you to seek it.

**Mr Yuile**—We will do that.

**Senator O'BRIEN**—Returning to the issue of procedures, is it the case that the department initiated these procedures in the interests of administrative flexibility?

**Ms Riggs**—Yes, I think that is right.

**Senator O'BRIEN**—Do you know which officer proposed the SONA procedures?

**Ms Riggs**—We will need to check. In a formal sense, it would have been either Dr Dolman or me.

**Senator O'BRIEN**—If you could check and let me know I would appreciate that.

**Dr Dolman**—I think it was me.

**Ms Riggs**—Dr Dolman thinks it was him.

**Senator O'BRIEN**—Okay. Thank you for that.

**Ms Riggs**—And I am happy to defer to him.

**Senator O'BRIEN**—He has put his hand up—that is good. Can you advise the committee what the initial financial allocation for SONA projects was as at 15 September 2003 for the 2003-04 financial year?

**Dr Dolman**—It would have been the \$3 million figure that is written into the procedures on page 2.

**Senator O'BRIEN**—How much of that was approved in 2003-04?

**Dr Dolman**—Our best estimate is that it was \$20.878 million.

**Senator O'BRIEN**—This is under the SONA procedures?

**Dr Dolman**—Yes. That was largely because of the \$12.734 million sugar project.

**Senator O'BRIEN**—So the original allocation was \$3 million?

**Ms Riggs**—Can I remind you that we quite deliberately call this a notional allocation.

**Senator O'BRIEN**—It is very notional.

**Ms Riggs**—Very notional.

**Senator O'BRIEN**—It was so notional as to be totally irrelevant; wasn't it?

**Ms Riggs**—I think I have already said this evening that we called them the SONA procedures—the 'NA' standing for 'notional allocation'—because we had adopted a practice in 2003-04 of trying to give an indication to each ACC of what they might aim for in terms of the total value of funding projects and we moved away from that in 2004-05 because we found it proved not to be very effective. It was always true that no ACC would ever hit the mark, as it were, in terms of the notional allocation, but then there were many ACCs that brought forward projects that were approved well in excess of that value and conversely, therefore, there were

many ACCs that brought forward smaller projects or projects that were not approved. We have found it better to express an objective to ACCs in quite different terms because the notional allocation mechanism as a management tool for us and as a guidance tool for ACCs proved not to be very effective. I think it is true. The term ‘notional’ was quite deliberately picked and, yes, I think it proved to be very notional, which is why we have moved away from it.

**Senator O’BRIEN**—Did the minister approve it as a notional allocation, or pick a number?

**Ms Riggs**—No. It was an internal management tool, not a matter for ministerial decision.

**Senator CARR**—Seven times the number—that is a hell of a notional change. In any budgetary allocation within the Public Service, I would have thought that if you moved from \$3 million to \$21 million that would be an extraordinary change.

**Ms Riggs**—It was not a budgetary allocation, as I have just described. It was a mechanism for guidance to ACCs and it proved not to be effective, and that is why we no longer use that mechanism.

**Senator O’BRIEN**—Just so I understand the process—once the figure was there, it was not there as any discipline at all; it was effectively ignored.

**Ms Riggs**—No, that is not accurate. You might think of it better as being, in effect, a residual after we had made notional allocations to every ACC. What proved not to be borne out under that approach to attempt to manage the budget was that ACCs produced projects either beyond that notional allocation or under that notional allocation. That therefore was not effective and the sum of what they had brought forward to that point—remembering that some projects approved under SONA come to us with ACCs having been involved in them—made it possible for projects to this value to be approved under these procedures. I think that better characterises the reality of what happened during the course of the 2003-04 financial year in relation to this program.

**Senator O’BRIEN**—I take it that the changes to the procedures in March 2004 had no effect on the way the notional allocation was dramatically exceeded?

**Ms Riggs**—I think that Dr Dolman has already described to you the nature of the change.

**Senator O’BRIEN**—I am taking it that that could be the case and I am inviting you to contradict me if I am wrong.

**Dr Dolman**—No, that is the case.

**Senator O’BRIEN**—In the light of the previous ANAO criticism, did the department ever consult the ANAO on the content or the administration of the SONA procedures?

**Ms Riggs**—No.

**Senator O’BRIEN**—Was there any reason that you did not?

**Ms Riggs**—We did not make a judgment that that was a necessary part of our putting into place measures which we believed picked up the recommendation of the ANAO.

**Senator CARR**—When the matter came to light you said that these guidelines had been brought together and addressed the ANAO complaints. In what ways did the guidelines that you had prepared as amended address the ANAO criticisms?

**Dr Dolman**—It is correct that in preparing the SONA procedures, while we did not consult with the ANAO, we did look at recommendations that had been made in criticisms of previous procedures and attempted to address those concerns. Primarily, the concerns raised by ANAO regarding the RAP projects of national significance, which is the equivalent to SONA, were that there was inadequate documentation of the reasons for taking decisions. So the procedures in essence are trying to find when it is appropriate for ministers to use their discretion to override some of the eligibility criteria and also clearly document the reasons why they make those decisions.

**Senator CARR**—And that has been attended too, has it?

**Dr Dolman**—Yes.

**Senator CARR**—Will we have access to the documentation that meets that criteria? Where you have used the SONA guidelines, which, as you say, override the normal guidelines, you will have adequate documentation to express the reasons why that overriding has occurred. Is that the case?

**Dr Dolman**—That is the case, but it is embedded in advice to the minister and the minister's decision.

**Senator CARR**—So we have this round robin again. The ANAO asked for detailed records to be kept as to why you override normal operational guidelines and you cannot provide that information because it is advice to the minister. Is that what you are saying?

**Ms Riggs**—Yes.

**Senator O'BRIEN**—Why would you keep detailed records if no-one could see them? Presumably, the ANAO cannot see them either.

**Ms Riggs**—I do not believe that to be case. Those records are maintained on departmental files and in departmental record-keeping systems and, while Senator Carr has agreed that the nature of advice between the department and the minister is confidential and while he understands we take the view about that being confidential, it will be on our record should the ANAO come to examine that record.

**Senator CARR**—But there is one difference. The question of decisions of government should be made available. The reasons why you have advised the minister on option A or option B is a separate matter. The question of the decisions of government should be available. That is a standard operating procedure of good public administration. Why can't we see the reasons why

the government has made a decision to override guidelines that exist for the administration of public funds?

**Ms Riggs**—I would be happy to seek guidance from the minister in relation to that issue.

**Senator O'BRIEN**—There is something that troubles me about this. From my recollection, where the ANAO has made a critical report and proposed some changes, the norm has been that there is ongoing consultation between the ANAO and the relevant department about how changes are implemented to meet their criticism.

**Mr Yuile**—You keep using the term 'criticism'. Just checking the ANAO report, it certainly made observations about Projects of National Significance.

**Senator CARR**—They were not critical observations?

**Mr Yuile**—They were observations.

**Senator CARR**—You do not regard them as critical?

**Mr Yuile**—I do not want to characterise the Auditor-General's comments. It does go on to say that there are no significant guidelines or assessment criteria. The department's administrative handbook for RAP states that the guiding principles of RAP will apply to Projects of National Significance. However, these projects do not go through the same layers of assessment used in relation to community based projects. It is precisely those comments which have been picked up in the guidelines and the administrative procedures in relation to the Regional Partnerships program. I do not have the full set of recommendations.

**Senator O'BRIEN**—Let me draw these words to your attention. The ANAO suggests that, in the interests of consistent decision making and public accountability, further attention should be given to documenting the reasons for approving particular projects of national significance. It says, 'The assessment process should be sufficiently rigorous to provide reasonable assurance that the projects selected are consistent with the guiding principles of RAP.' That is actually the subject of an advice from your department secretary to Minister Anderson. It goes on to say, 'The attached SONA procedures incorporate the Auditor-General's suggestions.'

**Senator CARR**—That is exactly right.

**Senator O'BRIEN**—What I am getting at is that it has been made abundantly clear that there was no consultation with the ANAO about the procedures adopted, even though you were trying, as justified in the secretary's advice to the minister, to meet the criticisms or concerns or matters noted by the ANAO or whatever you want to call them. There was no consultation with them about it, simply implementation.

**Ms Riggs**—I think you started your question by noting that you thought there was a kind of standard process where, when there was an ANAO report, there was a monitoring of how the recommendations of the report—

**Senator O'BRIEN**—I said 'consultation'.



**Ms Riggs**—were responded to by departments. I think that is true. I have certainly worked in departments where there was a six-monthly report until every recommendation was in effect signed off—that is, an action is agreed to be undertaken as a result of that and it is completed. I may be wrong because I was not involved with this program when this ANAO report was written, but the ANAO report in relation to the Regional Assistance Program is now some few years old. It may be that those procedures have come into effect. The systematic capturing of what has been done and what the department has done to respond to a recommendation may not have come into effect until after this report.

**Senator O'BRIEN**—It could not have, because RAP ceased and you replaced it Regional Partnerships. The SONA procedures were adopted and justified, according to your secretary, by the ANAO report. How would they investigate the changes for RAP when it no longer existed?

**Ms Riggs**—I am sorry, obviously I have not been at all clear in explaining this to you. For the past few years, when the ANAO has published a report it has then also sought from each department a report each six months after the publication of that report indicating, firstly, what the department proposes to do to respond to the recommendations and, subsequently, what it has done. Once each of those can, in effect, be marked as completed, a six-monthly report is no longer required. But I believe that that is a relatively more recent process than perhaps this report by the ANAO on the RAP program, which is dated 2001-02. That was the point that I was trying to make. In responding to the detailed commentary in the Auditor-General's report about RAP and its overarching concluding summary comment, we have made the judgment that we have responded to that report. And that is indeed what the ANAO asks each department to do about recommendations in each of its reports, whether they are specific to an activity of that department or more generally made as a result of one of the performance audits across departments. Each department is expected to develop a course of action that responds to the recommendation and implement it itself.

**Senator O'BRIEN**—We may return to that at some other time. Regarding the procedures themselves, how are the Regional Partnerships program selection criteria weighted?

**Ms Riggs**—There is not a weighting system.

**Dr Dolman**—There is an expectation that all successful projects will meet all the criteria.

**Senator O'BRIEN**—In the preamble the procedures refer to the requirement that projects demonstrate value for money by achieving their outcomes through the most efficient and effective means. How do you test that?

**Dr Dolman**—Essentially, we look at three things in order to assess value for money. One is the outcomes for the community, and that can include matters relating to jobs, in particular, or broader community outcomes. We look at community partnerships, which can be monetary contributions in partnership to projects but can also be in-kind contributions and broad levels of community support for individual projects. We also look at the viability of the projects, to ensure that there is a sustainable, ongoing path for the project beyond the grant, so that it will not be dependent on future grants.

**Senator O'BRIEN**—At some point, whether at the start or shortly after, do you look at the financial history of the proponent?

**Dr Dolman**—Definitely: we look at the viability of the proponent as one of the components of viability. That includes looking at the financial viability, I guess, and the history of the proponent. We take a risk based approach to that, so, obviously, where we are dealing with larger amounts of money or where proponents may have a high level of risk we undertake different degrees of assessment of that.

**Senator O'BRIEN**—The value for money test is a core test, isn't it?

**Dr Dolman**—Yes.

**Senator O'BRIEN**—It is significantly weighted—if there is such a thing as weighting.

**Dr Dolman**—In a way, it is a summary of the three criteria I have just spoken about, which are listed in the guidelines.

**Senator O'BRIEN**—I take it from what you have said that securing funds from other sources does not have a weighting; it is a consideration.

**Dr Dolman**—As I said, we expect that all projects that are successful will have outcomes, partnership and viability in the longer term. We do not weight them one against another; we expect that all projects will meet all the criteria. We have different ways of looking at partnerships. For instance, we take into account in-kind contributions. We look at aspects of a community's ability to contribute. So we might expect from very small disadvantaged remote communities a lower dollar contribution but maybe more of an in-kind contribution.

**Senator O'BRIEN**—A related point, and perhaps a final point, relates to the lender of last resort test—that the applicant must have exhausted other funding options. How do you test against that criterion?

**Dr Dolman**—We do that by talking to the applicant and ensuring that they have investigated other sources of funds that may be relevant to the project they are looking at. That might be other government sources of funds but, particularly in commercial projects, we look at whether or not they have approached a bank for a loan. We also look at whether they have approached state governments for funding. We look at anyone who seems to be a logical partner to see whether or not they are making a contribution to the project.

**Senator O'BRIEN**—These are the core tests you do to formulate your recommendation on the project?

**Dr Dolman**—That is right.

**Senator O'BRIEN**—I would like to go back to the issue of the ANAO. I have just been given a document which is described as 'A summary of performance and assurance audits by ministerial portfolio likely to be in progress as at 1 July 2004' and a list from which performance

audits for 2004-05 will be selected. Under Transport and Regional Services, the Regional Assistance Program follow-up is described as a potential audit.

**Ms Riggs**—Yes, that is right.

**Senator O'BRIEN**—Did it happen, is it happening, or was it postponed or deferred?

**Ms Riggs**—It is still on the list of potential audits. That is entirely in the hands of the ANAO.

**Senator O'BRIEN**—The guidelines—or procedures—say the SONA projects and initiatives must meet the majority of the Regional Partnerships program selection criteria. Which of the criteria must the proposals satisfy and which of them are optional?

**Dr Dolman**—Essentially all projects that have been approved with reference to SONA meet all three core criteria that I have just spoken of. The only things that have been waived are eligibility criteria, and we have made reference to those before. For instance, the guidelines specifically exclude funding to government departments.

**Senator O'BRIEN**—So, as far as the department is concerned, all projects that have been approved have met all the guidelines?

**Dr Dolman**—As far as we are concerned they meet all three core criteria of outcomes, partnership and viability—which is different from all the detail of the criteria.

**Senator O'BRIEN**—Different from all the detail of the criteria?

**Dr Dolman**—The detail of the eligibility criteria, such as the one I mentioned about funding to other government departments. There is one where we funded a prospectus which is specifically included in the detail of the criteria.

**Senator O'BRIEN**—Is that in A2?

**Dr Dolman**—No, it is actually the Primary Energy project.

**Senator O'BRIEN**—Sorry, my confusion.

**Ms Riggs**—Senator, I think it is necessary for me to say really clearly, so that there is no further confusion, that A2 never proceeded to a funding agreement. No money has been made available and since the company is now—

**Senator O'BRIEN**—I know—the approval was withdrawn, wasn't it?

**Ms Riggs**—Yes, it has formally been withdrawn. It was only ever approved conditionally and those conditions were never met.

**Senator O'BRIEN**—So was the initial approval subject to specific conditions, known to the proponent and made public?

**Ms Riggs**—They were certainly made known to the proponent.

**Senator CARR**—Was an application submitted?

**Ms Riggs**—We received an application from A2 in respect of the proposal that we, as shorthand, know as A2 Milk.

**Senator O'BRIEN**—So the only test, if I can put it that way, that you might be excused from complying with under SONA was eligibility?

**Dr Dolman**—That is correct. In fact there have only been decisions that relate to three of those eligibility criteria: one relates to providing funding to other government departments, one relates to prospectuses and the final one relates to having full planning approval for the Slim Dusty one, which relates to the small change that has been made to the guidelines, so it is no longer an issue. It was an issue at the time that the project was approved, but now the guidelines allow approval of projects under normal arrangements without full planning approval, in certain circumstances.

**Ms Riggs**—But such approval would always be conditional on actual planning approval being received before the grant proceeded.

**Senator CARR**—I have just come back to my bench, and I notice that a document has been tabled today, 'Election commitments 2004: likely use of Regional Partnerships programs'. Could I ask you some questions about that? In the National Icon projects there are commitments given to the value of \$27.5 million of which only one has been funded to date.

**Ms Riggs**—Of which only one has formally received approval from the minister.

**Senator CARR**—Which one is that again?

**Ms Riggs**—Buchanan Park, Mount Isa.

**Senator CARR**—The rodeo, the \$5 million one.

**Ms Riggs**—Yes.

**Senator CARR**—Going through the election commitments document, what is the total amount of money, including the National Icon projects, in election commitments likely to use Regional Partnerships as a mechanism?

**Ms Riggs**—It is some \$66 million.

**Mr Yuile**—Senator, just to be clear, the key word there is 'likely'. It is still a question that is subject to government decision in terms of additional estimates.

**Senator CARR**—I understand that the word 'likely' means it is likely.

**Mr Yuile**—I know; I just did not want to—

**Ms Riggs**—The previous position on the part of the government to use the Regional Partnerships funding mechanism—

**Senator CARR**—It says \$66 million. The document seems a little confused, although maybe I am confused. So there is \$2.765 million for Tasmania? Is that right?

**Ms Riggs**—There is \$2.78 million, in the table I have in front of me, for projects in Tasmania.

**Senator CARR**—I am referring to the one I have in front of me, so we are working from different tables.

**Ms Riggs**—This is a summary table that sits on top of it.

**Senator CARR**—This is a way to help me then, if you have a summary table, because the documents you have given us seem a little jumbled. For instance, the term ‘all’ for state and territory is used in a number of places. What is the total amount of grants that cut across jurisdictions? The last here is \$9.7 million for the bank post.

**Ms Riggs**—Bank@Post.

**Senator CARR**—And there is \$15 million for the medical infrastructure fund. Are there any others?

**Ms Riggs**—I am not sure about jurisdictions in those terms, but both of those that you have identified—the \$9.7 million for Bank@Post and the Rural Medical Infrastructure Fund—are national initiatives.

**Senator CARR**—However you describe it. What is the total amount for Queensland? I notice here the Thuringowa Riverway development is \$6 million. Is that the only Queensland project that was promised?

**Ms Riggs**—No, Senator.

**Senator CARR**—There are a few over here I can see. So what is the total funding for Queensland?

**Ms Riggs**—I do not have that with me. The categorisation we have used here is the different mechanisms by which the government announced its intention to commit to these projects. There was an announcement in relation to the icon projects. There are six of those. There was an election document called ‘strengthening Tasmania something’. We are likely to support some \$2.7 million or \$2.8 million worth of projects announced to be funded in that through Regional Partnerships. The Rural Medical Infrastructure Fund came, I think, out of the Strengthening Regions, separately from the icon projects. The Thuringowa Riverway development was, I think, in a document relating to commitments made in respect of northern Queensland. Bank@Post was in the strengthening regional communities documents. We have categorised them in effect by where the announcement was made during the campaign, in what form rather than by state.

**Senator CARR**—It just strikes me that, of the \$66 million, \$34 million went to Queensland.

**Ms Riggs**—Senator, I guess that is a sum you have done quickly but I say again that I do not have that sum with me.

**Senator CARR**—Indeed, and the most marginal.

**Senator BRANDIS**—The most regional. More people live outside the capital city than anywhere else in the country, Senator Carr.

**Senator CARR**—So why did Western Australia only get three grants to the value of, the way I look at it here, \$362,000?

**Mr Yuile**—Senator, I think that is a question we cannot answer.

**Senator CARR**—I can see your point. These are absolutely political.

**Mr Yuile**—That is your point, Senator, not mine.

**Senator CARR**—They are election commitments—they have to be political. There are no criteria for them.

**Mr Yuile**—They are election commitments that the government has made.

**Senator CARR**—These are election commitments which are likely to be funded through this program without criteria, other than the fact that they are election commitments.

**Ms Riggs**—We will seek information from each of the proponents for these projects, which will enable us to make an assessment of whether or not there are any risks to the Commonwealth and, therefore, to the taxpayer money that might be spent on them. We will then formally put an advice to the minister or parliamentary secretary in respect of each of these projects. That might, for example, say that there might be some conditions on the funding, and only then would we seek to enter into a funding agreement which would convert these commitments into actual grants.

**Senator CARR**—I notice one here at Adaminaby, the snow skiing collection and museum, is an empty paddock at the moment, yet, at least here, the commitment is for \$300,000. How would you develop a museum for \$300,000 from an empty paddock?

**Ms Riggs**—We will seek information from the proponent, as I have just described. It will be for the proponent to explain the project in such a way that we can make recommendations to the minister and subsequently construct a funding agreement which requires the proponent to be properly accountable for any grant moneys they might receive and for delivering an outcome.

**Senator O'BRIEN**—You may not be able to answer this; you may need to take it on notice, but were the projects of national significance arrangements under the Regional Assistance Program released publicly?

**Ms Riggs**—Sorry, were announcements made about projects that were funded under the PNS arrangements?

**Senator O'BRIEN**—No, were the availability of projects of national significance arrangements made known to the public through RAP?

**Ms Riggs**—I do not know, but I think that we have tabled today a further copy of the RAP guidelines. We could check that.

**Senator O'BRIEN**—I am at a disadvantage in that I have not had a chance to read every piece of paper that has been dropped on the table.

**Ms Riggs**—I do not think I have read the RAP guidelines for quite some time either, Senator.

**Senator O'BRIEN**—I recall that you had some caveats about your past knowledge, which is why I have suggested you might want to take it on notice.

**Ms Riggs**—Thank you.

**Senator O'BRIEN**—If they were, can you undertake to find out why they were released publicly? I am interested in the context that the SONA procedures say:

SONA arrangements will not be advertised and specific applications for consideration under SONA arrangements will not normally be called for.

I want to know who made the decision that these arrangements would not be made known.

**Ms Riggs**—Fundamentally I think that is my decision on the basis that those are internal procedures, and the decision is taken internally to the department to propose a project, which is otherwise worthy and broadly in line with those three elements of partnership, sustainability and viability, to the minister under the procedures which you have. It is not up to an applicant to say, 'I want to be considered outside of the guidelines.' An applicant makes an application, and then it is considered.

**Senator O'BRIEN**—I am not asking for details of advice but I want to know was advice provided to the minister about the merits or otherwise of releasing the SONA procedures?

**Ms Riggs**—I will have to take that on notice, including the nature of what we might answer in relation to that.

**Senator O'BRIEN**—I want to find out who is responsible for keeping these procedures secret for over 12 months. In fact, if Lenore Taylor had not revealed these matters in the *Fin Review* we may still not know about them. Were all officers in the department's national office with some responsibility for the Regional Partnerships program aware of the existence of these procedures?

**Ms Riggs**—I cannot answer that. I think that I would have to do a poll of them. But every officer who has responsibilities in relation to Regional Partnerships, whether they are in national

office or in a regional office, has access to the entire Regional Partnerships procedures manual of which these form a part.

**Senator O'BRIEN**—So the short answer is that it is available to all.

**Ms Riggs**—It is available to every staff member with those responsibilities.

**Senator O'BRIEN**—And they were made available—the whole of the procedures and guidelines?

**Ms Riggs**—The guidelines are publicly available. The procedures are available to all officers of the department who work on the program and to all ACCs.

**Senator O'BRIEN**—All ACCs were made aware of those?

**Ms Riggs**—There is not a separate procedures manual for ACCs. It is a combined procedures manual, so at least all ACCs staff members have access to this documentation and therefore it would be available to any ACC member who sought to understand the procedures.

**Senator O'BRIEN**—So was there any advice to ACCs about who could be made aware of the information they had about the procedures?

**Ms Riggs**—No, there has not been any guidance about who should or should not have access to such documents.

**Senator O'BRIEN**—So the ACCs received a copy, it was updated regularly and what they did with it was their business?

**Ms Riggs**—That is not entirely what I said.

**Senator O'BRIEN**—I put a proposition to you, and I am inviting you to disagree if you disagree.

**Ms Riggs**—We expect the staff who are involved with Regional Partnerships to have an element of responsibility in relation to Regional Partnerships. We send them each application within their geographic region, and they are required to provide commentary. The matters that our staff consider are all embodied in the procedures manual. So, for any member of staff of an ACC who is undertaking activities in relation to a Regional Partnerships application, I would expect that they have read and will comply with the procedures manual. Indeed, we have worked through this with executive officers, who are the most senior members of staff of the ACCs and who have responsibility for ensuring that those who work with them know and understand their jobs. We have now conducted two or three training sessions, one about Regional Partnerships and the guidelines and procedures immediately prior to the program coming into being and at least one other since, where we talked about it at a national level. Of course, there are also other smaller groupings of executive officers who get together with departmental staff. Most recently, we have run some sessions which went to some issues of better practice in Regional Partnerships for our own staff and ACC staff.



**Senator O'BRIEN**—What about ACC chairs and board members? What would their level of knowledge be expected to be about the procedures manual?

**Ms Riggs**—Again, I do not know that we have actually ever written this down but my expectation is that they know that the procedures document exists, that they know that their staff are expected to follow the procedures in respect of their elements of contribution to the administration of the program and that they are broadly aware of what is asked of ACCs. While ACCs might do it differently, it is not the executive officers or the staff of the ACC whose comments we seek about each project in order to transmit them to the minister; it is the comments of the ACC. So the members of each ACC need to be familiar with the guidelines and need to be broadly familiar with the procedures so that they have confidence in the judgments that they are confirming or writing for passing on to the minister.

**Senator O'BRIEN**—So we should expect that chairs and board members, or at least some of them, would be aware of the SONA procedures?

**Ms Riggs**—Certainly at least some of them.

**Senator O'BRIEN**—But there is no specific training or drawing to the attention of chairs or board members of that specific aspect of the procedures—the SONA procedures?

**Ms Riggs**—No, I do not believe so.

**Senator O'BRIEN**—What about the notional allocation? Would they have known the \$3 million figure?

**Ms Riggs**—No. They would have known the notional allocation for their ACC.

**Senator O'BRIEN**—Okay. Perhaps it was an example of \$3 million in 2003-04?

**Ms Riggs**—No, that is not an example. That was true in relation to then. I think that what I have said is that, in relation to notional allocations, some ACC chairs or committee members may be aware of some of the detail of the procedures, particularly these procedures, and therefore are aware of that \$3 million. The notional allocation that others would be familiar with would be the notional allocation we had advised to that ACC in respect of the value of projects they might aim to have approved.

**Senator O'BRIEN**—The SONA procedures provide that one avenue through which SONA projects may originate is 'representation made to the minister, parliamentary secretary or other members of parliament'. Did the department brief non-coalition members of the parliament on the existence of the procedures?

**Ms Riggs**—No.

**Senator O'BRIEN**—Did the department provide any advice to members of the government about the procedures, other than Mr Anderson, Mr Lloyd and Mrs Kelly?

**Ms Riggs**—I believe we provided multiple copies of a launch kit, which included information about the guidelines at the time of the launch, but we have never provided multiple copies of the department's internal procedures document.

**Senator CARR**—So the SONA guidelines were provided with that kit?

**Ms Riggs**—The SONA procedures are part of the department's internal procedures manual; they are not part of the guidelines.

**Senator CARR**—Could you just recap: who in the parliament did you advise about the existence of the SONA guidelines?

**Ms Riggs**—The SONA procedures were the subject of approval in the broad by the minister.

**Senator CARR**—Only the minister? What about the parliamentary secretary?

**Ms Riggs**—The approval of the SONA procedures in the broad was given by the minister.

**Senator O'BRIEN**—The curiosity about it must be obvious. If one avenue through which SONA projects may originate is representations by the minister, parliamentary secretary or—and I underline this—other members of parliament, that seems to indicate that other members of parliament will know about it. These procedures are apparently—

**Senator CARR**—Secret.

**Senator O'BRIEN**—a product of the department's work. How is that intended to work? Perhaps Dr Dolman can tell us.

**Ms Riggs**—I will have a go first, if I might. We have said that it is not possible to apply under SONA. That does not mean that it is not possible for members of parliament to make representations that might lead to the department or an ACC working with a potential project proponent to produce an application, for which Dr Dolman, under these procedures, might then make a judgment is worthy of further consideration but which requires the application of the SONA procedures in order to proceed further. So knowing that Regional Partnerships exists is sufficient to get a project potentially considered, through the SONA procedures, by the department simply by lodging the application. So not knowing that these exist does not preclude anyone from making an application under Regional Partnerships.

**Senator O'BRIEN**—It will have an impact if there is an impediment in the published guidelines that you do not know can be overridden by the SONA procedures. Knowledge, in that respect, is important, isn't it?

**Ms Riggs**—That is a judgment that you make. It is not a construct that I think we set out to create, but I hear what you say.

**Senator CARR**—A reasonable person reading the guidelines would say, 'This is the criteria for the allocation of funds. I've got a project that doesn't fit into these particular criteria.' They are not to know that there is a set of secret arrangements.

**Ms Riggs**—They are not secret.

**Senator CARR**—That is what troubles us on this matter.

**Senator BARNETT**—They are not secret.

**Senator CARR**—They are secret to everyone in the parliament except the minister and the parliamentary secretary.

**Senator O'BRIEN**—They may not have been a secret to you, Senator Barnett.

**Senator CARR**—But the department did not tell anyone about them.

**CHAIR**—Anyway, that is a debating point. Can we get on with the questions.

**Senator O'BRIEN**—I am happy to.

**CHAIR**—It is a good debating point but—

**Senator CARR**—No, it is a shocking debating point.

**Senator O'BRIEN**—Did the department provide any advice to Mr Lloyd and Mrs Kelly about the operation of the SONA procedures? I am not asking for the nature of it.

**Ms Riggs**—I think I would have to check that.

**Senator O'BRIEN**—Was the Prime Minister's office in any way briefed on the SONA procedures?

**Ms Riggs**—All I can say is that I am not aware that any officer of the department was asked to brief the Prime Minister's office.

**Senator O'BRIEN**—Did the department receive any instruction about who could or could not be told about the SONA procedures?

**Ms Riggs**—I have received no such instructions, and I do not believe that Dr Dolman has either. And I believe that it would be at this level that such an instruction would be issued were it to be issued.

**Mr Yuile**—Senator, I did not hear your question.

**Senator O'BRIEN**—I wanted to know if there had been any instruction given to the department about who could or could not be told about the SONA procedures.

**Mr Yuile**—By the minister—is that the implication?

**Senator O'BRIEN**—Presumably by the minister. It could be by the Prime Minister—I do not know whether that could happen.

**Mr Yuile**—I am not aware of any such instructions.

**Senator CARR**—Did the department issue an instruction to its officers about who was to receive information about the SONA guidelines?

**Ms Riggs**—No such instruction has been written, or delivered in any other way.

**Senator O'BRIEN**—Does this type of guideline have a precedent in other departments? We have heard that it seemed to flow from arrangements under the RAP previously, but I am wondering whether there are other guidelines about funding a project in another department which are equally concealed from the applicant.

**Ms Riggs**—They are not guidelines; they are procedures.

**Senator O'BRIEN**—We have had a discussion on that. Let us not debate that, because the two words are used—

**Ms Riggs**—If you are going to keep using the term 'guidelines', I am going to keep correcting it.

**Senator O'BRIEN**—Perhaps you should correct the secretary as well, because he used it in a document in advice to his minister. I can show you the document—let us not get testy about things at this time of night.

**Ms Riggs**—I am now seeking—

**CHAIR**—Order! We have been going along very well.

**Senator O'BRIEN**—We were.

**CHAIR**—I just think it would be appropriate if we tried to keep to questions and answers—and obviously, where appropriate, additional comment. But this sort of argument across the table is not really necessary.

**Ms Riggs**—I was seeking to move on to answer the question—

**CHAIR**—Yes, but you are disagreeing with whether they are 'guidelines' or 'procedures', and it seems that some of those words are interchangeable. So let us get to the answer.

**Ms Riggs**—Senator O'Brien, I do not know, because I am not familiar with other discretionary grants programs in other departments at a level of detail. Indeed, I cannot even list them for you. So I do not know the answer to that question.

**Senator O'BRIEN**—Let us go to the projects that attracted consideration under the SONA procedures and were funded, or it was agreed would be funded. What were the 12 SONA projects referred to by Mr Lloyd in the House on 1 December last year?

**Ms Riggs**—We have had some discussion earlier today about some of the issues to do with the accuracy and the need to check some data. Ten projects have been considered under the SONA procedures to date—not 12. The figure of 12 was a departmental error.

**Senator CARR**—So Mr Lloyd misled the chamber about that, did he—inadvertently, obviously? He did say '12', didn't he?

**Senator O'BRIEN**—He did.

**Ms Riggs**—I do not have the transcript in front of me.

**Senator CARR**—Did you advise the minister that he had misled the parliament?

**Ms Riggs**—I believe that corrected information has been provided to Minister Anderson's office and I would need to check whether it has gone to Minister Lloyd.

**Senator CARR**—Do you recall the date on which that was sent?

**Ms Riggs**—No, I do not. I would have to check that.

**Senator O'BRIEN**—Why wouldn't you advise Mr Lloyd if he made the statement? Is that the protocol that you go through?

**Ms Riggs**—I am trying to be helpful. I believe the nature of the advice was a question time brief, and the process for providing those is to provide them to Minister Anderson's office and they are then shared with Minister Lloyd's and now Parliamentary Secretary Cobb's offices. You will appreciate that that is why I need to check.

**Senator O'BRIEN**—Okay. You will forgive me for not understanding those arrangements, hence my question. Can you tell us about the 10 projects?

**Ms Riggs**—Three of them were not approved. They related to—

**Senator O'BRIEN**—Of the 10, three were not approved?

**Ms Riggs**—Of the 10 that have been proffered by the department for consideration, three were not approved.

**Senator CARR**—Can we get a list of the 10?

**Ms Riggs**—Consistent with the structure of information that we have provided you in relation to approved and not approved projects, I believe that the 10 will be in the lists that you already

have and that the first words that appear in the title of the project will be the four letters 'SONA'. I believe you already have that information.

**Senator O'BRIEN**—And that is accurate? We do not need to check that?

**Ms Riggs**—I believe that the 10 projects are in there—that each of them has that identifier and that the title of the project is accurate. When we provide the revised data I will be able to answer with more confidence that I believe the details provided in some of the columns are also accurate.

**Senator O'BRIEN**—Let me be clear in my mind, because it seems different numbers are used. There were 10 projects put forward to the minister for approval using the SONA procedures and seven of those 10 were approved by the relevant minister?

**Ms Riggs**—That is correct.

**Senator O'BRIEN**—So there were only seven projects approved under the SONA procedures?

**Ms Riggs**—That is right.

**Senator O'BRIEN**—Does the list which we have now accurately record the decision maker in every case?

**Ms Riggs**—All I can say is that to the best of my knowledge we have not found any examples where that piece of information is incorrect. But I will not swear that we will not find one or two, or a number, before we get to the end of the checking process.

**Senator CARR**—In terms of the decision to sign off on a SONA assessed project, who is the responsible officer?

**Ms Riggs**—I do not understand the question.

**Senator CARR**—Who is responsible for signing off on a SONA assessed project—is it the branch or the national office? Who is the action officer?

**Ms Riggs**—Do you mean who signs a minute to the minister?

**Senator CARR**—Who makes the recommendation? Is it Dr Dolman?

**Dr Dolman**—About whether or not it is a SONA project?

**Senator CARR**—Yes.

**Dr Dolman**—Yes, that is me, normally. We have answered that one before.

**Senator CARR**—Is that right?

**Dr Dolman**—Yes.

**Senator CARR**—And in all seven cases were you the officer that signed off?

**Senator O'BRIEN**—There were 10 cases, actually.

**Senator CARR**—There were seven approvals.

**Senator O'BRIEN**—There were 10 recommendations. Is that right?

**Dr Dolman**—I understand they were all signed over my signature, but I did not actually sign off one of the one of them.

**Senator CARR**—Which one was that?

**Dr Dolman**—I understand it was the UNE one.

**Senator CARR**—Why didn't you sign off on the UNE one?

**Dr Dolman**—I suspect I was out of the office at the time that the advice was finalised.

**Senator CARR**—Who signed off on that?

**Ms Riggs**—An officer in Dr Dolman's branch signed over his signature block for him.

**Senator CARR**—I see what you mean. The only reason was that you were not present.

**Dr Dolman**—I think so. I am sure I would have seen the draft advice.

**Senator CARR**—Would it have been an officer with a delegated authority?

**Ms Riggs**—I am really confident that no one in Dr Dolman's branch would sign something to the minister without being absolutely sure that they had his authority to do that.

**Senator CARR**—Were the assessments done in the regional office for all the SONA projects or were they done in the national office?

**Dr Dolman**—I think at least some of them were done in the national office.

**Senator CARR**—Which ones were done in the national office?

**Ms Riggs**—We will take that on notice.

**Senator CARR**—Who is responsible for the quality assurance on those particular projects?

**Dr Dolman**—The normal practice is that quality assurance is done in the national office.

**Senator CARR**—So they come back to you, Dr Dolman?

**Dr Dolman**—Yes. Ultimately I sign off that the quality assurance has been done.

**Senator CARR**—So you do the assessments and the quality assurance?

**Dr Dolman**—I do not personally do the assessments.

**Senator CARR**—Your branch does.

**Dr Dolman**—Yes.

**Senator CARR**—And it does the quality assurance?

**Dr Dolman**—Yes, in every case because the regional offices are actually within my branch as well. My branch covers regional offices as well as a number of staff in the national office, so the assessments, whether they are done in the national office or a regional office, are done within my branch.

**Senator CARR**—Can you assist the committee by providing us with any documentation on the quality assurance process that applied for the successful SONA projects?

**Ms Riggs**—I believe that the procedures manual, which was one of the attachments to our original submission to this inquiry, sets out the QA process that applies to all projects.

**Senator CARR**—So you cannot give us specific documentation in regard to those SONA projects that were approved?

**Ms Riggs**—The process that we follow is described in our procedures manual.

**Senator CARR**—But you do not have specific documentation? I have an understanding of the general process; I would like an understanding of the specific process relating to those particular projects.

**Dr Dolman**—I do not think there is any difference.

**Senator BARNETT**—I can help prepare and send out an attachment.

**Senator CARR**—That is the general one. I am looking for the specific implementations. That is the third time I have asked that question. Perhaps I am not making myself clear.

**Ms Riggs**—No, Senator. I confess that, since we are clearly not satisfying you, we clearly are not understanding what you are asking for.

**Senator CARR**—Have you any records concerning the documentation on the quality assurance for those successful SONA projects.



**Ms Riggs**—I am still at a loss to understand the question.

**Senator CARR**—Obviously I will need to write something out for you so we can put it on notice formally.

**Ms Riggs**—Senator, you are seeking access to departmental records about some particular projects. Quality assurance is a process that seeks to secure a certain consistency of application of the guidelines and so on. The outcome of that is embodied in the assessment and therefore in the advice that goes to the minister, and that is not material that we are going to make available.

**Senator CARR**—Were any of the projects announced by government before the final departmental analysis had been completed?

**Ms Riggs**—I have already explained to Senator O'Brien that we do not always know the date on which projects are announced. I do not believe so.

**Senator CARR**—Do you want to take that on notice?

**Ms Riggs**—No, because I am not quite sure how I am going to find out the date of announcement. It is not a standard—

**Senator CARR**—Presumably you have seven projects. You can establish whether or not they were announced at a certain date. You can establish whether or not you had completed your evaluation process by that date. Is that so difficult?

**Ms Riggs**—We will take it on notice and see if we can find source data that lets us know what the dates of the announcements were.

**Senator CARR**—Of the 10 original projects, obviously three were rejected. Were any of the projects recommended for implementation under the SONA guidelines ultimately rejected?

**Ms Riggs**—Can you say that again, Senator?

**Senator CARR**—There were three projects that obviously did not get funding. Did they go through a process whereby they were recommended for support and then subsequently that recommendation was overturned?

**Mr Yuile**—I think that goes to the advice we give to the minister. That is the recommendation to the minister.

**Ms Riggs**—If any of these were in those categories of outcomes where the recommendation of the department and the final judgment of the minister differ, then I have already detailed the numbers in each of three categories of those in my evidence to this committee last Wednesday. That would have included any SONA projects that fell into the category.

**Senator BARNETT**—Before we conclude tonight I wanted to take a morsel of the committee's time to ask one question regarding page 20 of your submission and the review and audit process. We discussed it on your previous appearance last week. There were five external

reports and audits of the Regional Partnerships program and three internal reports and audits. Most of those gave findings and recommendations. Did any of the findings or recommendations conclude that in regard to the Regional Partnerships program there were improprieties or inappropriate management of those programs?

**Ms Riggs**—Specifically, in relation to Regional Partnerships, it is the three internal audit reports that go to that program. Each of those three internal audit reports has certain performance improvement recommendations as part of their outcome. None of the three found that there had been impropriety in the administration of the program.

**CHAIR**—We shall now adjourn. I think I am safe in saying that we have not finished questions to the department. I know that Senator O'Brien has more. We also want to consider the information you have provided us with today and tabled formally that we have not had a chance to look at. I did request a breakdown of the allocation of electorates that you used in the table, and I do not think you have provided that to us today. I appreciate that you may be preparing that.

**Mr Yuile**—I am conscious that there are a couple things that we might have missed, at least on our list. I think I asked at the beginning whether the committee or secretariat had assembled a list so we can make sure that we are being consistent in our response.

**CHAIR**—We will look at that and advise you if there are other things that we believe need to be provided.

**Mr Yuile**—I am conscious that there was one in relation to Indigenous projects and one in relation to material surrounding sustainable regions programs. There were a couple of things like that which I did not go into today because we have been concentrating on the other issues.

**CHAIR**—We will check what has been provided against the *Hansard*, as I am sure you will, and we can sort that out.

**Mr Yuile**—Do you have any sense of when the committee might want to resume the conversation with us?

**CHAIR**—I cannot answer that tonight. We have scheduled some hearings for the week after next—next week being estimates week. Those hearings may involve the department, but we will be in touch with you. However, those hearings are not here in Canberra. As to a further hearing to follow on from the examination today, we will have to consult with you and find a suitable date.

**Mr Yuile**—I am just conscious that a number of us have a range of commitments, just as you do, and we want to be as responsive as we can.

**CHAIR**—We will discuss it with you early next week. Thank you very much.

**Committee adjourned at 7.48 p.m.**