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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
COMMITTEE

Reference: Regional Partnerships Program

WEDNESDAY, 17 AUGUST 2005

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SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

Wednesday, 17 August 2005

Members: Senator Forshaw (*Chair*), Senator Watson (*Deputy Chair*), Senators Fifield, Moore, Murray and Stephens

Substitute members: Senator Barnett for Senator Watson, Senator Carr for Senator Stephens, Senator Johnston for Senator Fifield, Senator O'Brien for Senator Moore

Participating members: Senators Abetz, Bartlett, Bishop, Boswell, Brandis, Brown, Carr, Chapman, Colbeck, Conroy, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fielding, Fierravanti-Wells, Ludwig, Lundy, Sandy Macdonald, Mason, McGauran, McLucas, O'Brien, Payne, Robert Ray, Sherry, Trood and Webber

Senators in attendance: Senators Forshaw, O'Brien, Trood 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

**BRIGGS, Ms Lynelle Jann, Public Service Commissioner, Australian Public Service
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**RIGGS, Ms Leslie, Former Executive Director, Regional Services, Department of Transport and
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Committee met at 3.31 pm**BRIGGS, Ms Lynelle Jann, Public Service Commissioner, Australian Public Service Commission**

Witness was then sworn or affirmed—

CHAIR (Senator Forshaw)—I declare open this hearing of the Senate Finance and Public Administration References Committee. I welcome Ms Lynelle Briggs. Thank you for agreeing to appear, following a request from the committee arising out of a hearing that we had last week. You are very familiar, I understand, with all of the details of parliamentary privilege and the requirements on witnesses, particularly as they apply to officers of departments and/or of the government. I also welcome Senator Russell Trood. Ms Briggs, is there any particular opening statement that you would like to make before we proceed to questions? I understand you have a certain time constraint, which we are aware of.

Ms Briggs—I do not intend to make a statement, thank you.

Senator O'BRIEN—Thank you for appearing before the committee today. Could you outline your role as the Australian Public Service Commissioner.

Ms Briggs—As the Australian Public Service Commissioner, I am responsible for the Australian Public Service Act. That involves, broadly, management of issues associated with the values, the code of conduct, SES employment and general arrangements for employment of public servants.

Senator O'BRIEN—I want to ask you about a statement you made in Hobart on 8 February this year. Let me quote from the transcript which appears on the Australian Public Service Commissioner web site. It says:

Then there's the politicisation question. Do you feel that you are politically compromised? Or, is it that as senior public servants we can operate professionally in an a-political way, but that we swim in a political sea? A good public servant understands the climate they work in, the subtleties of managing that climate, the stakeholders involved and how to be responsive to Government. A good senior public servant helps their staff to work effectively in that environment, and teaches them to do it well.

You certainly had a significant career in the Public Service prior to your appointment, so I am particularly interested in your insight into politicisation. What do you mean when you say, 'A good senior public servant helps their staff to work effectively in that environment, and teaches them to do it well'?

Ms Briggs—It is hard to explain that off-the-cuff but I will try. The Public Service works for the government of the day, and works with ministers and ministers' offices. Ministers and ministers' offices are dealing with politics and political issues on a regular basis. Officials do not tend to do that, but they work with ministers in terms of the circumstances and the operating environment that they are involved in. As a senior public servant I try to keep my staff informed of the political considerations that are running at any particular time, where they are relevant to the work that is proceeding. As part of that discussion, for example, in Tasmania I took people

through some of the issues that were on the government's policy agenda for this term. I think that is part of my role, so that public servants are aware of those things.

Senator O'BRIEN—The APS values say that the Australian Public Service is 'apolitical, performing its functions in an impartial and professional manner'. Is that a negotiable value?

Ms Briggs—I do not believe any of the values are negotiable. I would say though that it is very hard to be perfect in every way. All of us try to do our best—I think all of us try to do our best, in any event. I certainly do. I do not always get everything right, but I have certainly tried to uphold those values and to model them for my own staff, when I have been in other positions, and for the Public Service more generally now I am in this position.

Senator O'BRIEN—Can you remember on how many occasions you were Acting Secretary of the Department of Transport and Regional Services?

Ms Briggs—No, I cannot. Three or four, I would guess. I acted for the first time when I had been in the department for only a few months.

Senator O'BRIEN—Can you confirm that you were acting secretary in late July 2004?

Ms Briggs—I understand that I was, yes. I have not checked the actual dates for that. I had been overseas in early July and I know I came back to an acting period.

Senator O'BRIEN—Would that period be recorded somewhere?

Ms Briggs—Yes, it would. All acting arrangements for secretaries are approved by the minister. On each occasion that either Mr Yuile or myself acted, Mr Matthews provided the minister with that advice. The minister had previously approved us acting on a rotational basis.

Senator O'BRIEN—I take it that is not documentation you necessarily have access to now.

Ms Briggs—No. But I know the department would have access to that.

Senator O'BRIEN—Perhaps we will be able to get that from them. Have you had the opportunity to read the committee *Hansard* from last Friday, in which you were named as the senior officer that intercepted the original departmental brief prepared for Minister Lloyd in relation to Primary Energy?

Ms Briggs—Yes.

Senator O'BRIEN—Can you provide us with your version of events?

Ms Briggs—Yes, I am happy to do that. My involvement began with a phone call that I had from Peter Langhorne, who was then the senior minister's, Mr Anderson's, chief of staff. That probably would have occurred on either Monday, 26 July or Tuesday, 27 July, but to be frank I would not stake my life on that. I do not keep a diary of telephone conversations. My diary runs to minutes of meetings and meetings with others face to face. He asked me if I had read a minute that had come from the regional programs area of the department on a proposal for an ethanol

plant. That proposal was known as the Primary Energy Pty Ltd project. I said that I had not yet read that minute but that it would not surprise me if it were in the secretary's in-tray waiting to come to me. The process in the department, just for the benefit of the committee, was that all minutes that went to any minister were sent to the secretary, and it was standard practice for the secretary once he had read them to send them to his two deputies. We reviewed them at that stage.

Mr Langhorne said to me that a minute that had come from the department, dated 23 July I think, failed to take regard of a letter that Ms Riggs had received from Senator Campbell. That letter, as I understand it, was dated 5 July. He said that that letter had largely overtaken the events mentioned in the minute. He may also have had a discussion with me about the guidelines of the particular program, but I do not recall the detail of that as it was a fairly fast conversation. The conversation was amicable and pretty matter of fact.

I said to Mr Langhorne that I would get a copy of the minute and that I would have a look at Senator Campbell's note. He, of course, was the junior minister at that particular time. I had not seen that note and nor was I aware of it at that stage, so I said I would have a look at it. But I gave him no undertaking one way or another. My recollection of this conversation is that it was an amicable, easy conversation of the sort that he and I would have on a regular basis around any number of things.

I got a copy of the minute. I cannot remember, to be frank, whether or not the minute had attached to it the correspondence from Senator Campbell. It was not always the case that copies of the minutes that went to the secretary had every attachment. There was generally an enormous amount of paper to process, and oftentimes those attachments were not included. But I know I got a copy of the note from Minister Campbell to Ms Riggs and had a look at it, and I had a look at the minute.

My recollection is that, either in getting the copy of that note from Senator Campbell or subsequent to that, after I had read it, I called either Ms Keys, who I think may have been the acting FAS at that stage, or Dr Dolman—or both. I know Ms Keys was not available, though, when I first tried to contact her. We agreed that they would come and see me later that day when we all had some spare time. In the meantime, I read the correspondence from Senator Campbell and the minute that had gone across to the office. I formed the view, in doing so, that the minute was inadequate. It did not give due regard to Minister Campbell's correspondence and it may therefore have misled the new minister, Minister Lloyd, about the chain of events and the circumstances at that stage.

When I met with the officials concerned, I said to them that that was my view and that I thought that the department's brief did not responsibly and rigorously deal with a request that Minister Campbell had made in that letter. For that reason, I thought the minute was inadequate; that is probably the description I would use. When a minister makes a request of his department—and it is very rare that a minister does that in writing—then it is my professional view that it is the department's responsibility to see that that request is implemented. That was, in effect, what I said to the staff.

I then asked that the minute be withdrawn. In doing so, I think I said to them, 'Be careful. I want to know whether the minute has gone to Minister Anderson or Minister Lloyd,' because it

is not good practice to attempt to withdraw something after it has already been read by its intended recipients. I received the clarification that it had not been seen by the ministers some time after that. In any event, I said to the staff that I thought the minute should be redrafted to better reflect the content of Minister Campbell's letter. Subsequently, the revised minute was restructured to deal properly with the terms of Minister Campbell's letter, including an outstanding issue.

My role in this process, if I can be candid about it, was to ensure that the minister's request was implemented and that the department operated professionally at all times in its handling of the issue. It was also to ensure that Minister Lloyd was advised on the outstanding issues. I am confident that we did that. That was the end of my involvement.

Senator O'BRIEN—How—

Ms Briggs—No, that is probably wrong—I did see a draft of the revised minute before it went over. I was very careful to read through that before it went.

Senator O'BRIEN—How did Mr Langhorne become aware of the contents of a brief that had not gone to Minister Anderson yet?

Ms Briggs—Minutes go to the ministers' offices. These two particular minutes were addressed to both of those ministers. I assumed that, as part of normal practice in Minister Anderson's office, he noted the minutes going through the office. In my experience in working with Minister Anderson's office and members of the staff, as minutes came in and where they had a particular interest it was not at all uncommon for departmental liaison officers to refer the minute to them.

Senator O'BRIEN—So it was not a draft minute—it had been completed?

Ms Briggs—It had been signed and completed, yes.

Senator O'BRIEN—Following, you suspect, the receipt of a copy in Minister Anderson's office, Mr Langhorne rang you as the acting secretary to ask you to have the recommendations altered?

Ms Briggs—He rang me, as I said, to ask me whether I had seen Senator Campbell's letter. He did not think the minute accurately reflected that. Clearly, his intent was to see if I agreed with that and to take it from there. I would hasten to add that he did not put me under any duress to change the minute nor would he have, because we operated on some quite clear operating environments in that office around the department's advice being the department's advice. The secretary maintained that very strongly.

Senator O'BRIEN—This was simply being responsive to government, was it?

Ms Briggs—What he was doing was—

Senator O'BRIEN—No, what you were doing.

Ms Briggs—What I was doing was checking that the department had been professional in its advice to the minister. I suppose I should make the point that it is not uncommon, although it is not a regular event, for me to ask for minutes to be withdrawn. I have probably done that on 20 or 30 occasions since I have reached senior SES as division head. Those occasions have tended to be around a number of areas. Often events are fast moving, other things arise and you need to update a minute. Sometimes the people who have drafted a minute are not aware of a particular issue or circumstance or they may not have thought of an option, different options or ways to handle things. At other times, as in this case, I felt that the advice was not as fulsome as it should have been.

Senator O'BRIEN—Mr Langhorne is quoted in today's *Australian Financial Review* as follows:

I told the department they should judge the application under the Namoi Valley program ...

The question I ask in relation to that statement is this: is that direction consistent with the guidelines as laid down in the *APS Values and Code of Conduct in Practice*, which say:

Ministerial employees provide important guidance about the Minister's policy and requirements and, by so doing, help APS employees to be responsive. However, they cannot direct APS employees.

Did you tell Dr Dolman that Mr Langhorne could not provide him with a direction in relation to the formulation of his advice?

Ms Briggs—I hold very firmly to the view that ministers' office staff are not in a position to offer directions to members of the Public Service. I do not believe he offered me such a direction and I am not aware of him attempting to do so with Dr Dolman, but I am sure Dr Dolman can speak on his own account.

Senator O'BRIEN—What happened to the original brief?

Ms Briggs—It was withdrawn and came back to the department. I assume it was put on file. That would be normal practice. Typically in those cases people write across the front of it 'withdrawn', but practice varies from one individual to the next.

Senator O'BRIEN—Minister Lloyd has told the House of Representatives that, on the Primary Energy matter, protocol dictated a separation between Mr Anderson and Mr Lloyd because the project was in Mr Anderson's electorate. What practical impact did this protocol have on the way the department worked? Did Minister Anderson's office, as occurred in this case, get everything anyway?

Ms Briggs—Minister Anderson's office received the vast bulk of minutes that went up. Those kinds of judgments about who were copied into minutes were made by the line officers. I did not engage in that.

Senator O'BRIEN—What you mean by 'the line officers'?

Ms Briggs—I mean the program, group, division or branch.

Senator O'BRIEN—So you were not aware, as the acting secretary or in your substantive role, that there was a protocol to separate Mr Anderson's office from this project?

Ms Briggs—I was certainly aware of the arrangement in place whereby Minister Anderson did not take decisions on matters in the portfolio within his electorate, yes.

Senator O'BRIEN—But apparently his staff could give direction, as Mr Langhorne describes it, as to what sort of advice the department would give to the minister making the decision.

Ms Briggs—I was surprised by that comment when I read the newspaper late this morning. I did not feel he gave me direction. It may have been a loose use of language by him, but it was certainly not my view that I received a direction of any sort from him, nor would I have accepted it, as I explained. The department's advice is the department's advice.

Senator O'BRIEN—In any case, what he wished to happen did happen.

Ms Briggs—That is correct, because, quite frankly, I felt he made a valid point.

Senator O'BRIEN—That Minister Campbell's letter ought be implemented by recommendation to support the project?

Ms Briggs—Yes, because he had been the minister at the time. When a minister makes the decision, it is my view that it is the department's responsibility to implement that decision.

Senator O'BRIEN—Was that a ministerial direction?

Ms Briggs—It is standard practice, when a minister makes the decision, that the department implements it. That was what worried me in this instance. I felt the department was not fulfilling its responsibilities.

Senator O'BRIEN—So you regarded Senator Campbell's direction as a decision on the project?

Ms Briggs—I did, and I was careful to clarify that in the revised minute. I am probably treading into dangerous ground here, because I cannot actually tell you what I said, but in the advice given I clarified our understanding of what he was saying, and I did that because I thought it was appropriate to do so in terms of project approval arrangements.

Senator O'BRIEN—Did you bring the contents of the revised brief to the attention of Mr Langhorne before it was transmitted to Minister Lloyd?

Ms Briggs—I did not, no.

Senator O'BRIEN—I take it, under the protocol you described earlier, he would have received a copy of it.

Ms Briggs—Yes.

Senator O'BRIEN—What is the status of the original brief?

Ms Briggs—That brief has no status as it was withdrawn. The second brief was the brief that stands. The earlier brief did not go to either minister.

Senator O'BRIEN—Thank you.

CHAIR—I do not think there are any further questions.

Ms Briggs—Thank you. I hope that helps.

CHAIR—We appreciate your attendance here this afternoon.

[4.03 pm]

DOLMAN, Dr Gary, General Manager, Regional Partnerships and Networks, Department of Transport and Regional Services

GOSLING, Ms Karen, Acting Executive Director, Regional Services Business Division, Department of Transport and Regional Services

RIGGS, Ms Leslie, Former Executive Director, Regional Services, Department of Transport and Regional Services

CHAIR—Before we hear from the witnesses from the Department of Transport and Regional Services, I indicate that we were scheduled to hear evidence via teleconference at four o'clock from Mr Matthew Kelley, the Managing Director of Primary Energy Pty Ltd. The secretariat received advice a short while ago that Mr Kelley is not available to give evidence today but does want to appear in person before the committee. He has asked us to look at alternative dates. This is the second occasion on which we have worked on the basis that Mr Kelley was going to appear and he has then, at short notice, advised us that he was unable to do so. In any event, the secretariat will be in contact with Mr Kelley to see what can be arranged. I know that senators are keen to hear his evidence.

I now welcome, for a final time, without making any promises, the witnesses from the Department of Transport and Regional Services. This is a continuation of our hearing from last Friday. I appreciate that you have been able to appear today and also that you have been able to appear at an earlier time than the one scheduled, due to the change I have just mentioned. I understand that you want to make a statement before we go to questions.

Ms Riggs—If I may, Chair.

CHAIR—Go ahead.

Ms Riggs—At our last appearance before this committee we undertook to investigate a number of matters and provide the committee with additional information. I would like to begin today by correcting the record regarding the matter of the letter from Mr Langhorne. You will recall that a number of questions were asked by Senator O'Brien about the letter which he suggested was written by Mr Langhorne, former Minister Anderson's chief of staff, to an officer of the department. Senator O'Brien indicated that the letter was written on 27 July 2004. As indicated in responses in the earlier hearing, neither Dr Dolman nor I had a clear recollection regarding that letter and you will recall that at one point I questioned whether such a letter existed.

A search of the relevant files has now been undertaken and I can advise that there is no evidence that Mr Langhorne wrote to any officer of the department regarding the Primary Energy project. There is a letter to the department on this application at around that time. That is the letter from then Minister Campbell to me in my position as then acting deputy secretary. That

letter is dated 5 July 2004 and it asked the department to progress the application so that the funds could be provided within the next two weeks.

Senator O'Brien asked if an application was attached to the purported letter. I can only confirm that the application for this project was initially received under the Namoi Valley Structural Adjustment Package in June 2003. Supplementary information was provided by Baker and McKenzie on behalf of Primary Energy in the letter to me as acting deputy secretary dated 9 July 2004. That letter made reference to an oral briefing given by Baker and McKenzie to Mr Langhorne. This was the letter I had a recollection of when questioned on this matter last week.

Senator O'Brien also asked if the project involved retrospective funding for work undertaken by the CSIRO. I can confirm that the approved project includes work under contract by the CSIRO. I am advised that Primary Energy approached CSIRO in September 2003 with a request to undertake the study. However, work on the study did not commence until 14 October 2004 after the signing of the funding agreement and the first payment.

Other issues raised last week are being further investigated and I will provide the committee with information on those as soon as possible. I regret that my faulty recall of events some 12 months ago may have led to some incomplete answers and some answers known now by me to have been partially inaccurate given at last Friday's hearing. These answers may have given the committee an inaccurate understanding of the circumstances of the decision taken by Minister Lloyd regarding funding to Primary Energy.

The facts of the matter are that the Namoi Valley Structural Adjustment Package had not been allocated discreet funding by the government, so if the application was to be progressed it had to proceed under the funding envelope of the Regional Partnerships Program. The initial assessment was under the Namoi Valley Structural Adjustment Package guidelines which had been separate and had different elements from those of Regional Partnerships. Minister Campbell wrote to the department on 5 July seeking that the application be progressed. The department provided advice on this matter on 28 July 2004 to Minister Lloyd. As Ms Briggs has indicated to the committee the department's advice was consistent with a request from Minister Campbell and the agreed program guidelines.

Minister Lloyd approved \$1.2 million in funding for the project on 2 August 2004 in accordance with the Regional Partnerships guidelines as decision maker for this program. The project has been managed in accordance with the funding agreement and has received payments on meeting contracted milestones as described in our evidence last week. Thank you for the opportunity to clarify this matter.

CHAIR—Thank you, Ms Riggs, for that statement and for providing us with a written copy.

Senator O'BRIEN—I take it that what you are now telling us is that all your references to a letter from Mr Langhorne are misrecollections of a letter from Baker and McKenzie.

Ms Riggs—You will recall that in my evidence last week, on several occasions, I used terms such as 'if such a letter exists' and 'if I had seen it' and so on. When we examined the file there was no evidence of such a letter. There is, however, a letter from Baker and McKenzie, who are solicitors for Primary Energy, to me, dated 9 July which makes reference to an oral briefing that

Baker and McKenzie had given to Mr Langhorne. I believe that it was that letter that was sitting in my mind as a second piece of correspondence, rather than the letter from Minister Campbell of 5 July that related to this project. That is, I believed that I knew there was a second piece of correspondence and, following your line of questioning, mistakenly ascribed that piece of correspondence from Baker and McKenzie to be the letter to which you were making reference.

Senator O'BRIEN—I am trying to rationalise that with the fact that on Friday I asked if you had seen a letter from the former Deputy Prime Minister's senior adviser to the department concerning Primary Energy's application. You said: 'Yes, I believe I did.' You went on to say:

... I have seen it since. That suggests to me that I have had at least the original letter in my possession.

You said:

If I think really hard about it, there may have been an attachment ...

Ms Riggs—I also said quite clearly, 'If there was such a letter, and all my answers are given on the presumption that such a letter exists.' I am happy to give you the *Hansard* reference to that. It is in the bottom third of page 50 of the *Hansard*:

If the letter exists—and we have had this conversation on the presumption of the accuracy of my memory that such a letter exists—I assume it is on an appropriate departmental file.

I am now telling you that my memory was faulty.

Senator O'BRIEN—Dr Dolman, on Friday your evidence on the question of a Langhorne letter was pretty clear. You said:

I did seek Mr Langhorne's letter. I am not sure I can recall the full details, but I know that the brief we provided did address the issues raised in that letter ...

Dr Dolman—Like Ms Riggs, I was confused. I think at one point you had stated there was such a letter and I guess we were confusing a number of pieces of correspondence from 12 months ago. I have looked at the file and there is not such a letter. I think what I was referring to was a letter from Minister Campbell to Ms Riggs which in large part was the material that we were providing in response to Minister Lloyd.

Senator O'BRIEN—So you think that the letter you were referring to was Minister Campbell's letter of 5 July.

Dr Dolman—I agree that there was some confusion. I suspect that sometimes we were referring to Minister Campbell's letter and at other times we may have been recollecting the other letter from Primary Energy's lawyers. The two came within a few days of each other and both addressed the same sort of issue and included a range of information on this project.

Senator O'BRIEN—What was the status of the brief? When you prepared a brief on a project for the minister, what process did you then go through?

Dr Dolman—I am not quite sure what you mean.

Senator O'BRIEN—What did you do with it?

Dr Dolman—We prepared advice. We researched the background to the project to see where it was at and what had happened. We looked at how that project was consistent with the Regional Partnerships guidelines and the Namoi Valley Structural Adjustment Package guidelines. We provided advice to Minister Lloyd so that, in essence, he could confirm the decision taken by Minister Campbell.

Senator O'BRIEN—That is after you were told to change the brief by Ms Briggs?

Dr Dolman—As Ms Briggs said, there was a process of looking at that advice, which as originally formulated had not addressed all the issues raised in Minister Campbell's letter to the department. It was revised, as Ms Briggs said, to more fully address the issues raised in that letter.

Senator O'BRIEN—Is that code for saying that it did not support the project and that Minister Campbell's letter said he wanted you to support the project?

Ms Riggs—I do not believe that is a fair interpretation of what Dr Dolman has just said, nor of what Ms Briggs said to you in the immediate past.

Senator O'BRIEN—I think it is.

Ms Riggs—I believe Ms Briggs said that it did not fully respond to the matters raised in Minister Campbell's letter.

Senator O'BRIEN—Which I think she categorised as—or agreed with me categorising it as—a direction or an indication of desire that the project be funded.

Ms Riggs—I think she did agree with you about that.

Senator O'BRIEN—Yes. The purpose of my question is to ask: is that the nature of the change that resulted?

Dr Dolman—As we said on Friday, we cannot really talk about the nature of advice that we provide to the minister.

Senator O'BRIEN—The earlier advice which you provided has no status. Have you obtained any instruction on whether that can be provided to the committee? Clearly it has no status or protection as ministerial advice.

Ms Riggs—We have not sought such advice. I am happy to do so.

Senator O'BRIEN—I thought you were going to after last Friday's hearing.

Ms Riggs—As I explained to you last Friday, I am not currently in a role in the department. I am on secondment to the commission. I regret that I have not received such advice in time for this hearing.

CHAIR—I do not think I am confused, but I want to clarify something. Ms Riggs, you are saying that in the various discussions, or questions and answers, that took place last Friday you were getting confused with a letter from Baker and McKenzie in relation to the purported letter from Mr Langhorne—that that is what you had in your mind.

Ms Riggs—That is what I am saying.

CHAIR—Dr Dolman, you are saying in relation to the same issues and questioning that your confusion was with the letter from the minister. That is what you said.

Dr Dolman—The content of both those letters, from the minister and from the lawyers, overlapped the letter that was proposed to us last week.

CHAIR—Maybe I need to go back and check *Hansard*, but at no stage do I recall any mention ever being made of a letter from the minister. Was this particular letter from Minister Campbell referred to in your evidence?

Ms Riggs—I believe it was.

CHAIR—Was that in the context of these questions about the letter from Mr Langhorne?

Ms Riggs—I do not believe so. I believe it was referenced quite separately.

CHAIR—Yes. That is why I have raised it. It seems hard to understand how one could confuse a letter from a minister with a letter—or a purported letter—from an adviser or a firm of solicitors. That is an observation; would you like to comment on it? I find it difficult to understand how senior officers of the department could be confused about letters that were received from an adviser or a firm of solicitors as distinct from a letter from the minister—and/or as distinct from each other.

Ms Riggs—I think you give us an enormous amount of credit if you believe that it is possible, even for the best of senior public servants, to remember with absolute clarity events that occurred over 12 months ago. I am very grateful to you for that commendation but I can only say to you again: these events occurred more than 12 months ago and my memory is not clear about them.

CHAIR—Are you saying that neither of you checked the files or refreshed your memory on these issues, knowing that questions would be asked and that the issue of the Primary Energy grant was a matter that was before this committee? You were advised that that was one of the grants that we were going to ask questions about.

Ms Riggs—Yes, Chair. Good and loyal colleagues in the department provided us with a briefing. Last week I was not sitting in the department. I did not have the opportunity personally to trawl through files, nor would it generally be my practice, as executive director, personally to

trawl through files in advance of a hearing of a Senate inquiry. I would expect—and have always received—good briefings from staff.

CHAIR—What about you, Dr Dolman? As Senator O'Brien pointed out, you said that you were particular in your answers about having a recollection of having had the letter—or the purported letter or supposed letter; what status we give it now is a bit unclear—in your possession. Today you are telling us that you were really confused and you were thinking about the minister's letter. How do you confuse a minister's letter with a letter from a firm of solicitors or from a ministerial adviser?

Dr Dolman—I think I have answered that question previously. In essence this was a matter that was dealt with 12 months ago. It was one of 700 projects that we have dealt with.

CHAIR—But you had a pretty clear recollection last Friday. I think you said you had a recollection that you had had the letter in your possession recently.

Dr Dolman—I had a clear recollection, I think, of the minute that was provided and the fact that it was centred around on a letter. Having gone back and looked at the files, I found it was centred around the letter from Minister Campbell and the advice provided on the project from their lawyers. We did not have an opportunity to look at the detail of the files prior to coming here. We did have a briefing on the projects, but I remind you we only had about 24 hours notice of which projects you want to ask us about last week. So we had limited opportunities to look through the files.

CHAIR—That was in response to the advice given from this committee to assist you, but the issue of Primary Energy has been on the agenda for this committee for some time. As you would be aware, we were endeavouring to have hearings about this matter in Gunnedah and unfortunately witnesses were unavailable. We endeavoured to have issues raised about this project here in Canberra on an earlier occasion and Mr Kelly was going to appear and then he could not appear. And the same thing happened today. The department has officers present at these hearings. You read *Hansard* and you take note. You keep well abreast of what is happening in the inquiry. You would have known that this issue was on the agenda.

Dr Dolman—That is right, but you also had hearings covering a whole range of projects in a number of locations, and a large number of questions could have been asked.

CHAIR—How many letters are there on the file in respect of this Primary Energy project? Is there a huge number of letters or a small number? We know there is one from the minister; we know there is one from the lawyers; there are a couple of briefs.

Ms Riggs—Yesterday I sighted from the outside the files for this project held in the national office. There is a thick pile of paper inside at least three file covers. Quite frankly, it is not an easy matter to go through that and find—

CHAIR—How many letters?

Ms Riggs—Until one turns every page, one would not know the answer to that question.

Senator O'BRIEN—So the letter is not on file, if it ever existed?

Ms Riggs—There is no evidence that such a letter exists.

Senator O'BRIEN—Because it is not on file?

Ms Riggs—Senator, that is the public record.

Senator O'BRIEN—With respect to the fact that no evidence exists—I take it you mean physical evidence—I want to be clear that that is because you have searched the file and cannot discover it.

Ms Riggs—We have not been able to discover such a letter.

Senator O'BRIEN—Were there any other communications, written or electronic, on the file from Mr Langhorne in relation to this matter?

Ms Riggs—Not that have been brought to my attention.

Senator O'BRIEN—Did you look at the file?

Ms Riggs—No, I have not personally reviewed the file.

Senator O'BRIEN—Did you look at the file, Dr Dolman?

Dr Dolman—I have flicked through the file.

Senator O'BRIEN—Were there any other communications—written, electronic or email—from Mr Langhorne on file?

Dr Dolman—I can confirm that there are no letters to the department from Mr Langhorne.

Senator O'BRIEN—I did not ask that question. Will you answer the question that I asked you.

Dr Dolman—What is the question?

Senator O'BRIEN—The question is: were there any other written communications from Mr Langhorne to officers of the department, be they notes, emails, briefs, missives or however one might describe matters? I am not seeking to know whether there is a letter in a formal sense; I want to know whether there is any written communication contained in the file from Mr Langhorne to the department or its officers about this project.

Dr Dolman—No, there is no written communication from Mr Langhorne to the department on the file.

Senator O'BRIEN—None to you?

Dr Dolman—No.

Senator O'BRIEN—Dr Dolman, with reference to the first brief, the one that was changed, what did you recommend? We have established from the Public Service Commissioner that it has no status, so you can tell us what was contained in the brief.

Ms Riggs—Senator, I have already said that I will seek to confirm—

Senator O'BRIEN—That is not good enough. Dr Dolman is here to give evidence. This is not a matter about producing a document. I am asking about his knowledge.

Ms Riggs—I am sorry, this brief does have status.

Senator O'BRIEN—It does not have status.

Ms Riggs—On this I will—

Senator O'BRIEN—We have established that it does not have status.

CHAIR—Order!

Ms Riggs—It was received in the minister's office and it was returned to the department annotated 'as discussed, please prepare a replacement brief'. That does not mean that it was not formulated as advice to the minister, even if it was not finally considered by the minister. Dr Dolman will not answer questions about what his recommendations were in that brief.

Senator O'BRIEN—We have the very clear evidence of the Public Service Commissioner that that document has no status. It was not advice to the minister; it never reached the minister. It was changed. I want to know what Dr Dolman wrote in that document. It was not advice to the minister.

Dr Dolman—It was constructed as advice to the minister.

Senator O'BRIEN—It was withdrawn from that process and changed.

Ms Riggs—It was sent back by the minister's office, asking that replacement advice be provided.

Senator O'BRIEN—Dr Dolman, with reference to the original brief, you told us on Friday that you had discussion about its contents with Ms Briggs, but you did not discuss it with any of the minister's staff. Why didn't you tell us then that you had already sent it to Mr Anderson's office?

Dr Dolman—I think on Friday we did actually say that.

Senator O'BRIEN—You told us that the draft brief was sent to Mr Anderson's office?

Dr Dolman—Sorry. It was sent to Minister Lloyd’s office. There was a drop copy provided to Minister Anderson’s office, as is the case with all briefings that we provide.

Ms Riggs—Every brief that went to the junior minister or the parliamentary secretary in the portfolio was also copied to Minister Anderson.

Senator O’BRIEN—So, this brief had been sent out and it was your advice to the minister. Was it withdrawn and recalled because you were advised of Mr Langhorne’s objection?

Ms Riggs—It was sent back marked, as discussed, ‘Please provide a replacement brief.’

Senator O’BRIEN—Okay. Who wrote those comments, Ms Riggs?

Dr Dolman—I think, as Ms Briggs said earlier, she actually asked for the advice to be withdrawn after the discussion.

Ms Riggs—Formally, it was annotated by a member of staff in Mr Lloyd’s office.

Senator O’BRIEN—Mr Lloyd’s office?

Ms Riggs—Yes, that is correct.

Senator O’BRIEN—And Mr Langhorne was ringing Ms Briggs about the matter?

Ms Riggs—That is what Ms Briggs has said and that is what Mr Langhorne is on record as saying.

Senator O’BRIEN—I am certain that I did not have the impression on Friday that the brief had left the department when it was intercepted by Ms Briggs. You are saying it had been transmitted, signed and sent to both ministers’ offices. Is that what you are telling us now?

Ms Riggs—It had been formally submitted as a briefing, yes.

Dr Dolman—I think, as we have provided in evidence, it was withdrawn prior to having been seen by either minister.

Senator O’BRIEN—Did a drop copy also go to the parliamentary secretary?

Ms Riggs—It would not be common for a brief addressed to the Minister for Local Government, Territories and Roads and copied to the portfolio minister also to be copied to the parliamentary secretary, no.

Senator O’BRIEN—Have you discovered the original brief on file?

Ms Riggs—There is a copy of the annotated brief, as I have described, on file.

Senator O’BRIEN—Do you know who, in particular, wrote on it? Is it signed?

Ms Riggs—It is initialled.

Senator O'BRIEN—Do you know who initialled it?

Ms Riggs—Yes, I do.

Senator O'BRIEN—Who was that?

Ms Riggs—It was a member of staff of the department on assignment in Minister Lloyd's office as a departmental liaison officer. He is below SES level and on the basis of our normal protocols I will not name him.

Senator O'BRIEN—So, he was ministerial staff on secondment?

Ms Riggs—He was a departmental liaison officer—departmental staff.

Senator O'BRIEN—A DLO.

Ms Riggs—But DLOs, as you know, in terms of processing paperwork act on the instruction of both departmental guidance and also the minister or his senior staff.

Senator O'BRIEN—So the DLO may have simply been writing what he or she was told to write?

Ms Riggs—I cannot answer that. I was not there at the time.

Senator O'BRIEN—DLOs have been mentioned in other proceedings. In this case, the source of the advice to Dr Dolman as to what was required is important. Was there a need to be satisfied that it was not simply a view of the DLO?

Ms Riggs—I think, given the discussion that Dr Dolman has already described to you, in which the then acting secretary advised him to ask that the minute be withdrawn, the fact that it came back annotated 'As discussed please provide replacement advice' was a formal piece of the process. He did not need that in order to be sure of what he was asked to do.

Senator O'BRIEN—I may have misunderstood you before. Are you saying it contained just the words: 'As discussed—

Ms Riggs—please provide replacement advice'. Yes.

Senator O'BRIEN—I am sorry, I did not take them literally to be the words, from what you said earlier.

Ms Riggs—I believe those were the words. Also, I need to correct my evidence from two minutes ago. I have also been advised that, despite what I said to you about it not being common that a brief to the Minister for Local Government, Territories and Roads would be copied to the parliamentary secretary, in fact this one was.

Senator O'BRIEN—Do you know or can you find out why? Perhaps someone knows. Dr Dolman, do you know why?

Dr Dolman—I can only presume that it was because decisions on Regional Partnerships normally went to the parliamentary secretary. It was considered polite, I guess, to give them a copy.

Ms Riggs—Since the funding for this project would come from the Regional Partnerships appropriation.

Senator O'BRIEN—Was there any advice given to the department about briefs that affected projects in either minister's electorate as to whether or not those briefs should be drop copied to that minister?

Ms Riggs—I need to make clear to the committee that it was established practice in the portfolio that if a project were in a minister's electorate then one of the other ministers or the parliamentary secretary would become the decision maker, even if it was otherwise common for that program to be the subject of the first minister. So that was common and established practice in the portfolio. It was also established practice in the portfolio that any briefing to either the junior minister or the parliamentary secretary was copied to the portfolio minister.

Senator O'BRIEN—It is a bit of a sham if the staff of the minister who is not to make a decision is giving substantial direction as to what the advice to the other minister should be, wouldn't you agree? If Mr Langhorne intervenes to make sure the brief changes to meet the wishes of his minister, even though his minister is not supposed to be involved in the process, that makes the whole quarantining of Mr Anderson a charade.

Ms Riggs—You will appreciate that I will make no comment about the conclusion that you draw in that regard.

Senator O'BRIEN—Dr Dolman, why did you refer to the first brief as a draft? I am referring to pages 58 and 63 of the *Hansard*.

Dr Dolman—Merely to distinguish it from the final brief.

Senator O'BRIEN—Let me quote you:

I might need to check whether or not the draft was on file. Normally, the final version would be the official version that is on file, and that would be the version that was seen and signed by Minister Lloyd.

That doesn't seem to fit with that explanation.

Ms Riggs—I believe it is fair to reflect that, prior to Dr Dolman giving that evidence, I had been at some pains to describe the process in the department that allowed for the proper exercise of more senior levels of judgment about the content of briefs. It was, I believe, in the light of that evidence I had given that Dr Dolman sought quite properly to distinguish between the brief which Minister Lloyd saw and acted upon and any previous version of the brief, including the one that that quote from his evidence makes reference to as the draft.

Dr Dolman—With hindsight, it might have been more accurate to refer to it as the withdrawn brief.

Senator O'BRIEN—So it was not a draft at all? It was an official brief that was signed off and sent to the minister's officers that we were talking about.

Dr Dolman—And then subsequently withdrawn because it was considered inadequate by a more senior officer.

CHAIR—What was considered to be inadequate about it? Was the recommendation wrong?

Dr Dolman—I think Ms Briggs explained that. She considered that it did not address the matters raised in the letter from Minister Campbell.

CHAIR—Was there an absence of technical information or an assessment of the project? Was it that sort of information that needed to be added to it?

Dr Dolman—Again you are asking me to comment on the content of the advice we provided to the minister.

CHAIR—I am not asking you to tell me what was in it, even though I believe I could. But, if you present a brief, presumably it contains information, an assessment of the project and all that detail. It comes back to you. What I am trying to grasp here is what it is that you left out of that brief that should have been there—or is it just that the recommendation was different to what you were ultimately told to do?

Ms Riggs—I believe that Ms Briggs has given you some evidence about what she saw as being the less than adequate nature of that brief, and I do not believe that Dr Dolman needs to repeat that for you.

CHAIR—I am looking at it from Dr Dolman's point of view. He was the one who finalised the first brief and, presumably, the final one.

Dr Dolman—Ultimately, this comes down to me accepting advice from a more senior, more experienced officer in this case. In their experience, the brief was inadequate.

Senator O'BRIEN—Dr Dolman, Primary Energy's Namoi Valley adjustment scheme application has an impressive array of referees. They are John Anderson; Mark Vaile; David Kemp; Brett Cox, the Prime Minister's resources adviser; and Russell Higgins, the head of the Prime Minister's energy task force. Can you tell the committee when you contacted each of these referees to discuss, in the words of the application, 'the capability and experience' of Primary Energy?

Dr Dolman—The initial assessment of this project, as you are aware, was undertaken by the former Namoi Valley Structural Adjustment Package advisory committee. I am not aware of whether or not they contacted those referees. However, as far as I am aware, the department did not contact those referees in preparing the advice for Minister Lloyd.

Senator O'BRIEN—Dr Dolman, on Friday you undertook to provide the name of the action officer identified in the final brief that went to Minister Lloyd. Who was it?

Dr Dolman—The responsible officer was in fact me.

Senator O'BRIEN—What does that mean? Do 'responsible officer' and 'action officer' mean the same thing?

Dr Dolman—That is how I am interpreting your question. I was the person who signed off on that brief.

Senator O'BRIEN—On Friday, Dr Dolman, you undertook to check what due diligence occurred in relation to this project in late July and early August. Can you provide us with that information now?

Dr Dolman—I think it is fair to say that that is one of the issues we are still investigating. However, I think it is also worth noting that this project was not a project about building the ethanol plant; it was actually to assist Primary Energy to raise capital to build the ethanol plant. We did check the backgrounds of the applicant and its codevelopers. Our checking found that they had extensive experience in developing greenfields infrastructure assets and operating and maintaining renewable fuel facilities. As I said previously, the project also went through a process of checking by the Namoi Valley Structural Adjustment Package committee. Also, it was considered by the local ACC. We have mentioned previously that the department received additional information from the solicitors on this project. That information included advice on the nature of the project and it also included reference to the fact that capital reserves were not a significant issue for this project given that it was about raising funds to build a plant. I guess also that, while there is a degree of risk associated with any project, this in essence was a fairly high risk project. It also had very significant benefits for the community.

Senator O'BRIEN—One million dollars or thereabouts has been paid out so far?

Dr Dolman—That is correct.

Senator O'BRIEN—We heard from the gas pipeline people who were going to supply gas to Gunnedah that they are not going to Gunnedah anymore because they do not think there will be an ethanol plant there any time soon. That seems to be a vote of no confidence in the project at this stage, doesn't it?

Dr Dolman—My recollection of that evidence was that they would actually be willing to change their plans should the ethanol plant go ahead.

Senator O'BRIEN—Yes, they were, but they agreed that they did not expect one to occur any time soon. Do you recall that?

Dr Dolman—I vaguely recall seeing that in the transcript.

Senator O'BRIEN—On Friday you confirmed that the department did not receive a Regional Partnerships application from Primary Energy. My understanding is that the department assessed

the company's Namoi Valley adjustment scheme application and some additional material that the department requested. Is that the situation?

Dr Dolman—Yes.

Senator O'BRIEN—Can you give us the detail of the additional material and when it was received by the department?

Ms Riggs—It was received by the department in the letter to me of 9 July 2004 from Baker and McKenzie. Since it constituted, in effect, part of how we assessed an application, and given the stance we have taken on material for this committee, we will not comment on the nature of that supplementary information.

Senator O'BRIEN—Did the department obtain a copy of the company's business plan?

Ms Riggs—I have to take that on notice.

Senator O'BRIEN—If you did obtain a copy, can you tell us when?

Ms Riggs—On notice, I will be happy to.

Senator O'BRIEN—Was the department asked to return any material supplied by the company to the company upon assessment?

Ms Riggs—Not that I am aware of in relation to the additional information that we received on 9 July 2004. If such a request was made in respect of the initial application, it would have been made in respect of the materials supplied to the Namoi Valley structural adjustment package advisory committee rather than the department, I believe. If I am wrong about that we will correct the record.

Senator O'BRIEN—Dr Dolman, on Friday you outlined some of the project milestones and accompanying payments, which are around \$1 million so far. The feature of milestone 2 and 3 was obtaining what you described as tax structuring advice. Can you explain what the department understands that term to mean?

Dr Dolman—I am no tax expert, but I understand that to mean that, as part of any normal process of establishing a business, they were seeking advice on what they needed to do to establish an appropriate structure for the company that would be tax effective, I guess.

Senator O'BRIEN—So it is about structuring the operating company for the ethanol plant—

Dr Dolman—That is what I understand—

Senator O'BRIEN—for tax purposes?

Dr Dolman—As part of setting up the accounts, I guess, of the company if it were to go ahead.

Senator O'BRIEN—Yesterday in the House of Representatives, Minister Lloyd talked about project capital expenditure of \$100 million. Clearly, under the contract, the company has been required to report to the department to receive contract based payments. How much has the company told the department it has invested in plant capital so far?

Ms Riggs—It would not have been relevant for us to have asked for such information, since the project that we have provided funding for is not about the capital construction of anything; it is a precursor to the possibility that this company might secure capital to proceed with the construction of the plant.

Senator O'BRIEN—So that is not in any way a matter of a milestone or an interest to the department?

Ms Riggs—No, it is not. It is not relevant to the funding agreement for this project, a copy of which I tabled in this committee on Friday afternoon.

Senator O'BRIEN—My recollection of the milestones was that the last two payments, though minor in the scheme of things, nevertheless seem to fall due close to the point at which the project is likely to go ahead, if I can put it that way. Is that a correct understanding?

Ms Riggs—My recollection is that there is a milestone somewhere into early 2006 and that there is a milestone scheduled for this month.

Senator O'BRIEN—But they are about the coming to the end of the funded project, which was to have the company up and running and ready to go with funding.

Ms Riggs—No. They were about doing the necessary work in order for this company to then approach the capital market in order to attract funds, which would then facilitate the construction of an ethanol plant.

Senator O'BRIEN—Does the company submit details of how it has expended the money?

Ms Riggs—They have to make a progress report to the department, sufficient to the satisfaction of the officer responsible for the contract, that they have indeed met the terms of the milestone. Up to now, we have achieved this. That has to have in it a statement about how the money received to date, or in the previous funding period, has been used towards the achievement of the next milestone.

Senator O'BRIEN—Would they tell the department how much was spent on salaries for Primary Energy and board fees and the like, and how much was spent on consultants and legal advice and the like?

Dr Dolman—I have some information that relates to the first three payments. As you are aware, the first payment was made on signing the contract, so it is the second and third payments that relate to milestones. Relating to the second payment, we received a report on 20 December 2004. That report included information on the performance against the project outcomes and activity milestones. It included information on mitigating circumstances, of which there were none; planning implementation of activity delivery and lessons learned throughout the project. It

also included information on the scope of services for purchase of technology, engineering and procurement services, and planning project programs—I guess all of the details of the project. The report was detailed and provided progress against the project activity, including documentary evidence such as site plans, as required. The second report was provided against payment three, milestone two. That was received on 8 April. It included a range of detailed information. It outlined significant progress on the project and outlined achievements against the required milestones. In addition, a request for the project timing to be varied slightly was included. This was to include reference to funding that this project was also receiving from the New South Wales state government.

Senator O'BRIEN—The reports do not tell you in detail how the money is being expended?

Dr Dolman—I think they would. I have not got the actual reports in front of me; I have got a summary of what they include. They include details of how the money was spent.

Senator O'BRIEN—Can you supply that information to the committee, please?

Dr Dolman—We would have to check with the minister.

Senator O'BRIEN—With regard to Minister Campbell's letter of 5 July, has a copy of that letter been supplied to this committee?

Ms Riggs—I do not believe so.

Senator O'BRIEN—Is there any reason why we could not see that letter?

Ms Riggs—I would have to consult with the minister about that.

CHAIR—Could you do that?

Ms Riggs—Certainly, Chair.

CHAIR—I did not want to pre-empt Senator O'Brien's next question. Maybe you want to pursue that?

Senator O'BRIEN—That is a letter which is on the file I take it, Dr Dolman? You have looked at the file. You can assure us it is there?

Dr Dolman—There is a copy of that letter in the file.

Senator O'BRIEN—I am not sure why, Ms Riggs, you are saying that we could not have a copy of the letter of 9 July.

Ms Riggs—Because that provided supplementary information to the original application. I am therefore treating it in the same light as we are treating applications. It enabled Dr Dolman's team to proceed to formulate advice to the minister, and we have declined to provide copies of applications to this committee.

Senator O'BRIEN—But it is not an application but correspondence, and the original application was for another program. It seems rather a stretch to suggest that correspondence which talks about matters exchanged with Mr Langhorne did not go to any minister.

Ms Riggs—The letter came to the department because it is the department that assesses projects and applications and provides advice to ministers.

Senator O'BRIEN—It was not appended to the advice to the minister, was it?

Ms Riggs—I believe that it may have been. I will just check. Yes, it was appended to the final advice to the minister.

Senator O'BRIEN—That is the one that was altered?

Ms Riggs—It was appended to the advice on the basis of which the minister made his decision.

Senator O'BRIEN—Was Minister Campbell's letter appended?

Ms Riggs—Yes, it was.

Senator O'BRIEN—Dr Dolman, I want to be clear on one thing: were you aware of Minister Campbell's letter when you wrote the initial advice?

Dr Dolman—Yes.

Senator O'BRIEN—Did you append that to the initial advice?

Dr Dolman—Yes.

Senator O'BRIEN—Last Friday, I indicated I was interested in some matters related to the grant to the Jimbour Station in Queensland and, following the hearing, I had some questions on notice communicated by the secretariat. Have you prepared written answers to those questions or can you answer them now?

Ms Riggs—I am happy to have a go at them orally.

Senator O'BRIEN—Can you confirm that the Jimbour amphitheatre project was awarded \$173,146 under the Regional Partnerships program?

Ms Riggs—Yes, I can.

Senator O'BRIEN—How long has Jimbour Station been open to the public?

Ms Riggs—I have advice that tells me that the Russell family purchased the property in 1923. It was opened to the public in that year and remains open to this day. Since 1923 the grounds, the

gardens and, for a long period of time, the swimming pool have been open to the public. For insurance reasons I understand that the swimming pool is now closed to the public.

Senator O'BRIEN—Can you outline the property ownership arrangements, please?

Ms Riggs—I understand that Jimbour Station is owned by Russell Pastoral Co. and is managed by Logan Downs Pty Ltd.

Senator O'BRIEN—When did the department become aware of the property ownership details?

Ms Riggs—We received an application in respect of this project on 19 May 2004. I assume that they were part of that application and that we would have found them out during the process of assessing it.

Senator O'BRIEN—Do you know what the visitation rate to the property is and whether entry fees are levied?

Ms Riggs—I am advised that no count of visitors has historically been made but that anecdotally it attracts a small but regular number of tourists. Further, I understand that it has not been the practice to levy a fee. However, I am advised that for the first major function since the development of the amphitheatre, which occurred recently, a parking fee of \$5 per vehicle was levied. I further understand that the primary reason for doing that was in order to meet the costs of the parking attendants who were employed to marshal cars on the day.

Senator O'BRIEN—Do you know if the property is promoted by anyone for tourism purposes?

Ms Riggs—I understand that Jimbour House is a member of the Toowoomba and Golden West Regional Tourist Association and that it does not separately promote itself but that functions at the site are promoted by the events promoter on the site. For example, the Wambo Shire Council web site promotes Jimbour House as a tourist venue and the Golden West tourist association might mention Jimbour House but there is no direct link. Sorry, I am further advised that there is a Jimbour House web site.

Senator O'BRIEN—Is it on a commercial tour bus operator's route?

Ms Riggs—I understand that periodically bus operators do arrange to stop there to inspect the site and to have an arranged morning tea but that it is not a stop on any regularly operated tour.

Senator O'BRIEN—For how long has this property held outdoor events?

Ms Riggs—I am advised that the first Opera at Jimbour happened in July 2003 and that should properly be regarded as the first major outdoor event on the site.

Senator O'BRIEN—Are they promoted by the family, the district or some society?

Ms Riggs—The Queensland Biennial Festival of Music and Wambo Shire jointly arranged and promoted that event and also a subsequent Opera at Jimbour in July this year.

Senator O'BRIEN—What exactly will the \$173,946 buy in relation to this project?

Dr Dolman—Essentially, the funding is to construct an amphitheatre to hold musical and stage events to attract visitors to the region. The project is now completed and the amphitheatre has been constructed.

Senator O'BRIEN—So is there seating, amplification and staging?

Dr Dolman—I do not have that detail with me, but we can find out for you.

Senator O'BRIEN—Can you tell me how much money has been invested by the local council and the Russell family and what it will be spent on?

Ms Riggs—I understand that other cash contributions to this project are some \$82,500 from the Russell Pastoral Company and \$37,500 from each of the Wambo Shire Council and the Dalby Town Council. I do not have a disaggregation which makes it possible to say that the Regional Partnerships money is going on X, the shire council money is going on Y and the Russell Pastoral Company money is going on Z. We will endeavour to provide that.

Senator O'BRIEN—When the amphitheatre is not hosting events, do you know what it will be used for, if anything?

Ms Riggs—I understand that the intention at this stage is that it will be closed off and whatever physical facilities are there will be secured. On the actual site of the amphitheatre, which I understand to be an enhancement of a naturally occurring amphitheatre on the land in question, there will be some form of fencing which will mean that it too will not be used when it is not being used for events.

Senator O'BRIEN—How was the Southern Inland Queensland ACC involved in the assessment?

Ms Riggs—I know of no reason why it would have been involved in the assessment of this project in any way other than the way an ACC is normally involved in an assessment. That is, once we have received a project application in the department, we formally seek a commentary from the ACC, as described in documents that we have provided to this committee, on the extent to which it meets the ACC's strategic regional plan and the ACC's view about the extent to which it meets each of the eligibility and selection criteria for a Regional Partnerships project.

Senator O'BRIEN—Do you know what level of priority the ACC accorded the project?

Ms Riggs—I understand it accorded it the highest priority—level 4.

Senator O'BRIEN—Was Mr David Russell involved in the application and your assessment of the project?

Ms Riggs—I believe the application came jointly from the Wambo Shire Council and the Dalby Town Council. Unless Mr Russell is a member of the ACC and did not absent himself from consideration of this, I have no reason to believe that he was involved in the assessment of this application.

Dr Dolman—I have a bit more detail on what the structure involves. It is being built in keeping with the heritage listed house and it will seat several thousand people. It will have a stage with a capacity to fit a full orchestra and a stage area for an opera as well.

Senator O'BRIEN—Where is the project up to now and how much work has been done on the site?

Ms Riggs—As I understand it, it has been completed. It was used for an opera at Jimbour in July this year.

Senator O'BRIEN—I was not sure—I thought you had said that, but then the previous answer indicated some expected outcome, if I can put it that way.

Dr Dolman—I am sorry; I was reading from a description.

Senator O'BRIEN—Are there any risks associated with the project? I take it there are none if it has been completed satisfactorily.

Ms Riggs—It is there.

Senator O'BRIEN—Slipping over in the amphitheatre, perhaps?

Ms Riggs—You might want go and examine that yourself—I do not know that we have done that.

Senator O'BRIEN—When we were last convened, I was asking some questions about the Atherton Tablelands Sustainable Regions Advisory Committee. In your capacity as executive director of regional programs, Ms Riggs, you said:

What strikes me as I look at the projects that have been supported in the Atherton region is that it is hard to see how a number of smaller projects contribute to a more sustainable future, viewed on a regional basis. I can see that each of them has merit at an individual level for a very small part of the Tableland, but I cannot see how the committee has brought those together into a strategic view of a platform for a more sustainable future.

It seems that what you are saying is ATSRAC did not do its job properly, that it was a disaster. What did the department do to remedy that?

Ms Riggs—I believe the quote you have just read comes from a Senate estimates hearing in the early part of 2004, if not earlier.

Senator O'BRIEN—It was in May 2004.

Ms Riggs—Since that time, there has been a change to the membership and the chairing of the Atherton Tablelands Sustainable Regions Advisory Committee. The committee has chosen to focus on a number of regionally focused and larger projects than perhaps had been our experience of the recommendations from that committee in its earlier days.

Senator O'BRIEN—Which particular projects are you referring to?

Ms Riggs—I regret to say I have not brought a list of the Atherton Tablelands Sustainable Regions projects with me.

Senator O'BRIEN—What were the changes to the committee that you are talking about?

Ms Riggs—One of the mayors who had originally been appointed to the committee was not successful in local government elections last year. The then minister, Mr Anderson, subsequently invited that man's successor to join the committee. In addition, the chair of the committee is now Mr Robert Blanckensee, who is Cairns based, and an additional member has been appointed to the committee—Mr David Maguire, I think his surname is. He, too, is Cairns based; he represents the Advance Cairns group, I believe. This seems to have brought some better balance to the committee in terms of its consideration of projects before it on a regional basis and in looking at the Atherton Tablelands region's positioning within the broader Far North Queensland region.

Senator O'BRIEN—It is interesting you should mention Mr Blanckensee. He stated that parochialism amongst the mayors was an issue. He said:

... the four mayors had an issue with the territorial aspects of the tablelands whereby they said, 'This is my region. I really want something here ...

They were breaking it down into shire boundaries rather than looking at what was required across the whole of the tablelands to build a strong region. How could Mr Blanckensee go about changing that approach, or is it too late?

Ms Riggs—I do not have in front of me the transcript of the hearing in Cairns. My recollection of Mr Blanckensee's evidence was that he was reflecting on his feelings when he first took over the role as chair rather than on our current position. I believe that he has sought to work with the committee members in order to secure a better understanding, a shared understanding on their part that the committee's objective ought to be to work for the good of the totality of the region rather than for the individual shires.

Senator O'BRIEN—Do you agree with his comments to the extent that they identify that ATSRAC had a very serious failing built into it that could not possibly take a sustainable region-wide approach.

Ms Riggs—No. As I say, I do not have the transcript in front of me and I would not wish to agree or disagree with anything without seeing it in its full context.

Senator O'BRIEN—Mr McDade in his evidence of 23 June indicates that there were no rules, processes or systems in place for the administration of the Sustainable Regions and the

Regional Partnerships programs when they started. They were made up in an ad hoc manner through the life of the program.

Ms Riggs—I have no basis for knowing on what basis Mr McDade might make such comments about Regional Partnerships since, to my knowledge, Mr McDade had very little to do with the Regional Partnerships program. In terms of the Sustainable Regions Program, my reading of the files relating to that program, since it started some couple of years before I joined the department as then First Assistant Secretary, Regional Programs, was that there was an element of allowing that program to operate within a very flexible framework in order to see whether, over a period of time, some particularly useful models for operations of programs might emerge.

Senator O'BRIEN—Let me quote what Mr McDade said:

When you asked, at the beginning, questions about what the rules were, you found there were no clearly defined rules at that point in time.

Is that accurate?

Ms Riggs—I cannot answer that, Senator.

Senator O'BRIEN—It was before your time.

Ms Riggs—It was before my time.

Senator O'BRIEN—So you have no reason to question that evidence?

Ms Riggs—There were eight separate sustainable regions in the initial tranche of the program and there was one team of staff in the national office supporting those regions.

Senator O'BRIEN—But you cannot say what was taking place. You have just said that.

Ms Riggs—I cannot say what was taking place but I cannot believe that there were no rules. However, it may be that Mr McDade was asking questions which did not elicit some of the rules that did exist. Further than that, I cannot comment.

Senator O'BRIEN—You are not aware of the department taking a different position to Mr McDade's evidence about what was happening in that earlier period. It is fundamental. He goes on to say:

Then they started to promulgate what the actual criteria of the stuff were, what the protocols within the committee were, whether the committee was to be seen the same as other committees et cetera. Eventually they were put in place.

Ms Riggs—There was what I think it was called an information paper in relation to the Regional Partnerships program that was published, I believe—

Senator O'BRIEN—This is Sustainable Regions.

Ms Riggs—Sorry, in relation to the Sustainable Regions program, that was published during, I think, 2002. It was very early in the program, and since the program flowed from the September 2001 ministerial statement ‘Stronger Regions: a Stronger Australia’ my belief is that it was promulgated quite early in 2002. It did set out criteria and priorities for the programs. It set out the eight regions, and each of those committees was asked in the same terms to identify priorities for their regions to establish processes which first of all collected and sieved expressions of interest and then subsequently applications.

I have to say that on that basis, as I think through those matters, Mr McDade’s comment that there are no rules is a little extreme. Certainly, over the period since then we have gone on learning from our experience and codifying the common practice in Sustainable Regions to the extent that as part of our submission to this inquiry we have included guidelines, a procedure manual and so on.

Senator O’BRIEN—Do I take it that Mr McDade is telling us about ATSRAC and not departmental or governmental policy when he says that ATSRAC acted on a principle of a 50-50 ratio of government funds to contributed funds sought?

Ms Riggs—There was certainly no departmental policy of that kind and, as there was no government policy of that kind, I can only assume that ATSRAC established that as an objective itself.

Senator O’BRIEN—We heard from Dr John Stocker that, according to Ms Tunney, the former CEO of ATSRAC, there was a principle that for each government contribution of \$20,000 one job was to be created. Was that a government recommendation or ATSRAC’s deliberation?

Ms Riggs—It must have been ATSRAC’s desire.

Senator O’BRIEN—Senator Ian Campbell, the Minister representing the Minister for Transport and Regional Services, told the Senate in May 2004 that, where appropriate, the number and types of jobs created by ATSRAC projects were detailed on the Sustainable Regions web site. Can you provide the committee even one example of such information being publicly available on this site now or ever?

Ms Riggs—I confess that I am not familiar enough with the web site to know what details we publish when we do publish approved projects. They certainly include the name of the sustainable region, the name of the proponent, the name of the project and the amount that the government is contributing. But, as far as I am aware, we do not publish in that fairly slim project description the applicant’s expressed intention towards outcomes, because we publish that list of approved projects at the point of approval rather than at the achievement of the intended outcome of the project.

Ms Gosling—It might be that, in some of the media releases announcing projects that have been granted funds, there is some description of what the aspirations are for the employment outcomes. Those media releases would also be on our web site.

Senator O’BRIEN—I note that in the case of the grant to Rose Gums Wilderness Retreat ATSRAC sought an independent report on the issue of competitive neutrality. There were issues

of competitive neutrality for other applications—we have talked about the Atherton Hotel, Kalamunda Caravan Park and Jam Custom Kitchens and Furniture, for example. Did the department seek independent reports on the competitive neutrality in these instances or is that simply a matter for ATSRAC?

Ms Riggs—I will have to take some advice and respond as to whether or not an element of our assessment of each of the four projects that you have identified included some external contribution to the process of assessment via the due diligence. Rose Gums may have been done before my time, but I am not actually aware of the department, other than through the due diligence process relating to both proponent and project viability, actually seeking independent advice quite separately in relation to what you have described as the competitive neutrality dimension.

Senator O'BRIEN—So you will find further information?

Ms Riggs—Yes.

Senator O'BRIEN—Did the department seek to establish whether all projects had obtained the necessary state and local government planning and environment approvals, which, I take it, were a mandatory requirement of the Sustainable Regions Program?

Ms Riggs—I am not confident that throughout the life of the program that has necessarily been written down as a mandatory requirement, so I think it would not necessarily have been the case that applicants would have been required to demonstrate that they in fact had such planning approvals. Certainly there were some projects that were given approval on the condition that such developmental approvals—if I can use that term generically, and perhaps 'developmental and environmental approvals' would be better—were achieved before payments would be progressed. It is certainly a requirement of Regional Partnerships. As we discussed on Friday, generally applications will not be considered until such approvals can be demonstrated.

Senator O'BRIEN—When did the minister sign off a change to those published guidelines that we discussed as appearing on the web site last Friday?

Ms Riggs—We have been remiss in not following up that matter. My recollection is that it was in the early part of 2004, but we will provide the date of the minister's signature, which indeed I promised to get you on Friday.

Senator O'BRIEN—So there is a document signed off by the minister?

Ms Riggs—I tabled a copy of the document that I know to be that form of words, but for this committee's absolute comfort I intend to provide a date on which he actually agreed to that.

Senator O'BRIEN—So there is a document which says what he has agreed to?

Ms Riggs—Yes, but it would be in the form of a brief to the minister.

Senator O'BRIEN—Which he simply signed off as agreeing with?

Ms Riggs—On which he would have signed ‘approved’. Indeed, he would also have been given an option to sign ‘not approved’.

Senator O’BRIEN—Given that the minister—this is on your evidence just then—has agreed with the recommendation and that that is what you say has been put in place, can we have a copy of it? It is hardly secret now.

Ms Riggs—We will certainly ask if that would be acceptable in the circumstances.

Senator O’BRIEN—In terms of the question of relevant approvals, Mr Yuile told the committee on 14 April—this is on page 106—that he wanted to find out a bit more about whether it was appropriate for funding agreements to have been entered into where appropriate approvals had not been obtained. Did something happen as a result of that transcript passage, or did that drop through the cracks with Mr Yuile’s changed role?

Ms Riggs—Was that in April this year?

Senator O’BRIEN—Yes, 2005.

Ms Riggs—I would have to see the full text of the discussion that was occurring around that time to know the nature of any follow-up action that we took and to better remind myself about what we might have done.

Senator O’BRIEN—I have given you the reference. Has the department investigated whether the grant can be recovered if funding agreements have been breached by failure to obtain approvals prior to the grant being paid to a project proponent?

Ms Riggs—If it is prior to the grant being paid, we do not need recover the grant, so I guess the question has the answer built into it.

Senator O’BRIEN—I think you are right. What I meant to ask was: where money has been paid and approval has not been adequately obtained, can the grant money be recovered? Have you investigated that?

Ms Riggs—I am not aware that we have above the one instance of that. As you will be aware, the issue of the developmental approval for the Kalamunda Caravan Park is currently the subject of an appeal.

Senator O’BRIEN—I think that was the basis of the questioning falling over, because it would be—

Ms Riggs—So we have not had to seek that advice yet.

Senator O’BRIEN—So you do not know what will happen if the appeal succeeds? Or are you saying that the money has not been paid?

Ms Riggs—We will take advice on what our options are at the point that we need to take advice.

Senator O'BRIEN—On the question of conflict of interest of ATSRAC members, did the department ever provide specific advice to members of that committee on the issue of conflict of interest and how they should handle conflicts and potential conflicts?

Ms Riggs—That committee has been in existence for some years now, and I would need to check the record. I believe that, in broad terms, it is fair to say that the information paper on the Sustainable Regions Program I have already referred to makes reference if not to conflicts of interest then to confidentiality in the operations of the committee's considerations. But I would need to consult the record about the early days of that committee's operations to confirm that for you.

Senator O'BRIEN—On 13 April at page 143 of the *Hansard*, Mr McDade said that in October 2003 he asked the minister to restructure the ATSRAC. Was the department of the same mind? Did it see the presence of the mayors as problematic?

Ms Riggs—I do not think that the department's view about this is the point that is germane. The reality is that the minister, some time after the election at which one of the then member mayors was not successful in retaining that position, chose to restructure the committee. I point out to this committee that, in choosing a restructuring, he chose to retain the mayors of each of the four Atherton shires as members of the ATSRAC. He chose an alternative chair and increased the membership by one by including Mr Maguire as a member of the committee.

Senator O'BRIEN—That covers the questions I intended to ask today. I will have questions arising from today, after the information process in response to the questions that have been taken on notice.

Ms Riggs—I am mindful of the time frame that the committee are operating under and that you are due to report in early October, but some of the questions asked on Friday and today will require us to go through some files. If we said that we will get the answers in two weeks and that we will aim to do it more quickly if we can, would that be—

Senator O'BRIEN—That would certainly be helpful.

Ms Riggs—That is the objective we will set ourselves. Please bear in mind that we have a process of clearing answers with the minister.

Senator O'BRIEN—I am thinking of some of the requests that you have undertaken to raise with the minister. When will we know about those requests?

Ms Riggs—We will raise them with the minister as soon as we possibly can. I know you are not asking me to comment on how the minister might choose to consider those or what time frame he will operate in. I am happy to indicate that I believe the department will ask for his guidance on those matters, pointing out to him the time frame that this committee is operating under and also the intention I have expressed to you of trying to respond within two weeks. But I cannot make a commitment on the minister's behalf.

CHAIR—Ms Gosling, did you want to make a comment?

Ms Gosling—Yes. I need to correct some information that I gave the committee on Friday in relation to the Kimberley Aboriginal Pastoral Association. Some information that I had in briefing material was not correct. It related to the funding partners, and I would like to correct the record. In the evidence I gave on 12 August, I indicated that, in relation to the Kimberley Aboriginal Pastoral Association, Lotterywest had made a contribution of \$54,356. In fact, that information was incorrect and Lotterywest did not make a contribution to the project. I have checked the transcript, and that is the only correction I need to make in relation to that project.

CHAIR—Are there any other corrections that you are aware of?

Ms Gosling—No.

Senator O'BRIEN—No other letters?

CHAIR—Thank you for that. Subject to you providing those answers and responses, I think that should complete the evidence to this inquiry from the department. I hesitate to say that absolutely, if only because we are still hopeful that Mr Kelley will be able to appear and it may be that some issues arise out of his evidence that you will need to comment on or respond to. But we will cross that bridge if we have to. I thank you once again for coming along and for your assistance throughout what has been a rather lengthy and detailed inquiry.

Senator O'BRIEN—Wherever we have been.

CHAIR—We have had our moments, but we do appreciate your responses and your evidence. I thank the secretariat staff and Hansard staff for their very professional assistance.

Committee adjourned at 5.44 pm